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Official Report

MEETING OF THE PARLIAMENT

Tuesday 11 November 2014

Session 4

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Scottish Parliament

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

Time for Reflection

The Presiding Officer (Tricia Marwick): Good afternoon. The first item of business is time for reflection. Our time for reflection leader today is Mr Ian McGregor, who is the chief executive of Poppyscotland.

Ian McGregor (Poppyscotland): Presiding Officer, members of the Scottish Parliament: I am very honoured to address you on this, the first remembrance day during the four and a half years in which Scotland will commemorate the centenary of the first world war.

The war had a cataclysmic, catastrophic and transformational effect on Scotland and on the world. I had one grandfather who served at Gallipoli and in Palestine. Conversely, my other grandfather was a conscientious objector in Glasgow. I am equally proud of them both, although I confess that I know little of what they went through.

My step-grandfather, whom I knew well, was wounded three times and was finally invalided out of the trenches to limp in discomfort until his death over 60 years later. Both my wife's maternal great-grandfathers were killed in action; the body of one was never recovered. Her grandmother recalled seeing, as a child, her father's sword—not a lot of use against shrapnel and machine guns—being sharpened at war's outbreak. Most families will have similar histories to relate.

Commemoration between now and 2019 will not mean that we forget the sacrifices of that generation, although I hope that it may help to place them properly and—who knows?—perhaps finally, at rest.

In 1918, support and care for veterans and their families left much to be desired. We have come a long way since then, although even in the very recent past there have been glaring shortcomings to address. The Scottish Parliament has, in its relatively short life, been both consistent and resolute in seeking to do the right thing by our servicemen and women, and their dependants, who have suffered as a consequence of their service in all our names. I can but commend and thank the Parliament for that, and I hope and urge that members will ensure that the Parliament persists in the pursuit of basic decency.

The very best way never to lose that resolve is, I feel, summed up perfectly in the closing lines of a short poem by John Pudney. It refers to an aviator, but applies equally to those on land and sea. It is called, very simply, "For Johnny".

Do not despair
For Johnny-head-in-air;
He sleeps as sound
As Johnny underground.

Fetch out no shroud
For Johnny-in-the-cloud;
And keep your tears
For him in after years.

Better by far
For Johnny-the-bright-star,
To keep your head,
And see his children fed.

Topical Question Time

14:03

Jim Clark Rally

1. John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): To ask the Scottish Government what its response is to Scottish Borders Council's decision not to allow the Jim Clark rally to take place in 2015. (S4T-00822)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): The Scottish Government understands the disappointment of the organisers that the Jim Clark rally has been cancelled. The decision not to hold the rally in May 2015 is ultimately for Scottish Borders Council to make in consultation with planning partners.

The Scottish Government is doing all that it can to ensure that motorsports events, including the Jim Clark rally, can continue to take place as safely as possible in the future.

John Lamont: I thank the cabinet secretary for her response. Everyone involved wants rallying to be as safe as it can be, following the tragic events earlier this year.

Given the announcement last week that the rally will not go ahead in 2015 as planned, does the cabinet secretary believe that there was adequate consultation between the race organisers and elected representatives before the decision was made?

Shona Robison: I am sure that the council has not taken the decision lightly, given that it knows the strength of feeling of the organisers and the local community. It was always going to be a difficult decision to impart to the organisers and elected members. I hope that communication can be improved in the future, and I hope that the dialogue between the council and the organisers will continue, because it is important that we look at the options for ensuring that there will be a Jim Clark rally on a future date.

John Lamont: I thank the cabinet secretary for that further helpful response. Since the announcement on Friday, the organisers of the rally have been in contact with me to say that Scottish Borders Council feels unable, while the police inquiry is on-going, to discuss the possibility of a 2015 rally and closed roads. That is despite assurances from the Minister for Transport and Veterans in June that the rally could take place in 2015 provided that it complied with the recommendations that would be made by the Scottish Government's motorsport safety review team.

I understand that there is still time for a rally to be held in May 2015—that is the position of the organisers, who issued a statement to that effect this morning. Will the Scottish Government intervene to facilitate discussions between the organisers, Scottish Borders Council and the police? More specifically, will the cabinet secretary encourage the Lord Advocate to meet me and the race organisers with a view to issuing guidelines to allow the organisers and the council to proceed with planning the 2015 event?

Shona Robison: I will deal with that last point first. I am sure that the Lord Advocate will be happy to meet John Lamont to discuss issues—albeit that he may be restricted in the elements that he can discuss, given that the Crown will receive the report from the police in due course.

The role of ministers in the Jim Clark rally is determined by the Scottish Borders Council (Jim Clark Memorial Rally) Order Confirmation Act 1996, so there is a role for ministers in monitoring the event at a high level from a public safety perspective, but Scottish Borders Council has always been the lead authority for authorising the event. The council, in discussion with its legal advisers, considered the requirement to look back at this year's rally in order to plan next year's rally, and came to the conclusion that it would be extremely difficult to do that while there was a live police investigation on-going, and with the possibility of there being proceedings by the Crown, depending on what the report from the police to the Crown says. I understand that difficulty. It was a difficult decision for the council to reach but, on the basis of the advice that it has received, that was the conclusion to which it came.

Going forward, in considering what can be done it will be important that communication between the council, elected members and the organisers is good. The organisers are keen to continue those discussions and I believe that the council is, too. However, we must bear in mind that there is a live police investigation that will take some time, as will any Crown proceedings that may be pursued following the report. Meanwhile, I am happy to facilitate a discussion with the Lord Advocate, if John Lamont would find that helpful.

Claudia Beamish (South Scotland) (Lab): Can the cabinet secretary please provide further details of the broader review of on-road sporting events including cycling, which I understand is currently being undertaken? What impacts might that have on other summer events in 2015?

Shona Robison: The motorsport safety review has reported its interim recommendations. It looked at, among other things, the training that is required of marshals and people involved in the organisation of events—not just the Jim Clark rally, but the rally that took place in Mull and any

other events of that nature. The final report will come in at the end of the year, but it was important to get those interim findings out there, not least because the Mull rally was about to take place and important changes needed to be made that were made in time for that rally.

Organisers of any such events will want to look closely at the recommendations that we will receive by the end of the year and ensure that they plan and arrange their events in line with those recommendations.

Circuses (Wild Animals)

2. Kevin Stewart (Aberdeen Central) (SNP):

To ask the Scottish Government whether it plans to introduce legislation to ban circuses from using wild animals. (S4T-00823)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): As Kevin Stewart may be aware, earlier this year the Scottish Government consulted on banning on ethical grounds the use of wild animals in travelling circuses. The analysis of more than 2,000 responses is currently being completed, and we will consider carefully all the views that have been expressed. The Scottish Government recognises the concerns that exist about this important issue, and it will look carefully at what the options might be for implementing such a ban.

Kevin Stewart: Like many people, I was shocked to hear that two lions and three tigers are being overwintered, as they call it, in small cages on a farm near St Combs in the north-east of Scotland. According to reports, 28 countries have already implemented bans on the use of wild animals in circuses. Will the cabinet secretary ensure that we move in a much more progressive manner and follow their lead?

Richard Lochhead: I sympathise strongly with the sentiments that have been expressed by Kevin Stewart. Two male lions, two male tigers and an elderly female tiger arrived in Fraserburgh in October, at the end of the circus season. Scottish Government officials are in close contact with Aberdeenshire Council, which is responsible for ensuring that animal welfare and public safety needs are met, and that the required licence under the Dangerous Wild Animals Act 1976 is in place. I understand that, at this time, the animals are not attached to a particular circus, but their presence in Scotland raises issues that Kevin Stewart is quite right to highlight.

I want Scotland to be progressive. The fact that we are considering introducing legislation to deal with the use of wild animals in circuses on ethical grounds means that we must clarify the legal route for doing so. We are paying close attention to events elsewhere in the United Kingdom, because

similar legislation is proposed south of the border, albeit through a private member's bill. We are paying close attention to the matter, and we will move as quickly as we can.

Kevin Stewart: Aberdeenshire Council claims that everything is above board, and I have no reason to doubt that. Unfortunately, the legislation that we have on such matters is outdated.

I am pleased that the cabinet secretary is looking closely at the issue. When is collation of the responses to the consultation likely to be completed? When can we expect to see some action?

Richard Lochhead: On learning that the animals were being overwintered at St Combs near Fraserburgh, I made inquiries that led me to urge my officials to give me details on how we can improve the timescale for taking legislative action. As I said, there are issues to do with legality that we must consider, and we are doing that at the moment.

Kevin Stewart said that the legislation is out of date. Although I accept that there is an issue with the use of wild animals in circuses, which we are looking at, there is also a specific issue to do with the animals in St Combs near Fraserburgh. There is legislation in place to deal with licensing of that and if Kevin Stewart thinks that it is out of date, I would be interested to hear his views.

Claire Baker (Mid Scotland and Fife) (Lab):

As the cabinet secretary said, banning the use of wild animals in circuses would not necessarily address the issue of overwintering. I am glad that he has had discussions with Aberdeenshire Council. I think that he said that the relevant regulations are from 1976. Does he feel that the regulations are still fit for purpose?

Richard Lochhead: That is a good question. As I said, the public concern about the case in St Combs near Fraserburgh raises questions in my mind and in the minds of colleagues. The issue of animals that could potentially be used for circuses in the future is one that arises. As Kevin Stewart says, if the use of wild animals in circuses had been outlawed, the present situation might not have arisen in the first place. We must balance such considerations. I will certainly have a look at all the regulations.

Child Protection

The Presiding Officer (Tricia Marwick): The next item of business is a statement by Michael Russell on child protection. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

14:14

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): There is no doubt that every member in the Parliament is absolutely committed to ensuring the wellbeing and happiness of every child in Scotland. That is not so much a policy objective as a moral imperative that unites the vast majority of humankind.

That moral imperative includes the demand on us to do everything that we can, in whatever position we find ourselves, to protect those who are at risk of sexual exploitation and abuse and to ensure that the individuals who are responsible for such appalling actions face the full rigour of the law. There can therefore be no question but that this Government, like its predecessor, is completely and fully committed to doing everything that it can to ensure that all parts of Scottish life, and in particular all parts of the public sector in Scotland, are working together in an agile and responsive way to protect every child and young person from abuse, whatever form it takes.

Two weeks ago, I delivered the Scottish Government's response to the action plan developed by the Scottish Human Rights Commission's interaction process. On that afternoon, I met survivors of child abuse—sexual, physical and emotional—to listen to their demands of Government and society. I was very affected by their stories, their courage, their commitment and sometimes by their anger, but most of all I was affected by one who said to me that what he wanted more than anything else was to go from being “a survivor” to being able to “live and thrive”. That is what he and many others really want and that is what we have to help make happen, person by person, issue by issue, place by place. We will do so only if we approach the topic with a ruthless determination to see the truth told and the record written in order that there can be full accountability, surrounded by the best support and a holistic approach to healing.

I can say that the Scottish Government has accepted the main recommendations of the unique interaction process. I pay strong tribute to Alan Miller and his colleagues in the Scottish Human Rights Commission and to the work of the centre for excellence for looked-after children in Scotland, as well as to the agencies and the survivors who

have taken part in a difficult and unique process that has resulted in a clear way forward.

I can tell the chamber today that, as a result of that process, we have committed to leading the development of a national support fund for survivors of historic abuse in care, and we will work with survivors and organisations on the most appropriate model; we have agreed to fund an appropriate commemoration, after actively engaging with survivors and relevant organisations on the format that it should take; we will give full consideration to the merits of an apology law and will continue to work constructively with Margaret Mitchell MSP as her detailed proposals for an apologies bill are developed; we have committed to working with the legal profession and survivors to understand why there might be barriers to exercising judicial discretion, such as a time bar; and we will review the lessons learned from previous inquiries and ensure that people who speak about their experiences in institutional care as children have that recounted through the national confidential forum's published reports. We will join the survivors and the agencies in taking those issues forward together.

As a Government, we will continue the involvement of the three ministers who have been part of this so far—Michael Matheson, the Minister for Public Health; Roseanna Cunningham, the Minister for Community Safety and Legal Affairs; and Aileen Campbell, the Minister for Children and Young People—who will work with me to provide a cross-Government team of participants. I use that word advisedly because this is not a process that is completed. I have given a strong commitment to ensuring that the views and experiences of the survivors are integral to the decision making and action processes. The Government will be part of a wider grouping; we will ensure that we deliver, as is our responsibility, but will remain within the process that is much greater than the Government alone. That particularly applies to the one issue that is still unresolved from the interaction process.

There has been much debate as to whether a further inquiry should take place into historic abuse in Scotland. The interaction process produced a new paper on the matter in August, after a special session to consider the issue, which took a clear and unequivocal stance in favour of an inquiry, and I respect that view. However, the paper suggested a very different type of inquiry from that which is usually established by statute and by Government.

I have spent considerable time in the past few weeks examining that suggestion. I have consulted colleagues and professionals from a variety of areas, including social work, childcare, health and the law. I believe that there are still issues that require to be resolved before a final

decision can be made on whether a further inquiry is appropriate and, if so, of what type.

Some issues need continued input by the survivors. Of course, the Shaw review, which reported in November 2007, and the Kerelaw inquiry, which reported in May 2009, have already considered some aspects of those matters in Scotland. I have therefore asked the Scottish Human Rights Commission urgently to reconvene a meeting of the interaction group to focus on the matters that have still to be resolved, with a view to allowing the Government to reach a final decision. I have also heard from some survivors outside the interaction process about the issue—they are strongly in support of an inquiry, it has to be said—and I will continue to seek and listen to such views.

It is vital to resolve the issue properly and positively. We can see only too clearly what has happened elsewhere when Governments have taken an ex cathedra stance on an inquiry and how it should go forward without listening and exploring enough. There are good examples of much better processes elsewhere—for example, in Northern Ireland and Australia—and we need to look at those, too. I will return to the chamber on the matter before Christmas.

However, an inquiry is only one aspect. History must not be allowed to repeat itself, so the Scottish Government is equally committed to understanding current threats and criminal activity and how we stand against them. We are working closely in partnership with those across Scotland who have the greatest expertise in these matters and providing national leadership and co-ordination while being guided by those whose everyday work is with children and families in communities across Scotland. That means working with a wide range of people including the third sector, local government, the health service and Police Scotland.

All those organisations have worked with us on the first national action plan on child sexual exploitation, which we are publishing today. That work has been informed by the Jay report on child sexual exploitation in Rotherham, which is one of the reasons why it has taken a little longer than expected. The action plan is not a panacea for tackling child sexual exploitation. There is no single solution. However, it represents a critical milestone that outlines tangible steps for useful action that will move us forward in our efforts to tackle this vital concern.

For example, I am pleased to announce today our commitment to work with partners to develop a national awareness campaign on child protection. We will be looking to work with Police Scotland to develop guidance on child sexual exploitation indicators for night-time economy staff such as taxi

drivers and hotel workers, who come into increased first-hand contact with children and young people at especially vulnerable times.

The recent establishment of the Police Scotland national child abuse investigation unit is another key innovation that will provide national specialist support on all child abuse investigations identified across the country. Police Scotland will have the specialist capability to investigate and target both current cases and cases where accusations of historic criminality are made. That parallels the establishment of the specialised national sexual crimes unit by the Crown Office.

Improving outcomes for children is a long road to travel. As we take steps here in Scotland to make each change, we will continue to pay attention to the developing discourse elsewhere, to ensure that we are well placed to respond to emerging findings and new examples of best practice and to reflect on how best the experiences of others can be adapted to circumstances here.

Earlier in the summer, ministers asked the Care Inspectorate to update us on the effectiveness of local arrangements for protecting children and adults. Its report on child protection, which was published last week, is very helpful. It highlights some excellent work but also potential barriers to improvements in protecting children and young people, and it will inform everything that we do.

In the context of the specific inquiries into historic child sexual abuse that are taking place elsewhere in the United Kingdom, in July, I commissioned the chief executive of Children in Scotland, Jackie Brock, to take an independent look at the working of the Scottish child protection system as developed by recent legislation. The purpose was to examine how robust our child protection systems are and to identify areas of improvement. Ms Brock's report usefully complements that of the Care Inspectorate and considers the strategic issues in delivering child protection services efficiently and consistently across the country. It offers 12 recommendations about how the Scottish Government and partners can do that more effectively.

I am publishing that report today and I confirm that I support all its recommendations. I will, for example, bring together the chief officers of the 32 community planning partnerships, the chief officers of the shadow integrated health and social care partnerships and the child protection committee chairs in a summit to be held this year.

It is fair to say that the vast majority of children will have safe and happy childhoods without the intervention of public services or third sector agencies, other than through normal healthcare and schooling. For the other children, however, it

is essential that we can identify and support their needs from the earliest possible age, and a preventative approach has long been the bedrock of our system. That is best expressed in GIRFEC—getting it right for every child—which is our national approach to improving children’s wellbeing. It was developed across several Administrations and in partnership with statutory agencies and the third sector, and it is improving our early-warning systems by helping us to pick up on signs of need more quickly and allowing services to make appropriate responses to prevent risks from becoming realities. The entire Parliament should embrace that whole-heartedly.

Some dreadful things happened in Scotland over many years to children who deserved so much better from those in positions of trust. Jack McConnell made an appropriate and heartfelt apology in the chamber in 2004 on behalf of the nation and us all. We must never forget what took place. We need to have an awareness of it that means that it can never be repeated, we need to prosecute those who were guilty so that they can never reoffend and we need to place in permanence the truth about who was accountable so that others never fail again.

We also need to help those who suffered to move from surviving to living and thriving. We all need to come together around that ambition, to ensure that Scotland is and will be from this time on the best place for each and every child to grow up in.

That work is not done yet. I have reported on substantial progress today, and I will come back to the chamber to report on the outstanding issue of an inquiry as well as to update members from time to time on how the details of the processes are being worked out and implemented.

We can never do enough for those who have suffered but, by working with them, we can at least try to make a difference for the pain of the past, a difference to our practice in the present and a difference to our plans for the future. I am happy to answer questions on the statement.

The Presiding Officer: As the cabinet secretary said, he will now take questions on the issues raised in his statement. I intend to allow until around 2.50 for questions.

Graeme Pearson (South Scotland) (Lab): I am grateful to the cabinet secretary for early sight of his statement. I am pleased to acknowledge that he is taking the lead on the matter so that we can finally deliver on the hopes of survivors across Scotland on the very important issue of child protection.

I am pleased to associate myself with the words of support that the cabinet secretary offered to all those who have contributed to decisions that he

has acknowledged. I add to them the individual survivors and survivors groups, which have helped so much.

I hope that the cabinet secretary will be able to give us further details of the action plan and implementation dates, which are important, because survivors and others who have been involved have too often not known when something was due to occur and when it would be delivered.

As the cabinet secretary indicated, a survivor wanted to live and thrive, but many of the survivors to whom I have spoken also want an answer on how and why the abuse that they suffered was allowed to continue. The answer to that question gives us the best opportunity to protect vulnerable children in the future.

The cabinet secretary mentioned the initiation of a support fund. I would welcome more detail about who would contribute to that support fund, as a number of organisations and agencies would do well to show willingness to contribute fully.

I hope that the commemoration that the cabinet secretary mentioned will take on board not only living survivors but those who—unfortunately—took their own lives in past years because they were unable to content themselves with the future, given the knowledge of what they had suffered.

The cabinet secretary’s statement mentioned supporting survivors to understand the interaction plan. I have to say that that sounded a deal condescending. I hope that he will explain that more fully, because I am sure that he did not mean what he said in the way that it looks in the cold light of the statement.

Many survivors will look forward to the introduction of a public inquiry. Christmas cannot come soon enough for them. They believe that a public inquiry will give us a full understanding of why we are where we are and how we can prevent things from recurring in the future in the way that they seem to have done in past decades. I am very grateful that the statement has been made.

Michael Russell: I will respond to a number of points. On supporting survivors, the interaction process is exactly what it says it is: it is interactive. It is therefore important that the Government is part of the process, but there is and there will continue to be mutual support by all those involved.

The point about helping survivors to understand the action plan is to widen its impact because, of course, not every survivor is a member of the interaction process.

On the inquiry, I commend to the member the interaction survivors event report on views on an inquiry from 27 August, to which I referred. I am

happy to ensure that a copy of that report is available in the Scottish Parliament information centre. The document is important. It tells us the issues that the interaction process is considering and the importance of things that need to be heard in an inquiry.

I will mention just one or two of those issues. It is important to publicly hear and acknowledge survivors' experiences, as it is to enhance public understanding of institutionalised child abuse, give agencies the opportunity to tell the story of what took place and how they have changed, help survivors with their mental health and quantify the extent of the abuse. An important line in the report that we should all reflect on says that justice is more than apology or money; it is ensuring that there is a national record that we can move forward on.

This is not a conventional inquiry, so we need to address the issues in a different way. That is why we need to consider how it could be done, given that, as the member will know, the legislation on public inquiries is very different and is focused on different outcomes. That is why we will take some time to resolve the problem.

The action plan has been published today and contains details of the timescale. It says:

"Timescales for achieving actions on the Action Plan differ. A number have already been successfully achieved, while some have a longer timeframe attached."

There is clarity in that document about the timescales.

As for the support fund and commemoration, there are a number of international models, such as the Irish model. A number of partners will require to be involved. That is a negotiation that I and my colleagues will undertake with the interaction process. The Government will play a role in being part of the fund and in making sure that we can negotiate a wider involvement.

Nanette Milne (North East Scotland) (Con): I, too, thank the cabinet secretary for the advance copy of his statement. Like others, we welcome the Government's response to the Scottish Human Rights Commission interaction plan, and we appreciate the cabinet secretary's comments on the hard work done by my colleague Margaret Mitchell with her apologies bill.

We also welcome the cabinet secretary's acceptance of the recommendations in Children in Scotland's report, particularly the recommendation that the focus should be on children who are vulnerable and on the radar—in other words, children who are living at home but who are known to children's services.

I appreciate the cabinet secretary's explanation of why the Government does not believe that a

further inquiry into cases of historic child abuse in Scotland is necessary at this point in time. Will he confirm that such an inquiry has not been fully ruled out if further cases come up that relate specifically to Scotland?

As a member of the Health and Sport Committee when the national confidential forum for survivors of institutionalised abuse was set up, I ask the cabinet secretary what reports he has received about individuals coming forward to use the forum. Can he provide members with an update on the forum's progress? Will he now consider extending access to the forum for children who are in foster and kinship care?

Michael Russell: The national confidential forum will start taking referrals next month—that is the timescale, which was, of course, established in legislation.

I just want to be clear about what I said about an inquiry. Although my statement was clear, Nanette Milne seems to have slightly misinterpreted what I said. I indicated that, at the moment, I have taken no position on the final decision on a further inquiry. A strong and persuasive case is coming from the interaction process, and other cases are being made. I have committed myself to continuing to listen and having further discussions about that, and the interaction process is coming back together to discuss it. Work remains to be done across the whole area in terms of an inquiry that is different from the type of inquiry that convention has established—for example, an inquiry under the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005. I will come back to Parliament to report further on that. I do not want people to think that I have taken a position.

If Nanette Milne reads and considers the action plan, she will see that we are proposing something different from what has gone before. We should not undervalue the unique nature of the interaction process and how important it has been, but other considerations need to come in, so I will come back to Parliament on that.

I just want to make sure that everyone is entirely clear about the action plan. The action plan on child sexual exploitation is on-going; we published it today in response to the Public Petitions Committee, which Mr Stewart will know about. There is also the interaction process on historic sex abuse. There are links between those matters, but we need to be clear in our minds about a number of things that are linked by appalling criminal behaviour but which are different and require different approaches.

Roderick Campbell (North East Fife) (SNP): At the Justice Committee on 7 October we heard from the Crown Office and Procurator Fiscal

Service evidence that echoed Professor Jay: it is undoubtedly true that low conviction levels do not necessarily mean low levels of child sexual exploitation. Does the cabinet secretary agree that there is public concern about the extent of child sexual abuse and that information gathering on the subject is vital?

Michael Russell: I absolutely agree with the member. It is dangerous to make assumptions about the level of abuse of any description. I have seen some slightly careless remarks about whether abuse is taking place at what is described as Rotherham level, for example. We have to be very careful about that. The police are determined to prosecute and to secure the conviction of anyone who is accused in the matter, if they are guilty. We must be careful about the assumptions that we make about the scale of what we are talking about.

It is true that a low conviction level does not necessarily mean a low level of child sexual abuse. Equally, it does not necessarily mean a higher level of child sexual abuse.

I absolutely agree with the member that we must ensure that information is available about what is taking place and that we must have our eyes and ears fully open. When I made the point about workers in the night-time economy, I meant that we need to enlist people across Scotland in the process. One of the many lessons in the Rotherham report is that people found it difficult to take their minds from where they were to what they were seeing in front of them. We need to ensure that people are prepared to do that—and sometimes that requires us to think things that we would rather not think.

I commend the member for saying that information gathering is vital. Awareness is perhaps even more vital.

Neil Bibby (West Scotland) (Lab): The cabinet secretary will be aware that Scotland is the only part of the UK that does not currently have an inquiry into historic institutional abuse. This is not a new issue. As the cabinet secretary said, Jack McConnell gave an apology in 2004 when he was First Minister. A number of my constituents have been calling for an inquiry for years, and I support their call.

Given that millions of pounds have been spent on reports, frameworks and consultations on the best way forward, will the cabinet secretary give the Parliament more detail about what he thinks needs to be resolved before a decision on an inquiry can be made?

Michael Russell: I used the term “further inquiry” advisedly. There have been two inquiries, there has been a range of reviews and investigations and, of course, there has been an

active process of prosecution. I am sure that the member did not mean to give the impression that nothing has happened; a great deal has happened, which has arisen from the apology that he mentioned and other things that have taken place.

I commend to the member the interaction process, which has been unique. I regard myself as privileged in having been able to see what has taken place, although I came into the process only towards the end. It has been quite extraordinary how the agencies, survivors and others have come together to negotiate and discuss a careful way forward. I am struck by the paper on an inquiry, which was produced late in the process. The paper has changed my thinking. It is extremely important that we think carefully when we are presented with information and evidence.

In my statement I mentioned some of the issues that need to be resolved, which include whether there is any law in existence that can underpin a different type of inquiry. The member referred to what is taking place in other jurisdictions. In Northern Ireland, specific legislation was passed, which in essence tailored the inquiry to what was needed, so that it would not have to fit into the straitjacket of existing legislation. It is fair to say that the Inquiries Act 2005 is good legislation in the context of inquiring into things in relation to which a clear, specified question can be asked, for example about how an accident or disaster took place. However, the public acknowledgement of wrong and the enhancement of public understanding are not clear questions to be answered. What we must do is discuss, through the interaction process, how we can shape the inquiry.

I would not commend the approach that has been taken south of the border, where a decision on an inquiry and its remit seems to have been announced ex cathedra to the people who would be most affected by it. That is not the right way to do it, and I do not think that it is how the Scottish Parliament will want to do it.

Let us take time to discuss the matter and consider the right way forward. That is what I intend to do over the next few weeks. I have deliberately set a timescale for that discussion, so that I can come back to the Parliament before Christmas to explain my conclusion, one way or the other, and be open to question from members about that conclusion.

Liam McArthur (Orkney Islands) (LD): I, too, welcome the cabinet secretary’s statement and the action plan. It is clear that a considerable amount of work has been done by a variety of groups and a significant amount of thought has gone into this complex question. I also commend

his suggestion that a strong and persuasive case is emerging for a possible further inquiry.

However, the Care Inspectorate's report highlighted serious shortcomings, with planning of child protection services stalled, progress deteriorating and important or major weaknesses in the effectiveness of initial responses.

The report also highlighted that social workers who had been in the job for as little as one month were having to deal with complex cases. The cabinet secretary has referred to further training for professionals, but does he agree that there is need for urgent action to look at whether local teams have the correct skills mix and to ensure that experienced social workers are paired with or working alongside those who are newly qualified?

Michael Russell: I do not have any difficulty with acknowledging that although there were positive things in the report, there were also things that required urgent attention. That is why a team of ministers is involved in this, and why Aileen Campbell met the Care Inspectorate at lunch time today. We are putting in place the actions that are required to take this forward.

I assure the member that we want to make sure that, where criticisms exist, they are attended to. I do not believe that social workers with very limited experience should be exposed to the most difficult cases.

As my role includes responsibility for social work, I have spent part of this year meeting front-line social workers across Scotland in a variety of private discussions. Those meetings have persuaded me of a number of things. One is the very high quality our social work staff in Scotland. Another is the fact that those staff can suffer from burnout, for example, and can be placed in positions where they are not able to fully respond. We need to ensure that we are supporting them. Last week, I met a group of directors of social work to take forward those issues.

The member's point is well made. We note the objections within the report to certain things that have taken place and the recommendations for improvement, and we will take them forward.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I welcome the national child protection awareness campaign. As the cabinet secretary knows—as most of us know—child abuse often takes place in the family home behind closed doors and in families that are not known to social work. How can members of the public report their awareness that something untoward may be happening, and to whom should they report it?

Michael Russell: There are a variety of ways. I will start within the confines of the Children and

Young People (Scotland) Act 2014. The provisions on the named person gives people the opportunity to seek help and advice at an early stage, and it is important that that happens. A criminal action should always be reported to the police, and there is no doubt that it is essential that that should happen. Suspicions of problems and difficulties could also be drawn to the attention of a variety of agencies, including social work and the Care Inspectorate.

There is no shortage of people to whom information can be given. However, the member will know that the important first step is to recognise that something may be wrong and, in those circumstances, to be determined to do something about it—not in a negative way but in a way that supports children. I outlined in my statement the importance of supporting every single individual child.

Stewart Maxwell (West Scotland) (SNP): I very much welcome the national action plan and, of course, the proposals for a national child protection awareness campaign. However, does the cabinet secretary agree with me that schools have a vital role to play in tackling and preventing child sexual exploitation? Can he outline what preventative education is currently available for our children and young people and what further plans the Scottish Government has in that area?

Michael Russell: It is important that we ask Education Scotland to consider that at an early opportunity—that will be done. It is also very important that individual teachers, both in their training and in their continuing professional development, are alerted to the issues.

The national campaign that we announce in the action plan is about raising awareness right across society and I expect teachers and schools to be an integral and central part of that.

Jayne Baxter (Mid Scotland and Fife) (Lab): One of the recommendations in Children in Scotland's report calls for chief officers' groups to

"receive a report from Child Protection Committees (CPCs) on the impact of the Health and Social care Partnerships on child protection and wellbeing"

and to implement an urgent review. How will that work in light of the Convention of Scottish Local Authorities' expectation, as expressed in evidence to the Education and Culture Committee this morning, that only one third of children's social work and health services will be integrated?

Michael Russell: The legislation passed by the Parliament allows for a variety of models. The reason for that was that the models have to be appropriate to local circumstances. As I said in my statement, we will bring together all those who are involved, whether they are involved in the newly integrated models or not, to do that co-ordination,

and we will have that meeting this year. We need to bring together child protection committees, local authorities and those who are involved in health and integration so that, in all parts of the system, those at chair and senior officer level are absolutely focused on the requirements. I make a commitment to the member that we will do that. Where the models vary, we will ensure that everybody is involved, because nobody should be excluded.

Gil Paterson (Clydebank and Milngavie) (SNP): I, too, thank the cabinet secretary for his statement on this important issue. The chief executive of the Care Inspectorate has said:

“Generally, arrangements for protecting vulnerable children and adults in Scotland are good, but there is no room for complacency.”

Will the cabinet secretary outline how he will ensure that there will be no complacency in this regard?

Michael Russell: My entire statement indicated that the Government has no complacency. Everyone who is involved in the issue—that should be every single citizen in Scotland—can do nothing other than recoil with horror at some of the things that have taken place, and we all need to recognise that we have an individual role in preventing it from taking place in the future. Therefore, none of us can rest on the issue. In my statement, I outlined in detail a range of actions that can and will be undertaken by a range of organisations to ensure that we make progress. Alexis Jay memorably observed in the Rotherham report that, in an area where everyone is responsible, no one is responsible. We have to ensure not that everyone is responsible but that each individual takes responsibility. That means that each individual knows what action is to be taken. That is what we want to do.

David Stewart (Highlands and Islands) (Lab): The cabinet secretary will be well aware that the Public Petitions Committee, which I convene, after 12 months of exhaustive inquiry provided a comprehensive report on child sexual exploitation, which concluded with 26 powerful and pertinent recommendations. Will the cabinet secretary use our 26 recommendations, which were based on expert testimony from across the UK and beyond, as part of the national action plan? For example, they included recommendations on using risk of sexual harm orders more often and developing strategies to disrupt perpetrator activity.

Michael Russell: Broadly, I am entirely happy with that. The committee made an important contribution and nobody is rejecting it. Of course, we have to drill down into each of the recommendations. Decisions on taking forward risk of sexual harm orders are for the police and prosecutors to take, based on individual

circumstances. I would not want to create a blanket circumstance in which we say that such orders are available and should be used. We must be aware of the many variations in circumstances that exist.

If the member accepts my support for the conclusions that have been reached and my desire that everybody plays their part, I hope that he will also accept that I want to ensure that we act appropriately in every case and do not necessarily apply blanket prescriptions, which might not be appropriate in some cases.

Graeme Dey (Angus South) (SNP): The cabinet secretary will be aware that, in many cases, children do not recognise their exploitation until some years after the abuse took place. Does he agree that that is one of the biggest barriers that we must overcome in tackling child sexual exploitation? How does he feel that it might be overcome?

Michael Russell: That is a considerable issue with various aspects that raise particular concerns. Some people recover their memories—I do not use the word in its technical sense—and are concerned by that. They need strong support and help during that process, so it should be available. The whole idea of the interaction process is to provide strong support and holistic help for those who have difficulties. That is an important issue.

There are also those who go on suffering. I was struck by somebody who told me a story of being taken into care when she was very young and being told that she had no family, but then discovering many years later that she had a family, and she had never known them. That was a continuing abuse throughout her life.

We need to recognise that this is not a simple matter and that, for many people, it is not something that finishes. Therefore, we have a commitment as a society to lifetime care for those who are in such circumstances, but that care is not simply of one nature. I go back to the phrase that I used twice in my statement: the care must also aim to help those people to move from surviving to living and thriving. That is what we need to do and all of our actions should be focused on that.

The Presiding Officer: Given the importance of the statement, I intend to make sure that the three remaining members are called.

Claudia Beamish (South Scotland) (Lab): Can the cabinet secretary give details of any additional funding for the development of the national awareness campaign on child protection, which was highlighted in the national action plan, particularly in relation to training, co-ordination and—importantly, as I am sure he will agree—monitoring of such a sensitive and complex strategy?

Michael Russell: I have given a commitment to support implementation of the campaign and, therefore, the costs will be met. I am sorry not to be more precise than that, but it was important that we made the right proposals and then said that a way would be found to support them. I undertake that that will be done. Of course, as time goes on, I will attach a projected and actual expenditure to what we have undertaken.

Liz Smith (Mid Scotland and Fife) (Con): In his deliberations with the considerable experts in the field and with the police, is the cabinet secretary considering specific models of local authority organisation that are best placed to produce best practice in this policy area?

Michael Russell: That is an important question. I want to ensure that the most effective models of practice are replicated or imitated and that there is broad knowledge of them. That does not mean that I want to impose a particular individual practice on every local authority. I want to ensure that, as the work continues—much good work is going on—we learn where it is most effective and encourage others to take it forward.

There is a desire in each local authority to get it right—there is no doubt about that—but, where the practices have not been as good as they should be, they should move forward. We benefit from the work that the Care Inspectorate has done over a period on children's services. It is fair to say, if I can put it this way, that we know what does not work. We know where we have experienced problems and the Minister for Children and Young People has been involved, with my support, in ensuring that we make it absolutely clear that that is not acceptable and that substantial improvement is sought. We also know where good practice exists and we will encourage its replication.

Alison Johnstone (Lothian) (Green): I thank the cabinet secretary for his statement. Tackling child sexual abuse requires better information. Is Police Scotland using the new database that has a specific marker that allows accurate identification of individuals who may be at risk? How are other agencies sharing that information?

Michael Russell: I will require to write to Alison Johnstone about that. Police Scotland databases are a complex issue. New databases are being built and developed. I know that the police are observing best practice on the matter, but I do not want to answer Ms Johnstone without absolute knowledge of that, and I will ask my colleague the Cabinet Secretary for Justice to provide information so that she has it.

The Presiding Officer: That ends the statement from the cabinet secretary on child protection.

Human Rights

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-11484, in the name of Roseanna Cunningham, on human rights.

14:54

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): Scotland's Parliament is an institution that is founded on deeply held progressive values. Those values are held in common and reflect a shared belief in freedom, democracy, the rule of law, and the fundamental worth and inherent dignity of all humanity. Such values inform our day-to-day work.

There is a mace sitting at the centre of the chamber. It reminds us that the authority that has been granted to us by the people of Scotland is to be exercised with wisdom, justice, compassion and integrity.

As Donald Dewar rightly said, those were, and remain, "timeless values, honourable aspirations" for Scotland's new democracy. They are woven into the fabric of all of our endeavours on behalf of all the people of our nation. They remind us, too, of the need to be constantly aware of our special responsibilities as custodians of the fundamental standards that underpin civilised society.

The most important of those standards are the universal and inalienable human rights that are enshrined in international law and are woven into the founding statute of this Parliament.

Mary Robinson, the former Irish President and United Nations High Commissioner for Human Rights, defined human freedom as

"that precious space secured by the standards, laws and procedures which defend, protect and enhance human rights".

She did so in a lecture in 1997—coincidentally, on 11 November—shortly after becoming UN high commissioner. She went on to note that, for the world at large, international human rights laws exist because

"domestic protection of vulnerable individuals or groups is either absent or insufficient."

In Scotland, we are fortunate enough to have fundamental rights that are not only defined in international law but clearly set out in domestic statute through the Scotland Act 1998 and the Human Rights Act 1998. That is, I think we can agree, a good thing. It is also a necessary thing, and it is a thing of which we should be proud—just as we are proud of the focus that this Parliament has placed on the need to act always with wisdom, justice, compassion and integrity.

Strangely, however, there are people for whom the standards that secure human freedom—standards of which we in this chamber are all custodians—are somehow a bad thing. To listen to such voices is to hear the message that the fundamental rights that we are all born with are an alien imposition, that they are a hindrance, a constraint and an unwanted limitation on the power of Government and authority, and that we would all be much better off if we cut ourselves free from such strange foreign notions as freedom and liberty, equality and justice or the right to a fair trial.

Murdo Fraser (Mid Scotland and Fife) (Con):

Does the minister's list of such people include the Deputy First Minister? In relation to the European decision on granting prisoners the right to vote, she said:

"I do not believe that a good case has been made for changing that situation."—[*Official Report, Referendum (Scotland) Bill Committee*, 28 March 2013; c 314.]

Roseanna Cunningham: As Murdo Fraser will hear, I acknowledge that Governments do not always like what comes out of the courts. That is not a reason to take away the right to get to those courts in the first place.

The message that is beginning to emerge is not one that holds the slightest attraction for any democrat in this Parliament. To retreat from our common commitment to human rights would be entirely at odds with where Scotland now finds itself. Around this chamber, I detect a desire to move forwards, not to go backwards. In wider Scottish society, I detect the same interest in doing more, and not less, to secure and promote the rights to which we are all entitled. It is no accident that human rights are mentioned in four out of the five party submissions to the Smith commission. It is also no accident that human rights are a key theme in civil society contributions, including the letter that was submitted jointly by the non-governmental members of the leadership panel of Scotland's national action plan for human rights.

I realise that some people will protest that I am misrepresenting the position of opponents of the Human Rights Act 1998 and am overplaying the threat that is represented by their proposals. I disagree. I will return to what is proposed, but to downplay the threat is to seriously misunderstand the true impact of the escalating and irresponsible anti-Europe, anti-human-rights rhetoric that we have been hearing from prominent members of the UK Government.

Members will be well aware—I expect that Liberal Democrat members will be anxious to make this point—that such anti-human-rights rhetoric represents the views of a small but powerful, and extreme, group of individuals at

Westminster. It is very definitely not the policy of the UK Government, as we will be told, and it is not the policy of the main opposition parties at Westminster. That was a point that Alistair Carmichael, speaking as Secretary of State for Scotland, has underlined in no uncertain terms.

I want also to welcome the equally robust views that we have heard from the Labour Party. Sadiq Khan was absolutely correct in his observation that

"leaving the ECHR ... would be a disaster for this country".

Just as David Cameron seems to be intent on moving ever closer to an exit from the European Union, so, too, there appears to be a cavalier desire to play Russian roulette with the Council of Europe and fundamental human rights. If David Cameron and Chris Grayling do not get their way—which seems to consist mainly of being allowed to pick and choose which laws and court judgments they feel like implementing—the UK could join Belarus and Kazakhstan as the only countries in Europe that are outside of the European convention on human rights system. That position has attracted derision from some eminent commentators. One has described it as follows:

"It's as if we said to Fifa: 'We'll play in the World Cup, but we'll only obey referees' decisions if we agree with them.'"

It has prompted others to note the irony that the ECHR was originally proposed by Winston Churchill, following the horrors of the second world war. It was drafted in large measure by British lawyers. Churchill's own party now looks at those same principles with contempt, and proposes to undermine the world's most successful human rights treaty.

Make no mistake: the potential withdrawal of the UK from the convention—which is where we are heading—sends a message to every dictator around the globe that they, too, can have *carte blanche* to pick and choose which of humanity's fundamental standards to respect. The dangers of that should be apparent to everyone. They are dangers that this Parliament has a duty to confront.

There has long been a cross-party consensus in Scotland on the fundamental importance of human rights. As Scots, we have traditionally had, and continue to have, a deep-rooted attachment to concepts of fairness, justice and equality. We have been reminded in recent months by Professor Alan Miller, the chair of Scotland's independent UN-accredited Scottish Human Rights Commission, that attempts by politicians to limit accountability

"for the exercise of power"

would be

“in stark contrast to the spirit of democratic renewal that has come to life in Scotland in recent times.”

He has gone further, emphasising that human rights must never be treated as a political football or abused for short-term political gain. As he has made clear:

“Playing party politics with human rights is irresponsible, undermines the rule of law, sets a dangerous precedent to other states and risks taking us backwards when it comes to protecting people’s rights in everyday life.”

I want to be equally clear, on behalf of the Scottish Government, that we regard Scotland’s continuing membership of the ECHR system and the Council of Europe as a necessary and permanent feature of the constitutional settlement. It is non-negotiable. We regard the Human Rights Act 1998 as effective and successful implementation of ECHR, and one that is itself also a fundamental constitutional statute.

Of course, there is always scope for Scotland to go further in giving effect to international human rights—in particular, by building on this Parliament’s existing commitment to civil and political rights, and by looking closely at how to give better and further effect to wider economic, social and cultural rights. However, there cannot and will not be any backsliding on, or erosion of, the existing fundamental safeguards that are provided by, the Human Rights Act 1998 and the Scotland Act 1998. That, I believe, is a position that is shared by most, if not—as I like to think—all members of this Parliament.

That is not to say that implementing ECHR commitments is always easy for Government. Murdo Fraser has already flagged up one of the issues that gives Governments some difficulty. In many ways, though, such things are precisely the point of having human rights safeguards written into our fundamental laws. Laws such as the Human Rights Act 1998 exist precisely to enable ordinary members of society to challenge the preferences of the powerful. There is no doubt that our obligations under the ECHR have required both the Government and Parliament in Scotland to think increasingly in a rights-based and person-centred way. That goes back to 1999 and the inception of this Parliament.

Governments struggle occasionally with the decision making that comes out of the ECHR. However, at the end of the day, if it was only ever going to be about decisions that every Government agreed with, there would hardly be much point in the first place.

We have become accustomed to embedding principles of reasonableness and proportionality, fairness and balance at the heart of our policy and legislative processes. That has imposed a positive discipline on us all. Whether we are talking about

health and social care, criminal justice, housing or the devolution of possible new powers in areas including welfare or employment, all those matters have human rights at their very heart, and all would be likely to suffer from any erosion of our commitment to making rights real for everyone in our society.

I will conclude by making it clear that a threat to our human rights exists. The Presiding Officer need not worry about the time, because this conclusion will perhaps be slightly longer than she might be expecting. The threat has been dressed up in rhetoric about “restoring common sense” and ensuring a

“proper balance between rights and responsibilities”.

When we look behind that façade, what we see is a world in which powerful people truly believe that politicians, not the courts, should be able to decide which members of our society are “deserving” of protection and which cases are “too trivial” to be heard. It is a world in which international commitments and legal obligations count for nothing, and where the rule of law comes second to the prejudices of the party in power. It is a world in which a Government and the Parliament that it controls can be sovereign and where the natural order of democracy, in which the people are supreme, is turned on its head.

This is not an abstract issue. The proposals that have been presented would deny recourse, for example, for members of the armed forces and their families if a future UK Government sent them into combat without proper equipment.

Our ability to claim our rights would be restricted to “the most serious cases”—those which involve property rights or the prospect of imprisonment. That would be a travesty of the robust and comprehensive safeguards that protect everyone, from elderly people in care homes or disabled people who are being victimised by the bedroom tax, right through to local campaigners exercising their democratic right to protest, or any one of us enjoying the right that we all have to privacy and respect for our family life.

The erosion of those rights is not acceptable to Scotland. As citizens of the world, we have a responsibility to stand up for the standards that secure human freedom. We might be a small voice in the world, but we are a voice, which is important. When it comes to the rights that belong to all humanity, we should never be tempted to opt out or to walk on by or to decide that being uncomfortable as a Government is sufficient reason to set those rights aside.

This Parliament has the capacity to speak with an authoritative and democratic voice. We have an obligation to step up to the mark when rights are on the line. That is why I ask all members of

Scotland's Parliament to unite today in making it clear that threats to the Human Rights Act 1998 are irresponsible and unacceptable both in terms of their direct impact in Scotland and because, ultimately, if rights regress in a modern western democracy, they inevitably fail in the rest of the world.

I move,

That the Parliament re-affirms and re-asserts, on behalf of all of the people of the community of Scotland, the inalienable human rights and fundamental freedoms that are the common inheritance of all members of humanity; recalls the particular importance to the Parliament, through its founding statute, its founding principles and in all aspects of its day-to-day work, of human rights in general and of the European Convention on Human Rights in particular; acknowledges the constitutional responsibility of the Parliament to uphold the principles and values expressed in the convention and to respect, protect and realise the rights and freedoms that it enumerates; further acknowledges the importance of that work not only in relation to Scotland, but also in establishing and maintaining standards of best practice, which provide a benchmark for human rights elsewhere in the world; expresses its confidence in, and support for, the Human Rights Act 1998 as a successful and effective implementation of the convention in domestic law, and believes that the principles and values that inform the convention, the rights and freedoms that it enumerates and the Acts that incorporate it into law, should be a source of unity and consensus across the whole of society and should enjoy the unequivocal backing of all who are committed to upholding human rights, democracy and the rule of law.

15:08

Jackson Carlaw (West Scotland) (Con): This is an important debate and the Government has lodged a substantive motion. I very much hope that the minister will accept that there is a great deal with which we agree—in her opening comments, at least—in both the sentiment and substance of what she had to say. However, it is no secret that there are nuances between us, and an open debate is taking place within the Conservative Party—in the wider community, too—about the settlement of current legislation and how that might be revisited in the event of a Conservative majority Government after the general election in barely six months. I will return to that as I proceed.

I was born in the shadow of the second world war, in which millions died, including 6 million Jews and others who were murdered by the Nazis. My childhood was spent growing up in a world that was dominated by the cold war and by a Soviet Union that had murdered millions more in gulag camps across Siberia. My early teenage years witnessed the dismaying excess of the United States in its desperate struggle to secure progress in Vietnam, while in adjacent Cambodia, Pol Pot and his henchmen murdered another 5 million people. In the years since, whether in the Balkans

and Kosovo, in China or across the middle east, we have all borne witness to the very worst of the world in which we live.

I have heard one Republican US President justify the detention without charge or trial of individuals at Guantanamo Bay; I heard another Democrat US presidential candidate condemn Guantanamo Bay when campaigning for office—yet, six years into his presidency, he has failed to keep any promise that he made to close it down.

My family's business was based just 100 yards or so from the worst of Glasgow's long-since demolished Gorbals community. As a child, and admittedly from the warmth and privilege of a comfortable motor car that my middle-class upbringing provided, I saw the squalor and poverty in that community without ever experiencing it. However, I knew that what I saw was wrong.

When I fought my first council by-election in the North Kelvin and Park ward of Strathclyde region more than 30 years ago and saw behind the newly cleaned stone façades of the Great Western Road tenements to find many with nothing but shared outdoor sanitation, I knew that that was wrong, too. I am not talking about the communities—they were proud and resilient. Rather, what was wrong was what they were expected to endure. In many cases they were expected to do so for too long and without hope, whatever the colour of Government, for all colours and combinations of Government have, undeniably, had their turn in office both nationally and locally. There has been progress, but at times the progress in human rights here at home has been painfully cautious. Politicians of all colours have succeeded and disappointed in turn.

I do not look at any other politician and imagine or expect them to care nothing for values or human rights; nor do I find any productive mileage in accusing others of indifference. Invective, insults and polemics that are rooted in spite and bile rarely move hearts, minds or policy. We all have ideals, even if we are not all idealists. I suppose that I hope to be an idealistic pragmatist: I seek progress for humankind and I will settle for half a glass of progress now rather than none at all.

Although Scotland joined the UK in the 17th and 18th centuries, I celebrate the UK's wider heritage of the Magna Carta—its 800th anniversary falls next year—and the bill of rights and the claim of right. I celebrate the European convention on human rights, which was signed in Rome in 1950, and the fact that the UK was the first nation to ratify it.

The ECHR was drafted in the post-war period largely by David Maxwell Fyfe. He later became a Scottish Conservative MP, but was then the man

who at Nuremberg eviscerated the evidence and theatrical bombast and cunning of Hermann Göring. The convention was born of a determination to ensure that the horrors that had been perpetrated by Hitler, and even then those of Stalin as he sent his citizens to gulag camps without trial, could never be repeated.

Irrespective of the dismay that many people feel about how the European Court of Human Rights has sought to develop and reinterpret, with all its creativity, the terms of that historic convention, I am in no doubt that it stands well the test of more than half a century, and that it demonstrates in its fundamental text absolute rights that should never be set aside: the right not to be tortured, the right not to be enslaved, the right to a fair trial and, as defined, the right to life and to liberty.

The Prime Minister has made it plain that a future UK Conservative Government is resolved to review legislation, and that it will work with all to establish a new British bill of rights and responsibilities, at the heart of which will be the original text of the European convention on human rights, which would be a laudable statement of principles for any modern nation.

I accept totally that, as we debate these matters, the terms and detail of any alternative are far from clear. I note freely, as well as the words of the minister, the many worries that have been expressed by organisations that have prepared briefings ahead of the debate. I acknowledge, too, that those concerns exist in the Conservative Party, so we are far from knowing what it is that we may be asked to form a judgment about.

However, we will be seeking, in any process, to step back from the European Court of Human Rights' increasingly unsupportable interpretation of the convention as a "living instrument", and its so-called mission creep, particularly to reinterpret article 8 of the convention—the "Right to respect for private and family life." It says:

"There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

I find the European Court of Human Rights' rulings that prisoners should be allowed to undergo artificial insemination or that, despite having committed the most serious of crimes, they should be allowed to remain in the UK, incompatible with the qualifications that are set out in the convention. Nor can I support the court's view that murderers cannot be sentenced to prison for life because its interpretation of such a sentence is, since 2013, that that constitutes a

breach of article 3 and that those are, in its opinion,

"torture or ... inhuman or degrading treatment or punishment."

It is for others to explain why that is acceptable; I look forward to hearing them try to do so.

It is not the wish of the people of Scotland, any more than it is the wish of people elsewhere in the UK, that prisoners should be free to vote in national elections. The Deputy First Minister's remarks in that regard have been touched on.

This, then, is a key principle for Conservatives. After all the talk of the sovereign will of the Scottish people, how hollow it is rendered if the interpretation of law is subject not to those who are elected by us, or to the courts of our own land, but to others who feel free to impose their interpretation of our laws on us.

The Prime Minister has therefore concluded that a future Conservative Government will repeal Labour's Human Rights Act 1998, and will, by so doing, restore the UK to the position of other European nations—Germany, for example, where the German Federal Constitutional Court ruled that if there is a conflict between the German basic law and the European convention on human rights, the basic law prevails. It was Labour's 1998 act that, in its detail, set that consideration aside for this country, where we believe—as people in Germany do of theirs—that our laws should prevail.

For the avoidance of doubt, we intend to enshrine the text of the original human rights convention in primary legislation in a British bill of rights and responsibilities. We will clarify the interpretation of convention rights to reflect a proper balance between rights and responsibilities, and to ensure that they are applied in accordance with the original intentions for the convention, and the wider mainstream understanding of those rights by the public.

We will break the formal link between the British courts and the European Court of Human Rights and end the ability of that court to force the UK to change the law. We will prevent our laws from being, in effect, rewritten through interpretation.

Scottish Conservatives recognise entirely the issues that arise with regard to schedule 4 to the Scotland Act 1998. We believe that, if the European convention on human rights is enshrined in primary legislation, such a change would not undermine the existing devolution settlement. However, I note what the minister has said today and in response to questions, and I do not seek to minimise in any way the varied potential scenarios that may arise, and which would create complication and confusion.

We recognise that debating the matter in the months leading up to a UK election will ensure that the atmosphere in which we do so will be febrile, hot-housed and regrettably, if inevitably, hyperbolic. In the event of a Conservative Government being elected, measured and sincere arguments will be tested and any arrangements will be achieved only through good will and mature determination.

I do not despair even now, and not naively, of having a measured and sensible discussion between Governments in the UK that would secure a UK bill of rights and responsibilities in which we could all have confidence and a stake, and in which common sense will ensure that all Scots can have confidence, too.

I do not expect such an approach to carry the support or reflect the will of Parliament this afternoon, although Murdo Fraser and I will listen with ears open to intelligent, constructive and thoughtful comments from colleagues.

As I said when I began my speech, Scottish Conservatives, on this most fundamental of subjects, make no claim to a monopoly of truth or what is right, but neither can anyone else in the chamber. In that spirit, I move amendment S4M-11484.1, to leave out from “expresses its confidence” to end and insert:

“believes that human rights must be protected in a manner that promotes public confidence and remains fitting to the spirit of the convention and other international statements of rights; recalls the UK’s role in composing the convention and its status as the first nation to ratify it; acknowledges the work of David Maxwell Fyfe in the drafting of the convention, and welcomes the position of the UK as a prominent supporter of democracy, human rights and the rule of law internationally, taking real steps to end abuses of human rights around the globe.”

15:17

Elaine Murray (Dumfriesshire) (Lab): Scottish Labour welcomes this debate on human rights. We have not lodged an amendment to the Government’s motion because it does not require to be amended.

We welcome the endorsement of the UK Labour Government’s Human Rights Act 1998 by the majority of members in the chamber. The incorporation of the ECHR into domestic law was a Labour manifesto pledge in 1997, and I am proud that my party in government acted swiftly in introducing a white paper that same year.

Those who criticise the 1998 act should remember that prior to its coming into force, a British citizen seeking redress through the European Court of Human Rights would wait, on average, five years for action to be taken. Their case would have to be taken in Strasbourg and it would cost the individual approximately £30,000

on average. As well as requiring new legislation to be compatible with the ECHR, and existing legislation to be interpreted by the courts and tribunals, as far as possible, to be compatible, the 1998 act enabled European Court of Human Rights cases to be heard in British courts.

Conservatives may argue that they would prefer to pass a British bill of rights and responsibilities when repealing the 1998 act. It takes no great intelligence to deduce that the substitution of the European convention on human rights with a British bill is designed to appeal to the Farage-ist tendency. However, the Conservative proposals would fundamentally reduce an individual’s right to petition an international court if they fail to achieve satisfaction in the British court.

At issue is not only the removal of the individual’s ability to appeal to an international court, but the example that would be set to other nations. How could the UK lecture any other country on the need to adhere to international standards on human rights if we ourselves have retreated from our obligations to do so?

The 1998 act has not only changed how law is applied. It has changed minds and opinions too, which is one of the purposes of Scotland’s national action plan on human rights.

I believe that the recognition of the rights of lesbian, gay, bisexual and transgender people is a good illustration of the changes. In February, we passed the Marriage and Civil Partnership (Scotland) Bill by 105 votes to 18. I appreciate and respect the fact that some members were unable to support the bill because of their faith, but it is my view that the majority of members recognised that it was the right thing to do. I do not think that that would have been the case in the early days of this Parliament. The application and, importantly, the spirit of the Human Rights Act 1998 brought us and much of the rest of society to the point at which it was obvious that that law should be passed.

Labour Governments here and at Westminster did a great deal for the advancement of LGBT rights by equalising the age of consent; by ending the ban on LGBT people serving in the armed forces; by enabling LGBT people to adopt children; by including homophobia in the definition of hate crimes and by increasing the sentences for such crimes; by allowing transgender people to have their true genders recognised in law; and by creating civil partnerships, which were the precursor to equal marriage. Those are among the actions that I am proud were introduced by Labour Governments. We also acted to scrap clause 2A, which was section 28 in the rest of the UK. I suspect that some members who are in the chamber are not proud of the stance that they took on those issues, but those changes took place as

we embraced the provisions and the spirit of the Human Rights Act 1998.

The Human Rights Act 1998 and the European Court of Human Rights have achieved many successes, including protecting victims of crime—a fact that is not always recognised. For example, they triggered a change in the law to prevent rape victims from being cross-examined by their attackers, and when doing so was in the public interest, overturned anonymity orders on people with alleged links to al-Qaeda. Indeed, article 9 of the ECHR as applied by the European Court of Human Rights upheld the right of a British Airways worker to wear a crucifix at work.

However, let us not be complacent, because there is unfinished business on which we must make progress. About 90 victims of human trafficking are found in Scotland every year, which averages out at one every four days. Despite the passing of the Slavery Abolition Act 1833 and despite article 4 of the ECHR, slavery still exists in this country, as men, women and children from Africa, Asia and eastern Europe are trafficked into the UK for the purposes of prostitution and forced labour.

Last year, my colleague Jenny Marra proposed a human trafficking bill to tackle devolved aspects of that despicable trade in human beings. The purposes of the proposed bill were the creation of a Scottish anti-human trafficking strategy, provision being made for special treatment of human trafficking crimes in the criminal justice system, and provision of support to survivors of human trafficking. I understand that the latter is insufficiently provided for in the UK Government's Modern Slavery Bill. Although Jenny Marra's bill proposal attracted no signatures of support from SNP members, we were delighted when the Scottish Government announced on 17 March that it would in this session of Parliament introduce a bill that would give effect to those proposals. More than 50,000 people supported the principles of the Government's bill during the consultation phase, and with only 18 months left of the current session of Parliament, we would welcome information from ministers on when the bill will be introduced.

My colleagues and I have confidence in the Human Rights Act 1998. We are proud of our colleagues who took it through the House of Commons, and we agree that it should enjoy the unequivocal backing of those who are committed to upholding human rights. We are proud, too, of the way in which it has been incorporated into legislation in this Parliament, and of how the spirit of the 1998 act has affected the way in which we legislate and consider aspects of legislation. We recognise the importance of the ability to uphold citizens' rights in an international court, but we also recognise that there is still work to do. We

look forward to further progress and to publication of the annual review of the Scottish national action plan next month.

The Deputy Presiding Officer (Elaine Smith):

We are quite tight for time this afternoon. I ask members for speeches of a maximum of six minutes, please.

15:23

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): In 1999, when I entered Parliament, I had little idea about the European convention on human rights or the Human Rights Act 1998. However, I soon came to realise their developing significance for the legislation of this Parliament and for the rights of individuals.

As we know, all acts of the Scottish Parliament must be compliant with the ECHR, which is protected by the Scotland Act 1998, which set up the Parliament. Section 29(2) of that act states that the provisions of an act of the Scottish Parliament will be

“outside the legislative competence of the Parliament”,

hence unlawful, if they are

“incompatible with any of the Convention rights or with EU law”.

That is important in the current context of the Conservatives' plans should they win the United Kingdom election. Certain legal commentators have stressed that the provisions in the Scotland Act 1998 could provide an obstacle to the Conservative Party's human rights goals, at least in relation to this country.

For example, Professor Aileen McHarg, professor of public law at the University of Strathclyde, has argued that any repeal of the Human Rights Act 1998 would leave the provisions of the Scotland Act 1998 unaffected, with the result that people in Scotland could still use the convention rights to challenge primary or secondary legislation that is enacted by a Scottish Government. That is very important in the context of what Theresa May has had to say. Jackson Carlaw's speech was very wholesome, but we know what the Conservatives' proposals are all about—they are all about the UK Independence Party and the idea that anything that comes from Europe is bad.

Theresa May told her party's conference:

“The next Conservative manifesto will promise to scrap the Human Rights Act. It's why Chris Grayling is leading a review of our relationship with the European court ... And it's why the Conservative position is clear—if leaving the European convention is what it takes to fix our human rights laws, that is what we should do”.

She was greeted with applause. We are not just having a little philosophical debate; we are talking about an approach that is not only wrong in itself, but which is not relevant to Scotland. That is being ignored. This is not the first time that that has happened.

The Justice Committee is well aware of article 6 of the ECHR, which is on the right to a fair trial. When we considered the Victims and Witnesses (Scotland) Bill, we had to weigh up protection for witnesses, particularly vulnerable witnesses, against the rights of the accused to robust interrogation of the evidence. That is not easy. In such circumstances, articles in the convention are always in the back of our minds.

Article 9 is on the right to freedom of thought, conscience and religion, which was tested when the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 went through the Parliament. That act is in conflict with article 10, which deals with the right to freedom of expression. None of those rights is absolute. There are tensions between the rights in the ECHR.

Article 3 was probably one of the first convention articles to hit the Parliament. It is about the prohibition of torture. It states:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

Little did we know that that would lead to the issue of stopping out having to be addressed and to compensation being paid to various prisoners. Some members might not have agreed with that, but it had to be done under the ECHR. The convention is a kind of bulwark against interference by the state or the heavy hand of the state. As the minister said, Governments do not like all the decisions that are made under the convention, but that is no bad thing. If they liked everything, we might not need a European convention on human rights.

Article 8 is on the right to respect for family life. That is a very topical issue because of the interference of the press in people's lives. How far are the press entitled to intrude into the lives of, say, politicians? When is it right for issues to do with the private life of a politician, whether a member of this Parliament or another, to be brought into the public domain? When is that in the public interest and when does it happen just for the sake of prurience, gossip and tittle-tattle? The right to freedom of expression and the right to family life are important in establishing not just legislation but case law.

Article 8 is also relevant to the Assisted Suicide (Scotland) Bill, which is being considered by the Health and Sport Committee, as is the right to personal autonomy. There are tensions in that bill

between someone's right to say what happens to them and whether the state should interfere. Those are highly sensitive issues.

There is nothing esoteric or academic about the ECHR or the Human Rights Act 1998. They strike right at the heart of the balance between the individual and a heavy-handed state. The moves that are being made at Westminster are aggressive, should be resisted down south and will be resisted here. I am pleased to say that the majority of MSPs would not wish the convention or the human rights legislation to be changed in any way.

15:29

Margaret McCulloch (Central Scotland) (Lab): I begin by addressing the Government's motion directly to make three points.

First, I welcome this opportunity in Parliament today to reaffirm and reassert our human rights and our most fundamental of freedoms. Our human rights are, as the motion states, a “common inheritance” for us all and our rights and freedoms can never be taken for granted. Secondly, I note that the motion refers to our “founding statute” and how the Scotland Act 1998 commits the Parliament to observing and upholding the European convention on human rights. There is broad recognition that human rights are woven into the very fabric of devolution. Thirdly, I agree that the principles underlying the ECHR should be

“a source of unity and consensus”.

A shared understanding of the inalienable rights of each and every one of us is the foundation of a respectful and tolerant society in which we value human dignity, democracy and the rule of law.

Despite those sentiments being widely shared and understood, there are those who find our human rights legislation contentious and those who would trivialise and distort the meaning and spirit of the ECHR, and even seek to repeal the Human Rights Act 1998, which aligns the ECHR with our domestic laws. Debate about human rights and the adequacy of the law is healthy, but distortions are not. I believe that it falls to those of us who value the laws that protect our human rights to defend them.

We are all familiar with the myths and exaggerations around human rights, but we are perhaps less familiar with real-life examples of where human rights legislation makes a positive difference in Scotland and across the UK. For example, there is the elderly disabled couple whose right to family life kept them together when the authorities wanted to put them into separate care homes; or the woman travelling from town to

town with her children to flee an abusive husband who challenged the council that said she was intentionally homeless; or the UK nationals seeking redress who, since implementation of the Human Rights Act 1998, can take their cases to UK courts instead of having to go to the European Court of Human Rights.

Together, our membership of the ECHR and its incorporation through the 1998 act have made our society fairer, more equal and more just. My message to those who would turn the clock back on human rights, rescind the 1998 act and even take us out of the ECHR is this: no other democracy in the world has voluntarily repealed its own fundamental human rights and no other democracy in the world has voluntarily withdrawn from an international human rights treaty. We would be diminished if we were the first to do so.

I am aware that there are those who would argue that there is a human rights deficit in Scotland. We will all be aware of cases where there is a gap between policy and practice, and even a gap between policy and the spirit of human rights legislation. The Scottish Council for Voluntary Organisations in particular has been critical of the impact of austerity measures that make it harder for public authorities to fulfil their obligations under human rights laws and which even constrain the rights of individuals. The SCVO cites the examples of increases in benefit sanctions and cuts in legal aid. I can point to examples of my own of where the outcome that people experience is at variance with not only the spirit but the letter of the law.

As part of its extensive inquiry into where Gypsy Travellers live, the Equal Opportunities Committee heard evidence from the commissioner for equality and human rights and the Scottish human rights commissioner that highlighted a variety of issues, including overcrowding, adequate sanitation, security of tenure, respect for family life and the right to property and peaceful enjoyment of possessions. Many of those issues were also highlighted by members of the committee who visited Gypsy Traveller sites throughout the course of their inquiry. Our human rights laws must bring an added impetus to the efforts of Government and public authorities to address the inequalities that Gypsy Travellers face.

There is broad if not unanimous consensus across Parliament in support of the codification of our human rights in some way. For me, that means acceptance of the European convention on human rights and the Human Rights Act 1998. However, we must always challenge ourselves to ensure that those rights are realised in practice; and those who cherish the progress that we have made must defend our human rights as a matter of principle.

15:34

Roderick Campbell (North East Fife) (SNP):

Among all the discussion of the referendum and the Smith commission, it is perhaps not surprising that the Conservatives' plans at Westminster in relation to human rights have not received the attention that they should have. However, we should have been forewarned by the replacement of both Dominic Grieve as Attorney General and Kenneth Clarke, the former UK justice secretary and latterly minister without portfolio, in July this year, because both of those distinguished lawyers appreciated the folly of their party's proposals.

Ken Clarke has always been an active supporter of the European Court of Human Rights. In 2013, he said of it:

"it is extremely important that we"—

meaning the UK—

"are one of the leading members."

He pointed out that the British Government won 98 per cent of the cases brought against it. More graphically, he talked about the need to protect people from a "tabloid lynch mob".

Dominic Grieve described plans to rework Britain's relationship with the European Court of Human Rights as

"the kind of cockamamie scheme that would, quite correctly, be considered laughable if it were copied by, say, Vladimir Putin".

By "cockamamie", we mean something ridiculous, incredible or implausible. He went on to say:

"The inference is that when the UK Government doesn't like something that the court's done it'll just use parliament to not implement what it has signed up to."

He said that the concept of parliamentary sovereignty was "open to misuse".

Given those comments from their own side, why are the Conservatives pursuing this course? We can be in no doubt that the relentless move towards adopting a Eurosceptic agenda to pander to UKIP, even when it relates to an institution that is not even part of the European Union, is paramount. Although our worst fears in relation to the European arrest warrant look unlikely to be realised despite the shambles in the House of Commons last night, we should be in no doubt that the Conservative leadership will continue to bang the anti-European drum in its desperate search for votes. Its plans are bad not only for Scotland, but for the UK, the Council of Europe and Europe itself.

It is hard to imagine that, back in November 1950, the UK signed the convention on its first day

and was the first country to ratify it a year later, long before the UK even thought about joining the European Union, or the Common Market as it was known then. As has frequently been said, the convention was a reaction to fascism and Nazi horror. It provides protection for basic political and civic rights, which are the marks of a civilised society. Any attempt to incorporate wholesale economic and social rights was expressly ruled out by the initial negotiators—men of a Conservative bent such as the Edinburgh-born, subsequent Home Secretary David Maxwell Fyfe, who was a Liverpool MP in the days when Tories could win in Liverpool.

What is fundamental to the convention is that it responds to changing norms. It is a living instrument, as constitutional lawyers describe it, and a treaty that must be interpreted in the light of present-day conditions so as to be practical and effective, as the Scottish Human Rights Commission points out.

The court has led the way on issues of sexual orientation, providing valuable protection for LGBT people, where it has allowed national Governments only a narrow margin of appreciation. It has led the way in opposition to capital punishment, which is now the subject of an important protocol to the convention, at the same time as laying down important markers in relation to fair trials, as we know in Scotland.

What is it that so upsets these Tories? Is it the right to marry under article 12, the right to freedom of conscience under article 9 or the right to freedom of expression under article 10? I think not. Issues in relation to whether there is a right to privacy, balancing articles 8 and 10, are also recognised as complex by UK domestic courts. It seems to me that, apart from blatant anti-Europeanism, concerns about the alleged inability to deport foreign terrorists and criminals are up there.

However, article 3, which prohibits torture and inhuman or degrading treatment, does not stand alone. The UK is a signatory to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and, although it is true that the European convention on human rights creates positive obligations not to deport or extradite individuals to countries that practise torture, I cannot believe, in the light of the UK being a signatory to the convention against torture, that any British court, even without the help of the European Court of Human Rights, would dismiss those arguments if they were addressed in a domestic forum.

Maybe it is true that, in opposing a blanket ban, the European court has not paid proper attention to the margin of appreciation in prisoner votes cases, but we must recognise that, on that issue,

the United Kingdom may well be in a minority in Europe.

What of that other supposed bugbear—the right under article 8 to a private and family life? It is sometimes overlooked, although I think that Jackson Carlaw conceded the point that it is not an absolute right but is limited by, among other things, interests of national security. A British or English bill of rights would undoubtedly be very similar.

What of Scotland? When the members of the UK Equality and Human Rights Commission visited the Scottish Parliament in December 2011 for a private meeting, it is fair to say that they were, in the main, surprised that there was no widespread demand to replace the Human Rights Act 1998 with a British bill of rights. To be fair, that is reflected in the Commission on a Bill of Rights report of December 2012, which is a sizeable and impressive tome and is in sharp contrast to the Conservative proposals that were published in October. Apart from a small reference to the claim of right of 1689, we could be forgiven for thinking that Scotland did not exist at all. As Nick Cohen wrote in *The Observer*, it is clearly not a British bill of rights that is being proposed, but an English one.

What message does that send out to novice democracies in eastern Europe? Does it send the message that rights are not absolute and can always be overruled by Parliaments of the day in those countries?

As the minister said, the Parliament is embedded in human rights. Let us work to build on that foundation and oppose those who seek to undermine it for short-term political advantage.

15:40

Alison McInnes (North East Scotland) (LD): The Scottish Liberal Democrats will also support the motion, which sets out a robust defence of human rights.

Some politicians and media would have us believe that, taken together, the European convention on human rights, the European Court of Human Rights and the Human Rights Act 1998 somehow amount to a criminals' charter or a terrorists' treaty. That is, of course, nonsense.

In preparing for the debate, I took the time yesterday to read some of the recent cases relating to the United Kingdom that have been considered and upheld by the European Court of Human Rights. In one case, the court identified that safeguards were insufficient in enabling an applicant with Down's syndrome to contest their compulsory emergency detention, given that they lacked legal capacity. That violated articles 4 and

5 of the convention. In another case, the court judged that a local authority had failed to provide a disabled elderly person with a care plan that met her “assessed and eligible needs”, in breach of article 8 of the convention, on respect for private life. Given the explosion in the use of non-statutory stop and search, I was interested to read about a police stop and search that again constituted a violation of article 8 of the convention.

The court has considered situations that have involved people who have been taken into care; it has protected the anonymity of journalists’ sources; and it has curbed the storing of the digital DNA profiles of those who were arrested, but were never charged or convicted. Such cases show the institution’s relevance to all of us, but in particular to the most vulnerable in our society here and across Europe.

The court has required Russia to improve its treatment of prisoners, forced Bulgaria to strengthen its care of disabled people and compelled Turkey to end the impunity of those who engage in domestic violence.

The creation of a common legal space to the benefit of 820 million citizens across 47 states is an astonishing achievement, but, as one senior British court official reportedly mused,

“Our name contains the words ‘European’ and ‘human rights’. Not exactly a winning combination.”

A tiny minority of cases, which have been portrayed as meddling in our domestic affairs, have led to the whole system being unfairly maligned. It is disappointing that the Conservatives’ amendment, which seeks to remove any expression of support for the Human Rights Act 1998, echoes such attitudes.

The Human Rights Act 1998 did not provide new rights; it incorporated into UK domestic law the rights that were provided by the convention. Driven by fear of UKIP, the Conservatives’ plans to selectively ignore the convention, limit its powers or withdraw from it entirely are ill considered. I am particularly disturbed by their proposal that somehow only the most serious cases should be able to draw on human rights law. What message would that send to others? What message would it send to the countries that account for tens of thousands of cases at the European Court of Human Rights?

To put the matter in perspective, just 1,650 applications came from the United Kingdom in 2013. I understand that the majority of them concerned prisoner voting rights. Just eight cases led to judgments finding violations. In that context, it seems absurd even to contemplate withdrawal and undermining our moral authority.

I am proud that, with Liberal Democrats in government, there is no possibility of the UK renouncing our hard-won human rights framework. Alongside the scrapping of identification cards and the ending of child detention, that is part of our strong and consistent record on civil liberties.

In Scotland, the Liberal Democrat MSP Robert Brown was the minister who guided through Parliament the bill that established the Scottish Human Rights Commission. As a result, Scotland’s first national action plan now seeks to promote a

“consistent understanding and respect for human rights”

by making them more tangible. For example, it identified the need to improve the quality of care for vulnerable and older people; the need to empower them to remain autonomous as far as is possible; the need to treat them with dignity and respect; and the need to realise their rights.

The action plan reminds us that human rights define how each one of us is treated and determine our opportunities. It tackles the dangerous perception that human rights are abstract or immaterial and encourages us to embed them in everything that we do.

By supporting the Government’s motion, I by no means applaud its record on human rights. At times it has damaged our credentials: by failing to raise the age of criminal responsibility; through its efforts to scrap corroboration; and because of the isolation for long periods of female offenders who have mental health problems.

On this remembrance day, it is worth remembering the events that led to the creation of the convention. It is worth recalling the abuses in the early 20th century that caused the United Kingdom to lead efforts to enshrine and instil respect for life, security and freedom of thought, expression and religion across the continent.

Our human rights framework and the rulings of the European Court of Human Rights are not foreign impositions—they are British rights, drafted by British lawyers, that are designed to reflect our values of justice, democracy and the rule of law.

15:46

Kevin Stewart (Aberdeen Central) (SNP): In *The Guardian* on 3 November, Thorbjørn Jagland, secretary general of the Council of Europe, said:

“When politicians in established democracies such as the UK threaten to leave the ECHR for essentially domestic reasons, this is likely to have negative repercussions on the respect of fundamental freedoms in Europe’s younger democracies. Conservative party proposals to render the binding decisions of the Strasbourg court merely advisory, if enacted, will be welcomed by regimes less committed to human rights than the UK.”

In her opening remarks, the minister pointed out that, at this moment in time, all European countries, bar Belarus, have signed up to the ECHR. The minister also mentioned Kazakhstan, but as it is east of the Urals, I do not feel that it is in Europe. My geography teacher would have been proud to hear me say that.

If the UK left the EU, we would be entering an area in which our only bedfellow was Belarus, which Condoleezza Rice labelled as one of the six “outposts of tyranny” in the world. Let us look at Belarus and its record. Nine per cent of the total workforce cannot leave their jobs at will—they require permission to do so. When he was asked whether that was a form of serfdom, President Alexander Lukashenko shrugged his shoulders because he knew that it was. In Belarus, there is no freedom of religion and no freedom of the press, and anti-Semitism, homophobia and racism all exist. Do we honestly want to be the bedfellow of Belarus?

Dominic Grieve, the former Attorney General of England and Wales, said in *The Telegraph* on 9 October, when he was still the Attorney General, that

“if the UK left the ECHR it would become a ‘pariah state’”

and

“It would put us in a group of countries that would make very odd bedfellows”.

He was referring, of course, to Belarus. He went on to say that it would “jeopardise” the UK’s international standing.

In his opening remarks, Jackson Carlaw said that there would be a lot of hyperbole today. He might see what I have just said as hyperbole but Dominic Grieve, in this case, is more likely to agree with me than with Mr Carlaw.

Many members have touched on the rights that we have under the ECHR. Many have talked about the conflicts that exist between each of the articles, and it is right that those conflicts should exist. Other members have talked about some of the decisions that have been taken by the European Court of Human Rights that the Government here has not been happy with. That is fair play. If Government was happy about every aspect of the ECHR, the ECHR would probably not be working properly.

What I want to see is respect for the convention to which people signed up in Rome on 4 November 1950. I hope that in future countries such as Belarus will sign up to the convention and provide a means to ensure that their people’s rights are upheld.

As Rod Campbell rightly pointed out, over the past few days we have witnessed a Tory

Government pandering to Ukippery. That is leading to huge problems for the Tory Government. Yesterday we witnessed the farce of a vote about the European arrest warrant that was not a vote about the European arrest warrant. Such debates are taking place quite simply because the word “European” is in the title.

It is time to stop pandering to Ukippery. It is time to look at the benefits of signing up to the ECHR, to ensure the protection of our most vulnerable and to ensure that we do not become the pariah state that Dominic Grieve envisages. I support the motion.

15:51

Duncan McNeil (Greenock and Inverclyde (Lab)): Presiding Officer, thank you for the opportunity to speak in the debate. I will focus on the day-to-day aspect of human rights that is mentioned in the motion—the realisation of human rights here at home. I suppose that I am also suggesting that we need to caution against self-congratulation.

Let me start with a quotation. It is a bit lengthy, but it is food for thought for us all:

“Where after all do universal human rights begin? In small places close to home—so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

Those are the fine and inspiring words of Eleanor Roosevelt, an architect of the Universal Declaration of Human Rights all those years ago. Professor Alan Miller included her words in his foreword to Scotland’s national action plan for human rights, which the minister and other members have mentioned.

Some people say that words and phrases such as “equality”, “social justice” and “a fairer society” are bandied around too often and too lightly these days, so that they become devalued and lack meaning for all our citizens. The minister referred to the issue when she emphasised that making rights real for people is everyone’s responsibility.

If we are to realise human rights we need not just words but action. The challenge is to shift power and influence from institutions and Governments to communities and, above all, individuals.

As the Christie review of 2010-11 argued, we need to change the culture of how our public services are delivered. We need to move away

from top-down delivery and towards a clear focus on early years, prevention and the empowerment of individuals. It is through such change that we have the possibility of changing the culture, which will ensure the rights that matter most to people in the present day: the right to a decent home; the right to work; and the right to access the best health and social care services available—services that are tailored to the needs of the individual.

The Christie commission's conclusions and recommendations were widely accepted, because we all agree with fine words. Of course, achieving the objectives is easier said than done. Those who have influence and power rarely pass them on easily.

We have heard today of the significant progress that has been made. More important, however, we have heard from people outside the Parliament lobbying us in the lead-up to the debate about the progress that needs to be made and telling us that our progress so far has been slow and sporadic.

That view is underlined by my work and the work of my colleagues on the Health and Sport Committee, which has shown me that the road to change—towards personalisation and individualisation—is very hard indeed. With regard to the attempt to ensure that all elderly people are treated with dignity and respect, the move towards ensuring that more people are cared for within the home and the attempts to reduce health inequalities, progress has taken a significant amount of time. That is because we are challenged by vested interests here at home, and those vested interests need to be challenged. We have seen that from the evidence on the Government's self-directed support legislation, the integration of health and social care, our inquiry into access to new medicines for the end of life and rare diseases, and the challenge of inequality—we know that disempowerment shortens people's lives.

Despite the broad welcome for Christie's realistic words and despite the warm words such as "equality" and "a fairer society" that we bandy about so casually in this place, the difficulty is that we use those words without describing to our citizens how difficult it is to get to the place where we all supposedly want to be and to take the hard decisions that need to be taken.

We should always remember that focus—that human rights are people's rights. They are not the property of politicians and the chattering classes. The right to work, the right to a decent home and the right to access public services are rights that matter to people. It is time that we stop using the warm words, turn the page and make real progress. The time has passed for simply using

brave words; we need brave politicians to make progress.

15:58

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): At the outset of my speech, I declare an interest in that I am a member of Amnesty International and my wife works for Amnesty International—indeed, she provided its briefing for today's debate.

Today's brief remembrance service in the garden lobby was a salient reminder of the huge sacrifice that so many have had to make to secure the fundamental and universal human rights that are indivisible from each of us. We would do well to bear that sacrifice in mind when we debate changes to our human rights framework.

I agree with the motion before us. The Conservative amendment in and of itself does not necessarily contain anything objectionable per se and Mr Carlaw made a largely reasoned argument. I did not agree with it all but I believe that he made his case reasonably. However, I cannot fail to notice that the Tory amendment deletes the part of the Scottish Government motion that confirms the Parliament's support for

"the Human Rights Act 1998 as a successful and effective implementation of"

the ECHR

"in domestic law".

I believe that it has been important to have the convention in domestic law, and I will return to that.

Mr Carlaw's amendment also talks about believing

"that human rights must be protected in a manner that promotes public confidence and remains fitting to the spirit of the convention and other international statements of rights".

I am concerned about the use of the phrase "fitting to the spirit" of the ECHR. I take on board Mr Carlaw's suggestion that various articles of the ECHR could be incorporated into a bill of rights, but the idea of "the spirit" of the ECHR does not seem an overwhelmingly strong guarantee, as far as I am concerned.

It is not only me who is concerned about replacing the Human Rights Act 1998 and the UK commitment to the European convention with a bill of rights. The Health and Social Care Alliance Scotland is

"concerned that a significant risk exists to the level of protection for human rights for people in Scotland in light of threats to repeal the Human Rights Act 1998."

The Scottish Human Rights Commission has said:

“Any attempt to limit accountability for the exercise of power, as many proposals for such a Bill of Rights do, would undermine the principles of the rule of law that are fundamental to the universal and effective recognition of human rights.”

Mr Stewart spoke of Dominic Grieve’s concerns about the international impact of withdrawal from the ECHR. Mr Grieve also said that the UK Government’s position

“completely undermines the UK’s position as a rule of law state internationally for almost no benefits and shows a complete lack of understanding of legal principles.”

Therefore, there is not even unanimity in the Conservative Party on the matter—although I accept that Mr Carlaw conceded that in his opening speech.

Mr Stewart also reminded us of the comments of the secretary general of the Council of Europe, who suggested that, if the UK stepped back from the ECHR, that would be

“welcomed by regimes less committed to human rights than the UK.”

That may be felt to be dramatic, but let us remember the point that Mr Stewart and the minister made that the UK would be one of only three European countries outwith the ECHR’s terms. As Rod Campbell reminded us, the findings of the final report of the UK Commission on a Bill of Rights in December 2012 showed that civic Scotland does not want the current legislation to change.

The rhetoric that is employed on human rights does not reflect the reality of the situation. Organisations that have briefed us for the debate, such as Amnesty International and the SCVO, have called for a more positive frame of reference when we debate such issues, not just in Parliament but in society as a whole. Amnesty International reminds us that, far from the Human Rights Act 1998 being a charter for ambulance chasing in the legal profession as is sometimes argued, it has allowed for a culture change. Amnesty states:

“The Human Rights Act has fostered a valuable and non-litigious culture through which human rights considerations now inform the work done by public authorities”.

Far from increasing the case load, the act is changing the culture in our public organisations.

Even when recourse to the courts has been sought, it has not been primarily about prisoners challenging the terms of their imprisonment or those whose views we find repugnant challenging attempts to extradite them. Amnesty International reminds us that the act can be and has been used here to ensure appropriate dietary requirements for patients in hospitals and care homes, under articles 2 and 8; to prevent or remedy abuse or neglect of the elderly, learning disabled or

otherwise vulnerable people, under articles 2 and 3; to prevent or remedy disproportionate targeting of black and minority ethnic people by police and other authorities, under article 14; to ensure that gay and lesbian partners are granted the same rights as heterosexual couples, under articles 8 and 14; to prevent and redress the excessive surveillance of law-abiding people, under article 8; to support those who are not sufficiently protected by the authorities from stalking, harassment and domestic abuse, under articles 2, 3 and 8; to ensure that children with special educational needs are not prevented from receiving an education, under articles 2 and 14; and to ensure that people are not prevented from demonstrating or expressing themselves freely, under articles 10 and 11.

The Scottish Human Rights Commission also provided a significant number of examples in which people have used human rights legislation in the courts to challenge a variety of matters, including the protection of military personnel. When the families of several soldiers in Iraq whose vehicle was hit by a roadside bomb sued the Ministry of Defence using the Human Rights Act 1998, the UK Supreme Court found that the Government owed a duty of care to properly equip and train soldiers who are sent to war, as part of its duty to protect the right to life.

Those are just a few examples of the practical nature of human rights legislation. They show why the words of Eleanor Roosevelt that Duncan McNeil cited resonate to this day. Let us work to protect those rights, rather than allow them to be run down.

16:04

Graeme Pearson (South Scotland) (Lab): I trust that the minister has enjoyed the afternoon, because it is not usual for the Government to be able to propose a motion and not suffer the slings and arrows of Opposition criticisms about its content. I am pleased to say that, having reviewed the motion before coming to the chamber, Scottish Labour supports it without reservation.

I listened carefully to Jackson Carlaw’s speech and took seriously the views that he expressed. He mentioned his experience of seeing the Gorbals from the family car as a child and realising the challenges that people experienced throughout the 1950s and 1960s in Glasgow. Without trying to score a point in any way, I ask him to consider that, had he been a member of the community that he viewed, human rights might be a more sensitive issue for him and he might consider a European convention on human rights to be a crucial part of modern life.

As we commemorated in the two minutes of silence in the Parliament today the millions who gave their lives, I wondered what the soldiers in the trenches would have made of why they were sitting there fighting the first and second world wars. It would not have been for profit, wages or land. I am certain that, had they been able to write out why they were there, in the cold light of day, they would have written the articles of the convention in the mud and glaur of the time. As a result, the detail in the convention is vital to the way in which the state conducts its business for the future.

Jackson Carlaw: I am grateful to Mr Pearson for the spirit in which he put the point that he did to me. I emphasise again that we support the European convention on human rights and have said that the whole convention would be enshrined in the letter and spirit of the bill of rights that is envisaged. It is not the European convention on human rights with which we have an issue. I understand what Mr Pearson says and I accept it.

Graeme Pearson: I am grateful for that intervention, but Jackson Carlaw knows that we are sensitive to any impact that introducing the UKIP influence into our British legislation might have.

I acknowledge that Mr Carlaw commented that the Human Rights Act 1998 was a Labour piece of legislation. I am proud of the fact that Labour introduced it.

I also acknowledge that Amnesty, the Equality and Human Rights Commission, the SCVO, the Scottish Human Rights Commission and the Scottish Catholic International Aid Fund were good enough to provide briefings before the debate. Those briefings were proper and helpful but, to some extent, they miss a point: human rights are not compartmentalised in the way that they are applied and often have to be applied to pursue individual cases; they are for us all and play a part in our everyday lives.

The minister commented about some individuals applying common sense in criticising human rights. However, common sense is often only a person's view or prejudice. The minister was correct to acknowledge that those commonsense criticisms were often ill founded or ill conceived.

Parliaments exist to exercise the sovereignty that their citizens grant them. In the absence of genuine human rights that are applied day to day, there can be no sovereignty for our Parliaments because the consent to exercise power on the citizen's behalf is absent where citizens have no genuine rights and freedoms.

Jackson Carlaw asked about some examples of the way in which human rights have affected our day-to-day existence. Slopping out caused a great

deal of anxiety when it became a public issue in Scotland. However, who can now visit a modern prison and not be shocked at the thought that only a decade ago—before we went through our experience with the issue—prisoners in Scottish prisons slopped out every day?

The other example that I would give is an international example of a situation in which one nation state dealt with human trafficking by returning women who were trafficked for sexual purposes to the nation state that they had come from, which then sent them back to the state that they were being exploited in, only for them then to be murdered. The European Court of Human Rights decided that the nation state that returned them to the place they had come from had failed in its responsibilities to those women and that they should have been protected and not returned to another nation state where they were murdered.

This debate is useful in that it has allowed us to rehearse why human rights are important to us. I hope that we not only reinforce these rights but extend them to all.

16:11

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): As convener of the European and External Relations Committee, I have been particularly conscious of the importance of EU law when it comes to our inalienable fundamental rights, which are defined as those

“to which a person is inherently entitled simply because she or he is a human being.”

I am not trying to teach any of my grannies—much less Jackson Carlaw—to suck eggs, but I think that it is important for all of us to be conscious of just what human rights we have enshrined in law, rather than the tabloid-headline-grabbing version that is promoted by the Tories, as they try to win UKIP votes.

What are those rights? Many have been mentioned this afternoon: the right to life; the right not to be tortured or enslaved; the right to have somewhere to live safely; the right to have an education; the right to a reasonable working week; the right to maternity leave and paid holidays; the right to freedom of conscience, religious faith and sexuality; and the right to be free from discrimination. Other important rights include the right to freedom of assembly and association; the right to marry; and the right to liberty and security.

In Scotland, we take all of those and more for granted. We assume that our human rights will not be infringed and that, if they are, we will have recourse to the law to seek redress. The legal framework provides a safety net for all of us, especially the most vulnerable, so that we have

the right to challenge everything from the unfair impact of the bedroom tax to the kind of outrageous prison conditions that should not exist anywhere.

Currently, with the rising tide of extreme nationalism and the apparent desire for total isolation from the rest of Europe, every one of those assumptions is open to challenge. The debacle—or, perhaps, the omnishambles—over the European arrest warrant reveals the kind of short-term politically driven point scoring that should be making us all tremble. Do we want to welcome the kind of society that is backtracking on those fundamental rights at every opportunity? Do we want some kind of medieval rule by the rich and the elite, running serfs, owning all the property and abusing the women? This is just the UKIP flea on the tail wagging the dog, but we are being pushed along a terrifying cliff edge towards that possibility.

The Conservative proposals to repeal the Human Rights Act 1998 and risk expulsion from the European convention on human rights would seriously jeopardise the rights of people in Scotland. Once again, we will be pulled along behind the will of London.

We will not accept that. Without the agreement of the Scottish Parliament, in which the human rights convention is enshrined, David Cameron cannot dump our human rights. We have heard a lot about that this afternoon. I thank God that we have at least that much devolution. I hope that the rhetoric about our being an equal member of this family of nations is honoured, especially on this issue.

A few weeks ago, Professor Alan Miller, the chair of the Scottish Human Rights Commission, said:

“The European Convention provides protection to hundreds of millions of people in 47 countries across Europe. Its achievements include challenging abuses of rights and raising the bar in countries like Russia and Turkey with poor human rights records. This is something to be proud of.”

Professor Miller went on to say:

“The laws that protect our human rights protect all of us, whoever we are. They enshrine internationally agreed standards that all governments should respect. These proposals would block access to protection for people’s rights in hospitals, in care homes, at work and in a whole host of other everyday settings.”

That was a point eloquently made by Duncan McNeil earlier.

Professor Miller continued:

“This is a pick-and-mix approach to human rights that is firmly on the wrong side of history.”

I sit on the governance committee of the Council of Europe, which, earlier this year, took the

Scottish national action plan on human rights and used it in a debate to suggest that it could be the standard for all European countries to live up to. Scotland is leading the way on human rights and we do not need to be pulled back by the short-sighted, narrow, right-wing rhetoric that is coming from Westminster.

On this remembrance day, let us not go gentle into that good night for, in the morning, we will suddenly be exposed to a very dangerous new world.

16:16

John Finnie (Highlands and Islands) (Ind): I, too, declare my membership of Amnesty International.

The Scottish Human Rights Commission was established by the Parliament in 2006. It says that

“the Human Rights Act 1998 ... should be the legislative bedrock for further progress in realising human rights in people’s everyday lives”.

As we have heard from many members, the Scottish national action plan is the road map—as the SHRC describes it—for that.

I commend the motion, particularly the words

“should be a source of unity and consensus”.

In everything that we do in the chamber, we should ask ourselves, “Who says that?”, “Why?”, and “Based on what?” In my research in advance of the debate, I found that the *Daily Express* refers to the “hated Human Rights Act”. We must ask why. It is because it is pandering to prejudice—prejudice that it and other journals have created.

The minister has laid out a résumé of the position of the UK parties. I contrast the words of the *Daily Express* with a blog by Isabella Sankey of Liberty who, in February 2014, said:

“Today the Conservatives unleashed their long-awaited plans to repeal our Human Rights Act ... and replace it with a so-called ‘British Bill of Rights’ ... The proposals are legally illiterate, politically provocative and designed to put us on a collision course with the Court of Human Rights and likely lead to the UK’s ultimate departure from the Convention of Human Rights and the Council of Europe.”

Although the Labour Party is to be commended for its work on human rights in the past, the blog goes on to say:

“The HRA is not ‘Labour’s Human Rights Act’. It was passed with overwhelming cross party support and Tory leadership endorsement.”

That is important.

What is also important is that human rights should be relevant to everyday lives. It was heartening for me to witness Highland Senior Citizens Network’s engagement on the Scottish national action plan. Many of those involved said

that they did not see the issue as relevant in the past. However, when we talked to them about the interests that they look after—namely the wellbeing of individuals in care homes and of vulnerable people—and about the dignity that people receive as a result of human rights legislation, they saw that the legislation was relevant.

I am grateful for the specific examples that we have received from many of the people who have provided briefings. A lot of them tell a familiar tale, although it will still surprise some of us, of accessibility issues for disabled people. I am keen that the legislation should be seen for what it is, which is legislation to protect the citizen. The interests of corporations are well protected by tight legal frameworks. The Human Rights Act 1998 is seen as very proactive by parliamentarians. If it assumes a challenge, that is appropriate. It is appropriate that our committees should challenge legislation to ensure that it is robust in human rights terms.

There has been a lot of talk about the European arrest warrant. I am on the Justice Committee, which looked not just at that issue but at the European judicial network and a number of other measures. It was most frustrating that that was all seen as an attack, or a foreign imposition, without any consultation with the Crown Office and Procurator Fiscal Service, the Scottish Government or Police Scotland. I ask the proponents of that approach how the wellbeing of witnesses and victims was considered when that position was being adopted.

Human rights are an on-going issue. The Scottish Human Rights Commission is involved in looking at possible reforms and the system's continuing relevance.

Associated with the position taken by the Conservative Government is the opportunity to attack other vulnerable groups, such as children with parents facing removal or deportation from the UK. On the reserved matter of rights at work, we already have the situation where health and safety is referred to as the monster. The wellbeing of soldiers was alluded to. We know from Dungavel the challenges of the positions of the two Administrations on people seeking refuge in Scotland.

I align myself with comments made by Margaret McCulloch, the convener of the Equal Opportunities Committee, of which I am a member. She made passing reference to the position of Gypsy Travellers. As Duncan McNeil has said, not everything is rosy in the garden in Scotland either; reprehensible attitudes are still adopted in respect of the economic, social and cultural rights of the Gypsy Traveller community. I commend the role of Amnesty International, the

Minority Ethnic Carers of People Project and Article 12 in Scotland in that regard.

The most important thing is that human rights have to be relevant to people's everyday lives. I will pick up on a point that a number of members made about Scotland's position in the international community. That relates to the operation here in the Parliament, the SHRC and its standing, and the way in which we have conducted ourselves on equal marriage and through Scottish Government statements about Palestine and Gaza, which I contrast with statements made elsewhere.

We must have a rights-based approach. I had hoped that that would be adopted and enshrined in a constitution—we may yet see that. It should not be comfortable for Governments. I certainly hope that it is not comfortable for Governments that would abuse their power through GCHQ and intrusion into people's lives and by treating people coarsely under asylum procedures.

The use of language is very important. One thing that our Conservative and Unionist Party colleagues would agree with is the phrase "rights and responsibilities", which are an important combination.

The motion uses the phrase
"a source of unity and consensus".

I hope that the convention would be a source of unity and consensus but, if it is not, I am perfectly happy to see the Conservatives isolated with their friends in UKIP and President Lukashenko, although it would be better if they were inside and co-operating.

16:22

Christian Allard (North East Scotland) (SNP):

I am delighted to speak in the debate. I speak of course as a member of this Parliament. The Scotland Act 1998 refers specifically to the Human Rights Act 1998 and the European convention on human rights. It puts human rights protections at the heart of the Parliament.

I also speak as a foreign national—one of the people whom the Conservative Party wants to stigmatise and from whom it wants to remove human rights and dignity, which would marginalise generations of EU and foreign citizens living here in Scotland and across the UK.

For me, as for the rest of the people living here in Scotland, the direction of travel is clear. We want human rights to be strengthened, not diminished. We want human rights to apply to everyone equally, wherever they come from and wherever they live.

Everyone has rights. I remind the Conservative Party that we might not all be British, but we are all

human. I am offended by the notion that my rights would be lessened by some politicians at Westminster in order for the Tories to gain a few votes in middle England.

Many in the debate have followed the recommendations from the Scottish Council for Voluntary Organisations, which pled in its briefing for the debate to be positive in its language and tone. I was surprised by the contributions from Duncan McNeil and Christina McKelvie, which were very measured. It is true that a positive debate is needed, but the language that is used to stigmatise foreign nationals, people on benefits and others who are already marginalised by Westminster—that language is used by politicians who should know better—has to be challenged.

There is a reason why most of us in the Parliament strongly oppose any attempt by some at Westminster to repeal the Human Rights Act 1998 or to withdraw from the European convention on human rights. The reason is that human rights protections and the 1998 act are central to the law of Scotland. We must do everything within our limited powers to ensure that those protections remain in place for every one of us.

Our attitude to human rights in Scotland is progressive; the language and the tone about human rights that some politicians at Westminster use are alien to us all. To be fair, I think that most Scottish Conservatives—as we are seeing today—are finding it difficult to promote the UK Government's human rights agenda. I read in the Conservative amendment that it is in the spirit of promoting public confidence that Jackson Carlaw proposes to withdraw from the European convention on human rights. Who is undermining public confidence in our ability to protect human rights, if not the Tories at Westminster? I have read parts of their proposals. They talk of foreign nationals committing crimes in the UK—that is on page 3 of "Protecting human rights in the UK: The Conservatives' Proposals for Changing Britain's Human Rights Laws".

The Conservatives talk about restricting the rights of others, to protect British people. On page 2 and again on page 5, they say that we must "put Britain first". That tone and that language do not belong to this century. I explain to Conservative members that we must always put human rights—not Britain—first. They are human, not British, rights. I say to the Conservatives: hands off our human rights.

The idea of putting Britain first, before human rights, is narrow-minded nationalism, which I will always reject. That is all about the constant pandering to UKIP voters. That will not work—it will just give more votes to UKIP south of the border.

I think that it was Christina McKelvie who spoke about the right-wing agenda. She perhaps got that wrong in the sense that, although there may be a right-wing agenda, it is a lot more right wing than we think that it is—it is well past UKIP and is on the fringes.

I say to Mr Carlaw that everyone can see that the anti-Europe brigade has taken over the Conservative Party. There is no renegotiation of the UK relationship with the other EU nations; the party's only goal is a sharp exit from Europe.

An aspect of the Conservatives' proposals that makes no sense is the Westminster Government's intention to stop British armed forces overseas being the subject of human rights claims—that is on page 7 of their proposals. The Tories say that human rights undermine the ability of our young people serving abroad to do their job and to keep us safe. I do not know about keeping us safe, but the Westminster politicians do not get it—human rights are essential to protect our young men and women serving overseas; human rights keep them safe.

On page 6 of their proposals, the Conservatives tell us that they want to

"ensure that Parliament is the ultimate source of legal authority".

They are talking about the Westminster Parliament, which trusts our human rights to be protected by an unelected chamber of nearly 800 members who are nominated for life. That tells us a lot about the Britain-first approach that they want.

This Parliament would rightly expect me to challenge the tone and the language used by too many Westminster politicians, which stigmatise foreign nationals. Those politicians are the only ones who are undermining public confidence in our ability to protect and defend human rights. In this Parliament, under this Scottish Government, we have the assurance that human rights legislation will remain in place for every one of us.

16:29

John Pentland (Motherwell and Wishaw) (Lab): As my colleagues have said, the Labour Party has a proud record on human rights. It introduced the Human Rights Act 1998 and enshrined human rights in the Scotland Act 1998. That year also marked the 50th anniversary of the United Nations Universal Declaration of Human Rights, which was introduced after the second world war when an earlier Labour Government was in power. That was closely followed by the European convention on human rights in 1950, with British lawyers playing a prominent role in its development.

The Scotland Act 1998 states:

“A member of the Scottish Executive has no power to make any subordinate legislation, or to do any other act, so far as the legislation or act is incompatible with any of the Convention rights or with Community law.”

As a result of that act, Westminster cannot repeal the Human Rights Act 1998 in Scotland. In addition, no Scottish Parliament act can modify the Human Rights Act 1998, which brought the ECHR provisions into UK law.

As we know, decisions on compliance are taken by the UK Supreme Court. That is the same Supreme Court that Scottish National Party leaders attacked and from which the Cabinet Secretary for Justice wanted to withhold funding, which earned him widespread criticism and calls for his resignation.

By contrast, Labour is proud of what we set up and we stand by our human rights laws, which have protected the rights of victims of crime, the elderly, the disabled and gay people. Between 1997 and 2010, the Labour Government did more than any other Government in British history for LGBT rights.

Equally, we have a long record of supporting women's rights through equal pay legislation, support for family-friendly policies and action to stop abuse of and violence against women. We fully support continuing to be a signatory to the ECHR.

As we have heard, the Human Rights Act 1998 has had a significant impact on issues such as gay rights and the treatment of rape victims, yet more can be done. For example, modern slavery still exists here and abroad. There are victims of human trafficking in Scotland, and I congratulate Jenny Marra MSP on her proposed human trafficking bill.

I pay tribute to campaigns such as the walk free movement that have gathered support for the proposed bill and for action throughout the world against modern slavery. In the public consultation on the bill, it received the backing of more than 50,000 people, which is the third-highest level of support received for a proposal in the history of devolution.

One victim of human trafficking is found in Scotland every four days, so it is vital that we have robust laws in Scotland to protect victims and punish traffickers. We welcome the Scottish Government's commitment to do so, and we look forward to Jenny Marra's proposed bill becoming law.

We need action to improve equalities and ensure fair representation—for example, by ensuring that there is gender balance in public appointments. We must remember that human

rights are about not only legislation but the need for every one of us to recognise and promote those rights through what we do. As a party, Scottish Labour has promoted the 50:50 representation of women as MSPs and in our shadow cabinet.

We must support the Human Rights Act 1998, and we must act on human rights.

16:33

Murdo Fraser (Mid Scotland and Fife) (Con):

There is at the heart of the discussion that we have had this afternoon a broader philosophical debate about how we best protect and codify rights—a point that was mentioned by Jackson Carlaw and Graeme Pearson. That leads us on to the parallel question of how we deal with the conflict between codified human rights and, in a parliamentary democracy, the right to pass laws in accordance with the views of the majority. The question, as always, is this: where do we draw the line.

That brings in a second parallel point regarding judicial activism. We have seen such activism happening the United States over many decades, and in Europe, and we are now seeing it increasingly in our own country, where judges are taking it upon themselves to make laws in place of Parliament.

The issues are not black and white, and they need careful consideration. Not many speeches in the debate have acknowledged the complexity of the issues. Christian Allard said that he was surprised by the measured contributions from Christina McKelvie and Duncan McNeil. He was not half as surprised as we were.

However, there was more consensus in the debate than we might have expected, and I will concentrate on what we can agree on.

The first thing that we can agree on is that we all agree with human rights. The United Kingdom has a strong record of upholding human rights both at home and internationally. We sometimes forget that we have some of the highest human rights standards in the world, and that we constantly strive for improvement. That record goes back many centuries. We led the world in the abolition of the slave trade. Today, we see similar but different challenges in the form of human trafficking and forced servitude. I understand that the Scottish Government is seeking to legislate on the issue, and the UK Government has published its own bill to tackle modern slavery with the hope that there will be a UK-wide approach that has the support of the devolved Administrations. I hope that that support will be forthcoming.

Secondly, we all agree with codification of human rights. As Jackson Carlaw pointed out, the European convention on human rights was produced by a Scotsman, and not just a Scotsman, but a Scottish Conservative—David Maxwell Fyfe. A number of SNP members, including Christian Allard, suggested that we object to the wording of the convention and Rod Campbell asked which convention rights we object to. However, David Cameron has made it very clear that we do not object to the wording of the convention. Indeed, the wording of the convention will be the foundation of any British bill of rights that is introduced.

Nevertheless, it is in tackling how our human rights are incorporated in our domestic law that there are considerations to be made. There must always be robust protection of the rights that our country has agreed and stated, but we must also build public confidence in how those rights are protected. It is no secret that, although people see protection of rights as vital, there is significant concern about how the courts uphold rights in practice.

The UK Government has had problems in accepting recent European Court of Human Rights judgments on the right of prisoners to vote, and we have heard in the debate that those concerns are reflected by the SNP Government in Edinburgh. Yet our mutual position on the matter is under threat, thanks to decisions that were taken by the court in Strasbourg, which in our view do not support either the letter or the spirit of the convention.

That brings me to the third point of agreement: we all have concerns about interpretation of the convention by the European Court of Human Rights. There was some mention earlier of the former Attorney General for England and Wales, Dominic Grieve. He is an opponent of what is proposed by the Conservative Party at Westminster, but even he has said:

“This is not to say that the Court’s interpretation of the Convention is without issue. It has suffered from its transformation into a final court of appeal for those states whose justice system is wanting. This has made it unwilling to allow national courts and parliaments to interpret convention rights in line with that nation’s own political and cultural concerns. The most obvious example is Prisoner Voting.”

Dominic Grieve has those concerns, even as a Conservative. However, having concerns about courts elsewhere is not restricted to the Conservatives. In 2001, the First Minister himself objected to decisions being taken by the Supreme Court. He said:

“The idea that you need a court with a majority of judges from England to tell us how to implement human rights in Scotland, I think is an extraordinary way for—or belief—for any Scots lawyer to have.”

Jamie Hepburn decried the use of the term “ambulance chasing”, but that is precisely the term that the First Minister used to describe the judges in the UK Supreme Court. Kenny MacAskill, the Cabinet Secretary for Justice, has talked in derogatory terms about judges in the Supreme Court who did not know Scots law but who may have visited for the Edinburgh festival—a remark that rightly caused fury within the legal profession. Let us not forget that Scottish judges are not merely in a minority in the European Court of Human Rights; they are in a minority of zero, which is not the case in the Supreme Court. It is also extremely likely that the judges in the European court have not met even the justice secretary’s test of having visited for the Edinburgh festival. Only in the topsy-turvy world of the Scottish Government is it wrong for Conservative politicians in London to object to decisions that are taken by judges in Strasbourg, but perfectly all right for SNP politicians in Edinburgh to object to decisions that are taken by judges in London.

There is a genuine concern that members will find chimes with the concerns of many of their constituents. A solution is being proposed—a British bill of rights that would incorporate the convention rights and expand on them in ways that are appropriate to the UK. That would involve our remaining a party to ECHR, but would give us greater domestic control over how those rights are interpreted in relation to our existing legal and constitutional structures.

The minister said that our proposed change is about rights regression. I say to her, in all seriousness, that that is not the intention. As Jackson Carlaw pointed out, it would simply bring the UK into line with the situation that exists in Germany. No one would seriously claim that the approach of the German Government in having a different system undermines human rights. We should not claim that that would be the case here.

Despite the hysteria—or near hysteria—that we have heard, there is a serious debate to be had about the future and about how we can best secure our shared ambition of securing human rights. That debate is best held in a calm and reasoned fashion, so I hope that the Scottish Government will contribute constructively to it in that tone.

16:41

Elaine Murray: Murdo Fraser said that we should debate such matters calmly, but those who denigrate human rights, and those who peddle nonsense about illegal immigrants being allowed to stay in the country because they have a cat, and the newspapers—one of which John Finnie referred to—whose reports imply that human rights pertain only to criminals and other

undesirables, are not instigating calm deliberation of human rights and their importance.

As others, including the minister and Roderick Campbell, have said during the debate, those who dislike human rights should reflect on why the Universal Declaration of Human Rights was adopted by the United Nations in 1948. It was a response to the appalling crimes that were committed in Nazi Germany, and under other tyrannies, against individuals on the basis of religion, race, nationality and sexual orientation. I am not suggesting that any member of the Scottish Parliament is as rabid in their distaste for human rights as some right-wing populists are, but I find it somewhat shocking that the UK, which for a while stood alone in Europe in fighting Hitler's forces, as Churchill said,

"on the beaches ... the landing grounds... in the streets ... in the hills",

might in the future backslide on human rights and fail to continue to provide international leadership on the issue.

If the unthinkable were to happen and a bill were to be brought to the UK Parliament to repeal the Human Rights Act 1998, I hope that every party that is represented here that supports today's motion would put aside party differences at Westminster and unite to oppose such measures.

As others have said, there would be significant issues for this Parliament, because the Scotland Act 1998 refers specifically to the Human Rights Act 1998 and the ECHR. Ministers cannot legislate or act in a way that is incompatible with the convention. I believe that it is highly improbable that any elected Scottish Government would agree to the sort of changes that are being proposed, so I wonder how the Conservatives anticipate squaring that circle.

The myths surrounding the Human Rights Act and the criticisms of it can be countered by celebrating the extent to which the value of the human rights approach has been demonstrated in many areas. Several members did so, including Margaret McCulloch, Alison McInnes and Jamie Hepburn. Articles 2 and 3 protect vulnerable people from abuse and neglect. Article 8 protects law-abiding citizens from harassment and excessive surveillance by the authorities. Articles 10 and 11 protect our rights to freedom of expression and protest. Article 10, on freedom of expression, was applied by the European Court of Human Rights in order to reverse the decision of the UK Court of Appeal that a journalist who was working for the *Financial Times* be required to reveal his sources regarding the takeover of a company. The judgment recognised the importance of journalists being able to protect their

sources so that they can use the information that is provided by them to inform the public.

I believe that freedom of information is intrinsically linked to human rights. The Scottish Executive and this Parliament recognised the importance of making information available to the public when we passed the Freedom of Information (Scotland) Act 2002, which gave the public the right to access information that is held by public bodies. That act has been used to disclose information about government at all levels—information that those institutions would probably prefer not to have been made known.

Ministers will recall that when we debated and passed the Freedom of Information (Amendment) (Scotland) Act 2013 in January last year, many members raised the issue of the need to extend FOI provisions to other organisations in the public sector that are in receipt of public funds, including registered social landlords and arm's-length organisations. We were advised by the Scottish Government that it intended to make a section 5 order to extend coverage, so I would be interested to learn what progress has been made on that, as we approach the end of 2014.

Under article 11 of the ECHR, on the right to freedom of assembly and association, the blacklisting of workers for membership of trade unions or for highlighting health and safety concerns remains unresolved. Recent evidence to the UK select committee indicates that more than 3,200 construction workers were illegally blacklisted as recently as 2008. However, despite the outcry over the issue, companies that are known to have blacklisted workers are still receiving public contracts. The Scottish Government has said that it will require that remedial action be taken or contracts will be terminated, but we argue that those companies should not be awarded public contracts unless they have publicly made amends and compensated the affected workers, whose trade union rights were denied.

A human rights approach, as many have said, helps us to focus on outcomes for people, and provides a robust basis for decision making. Duncan McNeil illustrated in his speech the need for progress on such matters, and the desperate need to turn words into action and to recognise that human rights apply to everyone. There are implications for disabled people and people who are living with long-term conditions, who might be stigmatised because of their condition—especially if it renders them reliant on benefits—instead of their being perceived as human beings who are much more than their disability.

Christian Allard made the point, in a passionate speech, that human rights transcend national interests, and John Pentland said in his speech

that we need to press forward and take action. I think that the overwhelming view across the chamber is that we should not be self-congratulatory, because we have not come to the end—to where we need to be—but are on a journey on which we need to make progress. There are hard choices for all of us in doing that, because human rights force us to focus on controversial issues including the age of criminal responsibility, whether some prisoners should have the right to vote and whether physical punishment of children is acceptable. Many of us, including me, will have initial instinctive responses to some of the controversial topics, but a human rights approach teaches us that that is just not good enough. It is not good enough to say “Well, it’s always been thus. This is how we do it.” Our responses must be tested and required to be justified, and we need to be open minded to challenge ourselves.

In his speech, Graeme Pearson referred to the changes in attitudes to slopping out. Now, we see such changes as completely acceptable, but at the time there was a feeling that somehow something was being imposed on the Scottish prison system from outside. We need to have much more of an open mind when we are challenged by the human rights approach on things that we had thought were normal and acceptable.

This debate on human rights has maybe taken place a little earlier than we had expected. I thought that the debate might have been held after the publication of the first annual report on Scotland’s national action plan for human rights, which was launched by the Scottish Human Rights Commission in December last year. I understand that the first annual report will be published on 4 December.

As we will recall from last year’s debate—Christina McKelvie referred to this in her speech—SNAP is the first action plan for human rights to be developed in the UK. In it, the SHRC prioritised empowering people to realise their human rights, and translating human rights into policy and practice. The action plan’s focus is on changing the culture and processes of Governments and institutions as much as, and possibly more than, on changing legislation. As the SHRC stated in its briefing, it is about taking human rights off the statute book and putting them into policy and practice. As well as celebrating the Human Rights Act 1998—most of us do—we need to look forward and consider not just legislation but, as others have said, how we ensure that human rights apply to everyone.

16:49

Roseanna Cunningham: Today’s debate has been calm and reasonable, but I wish that I could

say the same about all those who denigrate human rights, misrepresent what human rights mean and talk of trivial cases. Unfortunately, some of those voices are being heard very loudly at the moment in our public discourse.

It is often said that the health of a democratic society can be measured by whether the things that unite us across the political spectrum are stronger than the things that divide us. Our shared political experience since devolution certainly suggests that we have a very healthy democracy in Scotland, and this afternoon’s debate provides further convincing evidence—it is welcome if not surprising—that despite our differences there remains a powerful unity of vision and principle to be found among all members of this Parliament. Defending and promoting the fundamental rights that belong to all of the people of Scotland is self-evidently one of the principles on which we speak with one voice—not that we are saying the same thing about it, of course.

I am grateful to Jackson Carlaw for the sober and responsible way in which he opened the debate for the Conservatives. However, he is suggesting, I think, that David Cameron and Chris Grayling are simply promoting debate about how the UK implements the ECHR. We have had that debate before, a couple of years ago, when the UK Government’s Commission on a Bill of Rights travelled the UK to take evidence on exactly the same issue. Unfortunately, the Conservative Party does not seem to have heard the message from that previous conversation—that Scotland is not interested in ditching the Human Rights Act 1998 or retreating from the ECHR. That was clearly recognised in the work of the commission that was the focus of some of Roderick Campbell’s remarks.

That commission explicitly drew attention to the importance of the devolved dimension. Indeed, I gave substantive evidence to it, much of which flagged up the huge number of devolution complications that would occur if the UK Government continued down the road that it was on. Yet it is evident from the proposals published by Chris Grayling that devolution has barely registered. The best his paper offers is a throwaway reference. I suggest that that is not good enough. With Scotland’s constitutional journey being far from over, we might have expected the UK justice secretary to demonstrate rather greater awareness that Scotland’s views on this issue matter.

I acknowledge the various speeches that were made in the debate, particularly those from Alison McInnes for the Liberal Democrats and Elaine Murray and Graeme Pearson for the Labour Party. I also recognise the unequivocal support for the European convention and the Human Rights Act

1998 that was articulated by a great many members this afternoon. I particularly warmly welcome John Finnie's remarks, and in doing so I also pay tribute to the immense contribution that he makes to the Parliament's work in the field of human rights through his roles as convener of the cross-party group on human rights and rapporteur on human rights for the Justice Committee.

Today's debate demonstrates that we are united not only in our commitment to human rights as the fundamental standards that define human freedom but in our belief that playing party politics with human rights is irresponsible and dangerous. The Human Rights Act 1998 and our commitment to the European convention on human rights are not political playthings to be cynically misrepresented for cheap electoral advantage. Both Jamie Hepburn and Kevin Stewart found Thorbjørn Jagland's comments for themselves, so I will not repeat them. He is secretary general of the Council of Europe and, incidentally, both a former Prime Minister of Norway and current chairman of the Norwegian Nobel committee. I will, however, observe that a favourite son of Scotland once expressed the same sentiments in a rather different fashion when he wrote:

"O wad some Pow'r the giffie gie us
To see oursels as others see us!"

We should pause and consider the impact on the UK's standing in the world if we go down the road that is being proposed. I say that genuinely. Essentially, we must all be careful to remember that, when we make public pronouncements that touch on the universal rights of all humanity, we do so not merely as politicians, nor simply as elected members of the Scottish or UK Parliaments, nor in my case as the relevant minister, nor in David Cameron's case as the Prime Minister; we do so as citizens of the world with an obligation to all humanity.

I spoke earlier about celebrating the things that unite us in a democratic society. That unity requires a willingness to engage in respectful debate, so let me make it clear that I entirely respect the contributions that Conservative members have made to this debate and the questions that they have raised. However, when they talk of "mission creep", are they really saying anything more than that society changes? We are not who we were in that early post-war period and we would not want that society back, with all its open prejudices and inbuilt discriminations. It is inherent in a human rights approach that we should always seek to question and review and to act in a manner that is balanced, reasonable and proportionate.

Murdo Fraser: The minister raises a very interesting point, but will she reflect on the comment that I made about judicial activism and

where final decisions should ultimately be made? Should those decisions be made by democratically elected politicians and Parliaments, or should law be made by judges, who are not elected?

Roseanna Cunningham: The way in which our system works is that the judiciary are part and parcel of all of that. We do not separate them out. What I am hearing from the Conservatives suggests that they are moving towards separating them. I recognise that there is a very complex debate there.

It is true that giving proper effect to human rights can sometimes cause disruption to the way that we have traditionally done things but, as MSPs, we are all familiar with the need to uphold fundamental rights and to ensure that we keep current policies and practices under effective review. We can take key lessons from difficult cases.

A number of members have mentioned slopping out. That was a difficult issue at the time, but from that example we learned that fully integrating human rights thinking into the design and review of laws, policies and procedures produces a far more sustainable and robust result in the long term.

Can we get the matter into proportion? Some 99 per cent of cases that are brought against the UK as a whole do not succeed. As Alison McInnes mentioned, in 2013 only eight cases resulted in a finding that there had been a violation of the European convention on human rights. Both Scotland and the UK have every reason to be proud of that record. Given that so few cases are lost, there is some justification for the suspicion that what lies behind the Conservatives' move has more to do with the current state of electoral politics south of the border than anything to do with principle. I ask the Conservatives to take that comment on board in the genuine spirit in which I make it.

As I have already observed, the idea that the UK should step back from its current commitment to the ECHR system has to be seen against the backdrop of a wider Europhobic agenda. One of the proposals that the Scottish Government has advanced in response to that is the requirement—this is the controversial bit—for a double majority in the event of a vote on leaving the European Union, so that British exit from the EU would need more than just a majority in England; it would require support in all the constituent parts of the UK.

An analogous argument applies in the context of the ECHR. It would clearly be unacceptable for a simple Westminster majority to deprive the people of Scotland of the safeguards that are provided by the Human Rights Act 1998 and the wider ECHR

system. Such a change already requires the consent of the Scottish Parliament under the Sewel convention, but that remains a political convention rather than a legal obligation. Therefore, there is a powerful and convincing argument to entrench the Sewel convention in a manner that ensures that no future UK Government can unilaterally repeal the Human Rights Act 1998 or take Scotland out of the ECHR.

In fact, Scottish civil society organisations have presented that proposal in recent submissions to the Smith commission. They have done so entirely independently of governmental or party-political input to the Smith process. I welcome that initiative and believe that the Scottish Parliament will wish to debate and support that proposal in due course. However, that is for future discussion, of course, and likely vigorous consideration.

Let me conclude the debate by turning our focus back to the motion and to the clear existence—given the nature of the debate that we have had—of the broadly based consensus that unites members across the chamber. We have heard a resounding endorsement of the inalienable human rights and fundamental freedoms that are enshrined in the European convention on human rights. There seems to be an emerging difference about how that can be delivered and concern about the reasons behind that emerging difference, but we can see that we are obviously not departing from the overall commitment.

We have heard a clear expression of confidence in and support for the Human Rights Act 1998 as a successful and effective implementation of the convention in domestic law and, above all, we have established without doubt that these rights and the mechanisms that implement them in Scotland enjoy the unequivocal backing of all who are committed to upholding human rights, democracy and the rule of law not only at home in our own country, but on behalf of all fellow members of humanity around the world.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There are two questions to be put as a result of today's business.

The first question is, that amendment S4M-11484.1, in the name of Jackson Carlaw, which seeks to amend motion S4M-11484, in the name of Roseanna Cunningham, on human rights, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)

Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (Ind)
 Yousaf, Humza (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 10, Against 100, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S4M-11484, in the name of Roseanna Cunningham, on human rights, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)

Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (Ind)
 Yousaf, Humza (Glasgow) (SNP)

Against

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)

The Presiding Officer: The result of the division is: For 100, Against 10, Abstentions 0.

Motion agreed to,

That the Parliament re-affirms and re-asserts, on behalf of all of the people of the community of Scotland, the inalienable human rights and fundamental freedoms that are the common inheritance of all members of humanity; recalls the particular importance to the Parliament, through its founding statute, its founding principles and in all aspects of its day-to-day work, of human rights in general and of the European Convention on Human Rights in particular; acknowledges the constitutional responsibility of the Parliament to uphold the principles and values expressed in the convention and to respect, protect and realise the rights and freedoms that it enumerates; further acknowledges the importance of that work not only in

relation to Scotland, but also in establishing and maintaining standards of best practice, which provide a benchmark for human rights elsewhere in the world; expresses its confidence in, and support for, the Human Rights Act 1998 as a successful and effective implementation of the convention in domestic law, and believes that the principles and values that inform the convention, the rights and freedoms that it enumerates and the Acts that incorporate it into law, should be a source of unity and consensus across the whole of society and should enjoy the unequivocal backing of all who are committed to upholding human rights, democracy and the rule of law.

Armed Services Advice Project

The Deputy Presiding Officer (Elaine Smith):

The final item of business today is a members' business debate on motion S4M-11103, in the name of Christina McKelvie, on the armed services advice project in a year of remembrance. The debate will be concluded without any question being put.

Motion debated,

That the Parliament applauds what it considers the tremendous work undertaken by the Armed Services Advice Project (ASAP), a service funded by Poppyscotland and delivered by the Citizens Advice Scotland for serving and former armed forces personnel and their families; understands that most service people make successful transitions back into civilian life but that, for those who do not, ASAP is a lifeline that can help people in a time of need; recognises in this year of remembrance that suffering and sacrifice is sadly not a thing of the past and believes that society owes it to the armed forces and their families to help them out in their time of need; commends ASAP for providing this support to forces and their families in Hamilton, Larkhall and Stonehouse and across Scotland, and congratulates the project on delivering immense benefits to over 5,300 clients across Scotland, putting £3.5 million back into client's pockets and resolving countless debt, housing and benefit issues every week.

17:03

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): At the very beginning, I thank everyone who signed the motion to allow it to be debated on this timely occasion.

A little earlier this afternoon, I and friends from the armed services advice project, Citizens Advice Scotland and Poppyscotland were delighted to hand to the minister for veterans a highly significant report. They join us tonight in the public gallery, and I thank them all for the work that they do throughout the year but especially at this time of the year.

Like remembrance day, the report is a reminder that, while we never forget those who have been lost in conflict, we must provide the right support to those who leave the armed forces for civilian life.

I visited an interesting project this morning at Machanhill primary school, in Larkhall in my constituency. The children had identified all 257 men whose names are on the remembrance stone in Larkhall, and they were remembering them all today on poppies that they had put on the school fence. Such examples of young people remembering our past enable us to look to the future, which is what the report that I am going to talk about is all about.

The armed services advice project has the acronym ASAP, which seems important. Given people's shifting needs under a brutal and bruising austerity regime, we cannot wait around in the

hope of something better. We are promised much more of the same; there will be more cuts and ever-reducing benefits for people with disabilities—a group that includes many former service personnel. For people who are faced with the bedroom tax and debt problems, just keeping food on the table is becoming a challenge.

Is that fair and appropriate? Is that the kind of Scotland that we want to inhabit? Of course not. It is not appropriate for anyone who lives in Scotland, whatever their circumstances, but the idea that veterans should be punished for serving their country is especially abhorrent.

Back in 2012, Citizens Advice Scotland published "Civvy Street: The New Frontline—Meeting the advice needs of the Armed Forces community in Scotland", which set out the issues that veterans can experience after they leave the armed forces. We debated the report in the Parliament.

Most people make the transition successfully, but a significant minority experience challenging problems. That is where the armed services advice project comes in. All sorts of problems can emerge, especially after a long time in service, when someone has become unfamiliar with how the civilian world operates—and the world changes every day; sometimes I have difficulty keeping up with it. People in the armed forces can be out of touch with non-serving pals, which can cause problems.

Folk are not always well up on issues to do with financial management and running a home for themselves and their family. They might have undiagnosed mental health problems. They might have accessed payday loans—Citizens Advice Scotland published a report about payday loans today. When it comes to family life on civvy street, there can be big issues. The adjustment can be very difficult indeed.

The new report, "Supporting the Scottish Armed Forces Community in 2014"—we have copies for members—takes a fresh look at the challenges that veterans experience and how we can most effectively help people to work through those challenges.

Veterans are not fundamentally different from people in any other walk of life. They encounter the same problems as the rest of us do. Debt and disability benefit changes have a similar impact. However, there can be different patterns. Veterans seem to be more likely to have multiple issues and sometimes they react more negatively to a single problem.

The ASAP service makes a valuable contribution, reaching out to veterans and introducing them to the extensive network of support and assistance that is available to them.

The network grows every day as a result of all the projects that are involved. The distinct roles that are played by the partners—Citizens Advice Scotland, Poppyscotland, the Royal Air Force Benevolent Fund, Seafarers UK and the armed forces charity, the Soldiers, Sailors, Airmen and Families Association—along with the support of the Scottish Government are to be commended and supported.

A key finding of the new report is that the need for advice on housing and benefits has increased. That is perhaps not surprising; the bedroom tax hits veterans at least as hard as it hits other people. The cuts in disability living allowance and an approach whereby amputees and people with long-term critical health conditions are often told that they are perfectly fit for work will have a significant impact.

Advice needs are changing. Benefit entitlement is the number 1 issue for ASAP clients. That tells us a lot about the Westminster Government's attitude but nothing about how the Westminster Government plans to tackle the situation—perhaps it does not plan to do so. Table 1, on page 7 of the report, gives the top 10 issues for ASAP clients in 2012 to 2014. The top six issues are: benefit entitlement; charitable applications; employment and support allowance; the DLA care component; housing benefit; and the DLA mobility component. That paints a bleak picture.

Veterans often seek to become self-employed when they move back to civvy street, but many encounter problems. The whole business of looking for work, accessing housing and coping with homelessness needs on-going and careful attention. There has been a 77 per cent increase in requests for advice about ESA applications, according to the report. There is a clear correlation between welfare reform and the increased need for advice. There is therefore enormous value in sustaining ASAP—a precisely focused and dedicated project that is aimed at addressing veteran's needs.

I know that members will have experience of ASAP and I am keen to hear what they have to say about its work, so I will finish with a comment from a service user, who is quoted on page 25 of the report. The service user said:

"ASAP they have been absolutely brilliant, all the information they've gave me they've actually helped me out a lot in the last year, they've got me things that I should have been entitled to for years, they've got all them in place now."

The key words there are

"should have been entitled to".

That person should not have needed to seek that type of support for something that they are entitled to; it should have been in place. However, with

ASAP's help, that support is now in place. That kind of practical support is what makes a difference.

I commend ASAP to the chamber and I believe that, as a Government, as a Parliament and as ordinary citizens, we must continue to support the work of ASAP, CAS, Poppyscotland and all the other organisations that I mentioned. I wish them well for the next two years and I look forward to the next report.

17:11

Alex Fergusson (Galloway and West Dumfries) (Con): I am genuinely delighted to be taking part in the debate. I congratulate Christina McKelvie on lodging the motion. As convener of the cross-party group on armed forces veterans and, indeed, as a member of the advisory board of Poppyscotland, the body that funds ASAP, I could not have chosen a more suitable subject for debate on this remembrance day. I feel very honoured to be taking part in it.

The motion makes a really important point, which is that most servicepeople make a successful transition back into civilian life. That is something that we should not forget and should always highlight. Indeed, it is to be fervently hoped that the percentage of those making that successful transition will increase and continue to increase over time, as the work that is now taking place during service to identify servicemen and women who might require support after leaving the armed forces becomes ever more sophisticated and successful in identifying those most vulnerable individuals. Yet, as the report published by CAS today emphasises,

"a significant minority experience challenging problems"

when transitioning from the highly ordered—and, in many ways, protected—regime of military life back to the devil-take-the-hindmost, competitive world of civvy street. It is no wonder that some people find it almost impossible to cope with that change. That simply underlines the importance of ASAP's fundamental aim, which is to be a focal point for the armed forces community in Scotland for access to advice, information and support, while working closely with key partner organisations to ensure that clients receive the most appropriate support.

The aspect of ASAP's work that involves liaising closely with the key partner organisations, which Christina McKelvie mentioned, is fundamental to the success that the project has undoubtedly achieved. The figures that have been highlighted speak for themselves, as Christina McKelvie noted. I am quite sure that that level of success will continue as a direct result of what the motion rightly calls

“the tremendous work undertaken by the Armed Services Advice Project”.

However, I want to use the rest of the short time that is available to me to highlight one aspect of transition that is perhaps worthy of greater focus. I was very moved by a conversation that I had with a senior SSAFA representative at the reception here in Holyrood to launch the poppy appeal just a couple of weeks ago. She told me of a woman who had sought her out for help—that lady was at a complete loss as to how she could continue to look after her ex-services partner without finding access to the support that she felt she needed herself. She was literally at her wits’ end.

That issue was highlighted in a song by Eric Bogle, a Scots-born singer-songwriter who has lived in Australia for many years. He wrote a song called “Welcome Home” for Australian Vietnam veterans who were returning home at the end of that dreadful conflict. It features somebody called Annie, a long-suffering and faithful wife who is waiting for her loved one to return. One verse goes like this:

“When a Nation goes to war, everyone’s a casualty
Some are maimed and scarred, but most have wounds
you cannot see
So in place of the man she had known Annie found
instead
A sick and troubled stranger in her bed”.

I find that verse extraordinarily poignant. It surely highlights an unsung and unheralded partner with whom we need to work more closely: the long-suffering and patient life partner who too often has to pick up and try to rebuild the pieces of the person they love once they have returned from a tour of duty or a scene of conflict and who probably gets very little thanks for trying to do so.

The report rightly mentions the role of carers, but I suspect that there are many unidentified individuals out there who struggle to cope with the unexpected personality change in their partners when they leave the armed forces. They, too, desperately need our help and support, for they are as much victims of conflict as the partners for whom they care.

ASAP has achieved an enormous amount in its short lifetime but, sadly, there remains an enormous amount to do, and I know that the Parliament wishes it nothing other than continued success. I feel privileged to add my name to the list of those who support the motion that is before us.

17:15

Bruce Crawford (Stirling) (SNP): I sincerely thank Christina McKelvie and congratulate her on bringing the motion to the Parliament for debate on what is probably the most poignant day for it:

the 11th day of the 11th month. Please forgive me for taking a little time to speak about the hellish conflict of world war one. I do so for a purpose, as I want to talk about Stirling’s role in it.

Because of Stirling’s central location and railway station, it became an important recruitment centre for Scotland in the first world war. As well as being a base for the Argyll and Sutherland Highlanders, Stirling acted as a recruitment and transit centre for the thousands of men who made their way from there to the hell of the trenches. Recruits generally stayed for a few days, were medically examined, issued their equipment and then shipped off to more permanent bases. Much of the training of the volunteers involved the digging and backfilling of trenches in King’s park in Stirling and in Pleun country park.

In Stirling, people became used to the sight and particularly the sound of soldiers marching to the playing of pipes from Stirling castle to the railway station as they left for war. At the beginning of the war, hundreds were piped out of the castle, but the sound of the pipes gradually disappeared as the war went on and, eventually, near the end of that hellish conflict, the city fell silent—there were no pipers left. For me, that is one of the saddest aspects of Stirling’s military history.

For those who returned from the war, life would never be the same again. Of course, little or no support was available to them outside their immediate families. Today, however, we are lucky to have projects such as the armed services advice project, or ASAP, to support our servicemen and women returning from conflict zones. To have a service that provides advice specifically to the armed forces community in my constituency is a real benefit not only to the service users but to the community as a whole.

In Stirling, we are lucky enough to have a local adviser called Ally Gemmell, who is there to assist and advise those who have problems that may have been exacerbated by their service experience and any conflict that they have been involved in. Ally and the other advisers across Scotland provide specialist assistance and have links with other organisations in their local areas, which allow them to tie in support from those who have the best knowledge and resources. The advisers are fantastic at pulling people together. My constituents who use the service really value and cherish the support that they receive.

As Christina McKelvie outlined, ASAP is no different from many other organisations when it comes to the challenges that it faces. In fact, a lot of its workload is due to the welfare reforms. In the past few years, citizens advice bureaux have had an increase in the number of inquiries regarding benefits, with 37 per cent of inquiries from veterans relating to the welfare changes. I find it

incredible that we now have 24 new volunteers operating in the Stirling area. That is testament to the scale of the challenge.

Let me bring to life the support that ASAP provides with the story of a former Black Watch soldier from my constituency. This veteran, who was originally from Cambusbarron, joined the Black Watch aged 16 and served across the world in many dangerous war zones. After many years serving his country, he returned home to Scotland to continue with civilian life. Once home, his marriage fell apart, he ended up homeless and his life took a downwards spiral as he began to take drugs to help cope with the flashbacks that he was having from his time in the military. The armed services advice project was able to step in, offer support and help him to get a war pension and service allowance. If ASAP had not been there to help him, I dread to think what might have become of that man and where he would have turned to in his hour of need.

There are stories like that from throughout the country. They illustrate the dedication and hard work of the support workers from the project. The work that Citizens Advice Scotland, Poppyscotland and the armed services advice project are undertaking together is invaluable, to be cherished and, I have no doubt, life-saving on occasions, so I say thank you.

17:20

Mark Griffin (Central Scotland) (Lab): I congratulate Christina McKelvie on securing this members' business debate on the armed services advice project, particularly on remembrance day. I also thank Citizens Advice Scotland and Poppyscotland for the work that they do in delivering the project and for the updated report that they provided to all MSPs today.

As the motion points out, the Citizens Advice Scotland project is tremendously important. It has managed to put more than £3.8 million directly back into the pockets of veterans and their families since its inception. That is a return of £3.42 for every £1 received in funding for the project, which shows incredible value for money.

Although that financial return is certainly impressive, it is not the reason why the service is so valued. The reason why it is so valued is the difference that it makes to the lives of people who have served their country and are now finding it difficult to adjust to civilian life.

We should note that, although a significant minority of armed forces veterans find it difficult to adjust, the majority of former serving personnel integrate back into civilian life with little or no difficulty. That said, the updated report on the

armed services advice project had some interesting findings.

The findings on debt were positive, as it has been recognised for a long time that some veterans have not been able to manage their personal finances after leaving the armed forces. As a result of problems finding and sustaining employment and housing, service leavers can quickly find themselves in debt and financial difficulty. The regimented lifestyle of the forces, where bills and food are often not the responsibility of a private soldier, can sometimes lead people into difficulty when they leave the services and are not quite ready or prepared for, or have not even spoken about, the responsibilities that they will have to take on.

It was therefore surprising and welcome that the proportion of veterans who go to the project with personal debt issues has fallen to the point where it is now lower than the proportion of the general population in Scotland going to citizens advice bureaux with debt issues. That is commendable and is down to the hard work that has been done in advising service leavers.

That said, the findings on welfare and benefits were anything but welcome. The difficulties that veterans have had with claiming benefits and the sanctions that have been imposed are similar to those that we hear about in our surgeries from anyone else, but I found a quotation from a veteran in the report to be shocking. They said:

"Eh, I wasn't too happy about it because well I felt it was my place to work but because of my injuries I couldn't, I suppose I was being naïve, stubborn, I had pride that I had to go and beg for money from people, basically that's the way I looked at it and I still do look at it that way."

That is a comment from a former member of our armed forces—somebody who has served our country and, I assume, has an injury as a result of active service on our behalf.

I do not think that any one person is more deserving than anyone else of a particular benefit, but nobody who has been injured in active service should have any sense that they are begging or that they are undeserving of our support. I hope that the people who talk about scroungers and benefit fraud as if it were a much bigger issue than it is take some time to reflect on the impact that that has had on injured former service personnel. That quote in particular hits home in that regard.

I hope that, if those who are watching us tonight take anything from this debate, it is the support that this Parliament and the country will continue to give to our veterans. We will do that not out of charity or a sense of pity or because they have begged for it, but because they deserve it.

17:25

Annabelle Ewing (Mid Scotland and Fife)

(SNP): Today is an appropriate day for us to be holding this debate. The conflict that started 100 years ago this year came to an end as the guns fell silent at the 11th hour of the 11th day of the 11th month and, in our acts of remembrance around this time, we tend to focus on the fallen of that and other conflicts—on those who will never come home. However, we need to remember, too, those who came home. It was to look after the returning veterans, maimed and damaged by war, that the Earl Haig Fund was set up in the first place, and it is to support veterans that the money that is raised by the fund still goes.

When the first world war came to an end, the returning servicemen were promised a land fit for heroes, but it never materialised. Many of the soldiers struggled to find work or decent homes for their families, and post-traumatic stress disorder was dismissed simply as shellshock. Thankfully, we understand far more about the needs of veterans today, but the picture is still far from perfect, as members have suggested.

Even those who are leaving the armed forces but not after a conflict can face real difficulties in making a smooth transition into civilian life. Poppyscotland and Citizens Advice Scotland are to be praised, therefore, for the work that they have done with the armed services advice project, and I welcome the publication of the updated CAS report, which highlights the issues that those leaving the forces face, including issues around finding accommodation, housing arrears, homelessness, benefits—in particular, disability benefits and sanctions—and employment.

The armed services advice project provides the additional support that many of those men and women need. Indeed, I note that some 6,000 people have been helped since the project began and that, on a practical but purely financial level, the project has been a real success, with a total client financial gain of £3,856,668. That represents a return of £3.42 for every £1 of funding that the project has received. However, as has been mentioned, that is just one part of the story.

What is much more valuable than the pounds and the pence is the support that the project provides, and the sensitivity and understanding that helps to put some extremely vulnerable clients at their ease and allows them to trust those who are offering assistance. One of the clients who is quoted in the briefing that was kindly provided by Citizens Advice Scotland underlined that. He said:

“having been very nervous prior to the visit, I was put at ease and dealt with sympathetically”.

That sort of understanding and support is a vital component in how the armed services advice

project is reaching out to and supporting its vulnerable clients. I am also pleased to note that, in the area that I represent, Citizens Advice Scotland has dedicated specialist regional officers associated with the project in Fife, Tayside, Stirlingshire and Clackmannanshire.

From the detailed breakdown of issues with which people present at citizens advice bureaux, it is clear some issues are significantly more common for the ASAP clients than for other clients. That reinforces the view that those who are leaving the armed forces face a specific and distinct package of difficulties, and proves that such a targeted and specific advice service is not only helpful, but much-needed.

As a member of the Parliament’s Welfare Reform Committee and the cross-party group on veterans, the work that is being done by the project is a matter of real interest and pride to me.

On benefits, a particular issue concerns disability living allowance and the sanctions that are imposed in the system. We really must get to the bottom of that issue.

I am pleased to support the Scottish Government, which has not only done everything in its power to resist the worst impact of the austerity agenda from Westminster, but has been extremely proactive in working on behalf of veterans. I pay particular tribute to the Minister for Transport and Veterans, Keith Brown, who as we know is a veteran. I congratulate my colleague Christina McKelvie on securing this important debate and on bringing the issue to the chamber. I join her in applauding the work of the armed services advice project.

17:30

Graeme Dey (Angus South) (SNP): One of the measures of a responsible and civilised society is how it treats its veterans. Regardless of whether we, as individuals, agree with the conflicts to which our military have been committed, we have a duty of care to those men and women when they seek to return to civilian life, especially when involvement in those conflicts has left its mark—physically, mentally or both.

Research has shown that, in the 16 to 44 age range, the number of ex-services personnel who have mental health disorders is three times that of the wider population. That is a sobering statistic. Even if they have not been involved in conflicts, we have a responsibility, as a society, to assist them to make what can, for some, be a difficult transition into an environment that is far removed from the one that they have been used to.

I commend the work of the armed services advice project, and I commend my colleague

Christina McKelvie for bringing the motion to the chamber. The extent to which the project—which is funded by Poppyscotland and delivered by Citizens Advice Scotland—is needed is identified by today's report, whose headline figures show that 5,756 individual clients have been seen in a little over four years—since July 2010—and that a financial return approaching £4 million has been generated for those individuals and their families. When we drill down further, the demand for the services on offer is even clearer. Some 1,769 clients were recorded in the first two years of the project, but the following two years, up to March 2014, saw 3,114 people come through the doors, which was a nearly 80 per cent increase.

We must proactively welcome service personnel and their families back into our communities. Although it great that we have in place services such as the ones that ASAP offers, we ought to be making it as easy as possible for ex-services personnel to integrate into civvy life in the first place. We need to remove the need to seek out support further down the line when avoidable issues have become problems.

I am proud to represent an area of Scotland that is doing just that. Other parts of the country will, I am sure, be doing their bit, but I highlight what veterans who return to or relocate to Angus can find by way of immediate and readily accessible assistance. Through Angus Council, services are in place to support veterans—should they satisfy the eligibility criteria—in areas such as housing benefit, council tax reduction, discretionary housing payments, Scottish welfare fund crisis grants and community care grants.

In addition, if a veteran has responsibility for children of school age, free school meals, school clothing grants and education maintenance allowance may be available. When assessing entitlement to housing benefit or council tax reduction, it is council policy, when calculating the income of the applicant, to disregard in full any entitlement to war disablement pension or war widows pension, thereby increasing the amount that can be received.

As part of the military covenant, Angus Council provides housing information and advice to veterans and members of the services through the council's housing options service, with advice being made accessible by a variety of means. There is also a comprehensive information booklet, "Veterans First", which covers a range of topics.

Perhaps most important—as the minister is well aware—is that Angus Council is actively providing affordable accessible homes for ex-services personnel who have special needs. That includes individually designed new houses in the council's mainstream stock, and houses within a new

development at Camus Crescent in Carnoustie, where five wheelchair-accessible properties are being constructed for Houses for Heroes Scotland. Those properties are expected to become available in April or May next year. I am told that in excess of 20 applications have already been received.

Richard Callander, the chairman of Houses for Heroes, commented on the progress that is being made at Camus Crescent, and said:

"This well-designed development will offer homes tailored to the specific needs of young veterans injured in recent conflicts. The provision of—"

these—

"affordable houses will enable five ... families to live comfortably in their home and ... community."

Surely that is the key point—in their home and community.

As the minister knows from having formally launched the demolition of the old folks complex that used to occupy the site, those homes are located in the heart of Carnoustie. It sends a clear message that injured ex-services personnel will be welcomed into the heart of our communities and not left on the fringes of them, geographically or metaphorically.

Of course, no system is perfect. Even in Angus, there is and will be a need for ASAP. The CAB in Arbroath has been offering a seven-hours-a-week ASAP service for a year now, which has attracted about 50 cases thus far. I suspect that that number is set to grow, given that there are discussions under way aimed at establishing an advice clinic at nearby RM Condor.

I congratulate Poppyscotland and the CAB on the work that they are doing on this important area. I welcome the report that has been published today: it provides an informative update on the issues that prompt ex-services personnel to turn to ASAP for support and advice.

17:35

The Minister for Transport and Veterans (Keith Brown): I, like other members, congratulate Christina McKelvie on securing this debate and drawing the Parliament's attention to the excellent work done by ASAP and to the publication of its annual report, which provides details of the issues with which it has assisted veterans over the past two years.

As a number of members have said, this is a very appropriate day on which to discuss this issue as we remember those who served in previous conflicts. I think that all members will have been involved in remembrance events in their area, as I was on Sunday.

Two events since then stick in my mind. One was with a local school, Lornhill academy, which had a fantastic remembrance garden put together by the pupils, who had done a lot of research. The event included an absolutely spine-tingling and very memorable rendition of “The Green Fields of France.”

Bruce Crawford said that Stirling was a departure point for many people going to the war. This morning I unveiled a plaque at Glasgow Central station, where thousands of people left to go to the war, many of whom of course never returned.

Members will recall from our 2012 debate on the first ASAP report that the service made an immediate and very effective impact and that it is highly regarded by the ex-service charity sector, which is very important. The latest report reaffirms the success and importance of ASAP. It continues to offer and provide a comprehensive advice and support service on a diverse range of issues to serving personnel, veterans and their families.

I should mention some of the comments made by members. I heard the list of things that are happening in Angus, some through the council and some through the Scottish Government. It really heartens me to hear that so much is being done for our veterans. That is social justice in action for our veterans.

The fact that nearly 6,000 have used the service since 2010 is a testament to the staff of ASAP for their incredible work and a fine reflection of the successes that it achieves. That has also been reported in the media. It is a real testament to its success that so many more people are accessing its services. In that respect and many others, we are shining a light on the areas where veterans perhaps did not get the support that they should have had in the past. It is a mark of the service's success that so many veterans are accessing it.

Every bit of help provided, every extra pound of additional benefit and every bit of assistance with finding a job, securing a house or resolving a financial difficulty makes an enormous and, sometimes life-changing, difference to the person who has walked through ASAP's door.

Alex Fergusson quite rightly said that the vast majority of service personnel manage the transition very effectively. However, how much more effectively would some of them manage it if the benefits and assistance were automatic and provided as a right and if more was done to create awareness of the benefits that are there?

Mark Griffin was right as well. We have to tackle the attitude that some members of the forces have that this help is undeserved and it is not really their place to ask for these things. Of course those

people deserve every assistance that we can give them.

The success, support and determination of ASAP is acknowledged. That is why it is supported by Citizens Advice Scotland, Poppyscotland, the Army Benevolent Fund and the RAF Benevolent Fund, Seafarers UK and the Soldiers, Sailors, Airmen and Families Association. I, like other members, offer my congratulations to everyone involved with ASAP on another excellent year.

I know that the service works well and is connected to a range of other support agencies. That is what makes it so effective. The report that was published today proves that to be the case.

The report highlights a number of issues that the service has addressed. It makes interesting reading. Members have highlighted specific examples of achievements and areas where further work is necessary to ensure that our armed forces community is indeed properly supported by society at large.

The title of the previous ASAP report, “Civvy Street: The New Frontline”, underlines—perhaps to the surprise of many people in civilian life—how much of a trauma entering civilian life can be. Given the increased numbers of people doing that, some of whom have been made redundant and some of whom have left after a long period on active service, both of which can be quite traumatic, there will be a need for this kind of support for many years to come.

Based on the work that was undertaken on behalf of more than 3,000 veterans and covering a two-year period, the report highlights that, although there are specific issues on which some of our ex-service community can and do need extra support, the arrangement of public services for our armed forces community is improving. Not surprisingly, their needs generally mirror those of the wider, general population.

A number of themes and threads emerge from the report. For example, debt problems faced by ex-service personnel are dropping, as Mark Griffin mentioned, and are lower than those in the general population. That does not mean that we should be complacent as debt can be and is a huge burden on individuals and families. However, I am reassured to note that credit card debt, for example, is less than half as common as it was two years ago. It is also gratifying that, although significant to the people who face difficulties or issues requiring resolution, housing, health and employment problems are all relatively low in number.

A strong theme in the report is the difficulty faced by many people, including those who have served, in understanding and accessing the benefits system. Indeed, 40 per cent of all ASAP

cases have been in connection with that issue. Although a reserved matter, I am pleased that organisations with expertise such as ASAP, and the wider ex-service charity sector, are able to assist veterans and families to navigate through the system.

Last year, when I stood outside the Parliament for a press photo call with service personnel, veterans and representatives of Citizens Advice Scotland and ASAP, we held up placards showing that ASAP had directly helped the armed forces community access more than £2 million in benefits from the Department for Work and Pensions that would have otherwise gone unclaimed. That was, and is, an astonishing amount, and behind every pound is a story.

One year on, as we have heard, that figure has risen to £3.8 million since ASAP was established. That is proof, were it needed, that ASAP is a success. However, as many members have said, more needs to be done—by the military in preparing service personnel for civilian life before they are discharged and by making people aware not only of the benefits but of the fact that they are entitled to those benefits as of right; by the DWP in doing more work in making the benefits system more transparent; by DWP champions in helping ex-service personnel; and by the charity sector.

It is also worth noting that the new Scottish veterans commissioner, Eric Fraser, who I appointed in July and who took up post in August, will have a crucial role to play. It is gratifying to see that he is in the public gallery. It will be his task to gather information on what works and what does not work for veterans. He will identify where improvements in public services have to be made. He will establish where there are gaps and where disadvantage is still being experienced.

The commissioner will make recommendations, and I will act on them in respect of public services. When he makes recommendations in respect of other service providers, I will push for change in the appropriate place. Many members—not just those in the chamber—will play a part in doing that.

The Scottish Government has long recognised that the UK Government welfare reforms would have a huge impact on our people, our communities and our economy. We have made our position quite clear. We agree that reform is needed. The system needs to be simpler—the work of ASAP demonstrates that very well; expenditure needs to be affordable; and work needs to pay. However, the UK Government's reforms are absolutely not the answer. They are unfair, they are coming too fast and they are happening against a backdrop of the biggest welfare system reductions in a generation.

We in Scotland see the third sector as a valued and genuine partner in helping us to mitigate the effects of decisions taken elsewhere. We are working closely with organisations, including the third sector and local authorities, across Scotland in a collective effort to do all that we can to help those affected by the worst impacts of the changes. The disability living allowance was mentioned. There have been thousands upon thousands of pounds lost to many veterans because of that change alone. Advice organisations are playing a key role in providing support to the people bearing the brunt of the cuts.

The motion has provided an opportunity to recognise the success of ASAP in delivering tangible benefits to those who have served. I give my assurance that this Scottish Government will continue to work with the armed forces, veterans' charities and public sector providers to ensure that we meet the aspirations and expectations of our service personnel, as well as their families—Alex Fergusson eloquently described some of the pressures that families face—and veterans. We will not fail in our efforts to do the best that we can for them.

Meeting closed at 17:44.

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