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Official Report

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Thursday 24 September 2015

Session 4

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Scottish Parliament

Thursday 24 September 2015

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

General Question Time

Immigration Bill (Duties on Landlords)

1. John Finnie (Highlands and Islands) (Ind): To ask the Scottish Government what discussions it has had with the Home Office regarding proposals in the forthcoming Immigration Bill for landlords to carry out checks of tenants' immigration status and evict undocumented migrants. (S4O-04628)

The Minister for Housing and Welfare (Margaret Burgess): The Minister for Immigration, James Brokenshire, wrote to the First Minister on 13 August advising that the United Kingdom Government would be introducing its Immigration Bill in September. Following that, Home Office officials met Scottish Government officials on 19 August. I have written to the Minister for Immigration setting out my significant concerns about the measures in the Immigration Bill and the lack of adequate consultation with my officials and housing stakeholders in Scotland.

John Finnie: The proposal is clearly at odds with our approach in Scotland. It will encourage suspicion and discrimination and undermine our efforts to strengthen tenants' rights. I was delighted to hear the First Minister say yesterday that she would not only oppose the repeal of the Human Rights Act 1998 but refuse to consent to it. Will the Scottish Government take the same stand with this proposal and prevent this draconian and xenophobic scheme from being imposed in Scotland?

Margaret Burgess: The Scottish Government is very much opposed to what the UK Government proposes in relation to landlords and immigration. However, as it stands, UK ministers will be able to extend the eviction measures to Scotland through secondary legislation. It would allow them to amend, revoke or repeal any act or order made by the Scottish Parliament. I have written to the Minister for Immigration making clear my concerns and urging him to amend the Immigration Bill to require the UK Government to seek the consent of this Parliament before it extends the legislation to Scotland.

Onshore Underground Coal Gasification

2. Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): To ask the Scottish Government whether it will extend the planning moratorium on fracking to include onshore underground coal gasification installations. (S4O-04629)

The Minister for Business, Energy and Tourism (Fergus Ewing): As Malcolm Chisholm will be aware, the United Kingdom Government has issued licences in Scotland for underground coal gasification. However, at this time, there have been no planning applications for any underground coal gasification projects in Scotland. The Scottish Government has been clear that the development of new energy technologies such as underground coal gasification must be consistent with our environmental objectives. We will continue to take a cautious, evidence-based approach to all such developments. I assure the chamber that we continue to listen carefully to the views that are being expressed by communities and stakeholders on this matter.

Malcolm Chisholm: I am sure that the minister knows the great concerns of communities and is aware that all MSPs have had many emails and letters about the matter.

Given that underground coal gasification is the most frightening and experimental method of unconventional gas extraction and given its unacceptable climate change implications, it is puzzling to people throughout Scotland that the Scottish Government will not make a clear statement about the matter and say that it will extend its moratorium to those aspects of underground coal gasification that are within its control.

Fergus Ewing: We will continue to take a careful and considered approach that puts the interests of the public and communities at the centre of the debate. As the member will appreciate, licensing of onshore unconventional oil and gas is being devolved but licensing of underground coal gasification is not. Indeed, it is licensed by the Coal Authority as opposed to the section of the UK Department of Energy and Climate Change that deals with oil and gas.

Murdo Fraser (Mid Scotland and Fife) (Con): A report this week from Biggar Economics said that underground coal gasification could be worth £6 billion to the Scottish economy and create 5,000 jobs. What weight will the Scottish Government give to the potential economic impact of this industry when it reaches any decision on planning consent?

Fergus Ewing: We listen carefully to all evidence submitted from all quarters in this matter. We look forward to having an opportunity to study in detail the report to which Mr Fraser has referred—I believe that it is from Mr Blackett—which was reported in the press earlier this week. Our approach is to listen to evidence from all sides

of the debate but to take an evidence-based and extremely cautious approach.

Higher Education (Medium-term Strategy)

4. Annabel Goldie (West Scotland) (Con): To ask the Scottish Government what its medium-term strategy is for higher education. (S4O-04630)

The Cabinet Secretary for Education and Lifelong Learning (Angela Constance): The Scottish Government wants to enable our higher education sector to thrive, which is why we are investing over £1 billion in it this year. Universities can make a key contribution to the delivery of Scotland's economic strategy by increasing growth and helping to tackle inequality. We want our highly successful institutions to be places where anyone can aspire to study. Every young person, whatever their background, should have an equal chance of participating in higher education based on their ability to learn, not their ability to pay.

Annabel Goldie: Perhaps predictably, the cabinet secretary does not refer to the elephant in the room, which is the Scottish Government's now very controversial proposals to interfere in university governance. Why, when opposition to her Government's plans is so overwhelming that it includes the four ancient universities, 17 university principals, the chairman of the Royal Conservatoire of Scotland's board of governors, the committee of the Scottish chairs of university governance, the Royal Society of Edinburgh, the Institute of Directors, the Scottish Council for Development and Industry, the Institute of Chartered Secretaries and Administrators and Robert Black, the former Auditor General of Scotland—I could go on, Presiding Officer, but in deference to you I will not—

The Presiding Officer (Tricia Marwick): Thank you.

Annabel Goldie: —does the cabinet secretary still think that her proposals are wise, workable or even credible?

Angela Constance: Of course, Miss Goldie forgot to mention trade unionists and students. The Higher Education Governance (Scotland) Bill also has support in this chamber from the Labour Party.

I stress that our universities are and will remain autonomous. There is nothing in the bill that will require our higher education institutes to ask ministers' permission for anything. As Miss Goldie knows, higher education governance was reviewed in 2012 by Principal Ferdinand von Prondzynski. It is only right that in return for £1 billion-worth of public money we expect the very highest standards of governance. Much progress has been made in the sector, but of course there is room for improvement to ensure that university governance is modern, transparent, fit for the future, diverse, inclusive and representative of the wider university community.

Linda Fabiani (East Kilbride) (SNP): The cabinet secretary will recognise the huge concern about the effect on universities of the United Kingdom Government's policy on post-study work visas. Does she agree that there is also great concern among Scottish colleges, such as South Lanarkshire College in East Kilbride, about the UK Government's many changes to international college student visas, not least the removal of the well-established right to work part time?

Angela Constance: Yes. People who want to come to Scotland to live, study and work are important to our population growth and our future economic prosperity. We are working hard to attract the best international talent to our colleges, our universities and, of course, our workforce. The UK Government's focus on arbitrarily reducing net migration, irrespective of the value that people might bring or the contribution that they could make to Scotland's economy and society, is simply wrong. I have raised my concerns and this Government's concerns about the policy's impact on Scottish colleges with the UK Government and I will continue to work with the college sector in that regard.

Currency

4. Patrick Harvie (Glasgow) (Green): To ask the Scottish Government what work it has undertaken in the last year on the currency options for Scotland, either in the current constitutional context or in the future. (S4O-04631)

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): The Scottish Government set out its position on the currency question during the referendum last year.

Patrick Harvie: I take it from that that no work has been done to explore the subject area further. If a city such as Bristol can have a Bristol pound and an area such as Brixton can have a Brixton pound, creating local economic benefits, is there not an opportunity for Scotland to explore complementary currencies in the current constitutional context, as the New Economics Foundation and Common Weal have recently suggested? Such a measure would have an immediate local economic benefit, increase understanding in Scotland of what money is and where it comes from, and create confidence that the pound sterling is the not the only kind of money we could ever trust.

John Swinney: Mr Harvie has set out a number of interesting ideas in his question, and I will look

carefully at the points that he has raised. He would expect nothing else of me.

The Government is, of course, very interested in local economic development. Indeed, that is why we bring forward measures to support the development of local economies, principally through the work of our enterprise agencies, Scottish Enterprise and Highlands and Islands Enterprise; why we so actively support the business gateway and organisations such as Entrepreneurial Spark and the Scottish EDGE; and why we provide concrete and practical support for the small business community in our localities through the small business bonus scheme, which provides savings on business rates for more than 95,000 businesses in Scotland and which I am sure is a policy that Mr Harvie enthusiastically supports.

Rail Travel (West Scotland)

5. Mary Fee (West Scotland) (Lab): To ask the Scottish Government what plans it has to increase the availability of rail travel in the West Scotland region. (S4O-04632)

The Minister for Transport and Islands (Derek Mackay): The Scottish Government has secured through the new ScotRail franchise agreement significant improvements and innovations in services, trains and facilities. There will be enhanced services on the Kilmarnock, Ayr and Stranraer route by December 2015 and new electric trains will be introduced on the Edinburgh to Glasgow route from summer 2017. Passengers in the west of Scotland will benefit from fare increases being capped according to the retail prices index, the extension of smart ticketing and improved connectivity with other transport modes.

Mary Fee: I thank the minister for that answer.

> "We must develop alternatives to the reliance on the M8 and the road network, which is hard-pushed to cope with demand, particularly at peak times, so with rail now becoming possible once again we should seize the opportunity.
>
> What I'm suggesting is the route that would go from Braehead to Glasgow, as this would involve minimal disruption."

Those were the words of Derek Mackay in 2012, before his appointment as transport minister, when he was discussing rail links to Renfrew. Can the transport minister tell me now what he is doing to bring such links to Renfrew?

Derek Mackay: As a fellow resident of Renfrew—the largest town in Scotland without a railway station—I agree with Mary Fee, but I will not let my ministerial interest be compromised. All that needs to happen is for Labour-led Renfrewshire Council to put in an application as promoter of the scheme. However, given that it has failed to do so, I cannot even execute my desire for rail to be extended to the town of Renfrew at Braehead.

The £5 billion investment in rail in Scotland is the reason why patronage on the railways is increasing, and that is in addition to the multibillion-pound investment in roads. If Mary Fee wants to tell her pals on Renfrewshire Council to get their finger out, I will happily oblige.

New Psychoactive Substances

6. Graeme Dey (Angus South) (SNP): To ask the Scottish Government what steps it is taking to address the issue of new psychoactive substances. (S4O-04633)

The Minister for Community Safety and Legal Affairs (Paul Wheelhouse): Substantial progress has been made across many fronts, including on all the recommendations of the NPS expert review group. For example, I have written to all Scottish local authorities to request that they ban NPS in their public entertainment licences, and guidance to support trading standards staff across Scotland was launched last week.

New psychoactive substances also remain a priority for alcohol and drug partnerships, and improving identification and preventative activities that are focused on NPS is set out as a requirement in their local delivery plans. I thank Graeme Dey and Nigel Don for the work that they have done locally to help tackle these substances, and I thank Mr Dey for his participation on the NPS ministerial cross-party working group.

Graeme Dey: Will the minister provide details of the measures that are being deployed to respond to the challenges posed by NPS for forensics?

Paul Wheelhouse: Mr Dey has raised an important point. The Scottish Government is contributing to the cost of infrastructure that has allowed new high-tech machinery to be secured. We are also engaging further with stakeholders, including through the publication yesterday of a questionnaire to understand views on the proposed definition of NPS, the categorisation of NPS, improvement in data collection and, crucially, the potential functions of a forensic centre for excellence to lead detection and identification of NPS and assessment of the extent of the psychoactivity of substances and the harms that they are likely to cause. Functions of that centre could include developing national reference standards to become a national resource in the field, linking with other data systems at European Union and United Kingdom levels as well as the Welsh emerging drugs and identification of novel substances—WEDINOS—project, and acting as a central resource for enforcement agencies and,

potentially, the national health service on emerging trends in NPS.

Trains (Passenger Safety)

7. Roderick Campbell (North East Fife) (SNP): To ask the Scottish Government what steps it can take to improve the safety of passengers on trains. (S4O-04634)

The Minister for Transport and Islands (Derek Mackay): Railway safety policy has not been devolved to the Scottish ministers and remains reserved to the United Kingdom Government. The Office of Rail and Road is the UK member state's railway safety authority and is responsible for ensuring, with enforcement if necessary, that the safety performance of train operators, including those operating the ScotRail and sleeper franchises, continues to ensure the safety of passengers using train services.

The Scottish Government has ensured that ScotRail and the Caledonian sleeper services are committed to fulfilling an active role in providing a safe and secure rail network for all passengers and staff and will work in partnership with others to achieve that aim. Our input to the specification of cross-border franchises, run by the Department for Transport, includes the same passenger-focused approach to safety issues.

Glasgow Prestwick Airport (Spaceport Bid)

8. Chic Brodie (South Scotland) (SNP): To ask the Scottish Government whether it will provide an update regarding Prestwick's bid to be the United Kingdom's first spaceport. (S4O-04635)

The Minister for Transport and Islands (Derek Mackay): The location of the spaceport is for the United Kingdom Government to decide. Airfields that are on the shortlist are waiting for Westminster to outline the bidding process and the timetable for submitting bids. As I have said before, we believe that Prestwick is well placed to submit a strong bid. We would like the UK spaceport to be located in Scotland and we have stated that we will provide advice and support to any Scottish airfield that wishes to pursue this opportunity.

Chic Brodie: In that case, does the minister agree that the development of high-tech space and aerospace manufacturing opportunities is an integral part of the development of the UK spaceport business case and the subsequent decision, and that Ayrshire, with its manufacturing base, its aerospace campus at Prestwick and the expertise in Ayrshire College, is ideally placed to develop those opportunities?

Derek Mackay: I agree that Prestwick airport is well placed to submit a strong bid for the spaceport and I will be happy to support it to pursue that at every opportunity.

John Scott (Ayr) (Con): In my view and in the view of others, Prestwick airport is the location of choice for a spaceport not just in Scotland but in Britain. Given the competition for a spaceport from England and Wales, will the Scottish Government get behind this bid for Scotland and at least pick one site? If we do not do that, we run the risk of ending up with no Government backing for any site and of Scotland's bid ultimately failing.

Derek Mackay: I understand John Scott's desire for us to support Prestwick and no other. However, until we see the final criteria, it would be wrong of us to rule out other airfields that might be eligible.

We will support a bid for the spaceport to come to Scotland. I have said that Prestwick has a strong case and a strong bid. If it transpires that that bid is the best, the Scottish Government will of course get behind it. At the moment, however, we are behind all the potential bids to bring the spaceport to Scotland.

Michael Russell (Argyll and Bute) (SNP): I am, of course, pleased to hear that the minister is behind all the bids. I remind him of the bid from Machrihanish—the cape Campbeltown bid that is now supported by Argyll and Bute Council—which has the only runway in Scotland that is presently approved for space flight.

Derek Mackay: That is exactly the reason why I am not closing down options. We support the spaceport coming to Scotland and we believe that there are a number of good bids. For the reasons that have been given, Prestwick has a particularly strong bid. Of course, there might even be a coalition in which airfields work together to maximise the opportunity that Scotland might have to host a spaceport in the UK.

Local Authority Contracts (Small Businesses)

9. Claudia Beamish (South Scotland) (Lab): To ask the Scottish Government how many small businesses have successfully bid for local authority contracts in the last year. (S4O-04636)

The Minister for Business, Energy and Tourism (Fergus Ewing): The public contracts Scotland portal indicates that a total of 15,692 suppliers were awarded contracts in 2014. Of those, 58 per cent were registered on the portal as micro or small businesses.

Claudia Beamish: I thank the minister for that number. Impact Shopfitting is a small Strathaven-based woodframe start-up business that is seeking small procurement contracts via the e-procurement portal. The business describes the professional electronic commerce online system—

PECOS—as a closed shop. It cannot secure a contract without access to the system and cannot get on to the system until it has secured a contract. In the light of the recent Scottish Government strategy on digital procurement, what is the Scottish Government doing to ensure that the system is inclusive and accessible to small start-up businesses, which will enable them to grow and contribute to their local economies?

Fergus Ewing: We are ensuring that thousands and thousands of small businesses are assisted in getting contracts. I point out to the member that, of the suppliers that were awarded contracts, 9,147 were registered as micro or small businesses. Further, with the small business bonus, we are providing low or no business rates for nearly 100,000 businesses, which is more than any other Government anywhere in the United Kingdom is doing.

First Minister's Question Time

11:59

Engagements

1. Kezia Dugdale (Lothian) (Lab): To ask the First Minister what engagements she has planned for the rest of the day. (S4F-02966)

The First Minister (Nicola Sturgeon): Engagements to take forward the Government's ambitious programme for Scotland, including our plans to protect free school meals in Scotland from the impact of Tory cuts to tax credits.

Kezia Dugdale: Today, Audit Scotland published a withering assessment of Scotland's justice system. The people in our courts work tirelessly, but they are being let down by Government failures. The report points to budgets slashed, increased delays, performance targets missed and wasted spending totalling £10 million. When Audit Scotland says that the Government has cut the Scottish Court Service's budget by four times the rate of cuts to central Government, does the First Minister think that it is wrong?

The First Minister: I think that it is not comparing like with like. I will explain exactly what I mean by that.

First, the total funding allocation to the Scottish Court Service in 2010-11 included a substantial capital allocation towards the redevelopment of the Parliament house court complex here in Edinburgh. Work on the refurbishment of that complex was completed in 2013; therefore, that is reflected in the 2014-15 figures.

Secondly, the Government has taken steps to provide additional funding to the court service in response to particular pressures. In 2014-15, we committed an additional £1.47 million for extra fiscals, judiciary and administrative staff to address delays and speed up access to justice. During the current year, we have provided a further £2.4 million to ensure the efficient progress of cases involving domestic abuse and sexual offences. I hope that Kezia Dugdale will welcome that funding, which will continue in the next two years.

Those two amounts of funding were in-year allocations, so they were additional to the baseline figures on which the Audit Scotland figures were calculated. I therefore end where I started. I do not think that quoting those figures, as Kezia Dugdale has just done, is fairly comparing like with like.

Kezia Dugdale: Those are Audit Scotland's numbers. Audit Scotland does the numbers; the First Minister does the spin on those numbers. The reality is that the budget for the Crown Office

has fallen by 14 per cent and the budget for the court service has fallen by 28 per cent. Even taking into account her comments about capital spending, that is a 12 per cent reduction in revenue and a 17 per cent reduction for the court service, in particular.

Putting the numbers to one side, we are talking about seven courts across Scotland having been closed last year. We warned the First Minister about the impact of that decision; now, Audit Scotland confirms that our courts are under pressure.

Although the First Minister did not promise to protect the justice system, she promised to protect the national health service. In 2011, the First Minister told the Scottish National Party conference that patients in Scotland spent 200,000 days in hospital beds when they did not need to because the right care was not available in the community. At that time, the First Minister rightly said that that was too many days. Can she tell us what the number is now?

The First Minister: If Kezia Dugdale does not mind, I will finish on courts and then move on to the health service. It is interesting that she did not have any real comeback on courts once she had the facts that I gave her.

Kezia Dugdale mentioned court closures specifically. Audit Scotland does not address essentially the issue of court closures, but it confirms that the courts that were closed were dealing with a relatively low volume of business—in most instances, fewer than 100 cases a year—or were located close to other courts. The court service's chief executive has said that any attempt to link court closures with increased waiting times "simply muddies the water." He says that the current courts have the capacity to deal effectively with existing volumes of civil and criminal cases.

I welcome the Audit Scotland report. We will study it carefully and learn any lessons to be learned from it. One of the most interesting points in the report is the observation that one of the issues at play is the increase in the prosecution of more complex cases involving domestic abuse and sexual offences. That is because there is more proactive detection of those cases, with increased confidence on the part of victims in reporting them. I would have thought that we should welcome that, and that the Opposition should get behind the Government as we continue to ensure that those cases come to court.

I move on to the subject of delayed discharges. I have said, and the Government has said, repeatedly that getting the level of delayed discharges down is one of the key things that we can do to reduce pressure on our acute hospitals. That is why I think that it is to be welcomed that the number of bed days lost in July, as we saw in statistics earlier this week, was down by nearly 10,000 since December 2014. Just to put that in context, that is the equivalent of every acute medical bed in NHS Highland for an entire month. Of course there is still work to do, but real progress is being made.

Kezia Dugdale: Here is the answer that the First Minister was looking for in her book. Last year, patients in Scotland spent more than 612,000 days in hospital beds when they were fit to go home. That means that the figure has more than trebled under the Scottish National Party Government, since the current First Minister admitted that there was something badly wrong. By any measure, that is unacceptable. Thousands of patients, the majority of whom are elderly, are ready to go back home or into the community but they cannot, because the extra support that they need is just not there.

I do not doubt for a second the First Minister's sincerity when it comes to this issue. She says that she wants to tackle the problem. In February, her health secretary said that she wanted to completely

"eradicate delayed discharge ... this year".

We welcome that ambition. Is her health secretary on track to meet that target?

The First Minister: The health secretary is working and is on track to eliminate delayed discharges.

Members: What?

The Presiding Officer (Tricia Marwick): Order.

The First Minister: This is a serious issue and Labour, having raised the matter—[*Interruption*.]

The Presiding Officer: Order.

The First Minister: In July 2006, there were 1,242 patients—

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Oh, come on.

The Presiding Officer: Order.

The First Minister: —delayed over three days—[*Interruption*.]

This is important. I will exercise patience so that members can hear these figures.

In July 2006, there were 1,242 patients delayed over three days; in August 2015, that figure was down to 731 patients delayed over three days. In July 2006, there were 1,055 patients delayed over two weeks; in August 2015, there were 481 patients delayed over two weeks. It is not just that. The average length of delay in July 2007 was 52 days. By August 2015, that had been halved to 23 days.

Yes, there is more work to be done to eliminate delayed discharges, as we have committed to do, but any reasonable, objective person looking at the figures would know that significant progress has been made.

At the outset of her last question, I think, Kezia Dugdale mentioned the health budget. In her first question, she was keen to take the word of Audit Scotland as gospel. Let me therefore end with a quote from the Auditor General for Scotland in October 2014:

> "The Government has managed to protect the NHS budget".

Kezia Dugdale: There is a trend here. Time and again, the SNP Government introduces lots of targets with great fanfare, but ministers then run for cover when they fail to deliver on them.

It was in deepest winter when Shona Robison pledged to abolish delayed discharge. Patients in Scotland spent 46,873 days in hospital beds when they did not need to be there. According to figures published this week, that increased to 47,797 days at the peak of summer. Patients are rightly concerned about what will happen this winter.

That is another target set by SNP ministers that they have failed to meet. They are failing on health, they are failing on justice and, as we know from recent weeks, they are failing on education, too. The First Minister says that she wants to be judged on her record. Does she really think that that is a record to be proud of?

The First Minister: Let me just recap some of this, and let me put it in a different way, if that is easier for Kezia Dugdale. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: We think that the issue of delayed discharges is hugely important. That is why we have made it such a focus of our efforts.

Members: It is going up.

The Presiding Officer: Order.

The First Minister: Since 2007, there has been a 52 per cent reduction in delays of over four weeks; a 55 per cent reduction in delays of over six weeks; the number of delays of over three days is down by 50 per cent; and the number of delays of over four weeks has been reduced as well. Having delivered the target of zero delays of over six weeks, we have progressively toughened the target—

Dr Simpson: You have not!

The Presiding Officer: Dr Simpson!

The First Minister: We are now focusing on ensuring that patients are discharged within 72 hours.

As long as one patient is delayed longer in hospital than they should be, we have more work to do, because that is wrong for that patient and does not do a service to our national health service. However, I say again that any reasonable person looking at all those figures would say that we are making considerable progress. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: Ten thousand fewer bed days were lost in July than in December last year. I will continue as First Minister with the Government to do the job of improving our public health service, but I have to say that, if Kezia Dugdale cannot even get to grips with the art of opposition, she does not have much hope of getting into government.

Secretary of State for Scotland (Meetings)

2. Ruth Davidson (Glasgow) (Con): To ask the First Minister when she will next meet the Secretary of State for Scotland. (S4F-02959)

The First Minister (Nicola Sturgeon): No plans in the near future.

Ruth Davidson: Today, the Royal Society of Edinburgh published a highly critical paper on the Scottish Government's decision to ban genetically modified crop cultivation. Although there may be a debate about GM crops, the RSE paper concludes that the decision was not taken on the basis of scientific advice and

> "does nothing to enhance Scotland's longstanding reputation for scientific creativity."

More than that, it also warns that the decision could

> "disadvantage the growth of important Scottish businesses".

We know that the First Minister did not consider anything as trivial as science when she made the decision, but the Royal Society demands that the Scottish Government publish whatever advice or evidence it took. Will she do that?

The First Minister: We will consider the report from the Royal Society of Edinburgh carefully and take whatever action we think is required. However, let me repeat what I have said previously in the chamber. Kezia—I mean Ruth Davidson; I am sorry, I am getting them confused. Ruth Davidson is perfectly entitled to disagree with it, but she should listen to what I have said previously and say again today.

Our scientific adviser was consulted on the scientific background—

Lewis Macdonald (North East Scotland) (Lab): Who?

The Presiding Officer: Order!

The First Minister: That advice was made available to ministers prior to the decision, but it was not the primary factor for us in reaching a conclusion. We took the decision on GM crops because we wanted to protect our food and drink sector and the clean, green environment on which the success of that sector depends.

There are now 18 countries in Europe that have followed Scotland's lead. They include Germany, Hungary, Austria, Latvia, Cyprus, Slovenia and Northern Ireland. Is Ruth Davidson seriously saying that all those countries are somehow anti-science?

Ruth Davidson: The First Minister has just repeated the trope that the ban is to protect the reputation of Scotland's food and drink industry. Therefore, why did the chief executive of Scotland Food & Drink say only last month that GM was "not an issue" and

"never part of the discussion"

on Scotland's clean and green reputation?

This is about not only GM crops but the First Minister's approach to government. It is vote-chasing political calculation; it is not science, industry or jobs. In the decision on GM crops, there was no prior consultation with Scotland's scientific community, no prior discussion with Scotland's food and drink industry and no consideration whatever of Scotland's farming industry. The First Minister has said that she wants to change her Government into some sort of listening Government. Apart from the Royal Society of Edinburgh, 30 scientific, academic and agricultural organisations are urging her to listen. Will she hear their concerns and review that poorly thought-out decision?

The First Minister: I say to Ruth Davidson that GM is not an issue for our food and drink sector because we are not doing it. If we were doing it, it would be an issue for our food and drink sector.

Ruth Davidson said that our decision was not about science; I have addressed the science point. She went on to say that it was not about jobs or industry. Actually, it is everything to do with jobs and it is everything to do with industry. I do not know whether Ruth Davidson is aware of how important the food and drink sector is to this country's economy. It is a £14 billion sector that employs around 380,000 people if we take into account the entire supply chain. The report on the sector that the Bank of Scotland published in August said that food and drink producers forecast average turnover growth of 19 per cent and—this is an important point—that 63 per cent of producers said that provenance was

"an important factor for export markets".

That is why we have taken our decision. We want to protect the clean, green environment on which the success of the sector is based.

I say again that if Ruth Davidson thinks that the decision that the Scottish Government has taken is so wrong and so against all the factors that she has spoken about, I presume that she thinks the same about the 18 other countries that have followed Scotland's lead.

John Scott (Ayr) (Con): The First Minister may be aware of the discussions about the impending removal from Ayr hospital of the stroke unit, trauma services, nuclear medicine, pharmacy services and the delivery of chemotherapy services. Given the Scottish Government's stated opposition to the centralisation of hospital services and given the need to maintain local access, does she share my concerns and those of my constituents about those and other plans for the downgrading of Ayr hospital?

The First Minister: I agree that services should be in the right place and as close to people as possible. I know that the member will recall, as all members do, that it was this Government and me as the Cabinet Secretary for Health and Wellbeing who stopped the closure of the accident and emergency department at Ayr hospital.

John Scott raises important matters. Such decisions require to be taken within the context of a national clinical strategy, and the health service will be very happy to meet him, as the local member, to discuss the issues in more detail.

Cabinet (Meetings)

3. Willie Rennie (Mid Scotland and Fife) (LD): To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S4F-02958)

The First Minister (Nicola Sturgeon): Matters of importance to the people of Scotland.

Willie Rennie: Yesterday, the Cabinet Secretary for Health, Wellbeing and Sport faced eight questions on Scotland's general practitioner crisis, which were met with such responses as

"a full review ... within six months";

"on-going discussions";

"keep a close eye on those matters";

"a close interest";

"There is an opportunity to discuss";

"continue to discuss";

and

"encourage Bob Doris to continue to liaise".—[*Official Report*, 23 September 2015; c 2-4, 6, 9, 7.]

Is it not about time to bring an end to the talks about talks about talks and start to take action to tackle the GP crisis?

The First Minister: Indeed, so let me run through exactly the action that the Government is taking.

As Willie Rennie will recall, in June the health secretary announced that the primary care development fund would be expanded to £50 million. That fund is supporting the investment of £20.5 million in the primary care transformation programme, which allocates money to practices to test new ways of working. The fund is also providing £6 million for the development of digital services, which everybody recognises is important to the transformation of primary care, and £16.2 million for the recruitment of 140 new pharmacists who will work directly with GP practices and support the care of patients with long-term conditions. Why is that important? It is important because it frees up GP time for other patients. In addition, £2.5 million is being spent on a GP recruitment and retention programme; £1 million is being spent on supporting a leadership programme for GPs, which is developing different ways to equip GPs with the skills that they need to play a leading role in the development of integration work; and another £1.25 million is being provided for the Scottish school of primary care, which is supporting research capacity, which is also very important in reforming and transforming primary care.

I hope that Willie Rennie would accept that that is a fairly impressive list of actions.

Willie Rennie: We have heard it all before. [*Interruption.*]

The Presiding Officer: Order.

Willie Rennie: The First Minister should listen to this: 99 per cent of GPs who knew about the Government's plan said that it was simply not enough. This week, we heard new reports of problems in Perth and Glasgow. Glasgow GP Lynsay Crawford said:

> "There is a GP crisis."

Crucially, she added:

> "This has been a long time coming."

When is the First Minister going to take real action to put an end to this crisis?

The First Minister: If Willie Rennie had heard it all before, why did he try to pretend in his first question that nothing was happening? He also said that GPs say that they have looked at all this, dismissed it and said that it is not enough. Dr Alan McDevitt, who is the chair of the British Medical Association's Scottish general practitioners committee, said:

> "I welcome this funding which will help in taking forward our vision for the future of general practice in partnership"

with the Scottish Government.

> "The additional resource will enable us to try out new ways of working that can deliver first class care for our patients and improve the working lives of GPs."

If Willie Rennie had listened to my statement on the programme for government, he would have heard me talk about the 10 test sites that we are taking forward over the next year to look at different ways of delivering primary care so that we shape primary care—the renegotiation of the contract is an important part of this—and it is up to meeting the challenges of the future. Willie Rennie should by all means get involved in that, but he should go to the bother of getting involved in the detail. If he does not think that that is enough, he should come up with some ideas, rather than just carping from the sidelines.

Dementia Research

4 Roderick Campbell (North East Fife) (SNP): To ask the First Minister what the Scottish Government is doing to assist research into dementia. (S4F-02962)

The First Minister (Nicola Sturgeon): The Scottish Government remains strongly committed to supporting research into dementia. The Scottish dementia research community is playing a significant role in the global effort to find a cure or a major disease-modifying treatment for one of our foremost public health challenges. The Scottish Government's support includes funding the Scottish dementia clinical research network to bring dementia clinical trials to Scotland and engaging with third sector organisations, such as Alzheimer's Research UK, to co-fund research that will improve the understanding of the causes of dementia.

Roderick Campbell: According to Dr Matthew Norton, who is head of policy at Alzheimer's Research UK,

> "Research has the power to transform lives, and our actions now will help determine the future for children born today."

I am grateful for the First Minister's comments, but can she advise what further assistance the Scottish Government can provide to progress research in Scotland and, indeed, internationally into this devastating disease?

The First Minister: The collaborative research project with Alzheimer's Research UK is progressing well, and the Scottish Government currently provides funding of £486,000 a year for the Scottish dementia clinical research network to provide infrastructure support for clinical dementia studies in Scotland. More generally, investment through the chief scientist office means that

Scotland-based dementia researchers have access to a wide range of research funding opportunities. The support that is provided by the Scottish Government will help to maintain our position as a leading centre for research into dementia, The Scottish Government will continue to do everything that we can to support that.

Foster Children

5. Cara Hilton (Dunfermline) (Lab): To ask the First Minister what the Scottish Government's response is to the recent report by Action for Children that one in every six foster children in Scotland moves homes two or more times a year. (S4F-02973)

The First Minister (Nicola Sturgeon): While Action for Children's research shows that fewer children in foster care in Scotland move homes than elsewhere in the United Kingdom, we know that there is much more to do, as we have to ensure that vulnerable children get a secure and stable home life as quickly as possible. To help to ensure that children receive the best possible care in foster arrangements, we have provided over £280,000 last year and this year to fund fosterline and a range of other support services. I can also confirm that, following the closure of the British Association for Adoption and Fostering, we are providing £75,000 to allow the adoption and fostering alliance in Scotland to take on vital support services.

Cara Hilton: Does the First Minister share my concern that in many areas of Scotland, such as West Lothian and Renfrewshire, a staggering one in three foster children has to move family two or more times a year and that the figure rises to one in two in Dumfries and Galloway? The result is that one in four foster teenagers lives with at least their fourth family, and one in 20 is in their 10th placement. Obviously, that has a lasting detrimental impact on children and young people and their behaviour, relationships, educational outcomes and mental health.

Given the continuing shortage of foster carers that Scotland faces, what additional steps will the First Minister now take to encourage more people from a wider range of backgrounds to consider fostering and to spread the message that it does not matter what a person's age or gender is or what type of relationship they are in, if they have a spare room and the ability to stand alongside children and young people to help them to recover and to offer security, they should consider being a foster carer?

The First Minister: I agree with that and I commend Cara Hilton for raising the issue, as it is an important one. We should all be judged on how we care for the most vulnerable in our society. Children who require foster care fall into that category, and one of our most important responsibilities is to ensure that they are looked after properly.

What I am about to say is not meant to underplay at all the importance of that, but it is probably also appropriate to point out that large variations in the figures are possible and more likely where sample sizes, such as those in some of our smaller local authorities, are quite small compared with those of bigger local authorities. That is true of local authorities such as Dumfries and Galloway.

Nevertheless, we know that too many children and young people in care can experience drift and delay, which leads to multiple placements. Local authorities work very hard to find suitable foster families for looked-after children, often under very challenging conditions. We support local authorities through the actions that we are taking following the foster care review, and we will continue to do that.

I end by echoing Cara Hilton's comment that there are many people out there who would make excellent foster parents, and I hope that those who think that they are in that category will seriously consider becoming one.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I know that the First Minister recognises the positive, stable relationships that kinship carers can provide, and I note in particular the Government's £10.1 million allocation that was announced to bring them into line with foster carers. Will she add her voice to that of the Midlothian kinship carers organisation, which I know she has met, and ensure that its publication "Through Our Eyes" is circulated, particularly to social work departments? It would let them see the challenges but also the value of kinship care, which provides such stable relationships to children—relationships that foster children often do not have.

The First Minister: Yes, I agree with all of that. As Christine Grahame will be aware, the Government is committed to supporting kinship carers. Indeed, I announced in the programme for government that we had reached an agreement with the Convention of Scottish Local Authorities to improve financial support to kinship carers, and specifically to provide them with the same level of financial support that foster carers get.

We also fund Children 1st and Citizens Advice Scotland to provide support and advice to kinship carers across Scotland, and we provided a strategic funding partnership grant from 2013 to this year to Mentor UK to deliver projects that help to break what is often an intergenerational cycle of children becoming looked after and having poorer outcomes.

Across all of these issues—supporting foster carers, supporting kinship carers and supporting local authorities, which have to find the best care for these vulnerable young people—the Scottish Government will continue to provide whatever support we are able to.

School Rugby (Safety)

6. Liz Smith (Mid Scotland and Fife) (Con): To ask the First Minister what discussions the Scottish Government has had with the Scottish Rugby Union about the safety of pupils playing rugby in schools. (S4F-02960)

The First Minister (Nicola Sturgeon): First, I take the opportunity to congratulate the Scottish rugby team on their fantastic win over Japan yesterday. [*Applause*.] I am sure that we all wish them the best of luck for the rest of the world cup.

The Scottish Government has worked closely with the Scottish Rugby Union on safety issues. In May this year, our discussions with medical experts including Dr James Robson, chief medical officer of the Scottish Rugby Union, resulted in Scotland becoming the first country in the world to introduce standard guidelines for dealing with concussion in sports. The guidelines provide advice to those who are involved in grass-roots sport, including school sport, to enable them to identify the signs and symptoms of concussion and take appropriate steps.

Liz Smith: I think that we can all agree that there is a delicate balance between protecting the players' safety and maintaining the characteristics of the game that have made it so popular, particularly yesterday afternoon. I am sure that the First Minister will also agree that the Scottish Government has a role to play to increase the awareness of the medical issues. Will her Government consider taking advice from the United States, where 49 of the 50 states have introduced the Lystedt law, making concussion education compulsory among coaches, pupils and parents of all those who are involved in contact sport?

The First Minister: Of course I am happy to look at that and to let Liz Smith know the outcome of that deliberation. I think that she is right—and I commend her for putting it in this way—that we want to encourage more young people to get involved in sport, but we have to balance that with ensuring that they are not facing unacceptable or disproportionate risks in doing so. It is important and noteworthy that we are the first country in the world to have produced the guidelines that I spoke about, but I think that she is right—which is why I will consider her suggestion—that education about those guidelines is important so that we raise awareness of them.

Liz Smith may or may not be aware that, last year, ministers wrote to all schools and all governing bodies in Scotland and sent out the youth sport concussion leaflets, which contain guidance on recognising concussion and concussion management. We have not just produced the guidelines but taken active steps to make sure that there is wide awareness of them throughout the country. However, we will continue to look at what more we can do, and I am happy to write to Liz Smith once I have had a chance to look in detail at her suggestion.

Delivery Charges (Highlands and Islands)

The Deputy Presiding Officer (John Scott): The next item of business is a members' business debate on motion S4M-14183, in the name of John Finnie, on the postcode penalty. The debate will be concluded without any question being put.

I invite members who are leaving the chamber to do so quickly and quietly, and I extend that invitation to members of the public.

Motion debated,

That the Parliament welcomes the publication of Citizens Advice Scotland's report, *The Postcode Penalty: The Distance Travelled*; notes with concern the continuing problems highlighted in the report relating to the delivery of online shopping to people in the Highlands and Islands; understands that, while fewer online retailers now impose a surcharge for delivery, those who do have increased these charges by 17.6% for customers in the Highlands and 15.8% for island residents since 2012; welcomes the report's recommendations, including extending the road equivalent tariff to cover delivery vehicles on ferries and the proposal to encourage delivery to ferries in partnership with CalMac, and notes calls for the Scottish Government to continue to work with Citizens Advice Scotland, trading standards services, the online retail industry and enterprise bodies to support innovation in the interests of consumers.

12:31

John Finnie (Highlands and Islands) (Ind): I thank the members who signed the motion and I congratulate Citizens Advice Scotland on its fine report, "The Postcode Penalty: The Distance Travelled—Progress on parcel deliveries in Scotland 2012-2015". The report's authors are David Moyes and Kate Morrison. The report is the most recent in a long-running campaign, which started in 2010 and involved Skye & Lochalsh Citizens Advice Bureau. There was a further report in 2012 from Sarah Beattie-Smith, whom many members know.

The problem of high delivery surcharges for consumers in remote and rural areas has not gone away. Businesses are affected, too: some 15,000 businesses in remote and rural areas are at a competitive disadvantage because of the problem, as well as being disadvantaged by geography, connectivity issues and fuel costs.

The CAS report says that the problems continue to impact on the Scottish Highlands and Islands. Indeed, it seems that the Highlands and Islands extend as far south as Stonehaven, Perth and Helensburgh. Wonderful locations though they are, they are in neither the Gàidhealtachd nor the northern isles, so there seems to be a lack of geographical knowledge in that regard. Perhaps it has something to do with postcodes.

Some things are better than they were three years ago, but we started from a very low threshold and, as the report says, high delivery cost

"is a problem that is getting more pronounced."

Almost 50 per cent of retailers were applying surcharges in 2012; that is now down to 44 per cent. As ever, the islands are disproportionately impacted, with 62 per cent of retailers surcharging in 2012 and 53 per cent surcharging now. The percentages might have gone down, but customers who are surcharged are paying more, despite average delivery charges remaining static and falling in real terms. Highlands and Islands customers are paying roughly four times as much for delivery.

Overall, the position is slightly better than it was, but it remains disappointing. The report tells us what we all know, which is that the United Kingdom online shopping market is one of the most developed in the world, accounting for 15 per cent of total retail sales. That is important, because the market gives people in remote and rural areas the same levels of choice of goods as people in population centres enjoy. However, people in remote and rural areas are often excluded from a range of delivery options and face higher delivery charges to such an extent that online shopping is uneconomical for them.

Rural living presents many challenges. The report mentions research that indicated that

"rural household budgets need to be 10-40% higher in order to achieve a minimum acceptable living standard."

Legislative compliance is all the more important against such a punitive background. More than a third of internet sites give customers less than the statutory notice period in which to return items, and some retailers have failed to update their terms and conditions to include the consumer contracts regulations. Robust enforcement is required.

Members might be aware of the "Statement of principles for parcel deliveries". That is a grand title. The statement came into effect in 2014 and should have had a positive effect. However, only four of the 449 businesses that were surveyed for the CAS report knew about it, which is shocking. That is simply not good enough.

The challenge is not just for domestic customers. We want to encourage everyone to use their local businesses, which also face delivery problems and must pass on additional charges.

Citizens Advice Scotland not only highlighted problems but suggested solutions. In the limited time that I have, I will focus on some of those solutions, and I hope that the Minister for

Transport and Islands will be able to respond to them. CAS recommends that the Scottish Government considers extending to vehicles that are more than 6m in length the road equivalent tariff fare structure in order to help to reduce the cost of delivering goods to islands. I appreciate the complexity around that, but as we heard in the report,

"I am as cheap to buy a [ferry] ticket and drive as R.E.T. is cheaper than using a carrier".

That came from a Western Isles business owner.

There are opportunities focused around the "final mile consolidation", as it is referred to.

Liam McArthur (Orkney Islands) (LD): John Finnie referred to an extension to the road equivalent tariff. It will not surprise him that those of us who represent islands that do not benefit from the road equivalent tariff would argue strongly for such an extension to benefit smaller businesses in Orkney and Shetland. Does he agree?

John Finnie: I agree absolutely, because I also represent the Orkney Islands. That is why I said that I appreciate the complexity of the situation and its financial implications.

We know from the report and the research that islands are more willing to engage in delivery solutions. That could mean collection from the local post office, which could have the knock-on effect of adding to sustainability, as could delivery to ferries and collection from island-side ferry ports. We are in the unique position of having Caledonian MacBrayne, so I hope that the minister will take the issues on board. There will always be challenges and the competitiveness of delivery costs and speed will be part of that.

The report also recommends that the

"Scottish Government considers how the public sector can work with the industry to encourage final mile consolidation in order to reduce delivery costs for Scottish rural consumers."

Again, it would be helpful to get some feedback on that.

The report uses the term "logistical innovation", which would give the opportunity to benefit a range of people.

In the short time that is left to me, I will comment on Royal Mail and the suggestion that there is the option of extending or enhancing the universal service obligation, and that it could cover new products. The report says:

"The growing importance of parcel deliveries to businesses and consumers adds another reason to value and preserve the universal service."

That is important because of the downturn and changes in the level of use of letters.

CAS is doing a lot of good work, including collaborating at United Kingdom level, and I recommend that the minister pick that up. Aspects of the subject are reserved, but the minister has the opportunity to engage on the issues, not least on extending the definition of universal service obligation to cover more of the parcels market. I would appreciate it if the minister could pick up on the Scottish Government elements of that and confirm that he would be willing to work with the UK Government on the other matters.

The report is excellent and well-evidenced, and we all want to support the innovation that it outlines. It presents opportunities for retailers and customers and, if we do this right, for the planet.

12:38

Michael Russell (Argyll and Bute) (SNP): I commend and congratulate John Finnie on securing the debate.

In 2015, when surcharges were applied, rural customers were paying roughly four times as much for delivery as their urban counterparts. Those surcharges have increased approximately 10 per cent in real terms since 2012, while average delivery prices throughout the country have dropped by 6 per cent.

More than 50 per cent of retailers surcharge island residents, 44 per cent surcharge Highlands customers and 11 per cent of retailers refuse to deliver to parts of Scottish islands. Online retail becoming increasingly ubiquitous and the decline in physical shopping have placed a huge burden on rural customers, especially on my constituents in Argyll and Bute. The problems make living in Argyll and Bute more difficult. Of the land in my constituency, 96.5 per cent is remote and rural, and 17.5 per cent of people live on islands. Almost the entire constituency is affected by unfair and high surcharges.

Royal Mail does not impose surcharges and the universal service obligation is ever more vital. When I lived in the Western Isles in the 1970s, the postman went the 3 and a half miles to Rhenigidale by foot twice a week. That history is an impressive one. We need to carry that commitment forward—and to carry the postal service forward—in a way that helps people in rural areas.

Surcharges are often based on erroneous information and subjective analysis. My constituent Christine Roth, in Campbeltown, has told me that she often suffers three times the standard delivery charges because couriers say that she lives on an island. It has been a long time since Campbeltown was on an island of its own.

We need to find ways to make progress on this issue. First, we must revise and improve the universal service obligation to accommodate the increasing use of parcels. We need to increase the types of parcels that are covered and we need to broaden the scale of the Royal Mail commitment. I have to say that the members of the current Scottish National Party presence in Westminster have a chance to deal with a reserved matter to favour Highlands constituents. The universal service obligation has been a key part of ensuring reasonable prices and delivery to the Highlands for generations. It now needs to be modernised to reflect the reality of life.

The new Consumer Rights Act 2015 will come into force on 1 October, so this is the perfect time to educate businesses and consumers and to ensure compliance with the minimum standards for delivery services. Earlier in 2015, a quarter of businesses that were surveyed stated that they deduct delivery costs from returned items. That is not in compliance with the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 or with the legislation that will come in on 1 October.

Some small items carry a rural delivery surcharge of up to £50. If we add in a cost deduction for return, that means that some rural customers are stuck with items that are worth less than the carriage.

Of course we have to work with courier services and retailers to simplify delivery services. Final mile consolidation, to which John Finnie referred, is important. Courier services could drop small loads or packages at one place and a single carrier could finish the deliveries.

Co-ordinated ferry delivery would be very positive. The minister this week made a very useful and helpful intervention in supporting ferries. More could be done to make sure that those ferries become an agent of delivery. There could also be more delivery to local shops and post offices by couriers.

Yesterday my office spoke to Chris Lamb, the manager of the Jura community store, and learned that bulk items and perishables are delivered not to Jura but to a depot on Islay, from where they are picked up. The community does that; the community is helping itself. That could happen elsewhere.

We must do our best to help our constituents. Presiding Officer, in concluding I must say that I have to go and help two of my young constituents who have just come to the Parliament, so I am unable to stay. I apologise to other members, but I am very grateful to John Finnie for securing this debate and to Citizens Advice Scotland for taking things forward.

12:42

Liam McArthur (Orkney Islands) (LD): I will start where Mike Russell finished and offer my apologies to you, Presiding Officer, to the minister and to all members for the fact that I will have to leave the debate before the end.

I, too, congratulate John Finnie on the motion and on securing the debate, which allows us an opportunity to acknowledge the work that has been done by CAS more generally and by citizens advice bureaux across the country. I certainly know that in my Orkney constituency the CAB is a vital local partner that helps me to serve my constituents better. I put that on record at the start.

CAS performs a wider campaigning role, not least on this issue of unfair surcharges. I recall lodging a very similar motion to the one that John Finnie has lodged to coincide with an earlier report on this issue. The information that the report provides is fascinating. It is a detailed study that is based on widespread research, and it paints a picture of the situation that faces my constituents and people across the Highlands and Islands. It sets out the impact on individuals, but also, crucially, the impact on local businesses—a point that John Finnie made very well—and it highlights the surcharges and instances of people failing to get their products at all. The CAS reports also allow us to track the situation over time.

The latest report makes for interesting reading. It suggests that fewer online retailers impose a surcharge than did so in 2012, but those that do are charging more than they were three years ago. The hike of about 16 or 17 per cent in charges is set against a general falling trend in the rest of the United Kingdom. Fewer retailers are refusing to deliver at all, although that still happens.

That rather bears out my experience. When I am approached by constituents and I contact companies, they are often willing to look again at their practices and to consider whether to reduce or remove the additional charges—or, at the very least, to offer clearer advice to those who are purchasing online.

The Royal Mail confirmed in its briefing that

> "parcels up to 30kg are available through our universal service of first and second class post to all our customers no matter where they live."

So the option is there, and it is not an option of which the online retailers who are surcharging are entirely ignorant. I was contacted recently by a constituent on Stronsay—unlike Campbeltown, it is an actual island—who had ordered a product online and was told that there was a £5.99 surcharge and an extra surcharge of £7.99 because he lived on an island. He needed parts desperately for his work, so he went ahead and ordered them. However, they arrived by Royal

Mail in a postage-paid envelope, which made a mockery of the need for a surcharge.

That example demonstrates that more still needs to be done to address the postcode lottery, which continues despite the introduction of a code of practice by the previous coalition Government. I note the concerns that John Finnie raised in that regard. I would certainly be interested to know whether the minister feels that there is more that the Scottish Government can do to apply pressure. I thank Citizens Advice Scotland for its efforts in continuing to shine a light on those postcode practices; it can justifiably claim a fair degree of credit for some of the progress that is outlined in the latest report. I look forward to continuing to work with CAS and colleagues across the chamber to achieve further progress.

Again, I thank John Finnie for securing the debate and allowing Parliament to lend its collective voice to calls for a fair deal for customers and businesses in Orkney and across the Highlands and Islands. I apologise again for having to leave the debate early.

12:46

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): I, too, congratulate John Finnie on securing the debate, which is particularly important for my constituency of Skye, Lochaber and Badenoch.

John Finnie's motion mentions trading standards services. I spent most of my professional career as a trading standards officer, finishing with Highland Council a number of years ago as director of protective services. We looked quite a bit at the kind of issue that the motion addresses, but one of our major problems was a lack of powers to do a lot about it. I declare an interest, in that I am still involved with the Chartered Trading Standards Institute as a UK vice-president.

High surcharges are nothing new, but the CAS report clearly shows that the problem is not just high surcharges but late delivery and people being excluded altogether from the supply of goods. That situation applies not only to consumers but to businesses, and it can be particularly damaging for small businesses in relation to both receiving the goods that they need for their business and getting goods out of their areas.

Like Mike Russell, I have lived in the Western Isles—I lived there from 1973 to 1983. There was not an awful lot of shopping choice in the Western Isles at that time, so the great lifesaver was the mail-order catalogue. The catalogue company that sticks in my mind was called J D Williams. Using the catalogue was a fantastic shopping experience because you did not get dragged around shops by your wife for hours on end and then go back to the first shop to buy an item: you just flicked through the catalogue in the comfort of your sitting room. In addition, we did not have much money in those days, but we could pay up a catalogue order over 40 weeks or more. I remember that at one point we needed a new bed, so we bought one from the catalogue and paid it up. The bed was delivered free of charge to Stornoway from the main depot of J D Williams somewhere down in England: there was no additional cost. Anybody in the UK who ordered that bed got it delivered free of charge, so it appeared at our door at no extra cost.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I like the sound of this J D Williams. Is it still trading?

Dave Thompson: I thank Christine Grahame for her intervention—I think that the company was taken over some time ago. The principles on which it operated should be applied by companies these days, but unfortunately they are not.

I will move on quickly, Presiding Officer—

The Deputy Presiding Officer: You are in your last 40 seconds.

Dave Thompson: Before I move on to my point about Royal Mail, I highlight that there has been a real problem with trading standards departments in recent years in so far as their numbers have been decimated. There have been a number of reports on that, including one from the Department for Business, Innovation and Skills. The Convention of Scottish Local Authorities and the Scottish Government are also working on a report. We need to strengthen the trading standards service if we want to tackle some of the issues that have been raised today.

I will conclude with Royal Mail. We need a public sector Royal Mail, and we need to increase the maximum delivery weight from 30kg to 100kg. That would deal at a stroke with delivery of goods weighing up to 100kg—or 220lb—to anywhere in the country. Any decent sensible Government would do that, but unfortunately the present UK Government is going in the opposite direction.

12:50

Lewis Macdonald (North East Scotland) (Lab): I, too, congratulate John Finnie on bringing the debate to the chamber. As he said, the postcode penalty affects people in the Highlands and Islands, but it also has an impact on consumers across the north of Scotland. The definitions of "Highlands and Islands" that are used by the parcel delivery companies cover not only thousands of people whom I represent who live and work in the rural north-east, but also people in the Aberdeen travel-to-work area.

People who live in the north-east and who work in, and travel in and out of, the city of Aberdeen every day can find themselves caught by those discriminatory charges. Aberdeen may have more direct connections by plane and train to London every day than many comparable cities, and it may generate a higher gross domestic product than any other city of its size anywhere in Britain, but to many of these delivery companies it is clearly a far-flung outpost on the way to the Arctic circle, or perhaps just an opportunity to make more money from discriminatory charging.

These companies' idea of delivery to Scotland's islands seems to come from too many viewings of the black and white version of "Whisky Galore!", and they remain entirely uninformed about the existence of bridges, causeways or lifeline ferry services.

The authors of the "Postcode Penalty" report call on the UK Government to use the Consumer Rights Act 2015 to educate business and customers about rights and obligations, and to look at revising the universal service obligation. Those recommendations are welcome, but they do not go far enough. We cannot rely on the present Conservative Government to be on the right side of the argument.

The Department for Business, Innovation and Skills Minister of State Nick Boles, in addressing the debate at Westminster the other day, rejected calls for legislation and offered instead a round-table event involving online retailers and Government ministers. It is hard to see how a cosy chat with ministers will make any difference to the world view of retailers and service providers who have not bothered to sort out the problem by themselves.

What is required instead is to make the customer king. If retailers cannot be trusted to be honest and up front about delivery costs or to explain clearly where surcharges apply, we should give customers the right to know. A statutory right for customers who order online to choose their delivery service provider would allow people in remote and rural areas to choose Royal Mail and therefore force its competitors to match the company's quality of service to customers rather than simply trying to undercut their costs to suppliers.

Royal Mail delivers parcels everywhere in the United Kingdom with no surcharge whatsoever. Despite the folly of privatisation, it continues to take pride in delivering on its universal service obligation six days a week to every inhabited island and remote neighbourhood in the country. Other suppliers could be forced to do the same. That could mean either giving customers the right to choose, or alternatively permitting parcel delivery only by providers who adopt the universal service obligation in full.

If privatisation is bound to hit rural areas hardest, the prospect of contracting out lifeline ferry services to the Hebrides and the Clyde islands will fill islanders with concern. Our view is that the Scottish Government should keep those services in public hands

The Minister for Transport and Islands (Derek Mackay): Will the member take an intervention?

Lewis Macdonald: Not at the moment—I am sure that the minister will respond to that point later.

If the Scottish Government will not keep those ferry services public, and the Tories will not intervene on parcel delivery surcharges, the Scottish ministers should certainly use the powers that they have in this field. As John Finnie argued, the RET could be extended to cover larger vehicles, thereby creating savings for retailers that could and should be passed on to consumers, as well as removing one poor excuse that the retailers have for their discriminatory behaviour.

Warm words from anybody on the subject are not enough. Government here and at Westminster must take the issue seriously and accept that privatising efficient public services will never be in the public interest.

12:54

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I will keep to the topic under debate. I commend John Finnie for securing the debate and I acknowledge that, as members have said, the impact of delivery charges is undoubtedly greater in the Highlands and Islands. I congratulate, too, Citizens Advice Scotland, which now deals with consumer issues. It is of substantial use, not just to the general public but to members like me.

Believe it or not, the issue of what are excessive delivery charges also lies in my Borders constituency. I received an email from Valerie Bannerman from Walkerburn who had placed an order with Abbey Couriers in England. Having been advised that the delivery charge would be £65, she was astonished to discover, when the goods arrived, that she was being charged almost double that amount. The price for England and Wales—the standard rate—is £80: for Scotland it is £150. Indeed, it is even more if, based on their postcode, someone is marked up as living in a remote area.

In fairness, the rates are on the firm's website. However, having been told the rates, my constituent checked no further. That said, if

someone is in Berwick, which is 1 mile south of the border, the rate is £80, but if they are in the cottages on the A1—a trunk road—half a mile over the border into Scotland, it is £150. No ifs, no buts.

My constituent was told by the company that she had been misinformed and that £65 was the UK price. She said:

> "When I pointed out that Scotland is part of the UK ... I was told that £65 was for England and Wales only. This I was informed was because of crossing the border, mileage and fuel charges and that I was fortunate because £120"—

the amount that she was eventually charged—

> "was the trade price and that I should be paying £150!"

There cannae be much mileage in half a mile, and there will certainly be very little fuel. There are injustices down on the border that we would not expect.

I took the matter up with the firm in July and, given that it has not replied, I will name it in this chamber. I will send the firm a copy of the *Official Report*—maybe then it will bother to reply—and advise Citizens Advice Scotland of what I have done. So, Abbey Couriers of Ledbury, Herefordshire, you are named and shamed because you have not taken the trouble, over all those months, to reply and explain to me why, if someone is only half a mile over the border, they are paying an extra £80 for delivery.

I notice that the company says on its website:

> "We are big enough to provide a national service, and small enough to provide a personal caring service to every single customer."

Well, not if that customer is in Scotland, when it is double the price.

I will also touch on the Royal Mail. It was privatised in 2013 and sold off at bargain basement prices on the first day of trading in October 2013. The prices leaped up by 38 per cent, rising to a peak of 615p. Of course, many of the large investors immediately sold off their shares and made big bucks, and £1 billion was lost to us, the original shareholders of the Royal Mail.

There is a difficulty here because the guarantee of a universal service is protected only until 2021. If I am around then, God willing, let us see whether there is still a universal delivery service with the Royal Mail.

All of that gives concern, not just because of my constituent Valerie Bannerman and others throughout the Scottish Borders but, as others have said, because many people in rural areas rely on these deliveries to maintain their businesses and to send their products out, and they are being surcharged unfairly.

12:59

Mary Scanlon (Highlands and Islands) (Con): Dave Thompson sounded very posh when he talked about getting a catalogue. When I was growing up in Angus, it was known as the clubby book—I think that that was the word. "Catalogue" sounds amazing.

I, too, thank John Finnie for bringing the issue to the chamber and Citizens Advice Scotland for providing us with an update on the postcode penalty. As a former volunteer for CAS, I always highly value and respect the work that it does, not only on a wide range of issues but on behalf of people throughout Scotland.

As John Finnie said, the UK online shopping market is one of the most developed in the world. Its sales now contribute up to 15 per cent of total retail sales. Remote consumers benefit from the same level of choice that is enjoyed by those closer to the population centres.

Of course things could be better, but the report has some good news that we should look at, which may be a result of CAS's on-going interest and awareness raising. The number of retailers who add a delivery surcharge has dropped from the number three years ago; the proportion of retailers who surcharge consumers on the islands has dropped by 11 per cent; and the proportion of those who surcharge consumers in the Highlands has dropped by 5 per cent. Those are steps in the right direction, although there is still more to do.

It is worth commending Royal Mail. It delivers parcels weighing up to 30kg through the universal service of first and second class to all consumers, no matter where they live, on six days of the week.

It is disappointing that, where it still exists, the surcharge has risen. However, it is good news that, compared with the figure in 2012, fewer retailers now refuse to deliver to remote areas—there has been a fall of 7 per cent.

As members have said, there is no doubt of the additional costs to not just consumers but those who do business across Scotland. As John Finnie said, the recommendations to the delivery operators were very constructive. Much more can be done by looking at a range of options, including collection from the post office, local shop or other safe places. I also hope that the ferry terminals could be used as pick-up points, where appropriate, as that could reduce road miles and costs significantly.

I was concerned to read about how businesses cope with the surcharges. Twenty per cent of businesses absorb remote delivery surcharges and 3 per cent spread them across all customers. However, the worrying figure is that 24 per cent pass on the surcharge in full to customers, which

creates a massive increase in the cost of living and the cost of doing business in remote and rural areas.

Michael Russell made a very good point. We are talking about delivery, but the issue is not just about that. If someone does not like what has been sent to them, the cost of returning it is absolutely prohibitive. I have returned parcels in Inverness. The cost on a parcel from Amazon is something like £5, but that is based on Amazon's agreement with the Post Office. The cost for the consumer to send a parcel back is about £40, which is worth illustrating. As Mike Russell said, people are often left with goods that they do not want.

My recommendation is to name and shame retailers with the highest surcharge. I am quite sure that the *Stornoway Gazette*, *The Shetland Times*, *The Orcadian* and Highland newspapers would not mind publishing the names of retailers with a high surcharge and those that do not surcharge.

I thank John Finnie once again.

13:03

Kenneth Gibson (Cunninghame North) (SNP): I add my congratulations to John Finnie on securing this valuable debating time.

As we have heard, the growing online market is of particular importance to rural, remote rural and island communities. However, as we have also heard, rural and island consumers are often excluded from home delivery options or face high delivery surcharges that can make online shopping very expensive. It is not acceptable that many constituents are inhibited in their online shopping options because they live in a particular area.

In 2012, when CAS published its full report on the postcode penalty, it found that 6,400 of my Cunninghame North constituents were affected by discriminatory charging.

Additional delivery charges are a major issue for 15,000 businesses in remote, rural and island Scotland, which puts them at a competitive disadvantage. As we know, the additional delivery charge impacts the Highlands and Islands, which includes Arran and Cumbrae in my constituency, more than other rural areas.

When a surcharge is added, Highlands and Islands consumers pay approximately four times as much for delivery as mainland consumers. For example, one consumer purchased an item costing £1.15; however, the total charge was £51.14 after the imposition of an absurd £49.99 delivery charge. The item itself was therefore worth 2.3 per cent of the delivery charge. Since 2012, surcharges for Highland consumers have risen by a whopping 17.6 per cent and for island consumers by 15.8 per cent.

I know that the low profile of the "Statement of principles for parcel deliveries" will come as a disappointment to the minister, who, along with his colleague Fergus Ewing, has worked very hard on this matter. There is a clear issue of communication here between businesses and the Scottish Government, and although it is frustrating that, as Dave Thompson pointed out, the Scottish Parliament does not have more powers over mail delivery, more has to be done to raise awareness of the "Statement of principles for parcel deliveries".

Delivery charges can be a major challenge not just for consumers but for small businesses in rural and island areas. John Finnie, Mike Russell, Mary Scanlon and others have suggested a number of potential solutions such as mail collections at ferry terminals that would allow online retailers to consider changes that would benefit their own consumers. Of course, businesses in rural areas have less of a choice with regard to delivery operators and are more likely to rely on Royal Mail. Colleagues have been almost unanimous in highlighting how Royal Mail, as the only provider of the universal service obligation in the UK, does not levy a surcharge on the Highlands and Islands of Scotland. Parcels of up to 30kg are delivered through the obligation to provide first and second-class post to all customers, no matter where they live, six days a week, and it is unfortunate that more online retailers do not use Royal Mail.

For online shopping to be an enjoyable experience for the consumer, an intricate set of business relationships and economic structures must be maintained by the retailer, the delivery operator and often a separate supplier of goods. Some problems can develop early on in the ordering process. The design of the retailer's website can be crucial for the customer's home delivery experience, and some websites fail to mention early on in the process that, because of an individual's postcode, delivery costs or promotions do not apply to them. As a result, consumers waste time and the retailer loses out on business. I also note that CAS recommends that the Scottish Government consider how the wider public sector can work with the industry to encourage final mile consolidation and reduce delivery costs for Scottish rural and island consumers.

I thank John Finnie for bringing this debate to the chamber, and I trust that the Scottish Government will continue to engage with its Westminster counterpart in making improvements

that will assist postal services in rural and island Scotland.

13:07

The Minister for Transport and Islands (Derek Mackay): I, too, congratulate John Finnie on securing this debate. My colleague Fergus Ewing, the Minister for Business, Energy and Tourism, has taken a close interest in this issue for many years and he is disappointed that he cannot be here for this debate. He, of course, would have taken the lead on this issue, but as minister with responsibility for islands and transport issues, I, too, have a clear interest in the matter.

Over the summer, I visited a number of islands and heard about the challenges facing island living, of which this issue is one. There are actions that the Scottish Government and, indeed, the UK Government can take. I agreed with a lot of what Lewis Macdonald said, but I found his unnecessary and ill-informed scaremongering on the ferry contract most unhelpful and inaccurate.

Lewis Macdonald: Will the minister give way?

Derek Mackay: Well, I think that you reap what you sow. I should not take an intervention, but I am such a kind character that I will of course do so from Mr Macdonald.

Lewis Macdonald: I am glad to have allowed the minister to rediscover his generous side and very much appreciate his taking my intervention.

Whatever the minister's view of the process that he is about to undertake in relation to CalMac, does he recognise my point that people in the islands are very anxious about the prospect of a private company taking over a successful public service? The point is absolutely real. It is not something that I have made up; it is something that people in the islands will have told him, had he been listening.

Derek Mackay: I have been listening very closely to what islanders have been saying about ferry services and, to be frank, a lot of the anxiety is being caused by the Labour Party perpetrating untruths about the current process.

Lewis Macdonald also said that we should simply keep the contract within the current framework. However, he knows that doing so would be a breach of European regulations and would put the ferry services into some doubt, as we would be in conflict with regulations and subject to all sorts of challenges. We will comply with the law and get the best possible deal.

I will now do the reassurance bit for the islanders. Whatever the outcome of the procurement exercise for the Clyde and Hebrides ferry contract, the timetables will be set by Government, the vessels will be owned by the public sector and the fares will be set by the Scottish Government, through the operator. Of course, one challenge for potential operators is how they can consider the needs of island communities and respond to the suggestions that have been made in this chamber this afternoon around how they can further use the infrastructure, the hubs and the transport connections to give those communities further support on the transport side. There is an opportunity here, but there is no risk to services, as was suggested by Lewis Macdonald.

I am particularly interested in the legislative aspect of being able to choose the provider—that is, to choose Royal Mail. That is a very helpful suggestion. No matter what the Scottish Government can do in terms of ferries, routes, timetables, hubs or anything else, ensuring people's rights through legislation would address a number of the issues that would be more difficult to address through perceptions or other interventions.

I commend Citizens Advice Scotland for drawing attention to this issue, for its work and for sharing with us its case studies and the evidence that it has produced. I can assure all members that that will inform future transport and island policy, as well as the business agenda.

In 2012 and 2013, Fergus Ewing chaired parcel delivery summits that led to the statement of principles, which I fully accept has not been adopted by as many people as we would have liked it to be. Again, if that statement were placed on a statutory footing—that could be done only at Westminster, not here—we would welcome that. I saw that the minister, Nick Boles, said that he does not want to go to primary legislation or even regulation, but that might be the best thing to do. I understand that he visited Colonsay during his summer holidays. I was also on Colonsay in the summer, although not at the same time. I know that he heard from islanders about their specific needs when he went there.

I raise that as an example because one of the interventions that I have made as transport minister is to consult on improved timetables. Why does that help? Because that might allow a better turnaround for deliveries to and from the islands, which might make it easier for carriers to get products and vehicles—because sometimes the issue is to do with vehicles being stuck on the islands—on and off the islands.

John Finnie: There might be more beneficial mechanisms than putting more vehicles on the islands, which might be challenging in a competitive marketplace. Will the minister agree to play a facilitating role in the consideration of those options?

Derek Mackay: Yes, I am happy to get Transport Scotland to consider the issues around collection hubs, transport hubs and so on. That is a helpful suggestion and I will commit to my officials undertaking that work in partnership with other stakeholders. Further, through community planning, it is important to encourage a focus on a sense of place and what more transport can do to help with this and every aspect of island living. I will also commit to listening to the comments of the rural parliament and the rural network. Like other members, I recognise that this is not only an island issue, although it is of importance to the islands.

Christine Grahame: It is an issue in the Borders.

Derek Mackay: Indeed—it is an issue across the mainland, including the Borders.

Work will also be taken with Citizens Advice Scotland and Highlands and Islands Enterprise to consider a range of models that might be deployed and replicated across the country.

There is a record amount of funding for lifeline ferry services. In this financial year, more than £145 million has been committed to support them. We have expanded the road equivalent tariff scheme across the Clyde and Hebrides network—that will be completed next month.

When commercial vehicles were eligible for RET, there was evidence that that reduction was not passed on to the customer. That has to be ensured before we can even consider using the scheme in that way. In 2012, we were able to allow commercial vehicles under 6m in length to qualify for RET. That means that post vans and smaller courier vehicles will get the discount, which means that they will pay less than the current commercial fares. Of course, the issue is about affordability and the need to ensure that those who are intended to benefit are the ones who benefit. That is why I am considering the current freight policy, too. I will report on that later this year.

That range of transport actions represents what the Scottish Government is doing. Like others, I again call on the UK Government to take action. Lewis Macdonald talked about a cosy chat with ministers but—who knows?—it might lead to further regulation and legislation. However, the principles should apply, so that we can have better universality of charges and do not discriminate against areas of peripherality, rurality or island living. I again call on the UK Government to act in that spirit.

13:15

Meeting suspended.

14:30

On resuming—

Point of Order

Dr Richard Simpson (Mid Scotland and Fife) (Lab): On a point of order, Presiding Officer.

The Deputy Presiding Officer (Elaine Smith): Good afternoon. Richard Simpson has a point of order.

Dr Simpson: My apologies for anticipating your greetings to members.

At First Minister's questions, Nicola Sturgeon said in respect of delayed discharges:

"Having delivered the target of zero delays of over six weeks, we have progressively toughened the target ... We are now focusing on ensuring that patients are discharged within 72 hours."

Figures obtained from the Information Services Division show that, between July 2012 and August 2015, there were 4,785 occasions on which a patient was delayed for more than six weeks when they were ready for discharge. There has not been one month since July 2012 in which that target of zero delays has been delivered. In the past two months, 191 and 195 patients were delayed for more than six weeks.

Presiding Officer, in the interests of openness and transparency, will you invite the First Minister to correct the *Official Report*?

The Deputy Presiding Officer: Thank you, Dr Simpson, and thank you for advance notice of the point that you wanted to make.

As you will be aware, I am not responsible for the accuracy of members' contributions in the chamber. However, you will also be aware that there is a mechanism for any member to correct the record if they wish to do so and if they feel it necessary.

Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Elaine Smith): The first item of business this afternoon is a debate on motion S4M-14328, in the name of Paul Wheelhouse, on the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill.

14:32

The Minister for Community Safety and Legal Affairs (Paul Wheelhouse): I am delighted to open the stage 1 debate on the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill. I thank the Justice Committee for its consideration of the bill and of Patricia Ferguson's Inquiries into Deaths (Scotland) Bill, which I shall speak about shortly.

In 2008, Lord Cullen, the former Lord President of the Court of Session, was asked to undertake a review of the fatal accident inquiry legislation and his review team undertook a comprehensive and thorough review, reporting in November 2009. Lord Cullen made 36 recommendations for reform of the system. Some were addressed to the Crown Office and Procurator Fiscal Service and have already been implemented, principally by the establishment in 2010 of the Scottish fatalities investigation unit, which now oversees death investigations in Scotland.

The SFIU provides advice to procurators fiscal who investigate deaths locally, liaises with Crown counsel on complex death investigations and liaises with the bereaved family or families. Approximately 11,000 deaths are reported to the Crown Office each year. Fiscals conduct investigations in around half of those cases—about 5,500 deaths—and an average of between 50 and 60 FAIs are held per year. Thus, the overwhelming majority of deaths that are investigated by procurators fiscal do not result in a fatal accident inquiry because it is not deemed to be necessary.

Lord Cullen's aim was to set out practical measures for an effective, efficient and fair system for inquiry. That is also the aim of the Scottish Government's bill. It will build on Lord Cullen's recommendations that were implemented by the Crown Office to make the system more efficient, for example by greater use of preliminary hearings and by more flexible accommodation arrangements for FAIs. It will ensure that FAIs remain inquisitorial fact-finding hearings.

FAIs are not meant to hold people to account, as the media occasionally mistakenly suggest. They do not apportion blame or guilt in the civil or criminal sense; that is for civil or criminal proceedings. FAIs are inquisitorial judicial inquiries that are held in the public interest to establish the circumstances of sudden, suspicious or unexplained death or deaths that have caused serious public concern. The sheriff will consider what steps, if any, might be taken to prevent other deaths in similar circumstances.

The bill will rationalise and extend the categories of death in which it is mandatory to hold a fatal accident inquiry and include deaths of children in secure accommodation and deaths under police arrest, irrespective of location. It will, for the first time, permit discretionary FAIs into deaths of Scots abroad. I thank the family of Blair Jordan for sharing their experiences with me following Blair's death off the coast of Japan in 2009.

With regard to deaths abroad, the Government is minded to take into account concerns raised by the Justice Committee to remove the requirement that the body must be repatriated before such an inquiry might take place. There might be occasions when a body has been lost or is otherwise not available for examination or post mortem. It is right that in such exceptional circumstances the possibility of a death investigation and potentially an FAI into a death abroad should not be lost. That will be an advance on English law and practice where there would be no coroner's inquest in the absence of a body in those circumstances.

The bill will, for the first time, permit FAIs to be reopened if new evidence arises or, if the new evidence is so substantial, to permit a completely new inquiry to be held. Sheriffs will be permitted to disseminate determinations to regulatory bodies, which can implement any recommendations made. Finally, and crucially, the bill will, for the first time, place a requirement on those to whom sheriffs direct recommendations at the conclusion of an inquiry to respond and to indicate what action they have taken or, if they have not taken action, to explain why not.

Sheriffs make recommendations in around a third of all FAIs for precautions that might be taken to prevent deaths in similar circumstances in the future. The response, or lack of response, to a recommendation will be published along with the sheriff's determination to create a public record. That procedure will replicate the system used under coroners' inquests in England and will foster compliance with sheriffs' recommendations in a transparent way.

The question of delays in holding an FAI has often been cited as one of the main concerns with the system of FAIs. Lord Cullen opposed the introduction of statutory timescales. He believed that the complexity and diversity of FAIs meant

that timescales would be counterproductive. Rigid timescales might mean that the FAI might not achieve the aim of finding out the cause of death and any recommendations by which it might have been avoided. That view was confirmed by 80 per cent of respondents to the Scottish Government's consultation on legislative proposals.

There are very often legitimate and unavoidable reasons for delays between the date of death and the beginning of an FAI, such as the need to wait for the outcome of other investigations by bodies such as the Health and Safety Executive or the Air Accidents Investigation Branch; the possible need to obtain expert advice; the need to consider whether criminal proceedings are appropriate; and, above all, the overriding necessity of conducting death investigations thoroughly—that factor is of particular relevance in relation to the complexity of some investigations, especially those involving medical cases and of course helicopter crashes.

Like the Justice Committee, I welcome the commitment by the Solicitor General for Scotland to produce a charter for families. That will provide clarity regarding what information the bereaved family will be provided with at the different stages of a death investigation and how and when that information will be communicated to them by the Crown Office.

It is proposed that the Crown Office will offer to meet bereaved families within three months after the date that the death has been reported to it to give them an update on the progress of the death investigation, the likelihood of criminal proceedings and the possibility of an FAI. The charter will also explain the different stages of a death investigation and set out the commitments of the Crown Office in terms of keeping in touch with relatives.

The Scottish Government is minded that the bill should be amended at stage 2 with a provision that will underpin the charter, as helpfully suggested by Patricia Ferguson, whose interest in FAIs is, I know, driven by her experience of the Stockline tragedy. A charter with statutory status should address concerns over delays and communication, and it should complement the provisions in the bill to make the FAI system more efficient. I am happy to work with Patricia Ferguson on such an amendment.

The Scottish Government has been discussing with the United Kingdom Government proposals to permit deaths in Scotland of service personnel in the course of their duties to be the subject of a mandatory FAI. Following representations that I have made to the UK Government, I am delighted to be able to tell members that the UK Government has given its in-principle agreement that it should be possible for a mandatory FAI to be carried out for such deaths, in the same way that such deaths would be subject to a coroner's inquest if they occurred in England or Wales. I commend Flt Lt James Jones for bringing that important matter to the attention of the Scottish Government and the Parliament.

That change to the law will not, however, be effected by amending the bill. The matter falls within the defence reservation, and thus the change will have to be achieved by means of an order under section 104 of the Scotland Act 1998. I have written to all relevant UK ministers to inform them of our intention to seek a section 104 order.

I would like to take a moment to explain why there are some matters that are not provided for in the Scottish Government's bill.

There is no provision in the Government's bill for mandatory FAIs for deaths resulting from industrial disease or exposure to hazardous substances. That is because, as the Solicitor General confirmed in her evidence before the Justice Committee, the Lord Advocate can exercise his discretion to have an inquiry, particularly in cases involving a new type of industrial process or a new disease, where there would be public concern about the issues. There is little, if any, value in terms of public interest in holding an FAI into a death resulting from an industrial disease where the dangers are already well known and well acknowledged.

There is no provision in the Government's bill for mandatory FAIs for the deaths of detained or voluntary mental health patients. Neither the Mental Welfare Commission for Scotland nor the Royal College of Psychiatrists believes that it is necessary or even desirable to hold mandatory FAIs in such cases. Indeed, there is concern that doing so might prove distressing to the bereaved family. The Royal College of Psychiatrists described the proposal as

"unduly legalistic, in that it will impose large numbers of elaborate, expensive and drawn-out judicial procedures upon families, clinicians and services with no discernible benefit in prospect to justify it."

Members will be aware that section 37 of the Mental Health (Scotland) Act 2015 requires ministers to carry out a review within three years of the arrangements for investigating the deaths of compulsorily detained mental health patients or those who were admitted voluntarily for treatment for a mental disorder. Section 37 arose from an amendment proposed by Dr Richard Simpson during parliamentary consideration of the bill, and the Government accepted the desirability of a statutory review in the context described in section 37. I do not believe that it would be appropriate or sensible to legislate to extend the mandatory category in relation to deaths of mental health patients in advance of the work of that review.

I turn now to Patricia Ferguson's Inquiries into Deaths (Scotland) Bill. Although I do not support the bill, I pay tribute to the work that Patricia Ferguson has done over the past couple of years in relation to the system of fatal accident inquiries, which has been informed by her involvement with helping families affected by the Stockline tragedy. Although Ms Ferguson originally claimed that her proposals would implement Lord Cullen's recommendations in his review, she now believes that they do not go far enough. However, I note that in some respects Ms Ferguson's bill contradicts Lord Cullen's conclusions.

The Government believes that its bill is a proportionate response to Lord Cullen's recommendations to reform the system of FAIs. Criticism of the system has arisen from some high-profile and controversial cases, but some of them did not even result in an FAI, because the circumstances of death were established in criminal proceedings. Some of Ms Ferguson's proposals are, in our opinion, inappropriate and unworkable, and we believe that they would have potentially a significant negative impact on the Crown Office, the Scottish Courts and Tribunals Service and the legal aid fund, which is why we urge members to resist them.

The Faculty of Advocates has said:

"The proposed Inquiries into Deaths (Scotland) Bill put forward by Patricia Ferguson could result in FAIs becoming longer, more complex and more expensive, when the aim was to make the process quicker and more transparent."

The faculty goes on to say:

"We think certain aspects of the proposed Bill have the potential to encourage FAIs to become adversarial in nature as opposed to inquisitorial."

I know that that is not what Patricia Ferguson intends to happen, but we share the view of the Faculty of Advocates, which also said:

"Other unintended and unwelcome consequences … are the increase in the length, complexity and additional expense of FAIs, and potential for injustice arising from the provisions relating to the enforcing of recommendations."

I know that Patricia Ferguson has amended some of her original proposals, but the main planks of her bill remain largely untouched. In particular, there are two areas of it where, regrettably, the Scottish Government believes the reforms suggested might not be workable: first, the proposal to make sheriffs' recommendations legally binding and appealable, with criminal sanction in the event of non-compliance; and, secondly, mandatory inquiries for deaths from industrial diseases.

I have already set out the Scottish Government's position in relation to the latter; in terms of the former, I welcome Patricia Ferguson's argument in the explanatory notes for her bill that a sheriff's determination should be inadmissible in evidence and should not be founded on in other judicial proceedings—that is also what the Scottish Government's bill provides. The Scottish Government entirely agrees that that is an essential element of the distinction between, on the one hand, the fact-finding, inquisitorial nature of an FAI, with the sheriff empowered to make recommendations; and, on the other hand, the fault-finding, adversarial nature of other legal proceedings.

It is not the purpose of an FAI to establish liability for negligent actions. As Ms Ferguson has suggested, if liability arises from a death, a civil case is the forum where those matters are examined. That statement of principle is, however, undermined by the provision in Ms Ferguson's bill to make sheriffs' recommendations enforceable with an appeal process.

The suggestion that an FAI might be held before the sheriff personal injury court is another example of where we disagree with Ms Ferguson. Personal injury actions are adversarial proceedings that seek to establish negligence as grounds for the payment of damages as redress, whereas FAIs are inquisitorial actions that do not apportion blame or guilt and are thus a completely different legal specialism.

Patricia Ferguson's bill would effectively turn FAIs into preliminary hearings for subsequent civil action. That is opposed by many stakeholders, including Lord Cullen, Lord Gill and the Health and Safety Executive.

I have met Patricia Ferguson on a few occasions throughout the process to try to find common ground, and I am happy to continue to do so. I am pleased that we have found areas in which we can work together in taking forward the Government's bill.

In summary, the law relating to fatal accident inquiries in Scotland has not been revisited for almost 40 years and therefore never before by the reconvened Scottish Parliament. Lord Cullen has identified areas for reform and, thanks to the charter that the Crown Office is introducing, bereaved families will be kept fully informed of the progress of a death investigation and the likelihood of criminal proceedings or the potential for an FAI. For those cases that proceed to an FAI, the Scottish Government's bill provides for a coherent, proportionate and modernised system of fatal accident inquiries that is fit for the 21st century.

I will be lodging technical amendments at stage 2 to improve and clarify the bill, in the spirit of the inquisitorial principle that the Government is inviting the Parliament to endorse today. I intend to work closely with Patricia Ferguson to put the

Crown Office's charter on a statutory footing. I commend the motion in my name, and I thank members for their time.

I move,

That the Parliament agrees to the general principles of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill.

The Deputy Presiding Officer: I note at the start of the debate that we have a little bit of time in hand this afternoon.

14:46

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I welcome the opportunity to speak as convener on behalf of the Justice Committee, which is the lead committee considering the bill. As members are aware—I remind them for good measure—"on behalf of" means exactly that. I am not speaking in a personal capacity, so I will not veer off piste.

I thank all those who took the time to provide evidence to the committee and in particular those family members who told us about their frustrations with the justice system over the investigations into the tragic deaths of their loved ones. It is not easy to come before a parliamentary committee at any time, and especially not when pain at the death of loved ones is, as always, very near the surface. I also put on record my thanks to hard-working committee members and the hard-working clerking team.

I, too, acknowledge Patricia Ferguson's on-going and extensive work in the area of FAIs. As part of our consideration of the Government's bill, we heard evidence on her related bill on FAIs, which has informed the committee's thinking with regard to the current FAI process. We published a separate stage 1 report on Patricia Ferguson's bill; I understand that it will be debated next week, so I will not explore it in any detail in my speech today.

I should make clear that our scrutiny of the Government's bill predated the recent FAI into the tragic events that happened last Christmas, and therefore the issues that were raised in that FAI are not reflected in our report in any way.

The committee unanimously supports the general principles of the bill, which we consider to be essential in updating a law that was enacted almost 40 years ago. We hope that the bill will be used as an opportunity to provide more clarity and understanding around FAIs, especially for those who have lost loved ones in often tragic and unexplained circumstances. It cannot be emphasised enough, however, that an FAI is held by the Crown in the public interest, as indeed are criminal prosecutions under common law.

We have made a number of recommendations that are aimed at improving certain aspects of the bill. In the time available, I will refer to a few of them; no doubt other members will elaborate.

Johann Lamont (Glasgow Pollok) (Lab): Did the committee look at the definition of what is in the public interest? In my experience, the definition is drawn so narrowly that issues that people feel would be of public concern are excluded from an FAI.

Christine Grahame: No—I think that it would be very dangerous for us to interfere with the independence of the Lord Advocate, who takes the decision on what is and what is not in the public interest. I will refer to that issue when I come to my point about families who are told why there will not be an FAI.

The subject of delays and the role of families are important. In evidence, we heard about a real lack of clarity and understanding about the role of the bereaved family in an FAI. That cannot be emphasised often enough. Again, quite understandably, relatives may have the understanding that the FAI is on behalf of the deceased. We understand why that is, but I stress again that an FAI is held in the public interest. An FAI is not a trial, and if there is the prospect of a criminal prosecution the FAI may be delayed until a decision is made in that regard.

There was concern not just about those aspects, which are important, but about a perceived lack of communication with families at various stages of the often lengthy process, and about decisions not to hold an FAI when it is not mandatory. In that regard, we welcome the requirement that the Lord Advocate will provide written reasons for a decision not to hold a discretionary FAI, but we consider—I highlight to Johann Lamont—that reasons should be given whether or not a request is made. In other words, reasons should be given whether or not the family makes a request, so that there is some explanation to relatives of why it has been decided that it is not in the public interest to have an FAI.

Although one of the main criticisms of the current system was the lengthy delays between a death and the start of an FAI, we understood that there could be good reasons for that, not least, as I have said, to establish whether criminal proceedings are appropriate. However, families told us that they often received little communication or explanation about what was happening in the intervening period. I stress again that we should always bear in mind that families are grieving and that, for all sorts of reasons, an FAI will be an additional ordeal.

The committee was therefore encouraged when the Solicitor General for Scotland announced to us

that the Crown Office is working on the milestone charter—to which the minister referred—to clarify what the bereaved family should expect from the process. I welcome, too, the minister's commitment in his response to the committee's report that he will lodge an amendment to place the charter on a statutory basis.

As the minister said, mandatory FAIs are currently held when a death occurs in Scotland either as a result of a work-related accident or when the deceased was in legal custody at the time of death. The former does not apply to the armed forces or indeed to police officers on duty. To give some context, I will repeat what the minister said, which was that death investigations are carried out by the Crown Office and Procurator Fiscal Service in roughly half the deaths—about 11,000 a year—that are reported to the procurator fiscal. Only some 50 to 60 of those result in an FAI.

We heard from some witnesses that mandatory FAIs should be held in a number of circumstances in addition to those that are specified in the bill, for example after the death of a person detained under mental health legislation or after the death of a looked-after child, as such cases can involve some of the most vulnerable people in our society. Others did not think that it was necessary or proportionate to hold an FAI in each and every case.

The committee asked the Scottish Government to consider the issue further. I note that the minister has concluded that the decision in those cases should be left to the Lord Advocate, acting in the public interest.

We welcome the provision in the bill to allow FAIs to be undertaken when a death has occurred abroad, but we were concerned about the particular stipulation that, for an FAI to be undertaken into such a death, the body must be repatriated. We felt that there could be circumstances in which there would be sufficient evidence to hold an FAI without the repatriation of a body—for example when someone is lost at sea—and we recommended that the Scottish Government should lodge an amendment at stage 2 to allow for some discretion in that area. I therefore welcome the minister's commitment to do just that.

The committee was surprised to hear that mandatory FAIs are not held into the deaths of military service personnel in Scotland. Such deaths would be subject to a mandatory coroner's inquest if they occurred in England and Wales. FAIs can be held into the deaths of Scottish service personnel that occur abroad. The committee was therefore concerned about the situation in Scotland and was keen for the Scottish Government to look into the issue further. I note the minister's response that a change would need to be achieved through an order under section 104 of the Scotland Act 1998, as the matter is reserved. I am encouraged—I think that the committee would be encouraged, too—that the UK Government has, in principle, agreed that such deaths in Scotland should be treated in the same way as they are in England and Wales. That issue was raised with the committee by a member of the public and I commend him for his resolve in pursuing the matter.

The committee welcomes the proposals in the bill to require sheriff's recommendations to be published and to oblige those to whom they are directed to respond. There was general agreement among witnesses that the recommendations should be published on the Scottish Courts and Tribunals Service website, as proposed in the bill.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): Like the committee convener, I would welcome that move. However, does she agree that the final report of perhaps a yearly return should be laid before the Parliament?

Christine Grahame: I return to what I said as a caveat at the beginning of my speech, which was that I speak with my convener's hat on. Members have that on the record but I cannot comment on it today. However, I have no doubt that the minister heard it and can comment.

Some witnesses felt that the Scottish Government or another body should take a more active role in ensuring that the recommendations are implemented, while others highlighted the difficulties in placing a duty on a particular body to do that. On balance, the committee considered that the requirements in the bill were sufficient. I note that the minister, in his response, highlighted that the bill's provisions in that area broadly replicate the system in England and Wales, which he believes is appropriate and workable.

I have touched on some of the issues that were raised in evidence during the committee's stage 1 consideration of the bill, but I am sure that other committee members will wish to pick up some of the areas that I have not had time to cover. I look forward to hearing other contributions in the debate and to debating Patricia Ferguson's member's bill next week.

14:55

Elaine Murray (Dumfriesshire) (Lab): On behalf of Labour members, I thank the clerks, the Scottish Parliament information centre and the witnesses who contributed to our stage 1 consideration.

On 7 March 2008 the justice secretary at the time, Kenny MacAskill, announced a review of the

Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, which was to be conducted by the Rt Hon Lord Cullen of Whitekirk, a former Lord President of the Court of Session. A debate took place in the Scottish Parliament on 27 March 2008, led by the Lord Advocate, during which members of all parties expressed concern over the functioning of the 1976 act. Lord Cullen reported in November 2009, but it took until 2011 for the Scottish Government to publish its response, and it took a further three years for it to publish a consultation on proposed legislative change, which it did in July 2014. The Government bill was finally introduced on 19 March this year, five and a half years after Lord Cullen had reported.

The Justice Committee agreed to the general principles of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill, which takes forward some, but not all, of the recommendations of Lord Cullen's 2009 report on his review of fatal accident inquiry legislation. However, that was not the only bill to address the recommendations. While the committee took evidence on the Government bill, it also considered the alternative approach that was offered by Patricia Ferguson's member's bill: the Inquiries into Deaths (Scotland) Bill.

Members who, like me, sat in this Parliament in 2004 will recall the support that Patricia Ferguson gave to her constituents who were affected when ICI's Stockline Plastics factory exploded on 11 May 2004, with the loss of nine lives. Her experience of supporting her constituents and her frustration at the lack of action by the Scottish Government following Lord Cullen's review in 2009 led her to draft a proposal for a member's bill in August 2013 and, following consultation, to introduce her bill in November last year.

The Justice Committee's stage 1 report makes reference to the member's bill and the ways in which it differs from the Government bill, but it does not make recommendations about the member's bill. Instead, the committee published a shorter stage 1 report on Ms Ferguson's bill and it anticipated that both bills' stage 1 debates might take place on the same day. I do not know whether we made a formal recommendation to that effect, but it certainly seemed to be the favoured way forward when we discussed our reports on both bills. I understand, however, that Scottish Government officials thought that it might be too confusing for members to consider two bills that cover the same area of policy on the same day. In the Justice Committee we frequently have more than one bill before us on the same day.

Labour members are disappointed that we are not debating both bills on the same day. I tabled an amendment to the stage 1 motion on the general principles of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill, which reflected the Justice Committee's recommendations on how proposals in the two bills might be considered together. Unfortunately my amendment was not selected for debate today, despite assurances from the chamber desk that it was competent.

The current legislation—the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976—limits mandatory fatal accident inquiries to deaths in work-related accidents or deaths that occur in legal custody. The Lord Advocate has discretion to decide not to hold a mandatory FAI into deaths in work-related accidents or deaths that occur in legal custody if the circumstances of the deaths have been established during criminal proceedings. If it is in the public interest and lessons can be learned to prevent similar deaths from occurring in future, the Lord Advocate can also decide to hold a fatal accident inquiry in other circumstances if a death is sudden, suspicious or unexplained.

The bill does not take forward a number of Lord Cullen's recommendations. For example, he recommended that the scope of the bill be extended to include children who die in residential care, other than secure accommodation, and deaths of people during compulsory detention by a public authority.

The Scottish Human Rights Commission agreed with Lord Cullen that fatal accident inquiries should be mandatory for deaths of persons who are held in mental health detention. However, in a case in which the Mental Welfare Commission for Scotland's investigation had established the circumstances of the death, the Lord Advocate would have discretion not to hold a fatal accident inquiry. Families against corporate killers agreed with the position of the Scottish Human Rights Commission, considering that people who are held in compulsory detention are amongst some of the most vulnerable.

In order to keep families informed of progress, Lord Cullen suggested that an initial early court hearing be held shortly after the reporting of the death to the Crown Office and Procurator Fiscal Service. In evidence to the Justice Committee, he went even further and suggested that an earlier meeting take place to inform family members about process and timescales. However, the status that such a meeting would have was unclear, and, given that the Solicitor General's recently published milestone charter should cover the information that would be included in such a meeting, the committee felt that this early meeting would not add anything.

Under the bill, fatal accident inquiries remain mandatory where someone dies in a work-related accident or in legal custody; the mandatory

category is extended to children who are kept in secure accommodation; and discretionary fatal accident inquiries are extended to deaths abroad where the body is repatriated. A number of witnesses including the National Union of Rail, Maritime and Transport Workers, which represents workers employed at sea, argued that the bill should give the Lord Advocate discretion to hold an FAI without the body being repatriated, as lessons could still be learned in such circumstances. We welcome the Scottish Government's response that it intends to lodge an amendment at stage 2 to allow the Lord Advocate discretion to permit a fatal accident inquiry in some circumstances when it has not been possible to retrieve the body. We also welcome the provisions in the bill that enable an FAI to be reopened under certain circumstances.

As has been mentioned, a strange anomaly was uncovered during the bill's consideration as a result of evidence from a member of the public. I think that it came as a surprise to committee members and the ministers that fatal accident inquiries cannot be held for service personnel on active service who die in Scotland, even though in England and Wales coroner's inquests can be held in such circumstances. We were advised that that was because service personnel are appointees of the Crown, not employees. I welcome the minister's announcement that the UK Government is considering what I think is called a section 140 amendment, because of the reserved aspects, and I hope that the matter will soon be resolved to enable the families of service personnel who die in Scotland to have the death of their loved one investigated in the same way that it would be if the person had died in England and Wales.

Addressing delays in holding fatal accident inquiries and keeping families informed of progress were major concerns for committee members, who heard a number of possible routes in that respect. Bereaved families should be central to the fatal accident inquiry process and they and the appropriate trade unions and staff associations must be kept informed and enabled to participate. The draft milestone charter, which has already been referred to, sets out commitments to bereaved families on the timescales by which certain communications with families should take place at various stages in the process. Bereaved families must be better included in the inquiry process and I look forward to the stage 2 amendments that, as the minister indicated, will place the charter on a statutory footing and improve accountability to families.

In its briefing on the bill, the Law Society voices concern that Lord Cullen's recommendation regarding the provision of legal aid to families without their having to demonstrate reasonableness is not reflected in the bill. It points out that because FAIs are fact-finding inquiries in the public interest they can be very complex and families might be in particular need of legal advice.

The Government bill requires that, where the Lord Advocate decides not to hold an FAI, whether it be discretionary or mandatory, written reasons be provided to families on request. In its stage 1 report, the committee recommended that the requirement that the information be requested be removed and that the information be provided to families as a matter of course.

Lord Cullen suggested that the Scottish Government publish sheriff's recommendations, and the Government bill proposes that that be done via the Scottish Courts and Tribunals Service website, instead of the Scottish Government publishing the material itself. However, it is not clear on whom the duty to monitor the implementation of such recommendations would rest. That is a particular concern; for example, in its briefing, the Law Society comments that no sanction appears to be proposed against parties that fail to comply or co-operate with the sheriff's recommendations.

Patricia Ferguson hoped to address the matter in her bill by enabling a sheriff to make legally enforceable recommendations where appropriate; in other words, the party at which the recommendation was aimed would be within Scottish jurisdiction and the recommendation would be capable of being enforced. As currently drafted, Ms Ferguson's bill does not make that as clear as it could be but, during the committee's evidence-taking session on her bill, Ms Ferguson mentioned amendments to the bill, and I think that that would have been the effect of those amendments. If that solution is not enforceable, we urge the Government to consider how enforceability can be strengthened under its own proposals, because we believe that that is still an omission in the bill that will lead to the distress of families whose loved ones have died in those particular circumstances.

Scottish Labour will vote for the bill at stage 1, but we do so very much in the hope that some of the suggestions that have been made by our colleague Patricia Ferguson in her bill will be included as amendments at stages 2 and 3.

15:05

Margaret Mitchell (Central Scotland) (Con): I welcome the stage 1 debate on the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill. I thank the many witnesses for their valuable contributions and the Justice Committee clerks for their work in delivering a comprehensive report.

It was the evidence that was provided by one witness, Flt Lt James Jones, that highlighted that no mandatory FAIs are carried out in Scotland following the deaths of service personnel abroad. I am therefore pleased that agreement in principle has been reached with the UK Government to ensure that a mandatory FAI can be held in those circumstances, in the same way as investigations into such deaths are carried out by a coroner in England and Wales.

I acknowledge and pay tribute to the extensive work that Patricia Ferguson has done on her bill, which covers the same policy area and which we will discuss more fully next week.

In 2008, in recognition of the fact that FAIs required significant reform and modernisation, Lord Cullen carried out a review. The treatment of bereaved families and the lengthy delays to the commencement of inquiries, aggravated by patchy communication from the Crown Office and Procurator Fiscal Service, formed the basis that prompted many of the review recommendations and the subsequent provisions in the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill. The affected families have already endured the distress and pain of losing a loved one and, although FAIs are undertaken in the public interest, they undoubtedly significantly help to offer resolution and much-needed closure for relatives.

However, some important recommendations that Lord Cullen made in his review are not in the bill, including the suggestion of holding an early hearing when an FAI is mandatory. When he gave evidence to the committee, Lord Cullen said that he proposed such a procedure

"simply to let the families and other persons who are directly involved know what is going on so they can be satisfied that all proper steps are being taken to progress matters."—[*Official Report, Justice Committee*, 5 May 2015; c 5.]

Stakeholders had mixed responses to that suggestion, with campaigners broadly in favour of the idea. Lord Gill, on the other hand, expressed doubts that formal meetings were necessary when the same outcomes could be achieved if the Crown established

"good protocols of conduct whereby the relatives would be kept in touch."—[*Official Report, Justice Committee*, 19 May 2015; c 37.]

Significantly, Lord Cullen stated:

"If the COPFS has made improvements such that fears about the family not being kept fully in the picture are groundless, that makes an early hearing of the type that I described ... unnecessary."—[*Official Report, Justice Committee*, 5 May 2015; c 5.]

In response to some of that evidence and the legitimate concern that there is a pressing need to reduce the unacceptable delays that adversely affect bereaved families, the Solicitor General committed to producing a milestone charter. It outlines what families can expect from the COPFS in relation to the timings of investigations and decision making. The priority must be to keep relatives informed while concentrating the minds of the COPFS on the work that must be done to avoid delays.

The committee has yet to receive a draft of the charter—perhaps the minister could give us some idea of the timescale for when it will be available—but, if it measures up to expectations, it will most certainly be a positive step forward.

I turn next to the Cullen review recommendation that a mandatory FAI should be held when someone was, at the time of their death, subject to compulsory detention by a public authority, which would include detention under mental health legislation. During evidence sessions, concerns were expressed about how the deaths of those who were detained under mental health legislation are investigated in practice. However, in considering its stage 1 report, the committee concluded that there is no need for mandatory FAIs in such circumstances, because some deaths of those who were detained under mental health legislation are straightforward—for example, they clearly result from natural causes.

Given that those who are detained under mental health legislation are some of the most vulnerable in our society, I revisited Lord Cullen's review and noted that he states that

"even investigations into deaths by natural causes may reveal unsafe conditions ... it is in the public interest that an FAI should be held into the deaths of those detained by the state, especially those who are most vulnerable."

Therefore, even in the case of so-called straightforward deaths, such as deaths from natural causes—and despite the comments from the Mental Welfare Commission and others, to which the minster referred—I believe that there are still many issues to consider before rejecting the need for a mandatory FAI to be carried out. There is merit in revisiting the issue at stage 2.

I would like to highlight two further areas. The first is the withdrawal of the reasonableness test—to which Elaine Murray referred—for legal representation for the deceased's relatives. Although I appreciate that it is not an access to justice question in the conventional sense, Lord Cullen emphasised that the crucial question is

"whether there is a public interest ... in families having that degree of support."—[*Official Report*, *Justice Committee*, 5 May 2015; c 8.]

I urge the Scottish Government to consider the question carefully at stage 2. Secondly, Lord Cullen recommended the creation of a central team to co-ordinate and monitor FAIs. That idea

seems sensible and there is a precedent for it in the form of the domestic abuse task force.

If the improvements to the bill are to be realised, it will be vital for the Crown Office and Procurator Fiscal Service, which is already under immense strain, to have the resources in place to deal with FAIs efficiently and effectively. I confirm that the Scottish Conservatives support the general principles of the bill.

The Deputy Presiding Officer: We are fortunate to have a little time in hand, so I can allow speeches of a generous six minutes.

15:12

Roderick Campbell (North East Fife) (SNP): I apologise to the chamber for the fact that I will not be able to stay for the full debate because I have another pressing engagement. I refer members to my registered interest as a member of the Faculty of Advocates.

In the light of recent events in another part of the country, it is fair to say that there is greater interest in fatal accident inquiries than there has been for many a long year. Accordingly, it cannot be overemphasised that the purpose of an FAI is not to address issues of criminal behaviour. Such issues really need to be resolved before an FAI can proceed meaningfully. An FAI should be about learning lessons from the past that can be applied in the future.

The bill is the result of Lord Cullen's deliberations, but it does not follow his recommendations totally, as Margaret Mitchell said. For example, on matters such as an individual's death in a setting where they have been detained, such as a mental hospital, he reaffirmed his view that it should be a mandatory requirement that an FAI take place, whereas the Government favours the Lord Advocate having discretion. In my view, the difficulty of having a mandatory requirement is that it would inevitably require procedures to be adopted that would have no meaningful impact, in most cases, on the key issue of learning lessons for the future.

What is important is that there is a clear understanding of matters such as what a graduated scheme of investigations means in practice. As Cathy Asante of the Scottish Human Rights Commission suggested in oral evidence, we need to ensure that article 2 of the European convention on human rights is properly respected. I am pleased by the minister's responsive attitude to suggestions of optimal best practice in that area.

Whatever else there ought to be, there should be an acceptance that the families and friends of people who die in such circumstances need assurance that the demise of their nearest and dearest has not given rise to any issues that require answers. In most cases of death by natural causes, that will be true. Of course, we have to accept that, in considering article 2—the right to life—when an inquiry is required, case law suggests that any inquiry must be independent, effective, prompt and subject to public scrutiny, with the next of kin involved.

However, I am mindful that, since we took evidence, the Mental Health (Scotland) Act 2015 has been passed, with a requirement that a review of the arrangements for investigating the deaths of such patients be carried out within three years of the legislation coming into force. Any further information that the minister can give on that review would be welcomed.

On timescales for carrying out FAIs, we obviously need reasonable expedition, and I can see the case for statutory timetables but, in practice, that might lead simply to an extra hurdle without necessarily bringing matters to an earlier conclusion. We should therefore rely on a commitment to good practice from the Crown Office.

On the question of requiring the Crown to explain why no discretionary FAI will take place, I am encouraged by the milestone charter and the Government's support for the charter having statutory underpinning. A strong commitment to keeping relatives informed about progress is essential.

On the question of the provision of written reasons to relatives as to why an FAI is not being held, I appreciate the Crown's response to the committee's recommendations but, for me, the key issue is that families know that they have a right to request FAIs.

In relation to suggestions that the sheriff's recommendations should be legally binding, I am on the side of those who believe that, if that were adopted, it would fundamentally change the nature of an FAI. As Lord Cullen suggests, an FAI is not for the purpose of establishing rights, duties and obligations. As Tom Marshall of the Society of Solicitor Advocates said,

"One of the values of the inquiry process is that it ought to be an open process in which people should not be taking sides, because the object is to get the facts into the open and to bring as much information to light as possible, so that lessons can be learned."—[*Official Report*, *Justice Committee*, 19 May 2015; c 13.]

As for issues of compliance and who has a duty, if any, to monitor, the aim must be for recommendations and responses to be easily available on the Scottish Courts and Tribunals Service website. Regarding a comment that Patricia Ferguson made, I am certainly open to a

wider dissemination of that information, although we ought to appreciate that that might have cost implications.

I turn to FAIs into the deaths of service personnel in Scotland. We heard evidence from Flt Lt Jim Jones about the difficulties of holding FAIs in Scotland for members of the forces who die in Scotland. The 1976 act refers to a requirement to hold an FAI when someone dies in the course of their employment or occupation, which has been held to exclude both servicemen and—I believe it is also argued—police officers. That led to the somewhat odd situation that an FAI took place into the helicopter tragedy in the Mull of Kintyre some 20 years ago only because there were also civilian deaths. That distinction, which is based on the royal prerogative, seems to have long outlived its usefulness. In civil cases it seems to be ignored, and it remains alien to the inquest procedure south of the border. In that respect, Scotland needs to learn from its southern neighbour.

I am grateful for the minister's earlier comments on the matter, which I noted carefully. As I have servicemen in my constituency, some of whom I will be meeting tonight, it would be good to be able to advise them that, should they die unexpectedly in the course of their duties, a mandatory FAI would at least be a possibility.

15:18

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): As we have heard, it is now seven years since the Scottish Government commissioned Lord Cullen to review the system of fatal accident inquiries, and it is some six years since he delivered his report, so I am genuinely very glad that we are now in a position where a bill based on his report is being debated.

My member's bill—the Inquiries into Deaths (Scotland) Bill, which also considers how FAIs should operate—was in part a reaction to the lack of progress from the Scottish Government, but it was also an attempt to make more radical reforms than those proposed by Lord Cullen or indeed by the Scottish Government. That has always been my position.

The most important people in the process should be the bereaved families. It is they who have suffered the greatest loss, and they deserve to know why the death of their loved one occurred and to know that everything possible is being done to prevent such tragedies in the future. It has been suggested to me—we have heard this view today—that FAIs should be about the public interest rather than about individual families, but how can an inquiry be in the public interest if it does not have at its heart those who are most directly affected by it?

It is fair to say that the Scottish Government and I differ on a number of areas and a number of points of policy, but I have no doubt that the minister sincerely wishes to make the system better. He needs to go further, and I will outline where the Scottish Government's bill must be strengthened at stage 2.

As members know, the Justice Committee has recommended that the Scottish Government's bill is the best vehicle to reform the system and has urged the Scottish Government and me to collaborate—that is a good word. As the minister indicated, we met yesterday to consider how that might be done. In the spirit of that collaboration, I wrote today to the Parliament's clerk to withdraw my bill with immediate effect. I did not take that decision lightly, but I took it in the expectation that the Scottish Government will continue the collaboration that began yesterday and in the hope that it can still be moved on a number of points. I do not have time to comment on every issue that I have with the Scottish Government's bill, but I will highlight some particularly important points.

I welcome the draft milestone charter drawn up by the Crown Office and Procurator Fiscal Service. It outlines various stages that follow from a sudden or unexpected death and provides a timetable within which family members will be informed of decisions being made. That is welcome. In the case of an FAI, the charter states that family members will be advised within 14 days of Crown counsel issuing instructions. That is a really welcome step forward but—this is a big but for me—the problem is often the time that Crown counsel takes to make the decision, not the time that is taken to communicate the decision once it is made.

I realise that the circumstances of a death are complicated and that other investigations must take place before an FAI is held, but families understand that too, which is why we must get the framework for that communication right. I appreciate that the minister now agrees with me that those provisions should be enshrined in law and I will work with the Scottish Government on amendments to give effect to them. However, whatever changes Parliament ultimately makes, there should be no situations in the future in which people are left for four or five years without even knowing whether an FAI will take place.

I accept that the Scottish Government is carrying out reviews of issues that are connected to the sudden deaths of patients who were detained under mental health legislation and to the situation of looked-after children. I am pleased that that work is being undertaken but—I do not want to make too much of a point of this, but I will make the point nevertheless—I hope that the findings of those reviews will be implemented more quickly

than Lord Cullen's review of FAIs was. I am not quite persuaded that we need to wait for those reviews to be completed, and I will reflect on that before stage 2. However, the approach is a step forward.

The Scottish Government and I still disagree on whether the findings of an FAI should be enforceable. The Scottish Government suggests, as others have done, that making the sheriff's recommendations enforceable would turn an inquisitorial inquiry into an adversarial one. Can the minister really say that FAIs are never adversarial under the current system? The events of this summer suggest that some are extremely adversarial and, if we ask any lawyer, family member or trade union official who has attended an FAI, they will tell us that, when a worker and an employer are involved, FAIs can be very adversarial indeed.

The nature of an FAI should surely not be a reason for discounting enforcement when and if—and only when and if—a sheriff deems it necessary. I have cited before examples such as those at Bellgrove and Newton where, if the sheriff's initial recommendations had been enforced, the second fatal accident would have been unlikely to occur.

Surely the Parliament should seek to do all that it can in the legislation that it passes to prevent such fatalities. We have heard a lot today about the public interest; I describe preventing fatalities as being in the public interest. I am pleased to note that the Law Society of Scotland seems to be coming closer to agreeing with me on that point, and I sincerely hope that the Scottish Government will accept the amendments that I will lodge on the issue at stage 2.

Given that I have withdrawn my bill, I hope that the Presiding Officer will allow me to thank the Justice Committee and its clerks for their consideration and scrutiny of both bills. It has been an interesting process to go through. As I have been on both sides of the table more than once, I know which side I prefer to be on. I also thank the non-Government bills unit for all its support through the process, the staff of my constituency office and Patrick McGuire of Thompsons Solicitors, whose advice to me was second to none, as is his commitment to the issue that both bills cover.

15:25

Christian Allard (North East Scotland) (SNP): Fatal accidents and sudden deaths are unforeseen tragedies. It is hard to comprehend how families and friends can deal with the aftermath of such tragedies. I have an insight into what they go through, as I lost a loved one who was aged only 33. We had to wait for the autopsy and for an investigation to take place before I could start to organise the funeral arrangements. That is an ordeal that many families have to go through. Anything that we can do to help people who are recovering from the sudden death of a loved one is very much in the minds of everyone who supports the proposed reform and modernisation of the fatal accident inquiry legislation in Scotland. The legal process must be clear and understood by all. Families must be at the centre of it, and it must be effective, efficient and fair.

As a member of the Justice Committee, I would like to add my thanks to everyone who participated in our consideration of the bill and helped to make the report what it is. I thank the people and the organisations that came to give evidence for their written submissions, and I thank the committee clerks for their work. I also thank all the members of the committee. The Justice Committee is a committee that works well. It is one on which the Scottish National Party does not have a majority—and I am not talking about the role of the convener. I see that Christine Grahame has left her seat. The strength of the Parliament lies in its committee structure. We scrutinised the bill, which is a proposed

> "Act of the Scottish Parliament to make provision for the holding of public inquiries in respect of certain deaths."

We challenged and questioned not only the Scottish Government but the judicial system and the UK Government.

I want to talk about a change in the bill that our report asked to be made and which the Crown Office and Procurator Fiscal Service has indicated it would be prepared to accept. I will go on to talk about an issue that was brought to our attention during evidence taking. It is an issue that gives rise to a lot of questions, the answer to which concerns a reserved matter, so the UK Government will need to help our Scottish Government to address it. Elaine Murray called it a strange anomaly; I would describe it as another example of Britain's archaic system. In some areas, a great deal of modernisation is required to make sure that we are up to date. We were very surprised by what we learned from a member of the public who came to see us.

One of the bill's aims is to strengthen the existing legislation by extending it to cover death abroad, as other members have said. For the first time, on the recommendation of Lord Cullen's review, it will be possible to have fatal accident inquiries into the deaths of people who are resident in Scotland who die abroad. The bill also makes provision in relation to service personnel who die abroad.

All the witnesses welcomed that new power, but I was concerned that it would exclude cases in which the body could not be brought back to Scotland. I worked in the fishing industry for 30 years and now I represent many constituents from the north-east who work offshore, some of whom work abroad. My experience tells me that fatal accidents and sudden deaths happen—we know that they do—but, for obvious reasons, in those exceptional circumstances there is no way that the body can be brought back to the families. Jake Molloy of the RMT told us that much, and the Solicitor General for Scotland agreed that there should be some flexibility, so I am delighted that the COPFS has reconsidered its position, and I thank the Scottish Government for agreeing to consider the recommendation that we made on page 23 of our report that an amendment be lodged at stage 2.

The second issue, which has already been debated a lot, became a concern for us all in the committee. Flt Lt James Jones, who is a retired member of the Royal Air Force, brought it to our attention. He said in his written submission:

> "The interpretation of the current Act, by the Crown Office, discriminates against members of the Armed Forces in that ... They are not regarded as 'employees'".

He added:

> "Public interest is not given the same importance as in civil accidents".

I have to admit that I was shocked to hear that members of our armed forces are not considered to be employed by the Ministry of Defence. Why on earth would boys and girls who choose one of the most dangerous vocations on earth, for which we are all thankful, not be given the same protection that we all enjoy?

When Flt Lt Jones came to give evidence in Parliament, he told us that, under the 1976 act, a fatal accident inquiry is mandatory only when the person was acting in the course of their employment or occupation. I asked him to clarify his comments about the MOD investigating itself. He replied:

> "it is okay for the MOD or the Military Aviation Authority to do their own inquiries, and ... it is important for them to do that because any immediate problems can be put right, but such inquiries do not replace proper inquiries in the public domain. There is no input to a military inquiry. It is like asking a person who runs a factory in which someone has died because a machine was operated unsafely to carry out their own investigation and to make recommendations, and then taking the factory owner's report and saying, 'Thank you very much—that's fine.'"—[*Official Report, Justice Committee*, 5 May 2015; c 24.]

That is not fine. I agree with Flt Lt Jones. Members of the armed forces should be employees and have the same rights as employees.

I thank the Scottish Government again for looking at amending the bill to allow the deaths of service personnel in Scotland to fall within its scope. It is too early for me to thank the UK Government to redress the employment status of members of the UK armed forces, but I am very much encouraged by the discussions that are taking place between the two Governments. However, I do not yet share Margaret Mitchell's optimism.

Modernising and reforming legislation that relates to these matters is our duty as elected representatives. A lot has already been achieved, as members can read in our report.

Families must remain at the centre of the legal process in dealing with fatal accident inquiries. I repeat what Roderick Campbell said. A fatal accident inquiry is what it is: it is an inquiry, not a trial. Let us ensure that members do not give the people of Scotland high expectations of what an FAI is. Understanding that legal process is a start. The Parliament needs to ensure that that process is effective, efficient and fair.

15:32

Johann Lamont (Glasgow Pollok) (Lab): We all recognise the importance of the debate. I congratulate Patricia Ferguson in particular on all that she has done to drive the agenda. I do not think that the bill would be in front of us if that work and the work that she has done on behalf of families who have suffered as a consequence of an inadequate system of FAI and inadequate redress for families had not been done.

I want to contribute to the debate from the point of view of the dreadful, tragic experiences of some of my constituents. I do not intend to tell their stories, although they are powerful in themselves; I want to make comments that are drawn from their experiences. All those families lost loved ones in a health setting or while accessing health services, so I am sure that members can understand concerns that the view is held that the national health service should take its own approach to unexplained deaths.

The Scottish Parliament information centre briefing says that the purpose of adverse event reviews is

> "to discover if any lessons for future practice can be learned."

That is little comfort to those who seek justice for their loved ones. We must surely be concerned that, because NHS boards set their own policies in relation to adverse event reviews, practice varies from area to area. I urge the minister and the Scottish Government to look again at that matter. If there is a mandatory FAI for someone who died in prison, why is there no rigour or consistency for

unexplained deaths in hospitals? We need clarification on whether and when a procurator fiscal would be involved in an NHS case. What would be the nature of any investigation? What is the expectation of the standard of the investigation by the prosecution services in such cases? There is deep dissatisfaction. As I have said, if there is a mandatory FAI for a child who died in care, what is to be done if there is alleged neglect by public services as a result of which a child who was not in care died? We can see that contradiction.

We need reassurance that "public interest" is not narrowly defined. The test should stretch to include NHS processes not being followed, pressures on staff, untrained staff and perhaps the impact of the use of bank or agency staff on the quality of the care that is received.

In one case involving a constituent of mine, procedures to check the patient were not followed. The reason was not investigated; it was simply established that procedures were not followed. There was a reassurance that procedures would change, but no explanation of how it would be ensured that they would be followed. I am sure that the minister can understand how unsatisfactory that must be for the family concerned.

It is critical that families are at the centre of the process. When people are struck by grief and they have lots of questions, we cannot overstate the importance of making real a commitment to involve families. We cannot simply say, "Yes, we involve families," when their experience is different. I have had very varied reports on the effectiveness of family liaison.

We need to have honesty and compassion at the heart of the process. If there is not going to be an FAI, we need to know and understand that. The reasons must be explained and they must emerge from the evidence that has been investigated rather than there simply being a presumption about whether a particular case fits into a particular box. I know of a family who waited more than a year to be told that they were not getting an FAI but who felt very strongly that that decision had been made on day 1. If that is the case, we should at least be honest with people about it.

In the context of very significant cuts to prosecution services, we need reassurances that the role is real and that it will be properly resourced. It is not good enough for people to be told that they are at the centre of the process if, all the time, they feel that they are excluded from it and it may simply be that people have too much of a case load to do their jobs properly. We should not have an institutional presumption against fatal accident inquiries. Where a fatal accident inquiry is granted, it is important to ensure that families have real engagement, and legal aid is a particularly important issue if families are to be respected.

Although we can improve the FAI system and I accept that the bill goes some way towards doing that, we need to reflect on why families want a fatal accident inquiry in the first place. They want the death of their loved one to be taken seriously. They want their day in court, and for those who made decisions to be held to account. That is entirely reasonable. It may not be for the current bill, but we need to look at how we address that hunger for justice. People are currently left despairing and with a feeling that their loved one was unvalued. They are told, "That is not what an FAI is for." If that is the case, what is? How do we address the need? What needs to change in the system to leave people feeling that they are being attended to?

It is a particular cruelty that families who yearn for justice—for a proper investigation—in order to respect the memory of those whom they have lost are driven down the civil route and seek compensation as a way of challenging injustice. That is cruel. First, it creates the impression that they are driven by financial interest and not by grief, and very often institutions then shut up shop and refuse to engage with families. People struggle to secure legal aid, and even where they secure it, if an out-of-court settlement is reached and a financial offer is made, even where someone does not accept responsibility, the person may have no choice but to accept, because if they do not, legal aid will be withdrawn. In that situation, they still do not have their day in court.

Loss and grief do not make people irrational or unreasonable, but sometimes the system appears to dismiss rather than understand. In my experience, doggedness, determination and a drive for justice have forced public agencies to move and to understand that there is something that needs to be investigated, but the test of justice should not be the determination of individual families. We should have a system that understands the importance of response.

It is easy to say why we cannot do something, but I believe that it is important to look at these questions differently. In the face of loss, people are entitled to ask, "Why?" and to be heard and answered, yet the current system does not allow that.

We support the bill, but it is not enough. I recognise the steps that have been taken, and—like many members, I am sure—I will be happy to work with the Government and any agency beyond this Parliament to address the brutal truth for too many families, which is that, in the face of the loss of their loved one, there appears to be nothing that the system can do.

We must strengthen the FAI system, but let us also consider how we address such questions of injustice, so that we do not simply tell people, "Things will be better in future," but say, "The one you loved and lost deserved better," and we understand why we ended up in the situation in the first place. I support the bill, but I hope that the minister will reassure members that he will take those very difficult issues far beyond the bill itself.

15:40

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I am pleased to participate in the stage 1 debate on modernising the fatal accident inquiry legislation.

My experience of the system is in the context of the death of my constituent Alison Hume, who, as members might recall, died in the Galston mineshaft accident in 2008. The subsequent journey that her family has made—it is probably better to say "endured"—through the fatal accident inquiry process and the subsequent fire service inquiry, has not been a happy one. The reasonable expectation that an FAI and a fire service inquiry would deliver justice and much-needed closure has not been met.

It is in the light of that experience that I will consider the bill and offer comments that I hope will take us further along the road to justice. First, though, I recognise the efforts of the Scottish Government and members of the Justice Committee to begin to modernise the fatal accident inquiry process.

There will be a number of positive changes, many of which emanate from Lord Cullen's review in 2009. The extension of categories of death that require an FAI is welcome, as is the discretion to hold FAIs for residents of Scotland who die abroad. The latter extension will be a welcome change for families who have to suffer the loss of a loved one abroad. I note the committee's plea for discretion to hold an FAI even if repatriation of the body is not possible.

It was also pleasing to hear the minister say that the Scottish Government will consider including deaths of service personnel in Scotland in the new legislation. That is welcome. It is right to seek such extensions and I am confident that they will be supported by the public.

The new obligation to respond to a sheriff's recommendations is also welcome. It is a long-overdue step in improving the system. That there was no previous obligation to respond to FAI recommendations was a severe weakness, the unintended consequence of which was that serious criticism of individuals was largely ignored.

I note the proposal to permit FAIs to be reopened if new evidence emerges that suggests that further consideration is required. That approach will be welcomed by many people as a further modernisation of our system to make it better serve the public interest.

I turn to Alison Hume's family's experience of the current FAI system, to consider whether the proposals will address their concerns. What we have to understand is that a family like Alison Hume's are on a journey, and their destination is justice and final closure, whereas the end point in the FAI process is to establish the facts and cause of death and to identify defects in the system and reasonable precautions that might have been taken. The purpose is not to apportion blame or find fault.

As far as I can see, no powers are proposed that would ensure that recommendations are implemented or even require a response to severe criticism of individuals whom an inquiry has found wanting. Lord Cullen himself commented:

> "an investigation of the circumstances of a death in an FAI may disclose grounds for criticism, from which a basis for alleging fault may be inferred."

Although the new proposals will at least require responses to inquiry recommendations, the onward journey to securing justice still lies outwith the process. I would like to see a stronger approach taken to ensure that a sheriff's recommendations are carried out and that any criticisms that a sheriff makes are responded to and dealt with.

Patricia Ferguson: I am grateful to the member for his comments and I sympathise entirely with him about the tragic constituency case that he is talking about. Will he therefore support the amendments on enforceability of sheriff's recommendations that I intend to make at stage 2?

Willie Coffey: I am keen to hear what the minister will have to say on summing up. I understand the explanations that have been given by the minister and others about the difficulties in making such enforceability a requirement, but there must be a middle ground that might take us further in the direction that the member and I wish to go.

Those outcomes did not happen in the case of Alison Hume and her parents, Hugh and Margaret Cowan. The sheriff made serious criticisms of senior fire officers and their handling of Alison's rescue. Sheriff Leslie commented that the evidence presented to him by two senior offers was

> "bullish, if not arrogant, in their determination to justify the subservience of the need to carry out a rescue to the need

to fulfil to the letter Strathclyde Fire and Rescue Service Brigade policy."

No apology was ever offered until the former First Minister ordered a fire service inquiry. No disciplinary action was ever taken that we are aware of. The family has been left pretty much on their own in their pursuit of justice. Had it not been for the tireless and unfunded work carried out for them by HALO, a specialist trauma support service led by Diane Greenaway in Ayrshire, I shudder to think what the outcome would have been for this family.

There is much to commend in the work that has already been undertaken and the changes that will come in to help modernise this process. However, I ask my colleagues in the Scottish Government to consider any way of further strengthening the powers in relation to recommendations that are made by sheriffs and of requiring a response from any agency or individual who is the subject of criticism.

We need to place surviving families, who we should remember are also victims, at the heart of any new process that assists them on their journey to achieving justice rather than parting company with them at the end of the FAI process and leaving them to make that onward journey alone.

15:47

Alison McInnes (North East Scotland) (LD): Fatal accident inquiries provide an important opportunity to find out what went wrong and, ultimately, to learn in order that we can prevent something similar from happening again in the future. Although they are primarily carried out in the public interest, they also give families the opportunity to gain closure when a loved one is lost.

The bill will repeal the 1976 act and enact new provisions to govern the FAI system in Scotland. It has been a long time coming. Lord Cullen was invited to review the system in 2008 and he reported in 2009. I echo Johann Lamont's tribute to Patricia Ferguson. If it was not for her determined and principled campaigning, we might still be waiting for the Government to address the reform. I congratulate Patricia Ferguson on her effort.

Not all of Lord Cullen's recommendations have been taken up, but of those that have, three are particularly worthy of further serious deliberation at stage 2. Mandatory FAIs will be extended to cover children who die while in residential care, and to those who are subject to compulsory detention by a public authority. The Scottish Government will be responsible for publishing responses to sheriffs' recommendations. I will touch on those issues in a few moments. The bill provides an updated definition of "legal custody" to include any death in police detention. It also requires a mandatory FAI when a child dies in secure accommodation.

Scottish Liberal Democrats welcome the changes because the state is ultimately responsible for those whose liberty has been taken from them. Because of our European convention on human rights obligations under article 2 on the right to life, it is a responsible step for any Government to examine deaths in such situations.

Because of that responsibility, and because the current review system lacks independence, we believe that further consideration should also be given to extending the requirement for a mandatory FAI to include the death of any person who is subject to compulsory detention by a public authority at the time of death, and that that should include people who are detained under mental health legislation. It was one of the most contentious areas that the committee explored during stage 1 and we were presented with many conflicting views from witnesses. The committee's stage 1 report asked the Government to consider further whether the bill should be extended in this way, with the proviso that the Lord Advocate could have discretion not to hold an FAI in particular circumstances—effectively flipping the current arrangements.

The Government has indicated that it feels that that would be disproportionate. Nevertheless, it acknowledges that the Mental Welfare Commission for Scotland believes that the current system for investigation of deaths of detained mental health patients is confusing and has gaps. Furthermore, the Scottish Government accepts that improvements should be made to how deaths in detention are investigated in practice, in order to ensure that the process is effective and timely, that it supports learning and that reviews are of consistent quality.

I challenge the Government's view that the bill is not the vehicle for such change, and I am grateful for the work of Dr Richard Simpson during the passage of the Mental Health (Scotland) Act 2015. To rely on that alone and, indeed, by the Government's own admission, to wait up to three years for a review of the arrangements for investigating deaths in hospital, risks missing learning points from events in the interim and does the families who are affected a serious disservice. I will, therefore, consider further whether there is scope to amend the bill at stage 2 to give effect to a more robust system.

Similarly, the Government responded to Lord Cullen's recommendation about looked-after children by saying that a national child death review system is currently being developed. The Government went on to explain that it is

anticipated that the steering group that is in charge of that review will recommend that the deaths of all live-born children and young people up to their 18th birthday, and of care leavers who have been in receipt of aftercare or continuing care up to their 26th birthday and who are resident in Scotland, should be reviewed.

I ask the minister to justify taking that two-tier approach rather than including those deaths in the mandatory FAI system. In its submission to the Justice Committee, the centre for excellence for looked-after children in Scotland did not support making such deaths subject to mandatory FAI and said that there is no certainty that that would lead to improvements in services for looked-after children and those leaving care. The whole point of FAIs is to learn from the deaths and to improve matters. The lack of confidence in the system that was evidenced in CELCIS's statement surely suggests that Lord Cullen's recommendation on sheriffs' recommendations needs to be reconsidered. That links back to Patricia Ferguson's work.

Although the committee report noted that there are difficulties in placing duties on certain bodies to monitor the implementation of sheriffs' recommendations, it also asked the Government to look at ways of ensuring that those recommendations are respected. I do not feel that the minister has sufficiently addressed that point this afternoon. I urge the minister to work very closely with Patricia Ferguson to improve the provisions at stage 2.

The bill goes quite some way towards putting the needs of families at the heart of the new system. An area of concern had been the requirement on families to submit a written request for the reason for not proceeding to an FAI, and it was suggested that the Government should amend the bill to remove that requirement. On reflection, I am content with the Government's response to that.

Parliament today has an opportunity to reform and modernise the system of FAIs in Scotland, and the Scottish Liberal Democrats will support the principles of the bill.

15:53

Gil Paterson (Clydebank and Milngavie) (SNP): The bill is yet another example of the Scottish Government's—and Parliament's—bid to implement progressive policies for the benefit of the people of Scotland.

The reforms to the 1976 act will modernise the process and make it more effective, efficient and fair. Crucially, the bill will strengthen existing legislation to include cases of deaths abroad. I will say a bit more about that later.

The bill will surely help the process and help families to come to terms with the daunting and often upsetting process of an inquiry at perhaps the most devastating time in their lives, when they have to cope with a family bereavement due to a fatal accident or sudden death.

As we all know, legislation has to be updated and to keep moving with the times; in my opinion, after 40 years, the bill will do exactly that. It will minimise delays and prevent families from being caught up in red tape, as has happened so often in the past.

The Justice Committee has asked the Government to reflect, wherever it has scope to do so, on evidence that has been received on elements of the bill. This far-reaching bill will, for the first time, allow for discretionary FAIs to be held into deaths abroad of people from Scotland whose bodies are repatriated. I am pleased that positive dialogue between the Scottish and UK Governments has brought that about. An example of the kind of case that could have a discretionary FAI is the 2009 case of Blair Jordan, who died when he fell to his death aboard the tanker British Pioneer, off the coast of Japan. Despite six years of searching for answers, his parents still believe that they do not have the full picture of how Blair died, because no independent investigation has ever been carried out. However, the bill will mean that other parents might not have to go through a similar agonising struggle for answers regarding the circumstances surrounding the death of their child.

The bill will also make provision for discretionary FAIs for Scottish service personnel who die abroad, affording them the dignity and respect that they and their families are due and, indeed, deserve.

Those are just some examples of how the bill—which will, broadly, implement the recommendations of the Cullen review—will extend the categories of death for which it is mandatory to hold an FAI. Further, it will update the definition of "legal custody" to include the death of a person while they are detained by the police, and the death of a child in secure accommodation. The bill will also empower bereaved families to ask the Lord Advocate to give written reasons for a decision not to hold an FAI, which might help with their coming to terms with their situation. The bill will also help to minimise delays at an upsetting time for families by introducing a requirement to hold a preliminary hearing in advance of an FAI and by encouraging the sharing and agreeing of evidence in advance.

The bill will allow more freedom of choice about the location and venue for an FAI. It is also important that the bill will allow FAIs to be re-opened or reconvened if new evidence comes to

light and will, in cases where the new evidence is substantial, permit a completely new inquiry to be held, which will remove the feeling of finality for families who feel that vital pieces of information have not been heard at an original inquiry.

To summarise this detailed and intricate bill in a short space of time is quite difficult, but I commend it in all its aspects as I believe that it will give greater access to justice for families who lose loved ones. Through the bill, the entire FAI process will become more accountable and efficient, and less harrowing for families who are going through a traumatic time. I am sure that I am not alone in believing that where legislation can do that, it should be done. I welcome the bill as a much-needed forward-thinking and modern piece of legislation that takes into account the terrible circumstances that families can find themselves in at times in their lives. Families who are looking for answers after the tragic death of a child will no longer face agonising delays waiting for answers, and the families of people who die abroad will not face mountains of red tape and delays as they struggle to cope with their bereavement.

Again, Scotland has shown that it can lead the way in modernising the justice system. After 40 years, the bill will create a fairer and more accountable process for the people of Scotland. I have no hesitation in backing this excellent bill and I fully expect it to have support from members of all political parties across the chamber. We in the Justice Committee have been taking evidence on the bill, which will bring FAIs into the 21st century and ease the pain of so many families throughout Scotland. I commend the bill whole-heartedly.

16:00

Jayne Baxter (Mid Scotland and Fife) (Lab): A discussion of fatal accident inquiries will inevitably be emotive. Families who have experienced the loss of a loved one often seek nothing more than an explanation for why that person died. We must ensure that public confidence in the system of FAIs is absolute, and that the systems surrounding FAIs are robust.

Lord Cullen's report into the Super Puma tragedy was a significant milestone in the modernisation of the FAI process. It has taken a long time for his recommendations to be considered fully by Parliament, but at least we can now continue the process of modernising this important area.

To that end, my colleague Patricia Ferguson introduced a member's bill. The Justice Committee recommended that her bill and the Scottish Government's bill be considered in tandem, because there are many areas of overlap between the two, and the committee referred positively to many aspects of her bill. I am therefore very disappointed, for Patricia and for all those who worked with her on that bill, that she feels that she should withdraw it, although I completely understand her reasons for doing so.

Putting that to one side for the moment, we should look at the bill that is before us today, in which there is much to support. Introducing the ability to hold discretionary fatal accident inquiries into the deaths of Scottish people abroad when their bodies are repatriated to Scotland is a sensible change. Increasing flexibility with regard to the geographical locations for inquiries and the sorts of building that can accommodate them is also a positive step.

It is anomalous that FAIs cannot currently be reopened, and that a further inquiry cannot be held, when new and compelling evidence arises regarding a case, so it is sensible that that has been changed.

There are, however, some deficiencies in the bill. Lord Cullen recommended in his investigation into the Super Puma tragedy that relatives who are represented at an FAI should automatically receive legal aid without having to demonstrate that it is reasonable in the circumstances. That seems to be fair, in view of the circumstances from which fatal accident inquiries arise. It is understandable that families of deceased people will be unable to lead evidence in chief and to cross-examine witnesses in relation to the death of a loved one. That problem is often exacerbated by the circumstances in which many FAIs arise, given that complex health and safety regulations or technical details of machinery and workplace rules are often at the centre of such inquiries.

Although the Justice Committee's report notes that FAIs are fact-finding processes and do not exist to establish guilt, I cannot support the conclusion that the committee has derived from that: namely, that deceased people's families do not require automatic legal aid. I note that the Law Society of Scotland does not support the committee's view in that respect either.

The milestone charter that has been proposed by the Crown Office, under which it will set out milestones at which it will give certain information to deceased people's families, is a positive step. It is, however, insufficient. I have concerns that that will become a formulaic administrative task, with information tending towards generic responses to families, a number of whom have raised concerns over the years about why an FAI was not held after their loved one's death. The Crown Office is resisting the introduction of a statutory right to request that it give reasons for a decision not to hold an inquiry.

However, it is clear that only a small number of families question such decisions each year, so the giving of reasons would therefore involve only a small administrative cost. In other contexts, the giving of reasons is a central plank of natural justice; it permits the public to understand the process that has been used to make a decision, and it increases confidence in Government systems. I do not think that the Crown Office has anything to hide in that context, so it should welcome the introduction of a statutory right for the families of deceased people who have not been granted FAIs to request reasons for that decision. As the Law Society has made clear, such a move would have

"minimal economic impact, but reinforce public confidence in Scotland's system for investigation of apparently self-inflicted deaths."

Under section 27 of the bill, a person to whom a recommendation of the sheriff is addressed must, if that person was a participant in the inquiry to which the recommendation relates, give the Scottish Courts and Tribunals Service a response in writing. The Law Society has rightly raised the issue of the lack of sanction for parties who fail to comply or to co-operate with that requirement, and the possibility of a concomitant protracted correspondence with such parties well after the conclusion of the inquiry. The bill should provide for a more robust approach in order to minimise the risk that such a situation will arise.

In summary, although it is disappointing that the Scottish Government has rejected the Justice Committee's recommendation that Parliament consider Patricia Ferguson's bill and the Scottish Government's bill together, the bill that is before us takes the FAI system generally in the right direction. The issues with the bill that have been raised by others, and which I have mentioned in my speech today, must be considered

16:05

Bob Doris (Glasgow) (SNP): On 29 January 2009, Colin Love went for a swim beside a beautiful beach on Margarita Island in Venezuela. I have mentioned Colin previously in the chamber. He was a young man, and a keen traveller. He did not return alive to Scotland. He drowned that day. It turns out that the waters where he swam were a notorious drowning spot. There were no warning signs, no lifeguards and no guidance from the Foreign and Commonwealth Office that the area might be a dangerous destination for travellers. No dangers were raised by the travel firms involved in Colin's carriage to Venezuela and the cruise that he was on.

There was also no fatal accident inquiry. Although I do not know whether, in that instance, there should have been one, I know that it was wrong that it was against the law to give the Lord Advocate discretion to have one if he or she saw fit.

I read about Colin's death in the *Evening Times*. One of the journalists there, Caroline Wilson, has since reported on the inspirational story of Colin's mum, Julie Love, on many occasions. Julie has campaigned tirelessly ever since Colin's death to improve support for families who have lost loved ones overseas. That includes her campaign to allow fatal accident inquiries to be held into the deaths of Scots who die abroad—not on every occasion, but at the discretion of the Lord Advocate. Her campaign and the work of the charity Death Abroad—You're Not Alone go far further than that, because they also focus on many ways of supporting families. If time allows, I will return to that.

I thank Caroline Wilson for a number of reasons. After reading Julie Love's story, I arranged to meet Julie to see how I could be of assistance. In the six years since then, I have got to know her incredibly well and I am privileged to call her a friend. I initially worked with her years ago to submit evidence to the Cullen inquiry. More recently, I have supported her with her petition to the Public Petitions Committee. In both cases, she sought to extend the scope of FAIs to include the deaths of Scots overseas. Lord Cullen accepted the case that she made and, only this week, the Public Petitions Committee agreed to keep her petition open, awaiting the outcome of the Scottish Government's Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill. I am delighted that the Scottish Government, too, has accepted her proposals and that they are contained in the bill.

I understand why people get so dismayed at the time that these things take. It took six long years to get to this stage and it is understandable that people should have concerns about that. However, we are getting there and the system works—although sometimes, perhaps, it does not work as quickly as we would like it to.

I want to look in more detail at the bill's provisions on discretionary FAIs into deaths overseas. The Lord Advocate needs to have discretion, independence and flexibility. However, how can he or she make an informed choice about when to use that discretion? When should there be post mortems when bodies are returned to Scotland? I know from meeting many families through Death Abroad—You're Not Alone that a post mortem that has been carried out in Scotland can often tell a very different story from the post-mortem that was conducted in the country where the loved one passed away. Surely a significant contrast between one post mortem and another indicates that something is not quite right. There

may be lots of provisions that can better inform the Lord Advocate, but I am trying to stress to the minister that the Lord Advocate can use such discretion only if he or she can bring an informed opinion to bear.

Will families of those who lose loved ones overseas be made aware of the provisions as a matter of course? There is a balance to be struck, because we do not want to distress families any more than is necessary. Tragedies happen—because of misadventure, because people have been unlucky or simply because of old age—and we do not want to distress families. However, where families think that something may be amiss, they must be at the centre when the Lord Advocate is informed. I ask for more information on that.

In cases where the body is not returned to Scotland, I agree that the Lord Advocate should have discretion. I know of a number of cases where bodies have not been not returned to Scotland because the families could not afford to bring them back. Indeed, some families could not save up to bring their loved one's body back because it was costing them money to keep the body in storage overseas. A cremation was their only option, because of financial constraints. We need to bear that issue in mind.

I would like to widen the debate a little. At the start of my speech, I said that I had no idea whether Colin Love's tragic death would have triggered a fatal accident inquiry if the bill had already been enacted. We had the bizarre situation in which we had to write to President Chávez in Venezuela to ask him to put lifeguards and signs on that beach. The travel sector did not cover itself in glory then, and I still think that it does not cover itself in glory in relation to such issues. Could a fatal accident inquiry in Colin Love's case have driven wider change? It might have identified that the treatment of my constituent by Foreign and Commonwealth Office link workers was pretty dismal, to be frank, and that there is no consistent way of delivering messages about a death to loved ones and next of kin in Scotland when someone passes away overseas.

I have campaigned with Julie Love for a number of years for the Scottish Government, Police Scotland, Victim Support Scotland and other Scottish agencies to give better support to families whose loved ones have passed away overseas. Death Abroad—You're Not Alone does a lot of voluntary work with goodwill, passion and commitment, but it needs more assistance. I accept that significant reserved matters are involved, but as a devolved Administration we have worked with the UK Government in partnership during the progress of the bill. Let us extend that. Let us work with Julie Love, Death Abroad—You're Not Alone and all the partner agencies to ensure that it is not just fatal accident inquiries that we get right for people who lose loved ones overseas, but the whole system, because right now it is not working.

16:13

Margaret McDougall (West Scotland) (Lab): I have just joined the Justice Committee, so I was not part of the bill's stage 1 scrutiny. I have listened with interest to the debate, and I have found it very informative to hear the differing views and concerns that have been raised.

I welcome the bill and support its general principles, and I see the need to update, modernise and clarify this aspect of the law. I believe that the scope of the bill could be increased, in line with some of the changes that were proposed in Patricia Ferguson's Inquiries into Deaths (Scotland) Bill, which was introduced during stage 1 of the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill. It would have been useful to compare and contrast both those bills in one debate, but the Government has decided that we should do otherwise. Patricia Ferguson withdrew her bill this afternoon, which I know was not an easy decision for her, but I am pleased to hear that she will lodge amendments to the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill.

I want to focus on two areas where I feel the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill could be improved: the family's role in the process; and issues relating to those detained under the Mental Health (Care and Treatment) (Scotland) Act 2003 that were raised at stage 1.

Having come to the process late, I will start by saying that I agree with the committee's view that we need greater clarity and understanding around fatal accident inquiries not only with regard to how everything fits together but in respect of the family's role in what can sometimes be a very difficult and complicated process. Right now, I feel that the bill does not have the balance right.

One of the central aims of Patricia Ferguson's bill was to make the investigation process quicker and more transparent and—critically—to give families a more central role. The two bills had similar themes with regard to keeping families involved in the process; that said, I believe that the Inquiries into Deaths (Scotland) Bill gave strength with its proposal to introduce timescales in order to cut delays. After all, some people can wait for more than five years to find out whether an FAI will be held. I note that not all the evidence to the committee supported that idea, but I would argue

that we need a duty to keep the family updated every step of the way.

Communication with regard to work preceding an FAI also needs to be strengthened, and the family should be kept updated on that process. In addition, I agree with the committee's view that the Lord Advocate should be required to provide in writing the reasons why an inquiry is not to be held without the family having to request that information. I realise that that might be more time consuming, but we must remember that the family, who will be grieving, might be the only ones who have the interests of the deceased at heart.

I find it odd that the minister seems to have rejected, flat-out, calls for mandatory FAIs for those detained under the Mental Health (Care and Treatment) (Scotland) Act 2003, even though the system has been described as confusing and as containing gaps. In fact, I find the rejection odder still, given that the bill will update the definition of legal custody to cover any death that occurs in police detention. I understand that, in a lot of cases, an FAI will be unnecessary and unwanted, but, interestingly, the Mental Welfare Commission for Scotland has proposed a two-tier system in which deaths that are clearly from natural causes or which show no cause for concern are not investigated while all other deaths are.

I wonder whether the minister plans to look at that issue again, keeping in mind the committee's recommendation that the Scottish Government revisit the issue of mandatory FAIs for those detained under the 2003 act and taking into account the Scottish Human Rights Commission's evidence that mandatory FAIs might help to deal with some of the human rights concerns that were raised at stage 1. I urge the Scottish Government to improve the system during the bill's later stages and not only to introduce a robust investigation system that closes the gaps with regard to deaths of those detained under the 2003 act but to rationalise and formalise the current process, as suggested by the Justice Committee.

As I said, I welcome the bill's general principles and will support them, but I feel that certain aspects could be improved. I hope that the Scottish Government takes on board the feedback from both the committee and today's debate, and I look forward to seeing the amendments that it lodges to tackle the issues that have been raised this afternoon.

16:19

Mike MacKenzie (Highlands and Islands) (SNP): As a layperson—that is, a non-lawyer who is not a member of the Justice Committee—I do not propose to talk much about the technicalities of the bill. Instead, my focus will be on the effect that it will have, or that I hope it will have, outwith the Parliament and outwith the courts in which our lawyers labour.

The bill attempts to address two concerns, which both have much merit. The first is the grief and anguish that is suffered by families and friends who have experienced bereavement in tragic circumstances. I have lost family and friends in that manner, so I know at first hand how important it is to have some understanding of how the tragedy occurred. For many, their faith sustains them in such circumstances and provides some help. For others, there is a loss of faith. For all, there is a need to try to understand and find some explanation that will allow them to make at least some sense of what is often an apparently senseless tragedy.

The desire to understand the world in which we live, with all its uncertainties, is a very human trait—perhaps the most human trait. Burns expresses it well in "To a Mouse" when he says,

> "Still thou art blessed, compared wi' me!
> The present only toucheth thee:
> But och! I backward cast my e'e
> On prospects drear!
> An' forward, tho' I canna see,
> I guess an' fear!"

Perhaps the need to understand becomes all the more urgent when we suffer bereavement because the need to protect our remaining loved ones is thrown into sharp focus when we suffer tragedy; perhaps it is because we are reminded of our own mortality and of how precious life is; or perhaps the reason is that the understanding of such tragedy is a necessary part of the grieving and the healing that we hope that affected individuals can achieve. Whatever the exact reasons, the need to understand is part of the essence of our humanity. I therefore commend the bill as a humane bill. As imperfect as any of our legislation might be, it is a step in the direction of greater humanity and, as such, should be welcomed.

There is a community need to understand such tragedies, too. I have lost three friends over the years from the small rural community in which I live—they were fishermen and were all young men in the prime of life—and I know how whole communities are affected when we experience such tragedies. I remember only too well the tangible pall that has hung over my community for many days on each sad occasion. The sombre talk is always about how this might have happened and why. At a community level, there is a need to understand and to try to make sense of what is apparently senseless.

Part of the intent of fatal accident inquiries has to be about achieving public understanding of such accidents, with a view to learning lessons so

that we can avoid such tragedies. We have come a long way on better workplace health and safety practice over the period in which I have worked in the fishing and the construction industries, which are known to have high-risk aspects and in which more work needs to be done. I remember working practices that were common in my youth but which are quite unthinkable now. In fact, I shudder to think of the risks that we routinely took and thought nothing of—so much so that, in an entirely rational way, I regard myself as lucky to be alive.

There is no doubt in my mind that the better regard that we now have for human life and safety has been driven in no small part by lessons that we have learned from fatal accident inquiries. We should think a bit about that as we complain about regulation because, in our work to streamline regulation and to make it work better, we must not lose sight of everything that better regulation has done to lessen the possibility of tragedy and loss.

There are, no doubt, aspects of the bill that can be improved. I leave others to comment on that as the bill passes through Parliament. However, as I understand that it will replace and repeal an act that was passed in 1976, I can say that it is surely time that we updated our thinking. I am therefore pleased to support the general principles of the bill.

16:25

John Finnie (Highlands and Islands) (Ind): The bill is technical but, as Mike MacKenzie eloquently highlighted, no one in the debate has lost sight of its human element. We would do so at our cost—it is important to recognise that. The bill has been 40 years coming, and the minister talked about its needing to be effective, efficient and fair. I feel that, by and large, it is, and for that reason I will support its general principles.

I am grateful to all those who contributed to the committee's stage 1 proceedings and appreciate that, for many, it cannot have been easy. We heard from families against corporate killers, for which Louise Taggart is a tireless worker. She told us of the tragic circumstances of her brother's death.

Patricia Ferguson has been a very able contributor in getting us to where we are now and has voiced her frustration at the failure to act in a timely way on what seemed very apparent, which resulted in other lives being lost. I was looking forward to speaking in next week's debate on her bill. Her bill had a lot to commend it, and I will return to elements of it later. I certainly commend her for her tireless work.

Members have talked about the notable exceptions in implementing Lord Cullen's review, and I was sympathetic to the proposals that were made about extending mandatory FAIs to cover children who die in residential care, other than those who die in secure accommodation, as well as those who die while subject to compulsory detention by a public authority. We heard how the review process could, in some instances, cause families distress rather than reassure them, and we must appreciate those concerns. Importantly, though, I heard nothing to suggest that, when appropriate, an FAI would not be called.

The term "public interest" has been used a lot, and FAIs are undertaken in the public interest. However, at this time, only the PF can apply for a fatal accident inquiry. Like other members, I am pleased that the bill provides the opportunity to reopen an FAI if new evidence comes to light.

I have sat through an FAI, and it was not a pleasant event. It related to a death in custody, and various interests had to be served. There were various tensions, and I hope that lessons were learned from it.

I welcome the requirement that the Lord Advocate must provide written reasons for why an FAI should not be held.

On the proposals that relate to mental health legislation, our stage 1 report states:

"The Committee asks the Scottish Government to further consider whether the Bill should be extended to include mandatory FAIs for both these categories of death"—

that is, deaths of persons who were detained under mental health legislation and deaths of looked-after children. It is important to put down a marker that we asked for that.

My colleague Alison McInnes talked about flipping, and it is pivotal that we get feedback from the Lord Advocate on the relationship between the causes for holding FAIs and whether those FAIs are mandatory or discretionary. It is clear that the existing arrangements are not understood and, because of that, many families have felt disenfranchised.

We are told that families have a point of contact in the PF's office so that they can raise any issues or concerns directly, and the committee set great store by what we heard from the Solicitor General about the milestone charter and the undertaking to meet families and provide regular updates. As we know, it is the not knowing that causes concern—there is never an instance of having too much information on a subject as important as this. I therefore welcome the minister's assurance that those matters will be put on a statutory footing.

Paragraph 51 of the committee's report states:

"The Committee considers that, in the interests of those who have lost a loved one in often tragic circumstances and who must navigate the system, it is imperative that there be greater clarity and understanding around FAIs,

their purpose and how they relate to other death investigations and civil or criminal proceedings."

That is important, and we have heard about the relationships between those.

Often in such instances—other members will have come across this—people ask who represents the family's interests, and they do not understand the simple response that it is a PF acting in the public interest who represents the family's interests. We heard compelling evidence from families against corporate killers about the implications of not having legal aid. It is often the main breadwinner of the family who is the subject of the fatality.

Paragraph 172 of our report says:

"We believe it is imperative that families, trade unions and staff associations are able to participate in a meaningful way in an FAI and that families are represented appropriately and are kept informed throughout the process."

Trade unions play a pivotal role.

It is important that we make every effort to explain the relationship between the Health and Safety Executive, the air accidents investigation branch and the other bodies involved.

We are keen for the sheriff's recommendations to be respected. When lives have been lost, lessons must be learned. The issue of delays is also very important.

I am pleased that the Scottish Government is keen to act on deaths abroad and not to have the requirement for the body to be repatriated. We also took reassurance on the issues around service personnel.

We are trying to achieve, at the moment and for the future, an understanding of where and when a death took place, the cause of that death, any reasonable precautions that could have been taken to avoid it, whether there were defects in workplace practice that contributed to it, and any other relevant factors.

I keep coming back to the point about delays. I understand Patricia Ferguson's position, and I share the concern of other members that things could be lost, although I hope not. I will pay great attention to the amendments that Patricia Ferguson lodges next week, not least on how we take forward the actions that the sheriff determines.

A number of matters are reserved, but a number of them are devolved so, at the very least, we could start picking up on the things that we can do.

The Deputy Presiding Officer: Before we move to the closing speeches, I invite all members who have taken part in the debate to join us for them.

16:32

Annabel Goldie (West Scotland) (Con): I, too, welcome the opportunity to speak in this stage 1 debate on the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill. It is clear that the principle underpinning fatal accident inquiries is long-standing and still sound. They were introduced in 1895 but, as has been recognised by all of us in the chamber, there is a need to modernise and reform the system of fatal accident inquiries.

I am pleased that the Justice Committee has expressed support for the general principles of the bill at stage 1 and I, too, thank the convener, the clerks and the members of the committee for their contributions.

The bill is based on a number of sensible recommendations by Lord Cullen. I do not propose to consider them in detail, although I note with interest—Patricia Ferguson observed this—that his review started in 2008 and was completed expeditiously in 2009.

We know, and the Scottish Government has acknowledged, that FAIs are often beset by delays. One witness during the stage 1 scrutiny of the bill indicated that some families have had to wait for up to seven years simply to find out that an FAI is not to take place. In other instances, the commencement of an FAI has taken up to four years. The introduction of the bill is certainly overdue. I praise Patricia Ferguson for her spirited efforts in keeping this matter before the Parliament. She has metaphorically put a foot on the Scottish Government's accelerator—not somewhere, I suspect, where a foot is often to be found, but all power to her for what she has achieved.

FAIs may be in the public interest but, as numerous members have observed, they also offer the deceased's relatives crucial answers regarding the circumstances surrounding the death. It is deeply unfair to prolong that uncertainty unnecessarily, and the closure that such an inquiry could afford.

Two recent tragedies have crystallised the contradictions that are inherent in the current system governing FAIs in Scotland. It has been reported extensively in the press that the families of those killed in the Clutha pub helicopter disaster remain concerned that an FAI into the accident is not yet under way. Meanwhile, an inquiry into the circumstances surrounding the Glasgow bin lorry tragedy began just seven months after that accident took place.

We know that there may be good reasons for delaying the start of an inquiry in the case of the Clutha tragedy—I understand that the final report from the Air Accidents Investigation Branch is still

awaited—but such a system is confusing and seemingly contradictory from the point of view of the deceased relatives, who will understandably be unfamiliar with the necessary protocols and procedures.

In the light of those considerations, I join other members in welcoming the proposed milestone charter. It combines flexibility with specific points for sharing information with families. The charter must be robust, and I sincerely hope that the Scottish Government and the Lord Advocate will prioritise communication with bereaved families and keep it under proactive review once the bill is passed.

An FAI is an inquisitorial process that seeks to establish the facts that are relevant to the circumstances of the death. That is what the inquiry exists to do but, in his review, Lord Cullen emphasised:

> "It is true that an investigation of the circumstances of a death in an FAI may disclose grounds for criticism, from which a basis for alleging fault may be inferred. That may be unavoidable if the FAI is to fulfil its function of investigating the circumstances of the death."

That means that no witness who is involved in an FAI can be compelled to answer any questions that might imply that they are guilty of a criminal offence. Arguably, that might limit the usefulness of such inquiries in some circumstances.

That tension has been reflected in the FAI into the Glasgow bin lorry tragedy. Prior to the FAI, the Lord Advocate decided not to prosecute the driver but, because of the possibility of a private prosecution, the driver has declined to answer a number of questions on the ground that he might incriminate himself. Therefore, there is a risk that a process that should be inquisitorial becomes conflated with an adversarial one.

Fatal accident inquiries are undertaken to establish the facts—the where, the when and the why; whether any precautions could have been taken, whether there were any defects in the system and whether there were any other contributory factors. To learn the necessary lessons, we need a holistic picture, not an incomplete one.

That brings me to a matter to which Mr Finnie referred in his speech. The Law Society of Scotland has expressed concern that Lord Cullen's recommendation that relatives who are represented at an FAI should be entitled to receive legal aid without having to demonstrate that it is reasonable in the circumstances is omitted from the bill. The society rightly observes how daunting it is for those who attend a quasi-court occasion to be subjected to cross-examination. It takes the view that the expense of increasing the availability of legal representation would be minimal in relation to the entire legal aid budget.

The minister should consider that carefully. We really want an exhaustive examination of facts and we may be much more likely to get that if people understand what they are doing, where they fit into the process and what exactly they are expected to contribute.

Some members, not least Patricia Ferguson, have mentioned the important issue of the sheriff's recommendations following the conclusion of an FAI. The Law Society has expressed concern about the absence of sanction in the event of non-compliance or non-co-operation with the sheriff's recommendations. That is a justifiable concern and I hope that the minister will reflect on that.

The bill does much to modernise and reform fatal accident inquiries. Those changes are to be commended. They represent a positive development of our legal system in Scotland. However, I urge the minister to consider how FAIs interact with other court proceedings. That seems to be a somewhat unresolved tension.

Those comments notwithstanding, the bill is needed, it does a good job and my party will support it at decision time.

16:39

Elaine Murray: Fatal accident inquiries are inquiries into the circumstances of a death that are undertaken in the public interest to determine the time, place and cause of death, and to establish whether lessons can be learned to prevent similar fatalities in the future.

A number of very thoughtful speeches have been made. As we have heard, fatal accident inquiries are intended to be inquisitorial rather than adversarial, although they can be adversarial at times, and they do not attempt to allocate guilt in the criminal or civil sense. However, as Willie Coffey said, they can often be critical of people and, as Patricia Ferguson said, they can be highly adversarial, particularly in employee-versus-employer situations. As John Finnie said on the basis of his experience of an FAI into the death of a person kept in custody, they are not a pleasant experience. There is not a box marked "inquisitorial" for nice little inquiries and one marked "adversarial" for what happens in court. There is overlap between the two. The position is not as simple as it might at first seem to be.

Several members made interesting comments about what "the public interest" means and how it is defined. That is a fundamental question. We all blithely talk about things being in the public interest, but do we really understand what that means?

Christine Grahame: I will give a hypothetical example. Let us say that a young mother who is suffering from severe postnatal depression and who has not been given the appropriate support and help takes the life of her child. A crime will have been committed, but the Lord Advocate might take the view that it is not in the public interest to prosecute, and I think that we would all agree with that. That is an example of a situation in which it is not in the public interest to prosecute in criminal proceedings.

Elaine Murray: Indeed—and I think that there was a recent case of that type. However, an example does not provide a definition. In that case, the public interest is easier to understand, but there are other cases in which what the public interest is is less easy to understand. As Patricia Ferguson said, preventing fatalities is surely in the public interest—that is about learning the lessons of fatal accidents.

As has been mentioned, the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill is not the only bill that has been introduced to address Lord Cullen's recommendations. Patricia Ferguson told us that she deliberately intended some of the proposals in her bill to be more radical than some of Lord Cullen's recommendations. The Justice Committee recommended that the general principles of both bills be supported. Because of the time constraints that exist as we come to the end of a parliamentary session and the priority that is quite rightly given to Government bills—that has always been the case—Labour members of the committee were prepared to agree that the Government's bill was the best vehicle to progress modernisation of the legislation on the fatal accident inquiry process in the few months of the session that we have left.

As we have heard, Patricia Ferguson has accepted that recommendation and withdrawn her bill with immediate effect. I would like to pay tribute to her for the work that she did on her bill. It must have been extremely difficult for her to decide to withdraw the bill after all the hard work that she and her staff and Patrick McGuire of Thompsons Solicitors had put into drafting and explaining it, especially given her experience with her constituents. She must have had a strong emotional desire to try to sort things out after going through that experience. I pay tribute to her for that. I am not quite sure what her decision means for Tuesday's debate—I would have thought that it can no longer proceed, now that there is no bill to debate. I suppose that that will be a problem for the business managers on the Parliamentary Bureau to resolve.

I assure Patricia Ferguson that members of the committee will make their best efforts to fulfil her expectation that aspects of her bill will be progressed in the Government's bill. I think that that commitment would probably be made across the chamber, although there is not uniform agreement on the areas in which amendments should be made to the Government's bill. I look forward to the Government working with Patricia Ferguson to make the necessary amendments.

Many members, including Johann Lamont, Christian Allard and Mike MacKenzie, have spoken about the importance of the families of the deceased. We all agree that they must be central to the FAI process. Although the purpose of an FAI is to determine what lessons can be learned in the public interest, families must be kept informed about decisions, and decisions have to be made timeously. We must see an end to people waiting years just to be told that a fatal accident inquiry is not to be held. As Johann Lamont said, families have a desire for justice and their day in court; they seek explanations, not the sort of recompense that a civil action may result in. Often that is not what people want. Willie Coffey spoke about the journey of the family of his constituent Alison Hume and the lack of closure that the process had for them.

As we know, the bill does not take forward a number of Lord Cullen's recommendations, such as the extension to include children who died in residential care other than secure accommodation and the deaths of people in compulsory detention by a public authority. A number of members asked questions about that.

Johann Lamont spoke about people who died in healthcare settings. Medical procedures may not have been followed, for example. I think that many of us have had cases—I certainly have—in which constituents have been unhappy about the fact that the health service investigates itself and there does not seem to be any independent arbiter. The deaths may be those of elderly people in healthcare settings, and families may have a suspicion that the elderly person was not considered important enough to receive some of the treatment that they might have received if they were younger.

Alison McInnes and Margaret McDougall made an important point about people who are detained under mental health legislation. Perhaps we should turn the process on its head and have mandatory inquiries in those circumstances but give the Lord Advocate discretion not to hold an inquiry when the cause of death is known—if it was by natural causes, for example—or there is no cause for concern. That was the Mental Welfare Commission for Scotland's suggestion.

Christine Grahame: Will the member take an intervention?

Elaine Murray: No, I am sorry. I have only a couple of minutes left. I would like to wrap up and refer to a few other things that have been said.

Johann Lamont, Jayne Baxter and Annabel Goldie in her summing up referred to the need for people who are represented at an FAI to be entitled to legal aid without having to show that that is necessary. From everything that we have heard today, the process is extremely complex. People will be cross-examined and will find themselves in unusual circumstances. I hope that the Government will look again at Lord Cullen's recommendation about that.

Bob Doris spoke about his constituent Colin Love, who died in Venezuela. Colin Love's mother, Julie Love, gave compelling evidence to the committee. I am pleased to hear that the bill will be amended at stage 2 to include deaths in respect of which it is not possible for the body to be repatriated. That will be welcomed by members across the chamber.

A number of members have spoken about the anomaly in relation to deaths of members of the armed forces serving in Scotland. We hope that that will be resolved.

John Finnie referred to the importance of including trade unions and staff associations. I also included that in my speech. That omission should be rectified at stage 2.

Jayne Baxter was probably the only member who welcomed the extension of the premises in which an FAI can be held. That will be of benefit to families and will enable them to attend fatal accident inquiries more easily. We look forward to hearing more about that.

To conclude, there is merit in both the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill and Patricia Ferguson's bill. Many of us are looking forward to the amendment processes at stages 2 and 3. I hope that many of the points that members have made will be taken on board and progressed then. Meanwhile, we are happy to support the bill.

16:49

Paul Wheelhouse: I have listened to the debate with great interest. When I made my opening speech, I was not aware that Patricia Ferguson had withdrawn her bill. I again pay tribute to her for the hard work that she put into that bill, and I commit to working with her on the areas that we have already discussed where we believe that we have common ground.

With that in mind, I want to respond to an intervention from Patricia Ferguson in which she raised the issue of potential reports to Parliament. I am willing to look at that proposal sympathetically. Obviously, we would want a system that was as streamlined as possible—perhaps one that looked at areas by exception, where recommendations had not been complied with. I am willing to entertain discussion with her on that point.

The Scottish Government's Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill modernises the way in which fatal accident inquiries are handled in Scotland. I believe that it provides the legislative framework that is needed to implement the Cullen recommendations in order to build on the reforms that the Crown Office has already carried out by establishing the Scottish fatalities investigation unit, which now oversees death investigations in Scotland.

The bill contains several new initiatives, including greater flexibility for the location of FAIs, which Elaine Murray and others mentioned; discretionary FAIs into deaths abroad; and the possibility of reopening or rerunning an FAI if new evidence appears, which Willie Coffey and others mentioned. The bill will underpin the new charter for bereaved families, on which the Crown Office has consulted. I will come back to that shortly.

The proposals that require parties to whom sheriff's recommendations are addressed to respond and indicate what they have done by way of implementation will foster compliance, although I reiterate the point that I have just made to Ms Ferguson. It is worth noting, however, that we understand that the response rate in the equivalent process under the coroners system in England and Wales, which takes a similar approach, is 100 per cent, and we anticipate a high response rate in Scotland as well. Most parties to whom sheriff's recommendations are addressed are only too keen to demonstrate compliance with them. Indeed, many such parties attend the inquiries and are able to hear the evidence as it unfolds, and they may take action to address points before the inquiry concludes.

Nigel Don (Angus North and Mearns) (SNP): I have long been concerned about an extension of that point. A recommendation to a particular employer that it does something will obviously be worked on, but I see no mechanism whereby the industry in general is told about it. That will not be in the statute, but I wonder whether the Scottish Government can do something administratively to ensure that, where appropriate, recommendations are circulated more widely.

Paul Wheelhouse: I thank the member for that point, which is a valid one. The party is required to report back to the Scottish Courts and Tribunals Service. If we deploy a reporting mechanism as discussed, it would flag up any anomalies where an industry or individual companies or representatives had not responded. However, I

take the point. I also note that, under our proposals, it is within the sheriff's powers to contact the appropriate regulator for the industry to make it aware of the concerns that have been raised in the inquiry and draw its attention to the recommendations that have been made.

As I said earlier, Lord Cullen, a former Lord President of the Court of Session, is an acknowledged expert on public inquiries. I say to those who believe that his recommendations did not go far enough that I hope that we will be able to set out how we can address any issues. It is clear that the Scottish Government's legislative proposals, which closely follow Lord Cullen's recommendations, were widely welcomed in the Scottish Government's consultation last year.

I turn to address, as much as I can, the points that colleagues throughout the chamber raised during the debate. Christine Grahame set the scene very well in her speech on behalf of the Justice Committee. I thank the committee again for its deliberations, and also the clerks. On delays, the Scottish Government recognises the need for bereaved families to be kept informed of progress with death investigations and we firmly believe that the Crown Office's charter—the "milestone charter", as it has been dubbed—will provide reassurance and enhance public confidence in the system. Putting it on a statutory footing obviously gives it more clout.

I want to reassure members on the charter, as I know that some have not seen the detail of it yet. The Crown Office has circulated it to appropriate stakeholders who represent families. The feedback that we have received has broadly been positive, but we are taking on board some points, particularly on communication between the Crown and families and the need for different approaches. Rather than a one-size-fits-all approach, we should have an approach that is sensitive to individuals' requirements so that communication is done in appropriate ways. For example, face-to-face meetings should not be required if they would be inappropriate.

I reiterate that it is proposed that the Crown Office will offer to meet bereaved families within three months of the date on which the death is reported to it, in order to give them an update on the progress of the death investigation and, we hope, an explanation if there is consideration of a criminal inquiry or some other hold-up in the process. That will make families aware of why that is the case and what to expect in terms of the potential duration of inquiries.

A number of members mentioned the Air Accidents Investigation Branch. As we know from certain recent inquiries, lengthy and technical considerations are required, so some degree of delay is inevitable, but that must not prevent us from communicating better with families. I take that point on board, and the milestone charter seeks to ensure that there is a better flow of information to families.

The Government is minded to support an amendment to the bill that will put the charter on a statutory basis, as Patricia Ferguson suggested. I acknowledge her work in raising the issue.

Patricia Ferguson: Does the minister accept that the issue is not just how quickly families are communicated with but how quickly the decision is made and then communicated to them?

Paul Wheelhouse: I take the point that it is desirable that information should be given to families as early as possible. As I am sure Patricia Ferguson is aware, some things are outwith the control of the Crown Office or Police Scotland in that regard. However, we are keen that families should be kept as well informed as possible.

Johann Lamont referred to the public interest, as did other members. The Solicitor General for Scotland, in evidence to the Justice Committee, said:

"The family interest is part of the public interest".—[*Official Report*, *Justice Committee*, 26 May 2015; c 17.]

I very much take the point and I reassure Johann Lamont that the family's interest is included in the definition of "public interest". The point has been well made and noted.

John Finnie: Will the minister give way?

Paul Wheelhouse: I must ask the member to be brief.

John Finnie: Does the minister accept that sometimes there is a tension when the family does not want something to be pursued that would be in the public interest?

Paul Wheelhouse: I can see that there is the potential for the situation that John Finnie describes—I am not aware of specific cases, but I understand the theoretical possibility.

I welcome the support from all parties for our proposals on military personnel, and I thank UK ministers for giving their consent to the process.

Christine Grahame: Is there any timescale for movement on that issue?

Paul Wheelhouse: That is not in the gift of the Scottish Government, but I understand that the UK Government is willing to move quickly and I anticipate that if the bill is enacted there will be a swift process to bring forward a section 104 order in the Parliament in London.

I have addressed Patricia Ferguson's point about an annual return.

Elaine Murray made valid points about areas of agreement between us, although she was concerned that we had not made progress in relation to looked-after children and children in care. During evidence to the committee, Glasgow City Council said:

"the current measures are sufficient."—[*Official Report*, *Justice Committee*, 12 May 2015; c 43.]

The witness from Glasgow City Council went on to support the Government's contention that a mandatory FAI is not needed in every case of a death of a child in care. However, the bill, like Patricia Ferguson's Inquiries into Deaths (Scotland) Bill, provides for a mandatory FAI into the death of child in secure accommodation.

I reassure members that the Scottish Government set up a child death review working group to explore current practice in reviewing child deaths in Scotland and to consider whether Scotland should introduce a national, collaborative, multi-agency system. The group is due to report in autumn, so we will not have long to wait for something definitive from the exercise.

I welcome the support from many members on the provisions in relation to deaths abroad. I think that there is broad agreement on the issue, so I will not say more. However, I acknowledge the point that Bob Doris made about the tragic circumstances of Julie Love's son's death. I acknowledge the strong contribution that Julie Love and her organisation have made to the debate. I also acknowledge Mr Doris's input on the issue.

In response to a point that Margaret Mitchell made, I clarify that the provisions in the proposed section 104 order will cover the deaths of service personnel in Scotland and will not deal with the deaths of service personnel overseas, which are dealt with in the Coroners and Justice Act 2009.

Patricia Ferguson stressed the radical nature of her proposals. I hope that the milestone charter will be a strong step towards dealing with her main concerns, which are driven by her experience of helping families. I appreciate that we still have to have some discussion on that front.

There was considerable debate about the potentially adversarial nature of FAIs, and I acknowledge that inquiries can be more adversarial than we would like them to be. That is not to say that we should not do more to make them less adversarial, so that we can get to the truth without stoking up adversarial debate.

That also relates to the issue of legal aid, which a number of members raised. The provisions in the bill have been designed to ensure that legal aid might be provided in such circumstances, perhaps when the Crown does not propose to raise questions about something that is of interest to the family. As long as the eligibility criteria are met, legal aid can be used to provide support for family members in those circumstances.

Johann Lamont mentioned NHS deaths. Public interest covers the family's interest but the Crown must consider the circumstances of death on a case-by-case basis, and the Lord Advocate may exercise discretion if there is public concern.

I am conscious of the time, Presiding Officer—

The Presiding Officer (Tricia Marwick): Yes. You need to wind up.

Paul Wheelhouse: The debate has been fascinating and I welcome the broad support of members from across the chamber for the general principles of the bill. I acknowledge the work that Patricia Ferguson put into her member's bill; I also acknowledge that she is willing to work with me, and I look forward to that. We wish to work constructively with Patricia Ferguson and other members, but we agree with the Justice Committee that the Government's bill is the best vehicle for reform of fatal accident inquiries.

I commend the motion.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There is one question to be put as a result of today's business. The question is, that motion S4M-14328, in the name of Paul Wheelhouse, on the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill.

Meeting closed at 17:01.

This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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