



OFFICIAL REPORT
AITHISG OIFIGEIL

Meeting of the Parliament

Wednesday 2 November 2016

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Wednesday 2 November 2016

CONTENTS

	Col.
PORTFOLIO QUESTION TIME	1
ECONOMY, JOBS AND FAIR WORK	1
Decommissioning Jobs	1
Youth Unemployment	4
European Union Funding	6
Business and Trade (Non-European Union Countries)	8
FINANCE AND THE CONSTITUTION	10
Treasury (Meetings)	10
Local Authorities (Fiscal Autonomy)	11
Procurement Policy (Best Value)	13
Scottish Public Sector Green Information and Communications Technology Strategy	14
Scottish Futures Trust	15
Public Contracts (Prompt Payment)	15
Small Businesses (Taxation Policy and Insolvency)	16
European Union Funding	17
NATIONAL HEALTH SERVICE (AUDIT SCOTLAND REPORT AND SERVICE DEVELOPMENT)	19
<i>Statement—[Shona Robison].</i>	
The Cabinet Secretary for Health and Sport (Shona Robison)	19
SECTARIAN BEHAVIOUR AND HATE CRIME	32
<i>Motion moved—[Douglas Ross].</i>	
<i>Amendment moved—[Annabelle Ewing].</i>	
Douglas Ross (Highlands and Islands) (Con)	32
The Minister for Community Safety and Legal Affairs (Annabelle Ewing)	35
Claire Baker (Mid Scotland and Fife) (Lab)	39
Oliver Mundell (Dumfriesshire) (Con)	41
Rona Mackay (Strathkelvin and Bearsden) (SNP)	42
James Kelly (Glasgow) (Lab)	44
John Finnie (Highlands and Islands) (Green)	45
Liam McArthur (Orkney Islands) (LD)	47
Gordon Lindhurst (Lothian) (Con)	48
James Dornan (Glasgow Cathcart) (SNP)	50
Kate Forbes (Skye, Lochaber and Badenoch) (SNP)	51
Mary Fee (West Scotland) (Lab)	52
The Cabinet Secretary for Justice (Michael Matheson)	54
Murdo Fraser (Mid Scotland and Fife) (Con)	56
NATIONAL HEALTH SERVICE	59
<i>Motion moved—[Donald Cameron].</i>	
<i>Amendment moved—[Shona Robison].</i>	
<i>Amendment moved—[Anas Sarwar].</i>	
Donald Cameron (Highlands and Islands) (Con)	59
The Cabinet Secretary for Health and Sport (Shona Robison)	62
Anas Sarwar (Glasgow) (Lab)	65
Miles Briggs (Lothian) (Con)	67
Ash Denham (Edinburgh Eastern) (SNP)	69
Neil Findlay (Lothian) (Lab)	71
Alison Johnstone (Lothian) (Green)	72
Alex Cole-Hamilton (Edinburgh Western) (LD)	74
Ross Thomson (North East Scotland) (Con)	76
Clare Haughey (Rutherglen) (SNP)	78
John Mason (Glasgow Shettleston) (SNP)	79
Colin Smyth (South Scotland) (Lab)	81
Shona Robison	82
Brian Whittle (South Scotland) (Con)	84
BUSINESS MOTION	88

Motion moved—[Joe FitzPatrick]—and agreed to.

PARLIAMENTARY BUREAU MOTIONS 90

Motions moved—[Joe FitzPatrick].

DECISION TIME 91

WELFARE CONDITIONALITY STUDY 101

Motion debated—[Sandra White].

Sandra White (Glasgow Kelvin) (SNP) 101

Adam Tomkins (Glasgow) (Con) 104

Neil Bibby (West Scotland) (Lab) 106

Clare Haughey (Rutherglen) (SNP) 108

John Finnie (Highlands and Islands) (Green) 110

Joan McAlpine (South Scotland) (SNP) 112

Annie Wells (Glasgow) (Con) 114

Pauline McNeill (Glasgow) (Lab) 116

Clare Adamson (Motherwell and Wishaw) (SNP) 118

The Minister for Employability and Training (Jamie Hepburn) 119

Scottish Parliament

Wednesday 2 November 2016

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

Portfolio Question Time

Economy, Jobs and Fair Work

Decommissioning Jobs

1. Jenny Marra (North East Scotland) (Lab):

To ask the Scottish Government what progress it is making with keeping decommissioning jobs in Scotland. (S5O-00271)

The Minister for Business, Innovation and Energy (Paul Wheelhouse): Our commitment and approach to the opportunities that are presented by decommissioning are clearly outlined in the programme for government. On behalf of the Scottish ministers, Scottish Enterprise is developing a decommissioning action plan, which should be published by the end of the calendar year. At our instruction, Scottish Enterprise and Highlands and Islands Enterprise are carrying out work to identify potential sites for investment with a view to increasing capacity for larger decommissioned units to come ashore at our ports and harbours.

It is important to recognise that decommissioning the top-side infrastructure is a relatively small share of the overall contract value and many Scottish supply chain companies are very active in the decommissioning market. We hope to further support them in the future. Our transition training fund is also available to help those who were made redundant from the oil and gas industry to retrain for opportunities that might arise in decommissioning. The Cabinet Secretary for Economy, Jobs and Fair Work and I will chair a meeting later this month with North Sea operators that are involved in decommissioning projects to better understand the opportunities in decommissioning, as well as the challenges that our oil and gas supply chain faces in maximising those opportunities.

Jenny Marra: I note that the minister did not give a commitment to publish the strategy before Christmas, which was the previous commitment. Will a high-level strategy working group chaired by him or the cabinet secretary be included in that action plan? Is the minister satisfied so far with the engagement of Scottish Enterprise in decommissioning opportunities? After meetings Scottish Enterprise, I am not convinced that there

are a sufficient number of people working on that full time.

Will the minister accept my invitation to visit the port of Dundee as a potential decommissioning site before Christmas?

Paul Wheelhouse: There are a number of issues there. On the role of the high-level working group, there will certainly be a strong level of ministerial engagement. The cabinet secretary and I—and, indeed, the First Minister—have all been involved in discussions on decommissioning, and I give a commitment to Jenny Marra and to other members who are interested in the issue that there will be a high level of ministerial engagement in the subject.

On Scottish Enterprise's role, it should be recognised—and I hope that Jenny Marra will be pleased to know—that the Scottish supply chain is already capturing much of the offshore decommissioning work. That is according to companies that are involved in the sector, including Maersk, which said that at an Oil & Gas UK board meeting. I am aware that the vast majority of the decommissioning work that is going on at the Brent field, particularly the plugging and abandonment work, is being captured by the Scottish supply chain. There are great successes, although perhaps they are not as visible as we would like them to be. Ensuring that the industry is recognised for the work that it is doing in decommissioning is one aspect that we can improve. Scottish Enterprise has been very active in that and it is supporting a number of innovative companies in Scotland to innovate for the decommissioning market. I have visited a number of those companies myself.

I have already been invited to visit Dundee harbour by Joe FitzPatrick, but I am more than happy to meet the member in Dundee at some point in the near future to discuss the possibilities for exploiting decommissioning in the city.

Kenneth Gibson (Cunninghame North) (SNP): How many people is it anticipated will be employed in decommissioning Hunterston B nuclear power station when it eventually closes? How many years will it take to complete the decommissioning?

Paul Wheelhouse: That is an important question, although I appreciate that it is on a slightly different subject from that intended by Jenny Marra's question. Decommissioning activity that is being undertaken in the nuclear sector involves some skill sets that will be transferable to the oil and gas sector. I have spoken to at least one company that has expressed an interest in project management in that sphere.

It is difficult to anticipate at present the exact nature of the jobs that will be sustained in

decommissioning Hunterston B, although experience with existing decommissioning sites in Scotland would suggest employment levels of several hundred people for about 20 to 25 years. The Scottish Government is working with Scottish Enterprise, Skills Development Scotland and other partners to increase Scotland's skill capacity in nuclear decommissioning. We know from work that was undertaken in Chapelcross that 280 workers were employed in that capacity—and 200 were employed at Hunterston A—but those were different technologies, and different solutions might be required for decommissioning at Hunterston B.

Maurice Golden (West Scotland) (Con): I refer members to my entry in the register of members' interests with respect to my work in the oil and gas decommissioning sector with Zero Waste Scotland and, in particular, the production of the report "Offshore Oil and Gas Decommissioning", which was launched just a little over a year ago.

I recognise the concerns that were expressed by Jenny Marra about the commitment of Scottish Enterprise to this area. Will the Scottish Government consider investment in an upgrade of port facilities—most likely in Nigg or Shetland—so that Scotland has the ability to decommission a platform that is recovered via the single-lift method, as opposed to some of the large-piece or small-piece decommissioning options that are available?

Paul Wheelhouse: I want to defend the roles of Scottish Enterprise and Highlands and Islands Enterprise, both of which are active in this area at the moment and are helping us to identify what port-side investment opportunities might be available to capitalise on the funding that is available for decommissioning. I refer the member to my initial answer, which stressed that we are working with both organisations to filter through the number of interested ports and harbours that are looking to capitalise on the work.

I also emphasise the point that I made to Jenny Marra that the vast majority of the contract value is, thankfully, being secured by the Scottish sector. The removal of the top-side infrastructure is a relatively small share of the total contract value, but it is an important share and we will, obviously, do what we can to try to secure that as well.

Elaine Smith (Central Scotland) (Lab): In addition to the transition training fund, which does not help workers to keep their current skills up to date, will the minister consider the possibility of establishing a job retention fund for oil workers, which could assist in refresher courses for skilled workers, which can cost them, personally, between £300 and £400?

Paul Wheelhouse: Obviously, I would be keen to hear from Elaine Smith if she has specific examples of individuals requiring support whom we have been unable to support through the transition training fund. I emphasise that we need to be careful to ensure that we help those who are most immediately threatened by redundancy, rather than those who perhaps are still in the sector but are looking to divert their skills into other areas that might have more growth potential. The transition training fund is being taken up well. We are seeing a high level of spend through the fund and I believe that it is having an impact by helping a growing number of individuals who are affected by the downturn in the industry.

Gillian Martin (Aberdeenshire East) (SNP): I am glad to hear members mention the transition training fund. Yesterday, I hosted an event with people who are involved in the fund and I hope that members got a chance to talk to them.

Aside from the issue of decommissioning jobs, does the minister agree with the Oil and Gas Authority on the high remaining potential in the North Sea, following a strong licensing round, and does he also welcome the arrival of new entrants into the region? What representations will the minister make to the United Kingdom Government ahead of the autumn statement to call for exploration and development to be incentivised?

Paul Wheelhouse: This week, I attended the maximising economic recovery of UK petroleum—MER UK—meeting in London, where, among other things, I raised the contact that the cabinet secretary had had with Greg Hands before the UK Government reshuffle, which was used to emphasise the need for loan guarantees to be brought forward as soon as possible to the smaller independent operators in the North Sea, in particular, to free up their balance sheets so that they can release resource and undertake more exploration.

I am encouraged by the high take-up of the licensing round. I think that that shows a continued interest in the UK continental shelf. That is encouraging at a time when there is, perhaps, a tendency to be all doom and gloom about the future of the oil and gas industry. There are companies that are growing in the industry at the moment, and we need to help individuals to access the opportunities that arise from that and to transfer their skills into those productive areas.

Youth Unemployment

2. **Elaine Smith (Central Scotland) (Lab):** I declare an interest as a member of Unite the union.

To ask the Scottish Government what action it is taking to reduce youth unemployment. (S5O-00272)

The Minister for Employability and Training (Jamie Hepburn): The Scottish Government is committed to reducing 2014 levels of youth unemployment by 40 per cent by 2021 through the actions that are set out in “Developing the Young Workforce—Scotland’s Youth Employment Strategy”. Youth unemployment fell by 9,000 from the strategy’s baseline figure of 52,000 in January to March 2014. The developing the young workforce programme reports on progress annually, and the second annual report will be published later in the year.

Elaine Smith: Clearly, apprenticeships are an important vehicle to help reduce youth unemployment. What can the minister do to reduce inequalities in apprenticeships, such as young women being paid considerably less than their male counterparts and being more likely to be unemployed at the end of their apprenticeships? How many young women on modern apprenticeships are ineligible for statutory maternity pay due to the low youth rates of pay, which is a point that has been raised with me by Unite the union?

Jamie Hepburn: I am always willing to hear from any trade union about any concern that it has and to respond to it.

More broadly, I concur with the point that was inherent in Elaine Smith’s question that there is much more that we need to do to ensure that women are better represented in our modern apprenticeship offer. They are not alone; there are others with particular characteristics that we need to do more in relation to. That is why we tasked Skills Development Scotland with taking forward the equalities action plan; it is doing that right now.

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): What action is the Scottish Government taking to ensure that all local authorities work to deliver the Scottish living wage?

Jamie Hepburn: That is a well-timed question, because this is living wage week, which the First Minister kicked off on Monday by announcing the new rate of £8.45 per hour. I am very pleased that all local authorities in Scotland pay the living wage to their staff; that is very welcome. It goes along with the other range of activities that we take to promote the living wage, through commissioning the Poverty Alliance to promote the accreditation scheme. We now have 630 accredited living wage employers in Scotland—some 20 per cent of the United Kingdom total—and that may be why, among the four constituent nations of the UK, Scotland has the highest percentage of the workforce paid at least the living wage.

Neil Findlay (Lothian) (Lab): The inflexible way in which Skills Development Scotland manages its grants is causing problems for the Blackburn local employment scheme in my region. The First Minister said last week at question time that the Cabinet Secretary for Economy, Jobs and Fair Work would meet me and representatives from BLES to try to resolve the issue. Since then, I have had no contact from the cabinet secretary. When can we make that meeting happen, as it is a matter of urgency? All we need is some flexibility in the way in which SDS deals with grants and we will be able to help even more of the young people in that area than the 3,000 who have already been helped.

Jamie Hepburn: I know that that is an issue that Neil Findlay, among others, has taken up. Fiona Hyslop, as the constituency representative, has also written to me on the matter. I understand that the cabinet secretary has written to Neil Findlay and I am sure that he will be getting back in due course.

European Union Funding

3. Graeme Dey (Angus South) (SNP): To ask the Scottish Government how much Scotland has received from European Union structural and investment funding and how many jobs this has supported. (S5O-00273)

The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown): Scotland has received about €4.75 billion in structural funds since the policy began in 1975. Those funds have helped to build digital networks, roads, harbours and causeways, have been invested in urban regeneration and business premises and have supported skills and training.

Every seven-year programme is slightly different and has a different focus. It is not possible to estimate the total number of jobs supported since 1975, but the 2007 to 2013 programmes were worth £750 million and supported 99,107 people into work; they created 44,311 jobs and provided business support to more than 80,000 small and medium-sized enterprises. The 2014 to 2020 programmes are worth a further €940 million, which is about £800 million, to Scotland.

Graeme Dey: I thank the cabinet secretary for that reply, which lays bare the damage that Scotland being dragged out of the EU against its will would have. Does he agree that the continued uncertainty surrounding Brexit is already putting at risk potential investment in Scotland by business?

Keith Brown: I agree. If the member talks to colleagues in the education sector—especially in higher and further education—he will know that that is the case. Leaving the EU is likely to weaken the economy, according to the UK Government’s

analysis. Leaving the single market could lower Scotland's gross domestic product by more than £10 billion.

Our starting point is to protect our relationship with the EU, and we are considering all possible options to ensure Scotland's continuing relationship with and place within the European Union. In addition to the jobs and financial benefits that we have received, we benefit massively from being a more rich and diverse country because of our membership of the European Union.

David Stewart (Highlands and Islands) (Lab): I seek assurances from the cabinet secretary that ring-fenced funding allocations and targeted benefits to the Highlands and Islands as a transition region will be honoured by the Scottish Government. There is major uncertainty in this post-referendum, pre-Brexit phase. Will Highlands and Islands businesses and agencies be supported and not disadvantaged?

Keith Brown: David Stewart will know that that is exactly the Scottish Government's aim. My colleague the Cabinet Secretary for Finance and the Constitution has made a number of statements on that, and I am sure that he will say something else specifically on that shortly, so perhaps David Stewart will give us the benefit of the doubt and wait until that statement is made. We share the same aim, which is to ensure that SMEs and individuals in the Highlands are not penalised by any reduction in ring-fenced or other European funding that might be coming to them, and we are making good progress towards ensuring that that assurance can be given.

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): European funding has been enormously beneficial in creating jobs in the Highlands, as has been touched on, and bodies such as Highlands and Islands Enterprise have received European grants. Will the cabinet secretary reassure my constituents that Highlands and Islands Enterprise will continue to be supported in the work that it does to create jobs and economic growth in the Highlands?

Keith Brown: We recognise the different social, economic and community development challenges that face the Highlands and Islands and we are determined to maintain dedicated support that is locally based and is managed and directed by HIE. The member will be aware of the First Minister's statement that HIE will remain in place as a non-departmental public body. The Scottish Government believes that future budget provision will be sufficient to meet HIE's funding needs and will allow it to meet its obligations and maintain the capacity to support key sectors.

Business and Trade (Non-European Union Countries)

4. Gordon Lindhurst (Lothian) (Con): To ask the Scottish Government what steps it is taking to show that Scotland is open for business with non-European Union countries. (S5O-00274)

The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown): The Scottish Government is building on the ambitious internationalisation agenda that was set out in March this year in "Scotland's Trade and Investment Strategy 2016-21". To make it clear that Scotland is open for business with Europe and with the rest of the world, we are establishing a minister-led trade board to bring together business interests; we are further developing the globalscot network; and we are appointing trade envoys to champion export market opportunities.

Scottish Government agencies are working to help more Scottish businesses to become exporters and to attract inward investment into Scotland. I appreciate that this relates to the EU, but we are opening innovation and investment hubs in Dublin, London, Brussels and Berlin as well as doubling the number of Scottish Development International staff across Europe. Following the EU referendum, the Scottish Government is engaging directly with businesses to listen to concerns, provide reassurance and reiterate that Scotland remains open for business.

Gordon Lindhurst: The First Minister has made clear her efforts to boost trade with the EU in the wake of the EU referendum result through measures such as those that have just been referred to. However, in 2014, less than half—42 per cent—of Scotland's exports were destined for the EU, which was a decline of £985 million on the previous year. The destination country for the largest amount of Scottish exports is the United States of America.

There is considerable trade growth potential in the huge world market of 7 billion people, as compared with the EU population of 500 million. Will the Scottish Government commit to taking new specific measures, together with the United Kingdom Government, to increase Scotland's trade influence in parts of the world other than the EU, post-Brexit?

Keith Brown: I think that it was evident from my first answer that we commit to doing that. For example, we have engagement in Kazakhstan coming up shortly and engagement in the middle east that relates to the oil and gas industry. In addition, we have a substantial presence in the US and China, which we want to build on.

Gordon Lindhurst makes an interesting point about the UK Government. His question acknowledges for the first time among the

Conservatives that two Governments are involved in the economy of Scotland. Last week, not a single Conservative member would concede that the UK Government shares responsibility for Scotland's economic performance, so I am pleased that Gordon Lindhurst has done so.

I made it clear to Liam Fox when I met him that we are happy and keen to work jointly in areas where it makes sense to do so and so that we do not duplicate effort. For example, I had a meeting with a large group of chief executive officers from India, which was in conjunction with the UK Government. We are happy to take that approach, but it takes two to do that and we are waiting to hear more from Liam Fox about how we can encourage that.

I mentioned the engagement in Kazakhstan, which will happen next year. We have decided to work with the UK Government on that, because that can produce the best results. We are happy to do that, but it takes two to tango.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Does the cabinet secretary agree that, if we had the powers to reinstate post-study work visas, we could give the message that Scotland is open for business to people with skills who can contribute greatly to the Scottish economy?

Keith Brown: That is one area in which one hopes that joint working between the Scottish Government and the UK Government will produce a beneficial effect. Even if the UK Government did not want to continue the use of post-study work visas in the rest of the UK, it could, through working with the Scottish Government, allow Scotland to use them.

A similar constraint in the US was quickly changed when the potential economic damage to the country was acknowledged, as will be the case for Scotland if people who study here do not have the opportunity to work here. The return of the visa would restore an important economic lever to Scotland and send a clear message around the world that Scotland is open for business.

Jackie Baillie (Dumbarton) (Lab): We all care about increasing exports but, in evidence to the Economy, Jobs and Fair Work Committee, a number of independent experts told us that the greatest potential for growth in exports lies in our proximity to our nearest market. What is the Scottish Government doing to increase exports to the rest of the UK, which is Scotland's largest and nearest export market? What new initiatives is the Scottish Government bringing forward?

Keith Brown: I have detailed some of those initiatives in my previous answers. Our nearest market is actually the European Union—we are in the EU single market. The member might want to

acknowledge that fact and do a bit of work on the subject.

We are trying to defend our position in the EU market. Unfortunately, Scottish Labour is trying to provide political cover for its friends in the better together campaign and among the Brexiteers by trying to talk up the UK aspect. I am keen to increase our trade activity with the rest of the UK, with the EU and—as I highlighted in my answers to previous questions—around the world. I do not see that those three aims should conflict with one another; we should support them all.

The Presiding Officer (Ken Macintosh): I apologise to members whose questions I could not take.

Finance and the Constitution

Treasury (Meetings)

1. Stuart McMillan (Greenock and Inverclyde) (SNP): To ask the Scottish Government when it last met the Treasury and what matters were discussed. (S5O-00281)

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): I last met the Chief Secretary to the Treasury at the finance ministers' quadrilateral meeting on 24 October. We discussed the prospects for the Chancellor of the Exchequer's autumn statement and areas of common interest in relation to the economy, public finances and Brexit.

I will shortly write to the Finance Committee to provide further details on the key points of the meeting. I used the opportunity to call once again on the UK Government to end austerity and to address the economic uncertainty following the European Union referendum.

At the meeting, the chief secretary confirmed HM Treasury's agreement to approve the Scottish Government's request for annually managed expenditure cover for the Scottish growth scheme, and to increase to 15 per cent the budget exchange limit for financial transactions. I, along with my counterparts from Wales and Northern Ireland, reiterated my concerns about the UK Government's approach to the public finances and the economy and asked for a commitment from the Government to bring forward an economic stimulus while not reducing the current devolved settlements.

I will continue to make those points directly to UK ministers, including at a meeting of the joint exchequer committee tomorrow.

Stuart McMillan: The progress on the growth scheme is very welcome. Can the cabinet secretary expand further on the UK Government's

position on potentially reopening Scotland's current constitutional agreement?

Derek Mackay: All the devolved Administrations made the point clearly that we do not want our finance settlements to be reopened negatively. We want a positive fiscal stimulus—which should be possible, considering that the UK Government and the chancellor have moved away from their predecessors' positions on fiscal surplus.

Murdo Fraser (Mid Scotland and Fife) (Con): As we have just heard from the Cabinet Secretary for Finance and the Constitution, the Scottish Government believes that the UK Treasury should pursue a policy of fiscal loosening in the autumn statement. How much extra money does the Scottish Government think the Treasury should borrow?

Derek Mackay: That is a matter for the Treasury, in terms of the figures that it arrives at. As we have said, the UK Government has abandoned the economic targets that it failed to meet and should now turn to borrowing to stimulate the economy. That opinion is widely held, and we would welcome such a move. With regard to resources that can fairly stimulate our economy, the more, the merrier—

Murdo Fraser: Limitless borrowing!

Derek Mackay: Mr Fraser may object, but that seems to be the mood music from the UK Government, so he may be performing more somersaults on the Tories' economic policies.

Local Authorities (Fiscal Autonomy)

2. Pauline McNeill (Glasgow) (Lab): To ask the Scottish Government what plans it has for local authorities to be given greater fiscal autonomy to raise their own money and manage their local economies. (S5O-00282)

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): Our reforms to council tax, including proposals that are currently before the Parliament, are, together with the lifting of the council tax freeze, key steps towards making local taxation fairer and ensuring that local authorities continue to be properly funded.

In addition, we have established an external review of non-domestic rates, which will report next summer, we will consult local government on the assignation of a share of income tax, and we are engaging stakeholders on local taxation of vacant, derelict and development land.

Pauline McNeill: The Scottish Government is cutting Glasgow City Council's budget by more than £130 million over the next two years. It is the biggest cut that Glasgow City Council has ever faced. The Scottish Government seems to be passing on to Glasgow a bigger share of cuts than

has been passed on to it by the United Kingdom Government, for some reason.

Is the cabinet secretary aware of the impact of delays in setting the budget on councils such as Glasgow, which face unprecedented cuts? Is he aware of the effect on the third sector, which provides vital services for the most vulnerable people? When can the Scottish Government provide certainty and fairness for Glasgow? Is it time for some devolution of power, so that Glasgow can manage a bit of its own economy?

Derek Mackay: I am happy to engage with the Convention of Scottish Local Authorities and local government more widely on further devolution of powers. A good example of such work in practice is the city deal. Glasgow is a substantial beneficiary of the city deal, and we want it to work. It is more than £1 billion of investment—which has, of course, been totally discounted in comments about the wider local government settlement. This Government has protected local government over the period of real-terms reductions from the UK Government.

Distribution is discussed jointly with COSLA. I encourage councils such as Glasgow City Council to consider their position in relation to COSLA, so that local government can speak with one voice and arrive at decisions on such matters, in partnership.

Maree Todd (Highlands and Islands) (SNP): Will the cabinet secretary say whether local authorities can be flexible in how they apply second-home council tax, in order to meet the needs of their communities?

Derek Mackay: Yes—in essence they can be flexible. The regulations that we were able to make recently will allow for further flexibility in relation to council tax discounts for second homes, including the ability to vary the level of discount between 0 and 50 per cent.

Kezia Dugdale (Lothian) (Lab): Will the cabinet secretary tell us whether he is still open to the idea of a tourism tax, which local authorities could apply in their areas by retaining 100 per cent of tourism tax receipts to fight the cuts?

Derek Mackay: That is a fair question. A small number of local authorities have approached me about the issue and I am engaging with COSLA on the basket of local taxes. Although we have no plans to introduce a tourism tax, the issue is worthy of discussion, so I will have those discussions with local authorities that are interested in such a levy.

Clare Haughey (Rutherglen) (SNP): As part of the proposed reforms to council tax, the Government agreed to increase support for households with children. How many children will

benefit from the increase in the child allowance in the council tax reduction scheme?

Derek Mackay: The increase by 25 per cent in the child allowance in the council tax reduction scheme will benefit up to 77,000 households by an average of £173 per year and help nearly 140,000 children.

The Presiding Officer (Ken Macintosh): Question 3 has not been lodged.

Procurement Policy (Best Value)

4. **Ivan McKee (Glasgow Provan) (SNP):** To ask the Scottish Government how it ensures that its procurement policy delivers best value. (S5O-00284)

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): The Scottish model of procurement has at its heart value for money, which we see as an appropriate balance of cost, quality and sustainability. The need to achieve such a balance informs our approach to procurement, which is increasingly being recognised internationally as an exemplar of good practice.

Ivan McKee: The Scottish baby box is a fantastic initiative that involves spend of approximately £6 million per year, thereby potentially offering additional benefits through creation of jobs in manufacturing and supply businesses.

Tot Spot, in my constituency, is one such business, and is looking forward to tendering for the manufacture of nappies for the baby box, which will create jobs in a deprived area of Glasgow. Can the cabinet secretary assure me that every effort will be made to ensure that companies such as Tot Spot have an opportunity to play a role in the excellent initiative and, in the process, to create jobs in Scotland?

Derek Mackay: I am not about to award contracts through answers to oral parliamentary questions, but I can say that the answer is yes, in so far as procurement rules allow it.

Of course, there are many potential advantages to the baby box, including through its procurement.

James Kelly (Glasgow) (Lab): I am sure that the cabinet secretary would agree that procurement policy should be used to improve the rights of workers. Does he therefore share my disappointment that only 0.2 per cent of Scottish companies have signed up to the business pledge, which can be used to secure the living wage and ensure that there are no zero-hours contracts for workers? What steps will he take to increase the number of companies that sign up to that important pledge?

Derek Mackay: I agree with James Kelly; there is an ambition to expand the number of businesses signing up to the business pledge. We can all reflect on how we can encourage more businesses to take up the pledge. When I visit businesses I ask them whether they are supportive of it, and whether there are any elements that they need further encouragement on. We should all give further consideration to promotion of the business pledge in order to get as much good work out of it as possible. Certainly, the Government will continue to promote the policy actively for all the social, ethical and economic benefits that it brings.

Scottish Public Sector Green Information and Communications Technology Strategy

5. **David Stewart (Highlands and Islands) (Lab):** To ask the Scottish Government what progress it is making with the Scottish public sector green ICT strategy. (S5O-00285)

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): The green ICT strategy, which was published in May 2015, provides guidance for the public sector to contribute to this Government's wider climate change targets. It aligns with assessment tools that have been developed as part of the amendments to the Climate Change (Scotland) Act 2009, specifically in the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015. They will be reported annually, beginning in November 2016.

We have also included green ICT principles in the "Digital First Service Standard", which was published in May 2016 and set minimum levels for delivering digital public services. The standards apply to all digital public services that are being created in and by central Government. An assessment process is due to be rolled out in early 2017 and will be augmented and improved over time.

David Stewart: A recent Audit Scotland report on NHS 24 found delays in implementation of the new IT system. It said:

"In 2009, NHS 24 began work on its Future Programme. The programme's objective was to improve patient experience by modernising NHS 24's core telephone and online technology. The implementation of the new system, originally scheduled for June 2013, is still not complete."

Given that, and the year-long delays on other IT projects, how will the Scottish Government be able to achieve its goal of establishing newer, greener infrastructure?

Derek Mackay: We have made progress on the monitoring arrangements around such projects, which will give us better checks and balances, stronger procurement and greater and deeper

expertise. I am happy to share some of that information in writing with David Stewart, if he would find it helpful. I hope that that would reassure him that our processes are far more robust as a result of learning lessons from the mistakes that have been made in the past.

Maurice Golden (West Scotland) (Con): In relation to the Scottish Government's recent award of a £48 million framework agreement for the supply of information technology consumables, how was the ICT lifecycle impact mapped, and how was the disposal of the IT consumables incorporated in the specification that went along with the scoring award criteria for the contract?

Derek Mackay: I thank Maurice Golden quite genuinely for that very comprehensive question. It truly deserves a comprehensive answer, and I am happy to give him one in writing.

Scottish Futures Trust

6. Colin Beattie (Midlothian North and Musselburgh) (SNP): To ask the Scottish Government what savings it expects the Scottish Futures Trust to achieve in delivering projects. (S5O-00286)

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): The Scottish Futures Trust is on course to achieve the objective set out in its corporate plan for 2014 to 2019 and achieve savings of between £500 million and £750 million.

Colin Beattie: The cabinet secretary will be aware that the Scottish Futures Trust programme, Scotland's schools for the future, helped build the new Lasswade high school in my constituency. Will he update the Parliament on how the work on Lasswade high school subsequently informed the Scotland's schools for the future programme?

Derek Mackay: The new Lasswade centre, along with Eastwood high school in East Renfrewshire, was part of a pilot project that saw the Government and the two councils work together to jointly procure both schools in a groundbreaking £65 million collaborative initiative that saved £4 million as a result of the partnership approach. It was the first time that two councils had come together to procure two new schools. The initiative has proved successful, with the collaborative model being used by other local authorities to achieve benefits in savings across the programme. That kind of working will inform the programme from this point onwards.

Public Contracts (Prompt Payment)

7. Richard Lyle (Uddingston and Bellshill) (SNP): To ask the Scottish Government whether the prompt payment of bills relating to its public contracts has been sustained. (S5O-00287)

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): The Scottish Government remains committed to helping businesses by paying invoices early and aspires to pay all undisputed supplier invoices within 10 working days.

The Scottish Government purchases some goods and services using the electronic purchasing card, and payment performance is measured by taking into account both EPC and invoiced transactions. For the first six months of the current financial year—from April to September 2016—the Scottish Government and bodies that share its financial systems have paid 98.8 per cent of all transactions within 10 working days.

Richard Lyle: I thank the cabinet secretary for that impressive answer. I welcome the Government's performance on the swift payment of bills. Can the cabinet secretary update the Parliament on project bank accounts and say whether they will be used to support businesses in the construction sector?

Derek Mackay: I thank Mr Lyle for saying that that was an impressive answer—I thought that it was short and to the point, but it gave a very impressive figure for the Government's compliance in achieving its payment target.

Following the successful completion of the trial programme of project bank accounts that was recommended by the review of Scottish public sector procurement and construction, the Scottish Government has published guidance on the implementation of project bank accounts in construction contracts. I encourage their use because it is important for subcontractors and the supply chain.

Small Businesses (Taxation Policy and Insolvency)

8. Edward Mountain (Highlands and Islands) (Con): To ask the Scottish Government what assessment it has made of the link between taxation policy and small business insolvencies in Scotland. (S5O-00288)

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): The Scottish Government recognises the importance of small and medium-sized businesses to our economic prosperity. As part of our overall approach, we are committed to using the tax powers that are devolved to the Scottish Parliament to support sustained economic growth. Our small business bonus scheme is, for example, removing or reducing business rates for more than 100,000 premises this year, and we have committed to expansion of the scheme so that it lifts 100,000 properties out of rates altogether.

Edward Mountain: The cabinet secretary will be aware of recent insolvency service statistics that show that, since the financial crisis hit in 2008, the number of corporate liquidations in Scotland has increased by 21.5 per cent while the equivalent figure for England and Wales has fallen by 23.1 per cent. Can the cabinet secretary please explain that disparity? Can he also explain how the Government's plans to tax businesses an extra £262 million in business rates will help to reverse that trend?

Derek Mackay: I am happy to check the figures on liquidations and insolvencies, because the picture that Mr Mountain paints does not reflect the figures that I have for corporate insolvencies. I am happy to probe that further. However, we cannot break down the figure for small businesses, which was the premise of Mr Mountain's question.

On the wider issue of business rates, we have the most competitive package of business rates reliefs in these islands and I want to sustain that. We have the Ken Barclay review and we have matched the poundage. I would also point out that the number of small and medium-sized enterprises in Scotland grew from 148,000 in 2010 to an impressive 163,000 in 2015.

Ash Denham (Edinburgh Eastern) (SNP): What steps are being taken to give Scottish businesses a competitive advantage over their counterparts in other parts of the UK?

Derek Mackay: I again refer to the small business bonus scheme. The Federation of Small Businesses says:

"The Small Business Bonus continues to give most Scottish small firms a competitive advantage over counterparts in other parts of the UK."

That shows how valued the small business bonus is and why it should continue.

European Union Funding

9. Clare Adamson (Motherwell and Wishaw) (SNP): To ask the Scottish Government what progress has been made on the continuity of European Union funding in light of Brexit. (S5O-00289)

The Cabinet Secretary for Finance and the Constitution (Derek Mackay): EU funding benefits Scotland significantly, supporting jobs, delivering infrastructure, sustaining rural communities, providing valuable support for the farming and fishing industries and delivering research funding for universities. I have personally met the Chief Secretary to the Treasury on two occasions since the Brexit vote, and I have written to him, making clear the Scottish Government's view of the insufficiency of the original EU funding

guarantees that were provided by Her Majesty's Treasury in August 2016.

The UK Government has recently revised its position on EU funding guarantees to cover in full the payment of all EU funding contracts for structural funds and for fisheries and farming projects that are entered into before the UK proposes to leave the EU, even if the payments extend beyond the Brexit date.

I am pleased to confirm today that, having considered the detail of the UK Government guarantees, I will be passing on the guarantees in full to Scottish stakeholders to provide stability and certainty for those key sectors of the Scottish economy.

Clare Adamson: When the University of Edinburgh's principal, Sir Timothy O'Shea, addressed the Scottish Affairs Committee on 24 October he warned that Brexit might have a "catastrophic" consequence on higher education in the UK, emphasising that one third of the university's research outputs

"are done in collaboration with other EU countries."

What reassurance—if any—can the cabinet secretary give the science sector on future funding and access to the horizon 2020 fund?

Derek Mackay: I have advised the member and the chamber that I have been able to pass on the guarantees that I have received from the UK Government, but there is absolutely no clarity in what happens after that date. That issue must be pursued with the UK Government.

It is true to say—I share these concerns—that Brexit poses a massive threat to higher education research development and a host of other areas. Therefore, it is really important that this Government—indeed, this Parliament—continues to stand up for Scotland.

National Health Service (Audit Scotland Report and Service Development)

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a statement by Shona Robison on the response to Audit Scotland's "NHS in Scotland 2016" report, and service development.

The cabinet secretary will take questions after her statement, so there should be no interventions or interruptions. I call Shona Robison. You have a tight 10 minutes, cabinet secretary.

14:41

The Cabinet Secretary for Health and Sport (Shona Robison): I will today outline the Scottish Government's response to last week's Audit Scotland report and the process for considering the proposed service changes and developments that were debated on 28 September.

Audit Scotland has provided a balanced overview of the national health service and makes several recommendations that we accept in full.

Our NHS cannot stand still. It must continually evolve not only to deliver the best medicine and the best care, but to ensure that public money is spent as effectively as possible. Our clear vision to achieve that change has been acknowledged by the Auditor General for Scotland, who said last week that the Scottish Government

"has got a real vision to reshape services".

Our strategy is founded on our twin approaches of investment and driving reform. We have made significant investments in our NHS. Since 2010-11, the annual health resource budget has increased by 8.2 per cent in real terms. The Audit Scotland report recognises the real-terms increases in investment in our NHS, and this Government will go further to ensure that the NHS receives the resources that it needs to be equipped for the future. For example, we are increasing the NHS revenue budget by £500 million over inflation over this session of Parliament. However, it is important to invest more than money and it is imperative that we drive reform.

As well as progress with integration, we have taken other steps this year to accelerate the shift in care in order to develop and to reform the delivery of health and care services. Increasing demands mean that we are accelerating change. We have shifted more NHS funding to support social care; we have published the national clinical strategy and the "Chief Medical Officer's Annual Report 2014-15: realistic medicine"; we have

accelerated plans for investment of £200 million in our new elective centres; and we are reviewing targets and indicators through work being led by Sir Harry Burns.

As part of a plan to increase health spending by almost £2 billion by the end of this session of Parliament, we will take the share that is dedicated to primary services to 11 per cent of front-line NHS spending. We will increase our investment in primary care by an additional £500 million, helping to shift the balance of care and meaning that, for the first time ever, at least half of our front-line NHS spending is being invested outwith acute hospitals.

Despite the challenges, our NHS is performing well, and its staff are to be thanked for working to address the increasing demand for services. We now have almost 1.5 million new out-patient attendances every year, which represents an increase of more than 13.2 per cent under this Government. Since 2005-06, 25 per cent more hip replacements are being carried out, but waiting times have reduced by 50 per cent. On cataracts, there has been a 30 per cent increase in procedures and a 40 per cent reduction in waiting times.

We know that more patients than ever before are being treated for cancer. Compared with 2010, there has been an increase of more than 1,000 patients per quarter in the number of patients who are included in the 62-day cancer waiting times standards. Performance against the 62-day standard is lower than we want, which is one of the reasons why we are investing £100 million over the next five years to improve cancer care.

In addition, Scotland's core accident and emergency departments have been the best performing in the United Kingdom for at least the past 18 months; they outperformed England's by almost 8 percentage points in August 2016.

The Audit Scotland report confirms that NHS staffing is at historically high levels. There are more than 11,000 more staff working in our health service than was the case when we took office. We are also acting to ensure that our medical workforce grows further. We are making it more sustainable and increasing the number of undergraduate medical school and specialty training places, as well as creating a new graduate entry medical school.

We are working to establish national and regional workforce planning, which will help us to deliver the direction that is set out in our national clinical strategy and to protect our commitment to no compulsory redundancies. Through that process, we will carry out work to address the cost of supplementary staffing, which will include efforts towards recruiting permanent posts when they are

required and reducing agency spend. We will also use those workforce planning efforts to make better use of a staff bank system and framework contract when supplementary staff are needed.

As I have said, we have consistently prioritised investment in the NHS. We have increased front-line health spending and we will continue to prioritise front-line health services as we go on to increase the NHS revenue budget by £500 million more than inflation over the course of this session of Parliament.

NHS territorial boards received a 5.5 per cent increase this year compared with 2015-16 budget levels. That comprises an increase for front-line services of £224 million—an above-inflation increase—and an additional £250 million, which the new health and social care partnerships are using to invest in social care under our arrangements for integration.

We will consider the Audit Scotland proposal for three-year budget management as part of our work to examine how to provide NHS boards with more financial flexibility and within the context of the accounting and financial management framework that is set by the Treasury.

Despite the record level of resources that is being provided, we recognise the challenge of meeting increased demand. As the Auditor General for Scotland has made clear in her report, more needs to be done than simply giving the NHS extra money, which is why our plans for change are so important. I can confirm that, by the end of this year, we will set out in a single framework a transformational change delivery plan that will bring together the different strands of reform that I have set out. I will keep Parliament informed of progress.

I move on to service developments. Audit Scotland has made it clear that some reorganisation of services will be required, but that does not mean that every proposal that is made by every board will be approved. We are committed to robust, evidence-based policy making that delivers better outcomes. However, to stand against any change anywhere in acute services is simply not credible. Where change is advocated, we must ensure that the local boards work with all stakeholders to explore any issues and benefits, and I reiterate that any major change proposals must be subject to formal public consultation and ministerial approval.

I will now take the opportunity to update Parliament on the specific service changes that were debated last month. On cleft surgery, the recommendation endorsed by the Royal College of Surgeons to consolidate on a single site in Glasgow is distinct in the sense that it relates to a specialist national service as opposed to a local

service. As such, I am now considering the proposal, in line with the precedent of ministers making the final decision on national specialist services. I have met the clinical teams in Glasgow and Edinburgh and, in the light of those discussions and full consideration of the evidence, I expect to make a decision before the end of the year.

Lanarkshire NHS Board's longer-term plans as part of its local clinical strategy have been designated as major change by the board—boards can choose to designate proposals as major and follow the appropriate process without the need to ask ministers. The plans in question were subject to formal public consultation between 2 August and yesterday, and the board intends to consider the outcomes of that process at its meeting on 30 November. In doing so, it will be informed by the report of the Scottish health council on the consultation.

Any board decision made on associated specific major service change proposals will then be subject to my approval. What is beyond question is that all three acute hospitals will retain their accident and emergency departments for the benefit of local people.

At its meeting on 18 October, the NHS Greater Glasgow and Clyde board agreed that its proposals on paediatric services at the Royal Alexandra hospital be designated as major. The board will now undertake three months of formal public consultation, which is due to begin next Monday. The board is scheduled to consider the outcomes of the consultation by spring next year, as informed by a report on the consultation by the Scottish health council, and any board decision made on service change proposals will then be subject to my approval or otherwise.

The remaining proposals from NHS Greater Glasgow and Clyde—those affecting deliveries at the community maternity units at Inverclyde royal hospital and Vale of Leven hospital, those affecting in-patient care at the centre for integrative care and those affecting Lightburn hospital—are all subject to on-going public engagement. That process cannot be prejudged as it is possible that some or all of the proposals might change as a result—and, indeed, some might not proceed at all. The Scottish health council continues to monitor engagement activity and will offer a view on the designation of the proposals at the end of that activity, which is likely to be in early December. Ministers will then carefully consider the views on designation from both the health board and the health council and come to a decision. The board will then consider the next steps, as informed by the designation decisions, at its meeting on 20 December.

Although I will not prejudge those proposals, I reiterate that they must be consistent with national policy such as the review of maternity services that is due for publication soon. Moreover, I once again put on record this Government's commitment to the vision for the Vale of Leven and say that any final proposals for Lightburn must address the concerns that led to our previous decision in 2011. I will keep Parliament informed as further progress is made on these proposals.

I believe that there is a clear case for a further shift from acute to primary and community services. I am confident that there is broad consensus on this, and that the Audit Scotland report supports that view; certainly no one and no party in this chamber has so far brought forward an alternative way forward. I believe that that consensus can be underpinned by the mutual recognition that our NHS continues to require increased investment and must reform to ensure that it remains true to its founding principles of being publicly owned and free at the point of need.

I am happy to take questions on my statement.

The Deputy Presiding Officer: We now move to questions. Time is very tight, so the shorter the questions and answers, the more members who will be able to take part.

Donald Cameron (Highlands and Islands) (Con): I thank the cabinet secretary for early sight of her statement. As we will debate the report later, I will keep my observations short.

Although much in the statement was not new, it is important to state that since the Scottish National Party first entered office almost 10 years ago, Audit Scotland has argued that, to change the way in which services are delivered, a shift is required from the traditional means of delivering services to community-based services. Almost every single Audit Scotland report since has noted that progress in that respect has been slow or non-existent and that funding has not been transferred from acute to community-based services at the rate that it should have been. As a result, although we welcome the announcement to shift the balance of care to primary care, the fact remains that it has taken far too long for this Government to take action. In this session, at least, it should not require two Opposition debates and a damning report to spur the Scottish Government to take steps.

I want to ask the cabinet secretary two questions. First, NHS staffing is clearly an issue on which we on this side of the chamber have concentrated. Will the Scottish Government commit to publishing a national workforce plan immediately and to presenting an update to the Scottish Parliament every six months?

Secondly, in light of her announcement that the share of primary services spending will rise to 11 per cent of front-line NHS spending, can the cabinet secretary tell us specifically how much of that money will go to general practice?

Shona Robison: Donald Cameron talks about the time that it has taken to shift the balance of care. I think that all health systems would acknowledge that that is a challenge and a difficult thing to do. However, one of the Government's big achievements in moving towards the shift in the balance of care has, of course, been the integration of health and care services. That is one of the biggest reforms that there has been in the public sector in a generation. Although I accept that the pace needs to be increased, it should be recognised that there has been a substantial leap forward in shifting the balance of care through the integration of those services.

We have already set out our plans to develop national and regional workforce plans. We will publish a discussion document by the end of the year, because stakeholders want to be involved in that. I am happy to take on board Donald Cameron's suggestion about six-monthly updates and to look at whether they can be delivered. If they can, we will do that.

I am sure that Donald Cameron will welcome, as I do, the First Minister's announcement on increasing the share of spend on primary care services. However, that will mean change, as it will mean increasing the shift in the balance of care from acute services in order to deliver it to primary care services.

Donald Cameron will recognise, as well as I do, that it is not just about investing in general practice, although we will do that—he knows that we are working on a new contract with the British Medical Association—it is also about the wider primary care team. The workforce plans that we will set out will address not just general practice, but the wider primary care team.

Anas Sarwar (Glasgow) (Lab): I thank the cabinet secretary for prior sight of the statement.

The truth is that the cabinet secretary has been dragged kicking and screaming to the chamber. A week after the worst state of the NHS report since devolution, she is before us armed only with warm words. There is no recognition of the crisis in the NHS, no acceptance of her Government's role in the failures and no plan to reverse the damaging cuts to front-line services. The Government is letting down the staff and patients in our NHS.

We will focus on the Audit Scotland report in the debate later. I want to focus my remarks on the proposed service changes.

It is disappointing that the cabinet secretary chose not to accept the will of Parliament in the statement. In fact, she has said nothing new. There is no comfort for communities that face the loss of vital local services and valued local input. I will give one example. How can the cabinet secretary come to the chamber and say that the complete closure of Lightburn hospital—not a ward closure or a downgrade of services—is not a major service change? What we have—

The Deputy Presiding Officer: Mr Sarwar, you are almost at the end of your time, and you have not asked a question yet.

Anas Sarwar: I am just coming to the question, Presiding Officer.

The Deputy Presiding Officer: Please hurry up.

Anas Sarwar: The minister is clearly out of her depth. On “Good Morning Scotland” on the day that the Audit Scotland report—

The Deputy Presiding Officer: Mr Sarwar, will you ask a question, please?

Anas Sarwar: This is my question, Presiding Officer.

The cabinet secretary said on “Good Morning Scotland” that, in Parliament, Labour was

“putting blocks in the way”

of any service changes. Can the cabinet secretary clarify which service changes she was referring to and whether every promise about local NHS services that her party made before the election will be kept?

Shona Robison: Anas Sarwar’s contribution to the debate shows that he has nothing to say other than personal abuse. That is a thin fig leaf for having nothing to say about the NHS.

Unlike Anas Sarwar’s contribution, the Audit Scotland report was balanced and it recognised some of the achievements of the hard-working staff in our NHS. We have the right strategies in place and Audit Scotland says that we do. The Opposition has no plans and no alternative vision for the NHS. We have the vision and the strategies, and Audit Scotland says that they are the right ones.

On the will of Parliament, I have come here and laid out the decisions that I will make on the service change proposals that are coming to me. There may well be a major service change proposal relating to Lightburn hospital, but we are not at that stage. If it gets to that stage, the matter will come to me for a decision. I made it very clear in my statement that, on 20 December, NHS Greater Glasgow and Clyde will decide which service change proposals—if any—it will continue

with. It would be wrong to call in a service change proposal that might not even exist at the moment. I would have thought that even Anas Sarwar would understand that part of the process.

I suggest that Anas Sarwar goes and does his homework, and perhaps comes back to the chamber a little more informed than he has been today.

The Deputy Presiding Officer: When front-benchers overrun their time, all it does is penalise their colleagues.

Fulton MacGregor (Coatbridge and Chryston) (SNP): The Scottish Government announced the review—chaired by former chief medical officer Sir Harry Burns—of health and social care targets and indicators that was advocated by the British Medical Association, the Royal College of Nursing and other medical colleagues. Can the cabinet secretary confirm that certain performance targets, such as 95 per cent of patients being seen in accident and emergency within four hours and cancer treatment targets, will be retained in the wider work?

Shona Robison: As I have said previously, the work of Harry Burns in reviewing the targets is very important and the review has the support of the majority of members in this chamber. It is important that we look at the outcomes for patients and that our targets better reflect those outcomes. That is something that the royal colleges and many other stakeholders support.

I have made a couple of things very clear. It is very important that cancer targets are used to improve care and treatment for cancer patients. That is why we are investing £100 million of additional money in the next five years and we expect any review of cancer targets to reflect our ambitions to improve care and treatment for cancer patients.

The Royal College of Emergency Medicine and I feel strongly about the four-hour accident and emergency target. It is a barometer of how the whole hospital is performing so I will take some persuading to move away from it. However, it might be that it could be made more sophisticated in nature and I am sure that Harry Burns will consider that.

Miles Briggs (Lothian) (Con): I thank the cabinet secretary for the advance copy of her statement.

Page 15 of the Audit Scotland report has NHS Lothian’s financial position as a case study. Given that NHS Lothian, NHS Tayside and NHS 24 all continue to face major financial difficulties, what assurance has the cabinet secretary been given that that will not impact on patient care?

The Royal College of Surgeons supports the principle of the centralisation of cleft surgery, but it has said that its role is not to advise on a location. The cabinet secretary's statement is clearly misleading on that. Will she correct that?

Shona Robison: The uplift to NHS Lothian for 2015-16 was 6.4 per cent. NHS Lothian has, of course, been an NHS Scotland resource allocation committee beneficiary, but I recognise some of the challenges that it faces. My officials have been working closely with NHS Lothian to address out-patient waits, for example, and I will have more to say about initiatives on improving out-patient performance in a few weeks.

I laid out very clearly that the decision on cleft surgery has now come to me. The college's view has been made very clear indeed. I had a productive meeting with the Glasgow surgeons and the Edinburgh surgeon and her team. I now want to look at all that and come to the right conclusions about what is in the best interests of patients across Scotland. I hope that Miles Briggs will appreciate that that will be the founding principle of my decision.

Clare Haughey (Rutherglen) (SNP): Staff banks can provide boards with access to a pool of appropriately trained non-agency staff who can provide short-term supplementary cover when required. I am sure that the cabinet secretary will join me in commending those who give of their time in that way, often at short notice.

Of the total nursing and midwifery staff in NHS Scotland, what percentage is agency staff? What is the Scottish Government doing to reduce reliance on agency staff?

The Deputy Presiding Officer: Next is Jenny Marra, to be followed by Bob Doris. [*Interruption.*]

I am sorry. I am so determined to get through everyone.

Shona Robison: Thank you, Presiding Officer.

I will answer Clare Haughey's question first by commending the work of all staff in our NHS. She has made an important point. Agency nursing represents approximately 0.4 per cent of the total nursing and midwifery staff in NHS Scotland. It is proportionally a very small figure, but it is still too high. That is why we have a programme of work under way nationally in which we are considering with NHS boards how we can have more effective management of all temporary staffing. We are working with boards to reduce reliance on, and the costs of, temporary agency and bank staffing. The team is ensuring that when temporary staff are required, agency staffing is the very last resort. As part of that, we have implemented monthly agency spend reporting to ensure that boards are

informed of their spend and know where to focus their attention in addressing the matter.

The Deputy Presiding Officer: May we now have Jenny Marra, to be followed by Bob Doris?

Jenny Marra (North East Scotland) (Lab): Spending on agency staff is certainly too high in NHS Tayside. The cabinet secretary will know from the report that Audit Scotland has just published that that spending has increased by 39 per cent just over the past year. How will the framework contract that she mentioned in her statement assist with that critical overspend in NHS Tayside?

Shona Robison: Jenny Marra makes an important point. There are big disparities between boards' spend on agency staff—some are spending far more than others. We absolutely want to address that, and we are working with NHS Tayside to address it. There are regional variations—some boards find it harder to recruit permanent staff, but bearing down on agency costs is without doubt critical in this case. We have made it clear to the management team in NHS Tayside that we expect it to do that as a matter of priority, and we will help it to do that.

Part of the solution is to convert some of the agency spend into substantive posts, so we are helping boards to do that. The work that I have announced in relation to the workforce element of the delivery plan—both the national workforce plan and the regional one—will also help us to plan the numbers of nursing and midwifery posts that will be required going forward so that we can ensure that we have the right training places and the right numbers in the right places to support that. I am happy to keep Jenny Marra updated on the work that we will take forward with NHS Tayside specifically.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Audit Scotland highlights in its report that NHS Greater Glasgow and Clyde has an impressive record on key NHS indicators, including the treatment time guarantee and referral to out-patient appointments, as well as a 30 per cent fall in bed days lost via delayed discharge. However, its accident and emergency performance was not impressive compared with that of other Scottish boards. How will we use the report to ensure that best practice is shared among boards so that we constantly drive up standards and, of course, performance?

Shona Robison: Bob Doris raises some important points. The 30 per cent fall in lost bed days in NHS Greater Glasgow and Clyde has been impressive. We have been looking at what the board has done with its partners and we are keen that other integrated partnerships follow suit in order that they use the best ways of reducing

delay. We know what works and we want other partnerships to follow that. NHS Greater Glasgow and Clyde has led the way on that.

On A and E performance, Bob Doris will be aware of the huge programme of work on delivering six essential actions—the six things that we know must be done in order to improve A and E performance across the board. The performance across the board over the past 18 months is the best in the whole UK; it has dramatically increased and improved, which shows that the programme of work on the six essential actions has worked. Glasgow has had more of a challenge, and there have been particular challenges at the Queen Elizabeth university hospital and Glasgow royal infirmary. However, my team of officials has been working closely with NHS Greater Glasgow and Clyde to address those issues and I am confident that that work will bear fruit and that the board's performance will improve.

Alison Johnstone (Lothian) (Green): Investment in prevention is key to reducing demand for NHS services. What action is the Scottish Government taking to develop a truly integrated public health strategy, as was called for in Audit Scotland's report? Today's statement did not address at all the urgent need for a truly integrated new public health strategy with a focus on prevention.

Shona Robison: Alison Johnstone makes an important point about prevention. She will be aware of the review of public health and of the fact that we will have a new public health strategy. We are looking at how best to consolidate the public health resource so that it can deliver a service not just to the NHS but to the rest of the public sector—local government in particular—to help decision makers to make the right decisions based on data and what the evidence tells us about the needs of the local population and, more importantly, what programmes within public health and prevention will work to keep people out of our hospitals by stopping them from falling ill in the first place. I am happy to keep Alison Johnstone updated on the progress of that new public health strategy and bringing the public health resource into one place, and on the benefits that I think it will deliver.

The Deputy Presiding Officer: I call Brian Whittle. If he is very quick, I can call Colin Smyth.

Brian Whittle (South Scotland) (Con): I was disappointed that, in the cabinet secretary's statement, there was not one mention of tackling the alarming rise of the serious preventable disease epidemic. When is the Government going to give proper thought and attention to a sustainable plan to address prevention of ill health and growing health inequality?

Shona Robison: As I have just said to Alison Johnstone, Brian Whittle will appreciate that a huge amount of work has gone into the public health review, which will help us not only to bring the public health resources and workforce together in a more coherent fashion, but to make sure that that delivers the changes that Brian Whittle is talking about. Those changes cannot be delivered just by the NHS: this is about the whole of the public sector—not least, local government. I am keen that we give prevention and public health greater focus. The review has helped us to find a way forward to doing that. I am happy to keep Brian Whittle updated on progress.

Colin Smyth (South Scotland) (Lab): The Audit Scotland report describes the cuts that are facing health boards as “unprecedented”—£293 million in 2015-16, rising to £492 million in 2016-17. Does the cabinet secretary still believe that the cuts are merely efficiency savings? Is she prepared to say to Parliament that not a single penny of those cuts and not a single measure that is taken to make those cuts will impact adversely on patient care?

Shona Robison: By the end of this session of Parliament, we will have increased health funding by almost £2 billion—building on the £3.3 billion increase that has already been delivered under this Government. By the end of this session, health funding will be at least £500 million more than inflation-only increases. That was the highest offer of any party in the Parliament, including Colin Smyth's party, which had the lowest offer on health funding of all the parties.

The Deputy Presiding Officer: Please could you close now, cabinet secretary?

Shona Robison: I will take no lessons from the Labour Party about health funding. What is important, though, is not just the amount of money that is going into the NHS, but what the money is spent on. That is why we need to shift the balance of care, with an additional £500 million going into primary care by the end of this session—

The Deputy Presiding Officer: Please close now, cabinet secretary.

Shona Robison: I hope that the plans will get support from all across the chamber.

Alex Cole-Hamilton (Edinburgh Western) (LD): On a point of order, Presiding Officer. This is the first opportunity that Parliament has had since the publication of the damning Audit Scotland report last week to discuss the report, yet we have had five sycophantic questions from members of the Government's party to pad out time but have not been able to call a member from every party in Parliament. Can we please extend the time for questions?

The Deputy Presiding Officer: We had six Opposition questions and three Government questions. If that is an issue, please take it up with your business manager. There can perhaps be a discussion among all parties about asking questions rather than making statements, and giving back-bench colleagues the courtesy of allowing them all to take part. There is a debate on the same subject later this afternoon. *[Interruption.]* Histrionics will not change my mind, Mr Cole-Hamilton.

Sectarian Behaviour and Hate Crime

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a debate on motion S4M-02231, in the name of Douglas Ross, on justice. I will give people time to get quickly into position. We are already short of time for this debate so I impress upon members that brevity will be much appreciated.

15:14

Douglas Ross (Highlands and Islands) (Con): I refer members to my entry in the register of members' interests as a football referee officiating at matches for the Scottish Football Association, the Union of European Football Associations and FIFA.

Presiding Officer,

"The critical role for Government ... is to ensure that the law is fit for purpose."—*[Official Report, 14 December 2011; c 4644.]*

Those are not my words; they are the words of Roseanna Cunningham, then the Minister for Community Safety and Legal Affairs, during the stage 3 proceedings on the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill. I could not agree more with Ms Cunningham, which is why I am pleased to lead today's debate on behalf of the Scottish Conservatives.

When the bill was passed, there was cross-party consensus among the Opposition parties that it was deeply flawed anti-sectarian legislation. The Scottish Government had failed in its duty to ensure that the law was fit for purpose. Almost five years later, that consensus remains. Let me clear from the outset that, whether in our schools, on our streets or in our football stands, sectarian behaviour should not, must not and will not be tolerated under any circumstances. Sectarian violence, slogans and songs in and around Scotland's stadiums provoke distress and division, and they offend and frighten fans who just want to enjoy our national game.

John Mason (Glasgow Shettleston) (SNP): I appreciate the member's sentiment. Does he feel that legislation has no part to play in the issue, or does he just want better legislation?

Douglas Ross: I absolutely feel that legislation has a point—we will go on to talk about breach of the peace. As others—not just politicians—said at the time of the passing of the bill and since it has been enacted, we should be using the legislation that was already in place, and we do not need to target one section of our society.

Let me also be clear that we do not believe that the hard-core minority of people who exhibit football-related threatening and violent behaviour should get away with it. My party's long-standing opposition to section 1 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 is not a signal that the Scottish Conservatives do not support the eradication of the scourge of sectarianism—any attempts to suggest otherwise are a gross distortion of our position on that issue. We voted against the legislation because, quite simply, it is a bad piece of legislation. As my colleague John Lamont reminded members in December 2011, when the bill was railroaded through,

“bad law is worse than no law.”—[*Official Report*, 14 December 2011; c 4672.]

That is not just our view; it is the view of much of the legal profession. It is well documented that, in 2013, one senior judge complained that the complex, catch-all and badly defined provisions of the act were “horribly drafted”, infamously adding that

“somehow the word mince comes to mind”.

Many sheriffs have been “emphatically critical” of the act and have raised concerns about the clarity and human rights implications of section 1, as well as the quality of evidence in cases and the meaning of “offensive behaviours”.

During the bill's rushed passage through Parliament, the Scottish Conservatives consistently argued that sufficient laws were already in place to deal with the behaviour that it sought to address. Again, that was not just our view; it was the assessment at the time of the Law Society of Scotland's criminal law committee—and it continues to be its assessment. The committee concluded:

“The Committee is of the view that the offence, under section 1, does not improve on common law breach of the peace or section 38 of the Criminal Justice and Licensing (Scotland) Act 2010.”

The First Minister and members on the Scottish National Party benches continually tell us that the SNP Government is a listening Government, so what is it that they are not hearing from Opposition politicians, football fans and the legal profession? The response has been clear and the way ahead for the Government is straightforward. To push legislation through when it has a majority is bad enough; to ignore the outcry following the legislation's implementation and cover its eyes and ears, pretending that nothing is wrong, is lamentable and a failure of the Government's duty to Scotland.

The SNP amendment today mentions that public opinion is supportive of the legislation, citing a Scottish Government-commissioned poll that

found that 80 per cent of those surveyed supported the act. However, it should be noted that just over 1,000 people were surveyed, of whom 52 per cent said that they were “not very interested” or “not at all interested” in football.

The Government fails to recognise the significant efforts that James Kelly has gone to with his member's bill. Knowing that there was cross-party support on Opposition benches to repeal the law, he launched a consultation on his proposed member's bill. There were more than 3,000 respondents to the consultation, of whom more than 70 per cent were in favour of repealing the offensive behaviour at football provisions and more than 60 per cent supportive of repealing the threatening communications provisions. That is clear evidence of what the public—when they are asked for their views—want this Government and this Parliament to do. They have been clear.

Should we be surprised at the opposition to the act, given its track record so far? In the inaugural year of the act's operation, the Scottish Government's first set of statistics reported that 259 people were charged under the new legislation. At the same time, the number of people charged with comparable breach of the peace offences fell by 231, which suggested that prosecutors had simply replaced one offence with another, which vindicates the Law Society's assessment.

The number of successful prosecutions has also been variable, ranging from 68 per cent in 2012-13 to 52 per cent in 2014-15. Even the Scottish Government has conceded that the 79 convictions in 2015-16 under section 1 of the act is “very small” compared to the 15,000 or so breach of the peace convictions that were secured in the same period.

Further, the Scottish Government does not seem to know how to measure the impact of the act. The former Minister for Community Safety and Legal Affairs, Paul Wheelhouse, praised the decrease in charges one year as evidence that the legislation was working effectively. However, the very next year, the Cabinet Secretary for Justice highlighted a 49 per cent increase in charges as evidence that it

“continues to be an important tool.”

Such double standards serve only to shed further light on the SNP's confusion over the operation and application of the act. It is an act that the SNP will defend to the hilt, blinkered to its failings and acting in an ignorant fashion in response to its critics' calls. The SNP is behaving like a football club that has used all its substitutes and would prefer to leave the injured player on the pitch rather than remove him for the benefit of the team.

There are occasions when remedying behaviour through changes in the criminal law is appropriate. However, on this occasion, the view of legal practitioners is that there were already adequate laws in place. Those can and should be used to prosecute offensive behaviour rather than vilifying football and its hundreds and thousands of fans.

The 2015 Morrow report emphasises that the impact of sectarianism varies from community to community and that it is not a one-size-fits-all issue. We need an enduring change in culture and attitudes. That happens in homes, classrooms and communities. It is facilitated by the work of charities and third sector organisations such as Nil by Mouth, and we need to see and support more of that community-led activity.

It is time that this flawed act was repealed. Not only does it unfairly target those civilised, law-abiding fans who simply want to enjoy Scotland's beautiful game, but it has served simply to create confusion rather than clarity.

The SNP always bring out the mantra, "What would you do if you repealed the act?"

James Dornan (Glasgow Cathcart) (SNP): Yes.

Douglas Ross: To use a footballing analogy to answer Mr Dornan, the 2012 act does not need a substitution—it needs a full-time whistle blown on it, and that is exactly what we intend to do here today.

It is not just the Government's responsibility to ensure that the law is fit for purpose; it is also this Parliament's responsibility. On too many occasions, the SNP has steamrollered over the legitimate concerns of members of Opposition parties who speak in this chamber for their constituents and Scotland's stakeholders. Today, I sincerely hope that we can begin to reverse that trend.

I move,

That the Parliament believes that sectarian behaviour and hate crime are a blight on society in Scotland and should not be tolerated under any circumstances; notes that there are laws in place to prosecute acts of hatred in addition to the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012; further notes with concern that the legal profession has repeatedly criticised the 2012 Act for being unworkable and badly drafted; regrets that the Scottish Government hastily pushed the legislation through the Parliament, despite widespread criticism from stakeholders and opposition parties, and urges the Scottish Government to repeal the Act as a matter of priority.

15:22

The Minister for Community Safety and Legal Affairs (Annabelle Ewing): Football is indeed Scotland's beautiful game. It is part of our

culture. Supporters are passionate in their backing of their team, but there is a darker side to Scottish football—a part of the game that has been prevalent for decades and which many seem to have accepted as the status quo. Abuse, threats and violence are often excused as just banter or as letting off steam and appear to have been accepted as part and parcel of attending football matches in Scotland. However, there is absolutely no place in football for those who let their passion become violent or their pride become hateful. That is how we used to excuse racism and sexism, but it causes offence and harm and it undermines people's dignity and respect.

As members will be aware, the immediate backdrop to the legislation concerned events in 2011, including when Celtic and Rangers played in a Scottish cup semi-final replay. Also around that time, prominent public figures, including the former Celtic manager, Neil Lennon, received bullets and viable explosive devices through the post because of their football allegiance.

Of course the Scottish Government recognises that the majority of football fans are well behaved and simply want to support their team. However, there is a stubborn minority who still believe that it is acceptable to be abusive, offensive and violent at football matches.

The 2012 act was introduced to rid Scottish football of that abusive behaviour and to differentiate between supporting a team and descending into threatening and abusive targeting of the opposition. Nobody is suggesting that there cannot be banter between rival fans, but when that spills over into racist, homophobic, sexist or sectarian behaviour, it is unacceptable. Indeed, evidence tells us that the majority of fans and people in Scotland's communities find such behaviour unacceptable. I refer the chamber to the independent and comprehensive YouGov poll that found that 80 per cent of respondents, and 76 per cent of football fans, supported the act.

Too often, we have read about or witnessed behaviour at football matches that would not be acceptable anywhere else in society. Some have argued that the act unfairly targets football supporters and have asked why it does not apply to, for example, rugby or other sports. The simple answer is that there is not the same problem at those events. Ten days ago, an 11-year-old boy had to be taken to hospital after being struck on the head by a glass bottle; he required seven stitches. That happened in and around a football match, not another sport. It is important that members reflect on that.

Neil Findlay (Lothian) (Lab) rose—

Murdo Fraser (Mid Scotland and Fife) (Con) rose—

Annabelle Ewing: Presiding Officer, I wish to make some progress.

The Deputy Presiding Officer: The minister does not wish to take either intervention. Please sit down.

Annabelle Ewing: These are not new problems. Scottish football needs to recognise that society does not agree that historical tribalism is a justification for abusive behaviour. Football cannot simply wash its hands here. Football is an integral part of our society, and it needs to be part of the solution.

We should be promoting the game in Scotland and trying to encourage more people to go to football games, especially the next generation of fans—the ones who will be the lifeblood of the game in the future. Instead, we hear of families who are put off from going because they do not wish to expose their children to the inappropriate behaviour of the hard-core minority who sour the atmosphere and make it unwelcoming for the majority.

I turn to a few of the misconceptions about the act that we keep hearing. People have suggested that it was not needed because existing legislation was sufficient. However, we saw in the independent academic evaluation of the act that it brought a new clarity to the law. I refer members to the submission that the Crown Office made just a few weeks ago to Mr Kelly's consultation, in which it made the point directly that the act was dealing with offending behaviour for which the prosecution may not have been able to secure a conviction using existing legislation.

Neil Findlay rose—

Douglas Ross rose—

Annabelle Ewing: I am afraid that I want to make progress.

Another misconception is that the act is ineffective, demonstrated apparently by a lack of prosecutions. Although that is perhaps not the normal approach to how we measure the success of criminal law and policy, I point out that, in any event, statistics clearly demonstrate that the rate of prosecutions under the act is comparable to the rate of prosecutions for other offences. The latest information, which covers 2014-15, shows how proceedings have been concluded thus far. In 98 cases brought under section 1 of the act, 76 people were convicted—that is an 84 per cent conviction rate. Comparable conviction rates for other offences in the same year are similar, with breach of the peace at 84 per cent and common assault at 75 per cent.

Neil Findlay rose—

Annabelle Ewing: I wish to make progress.

It has also been claimed that the legislation breaches human rights legislation, but Lord Carloway, then Lord Justice Clerk and now Lord President, rejected an appeal in February 2015 that the 2012 act was not sufficiently clear—the appeal court took the opposite view. The appeal court also took the view that the act did not infringe rights under article 7 of the European convention of human rights. That is the view of the appeal court in Scotland.

The principles and reasons behind the legislation are robust and it is important to point out that it is part of a broader approach to tackling issues such as sectarianism. As a Government, we have invested—and been proud to invest—some £12.5 million over the past four years, taking us to March next year, in many important community-based education projects. This morning, I had the pleasure of visiting one of those projects—the I see Scotland project—at Polmont prison.

We have worked to ensure that the recommendations—

James Kelly (Glasgow) (Lab) rose—

The Deputy Presiding Officer: The minister is closing.

Annabelle Ewing: I will take an intervention from James Kelly.

James Kelly: If the Government is fully committed to anti-sectarian initiatives, will the minister explain why the budget has been cut in the past year by £2 million?

Annabelle Ewing: We have put in an unprecedented amount of money—£12 million over the past four years, taking us to next year. That is more than any other Government in Scotland has invested. This week, Mr Kelly was quoted in, I believe, the *Daily Record*, saying that it was not sensible when tackling sectarianism to simply look at tackling what happened in 90 minutes in Scotland on a Saturday. I would say to him that it is not sensible—

The Deputy Presiding Officer: Ms Ewing, you may close.

Annabelle Ewing: It is not sensible to look at sectarianism without also considering what happens in 90 minutes on a Saturday in Scotland.

In conclusion, Presiding Officer—

The Deputy Presiding Officer: No—I think that you have concluded, Ms Ewing. Thank you very much.

Amendment S5M-02231.1 moved, to leave out from “there are laws” to end and insert:

“the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 sends a clear

message that abusive behaviour has no place in Scottish football and gives additional tools to police and prosecutors to deal with acts of hatred; further notes that an independent poll carried out by YouGov showed overwhelming public support for the Act, including support from a majority of the football supporters surveyed; recognises the support from equality organisations in assisting to tackle unacceptable behaviour at football matches; notes the importance of Section 6 in tackling issues of threatening communications and stirring up religious hatred, which have been criminalised in the rest of the UK since 2006; further notes the Scottish Government's record level of investment of £12.5 million in tackling sectarianism through education and grassroots community work, and urges the Scottish Government to continue with this work through the delivery of the recommendations of the independent Advisory Group on Tackling Sectarianism in Scotland, as well as tackling all other forms of prejudice and hate crime and implementing the recommendations of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion."—[Annabelle Ewing]

15:30

Claire Baker (Mid Scotland and Fife) (Lab): I welcome the opportunity to have this debate.

Labour has an established position on the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. We are against this unworkable, poorly drafted act. It has soured relationships, focused on a very specific group of people and failed to address and tackle the issues of sectarianism, bigotry and offensive behaviour. That is why repeal of the act was in our manifesto, why my colleague James Kelly is bringing forward a member's bill to do just that and why today we will support the motion.

Let me be clear that Scottish Labour does not condone any threatening, abusive, sectarian, bigoted or violent behaviour at football, in our schools, communities or homes, or online. I know that all of us in the chamber can unite on that position. We need a strategy that works, but unfortunately the act does not.

So far, the Government has failed to fully and satisfactorily answer the concerns with the drafting of the legislation. The issues range from subjectivity in deciding what offensive behaviour is to the way in which the act criminalises certain behaviours only in a football setting. There are also concerns about the consequences of the legislation for freedom of speech and human rights. According to Lady Paton, Lord Brodie and Lord Philip of the appeal court, the act

"created a criminal offence with an extremely long reach."

It allows someone to be charged if they are on a journey to a football match, even if they have no intention of actually attending the match.

The law allows Police Scotland officers to use discretion when it comes to deeming what is offensive. Officers now have to become judge and jury in considering when "bad sentiment" becomes

"hatred", as one sheriff put it. That has led to claims of misapplication and misuse. Many people have been arrested without there being an identifiable victim and many charges have failed to lead to conviction.

It is clear that, since the introduction of the legislation, the relationship between fans and fan groups and the police has deteriorated. That relationship needs to be strong if we are to tackle sectarianism and offensive behaviour. Instead of co-operation and self-policing, we have fans being filmed, followed and searched. According to *Fans Against Criminalisation*,

"the whole atmosphere of football has become one of antagonism—not between opposing fan groups but between fans and the police."

Young fans are growing up in a culture of distrust of our police force and a feeling of injustice. That is not a healthy relationship to foster in modern Scotland and it could have a knock-on effect on other justice issues.

Football is Scotland's game, yet when we discuss it in the chamber, we often paint a dark and negative picture of the game. Fan behaviour has changed dramatically since the 1980s. The tartan army is renowned and loved the world over, and the tens of thousands of Celtic fans in Seville for the UEFA cup final won UEFA's fair play award. Scotland's clubs are the best supported in Europe if we consider attendances on a per capita basis. Every weekend, thousands of fans travel to games to support their team, doing their club and country proud. Yes, a minority of fans let the side down, but having an act that treats all football fans differently from fans of other sports such as rugby, golf or ice hockey is not the answer.

Ahead of the debate, the Government has repeatedly called for alternatives but, as has been repeatedly pointed out, the alternatives are already in place. Among others, we have the Criminal Justice (Scotland) Act 2003, the Police, Public Order and Criminal Justice (Scotland) Act 2006 and the Criminal Justice and Licensing (Scotland) Act 2010. Sectarianism, bigotry, hatred and violence are not new offences. We have common-law offences such as breach of the peace; public order offences relating to the incitement of racial hatred, harassment and religious prejudice; football banning orders; and a raft of other charges that can be brought against anyone who is clearly breaking the law. That was discussed at length during the passage of the legislation. Concerns were raised but went unheeded by the Government, which used its majority at the time to force through the legislation. However, nothing since the passing of the 2012 act has eased those concerns.

The best laws and legislation are simple, clear and understood, not just by the courts and the

police but by the public. However, the act is at best confusing or, in the words of Sheriff Richard Davidson, “horribly drafted”. That critique is simple, clear and understood.

Repeal of the act would include repeal of section 6, which the Law Society of Scotland suggests adds to the complexity of prosecuting the offence and is an area that could benefit from clarity. I am confident that repeal would not restrict the ability to prosecute in that area.

Today, Parliament is uniting against this unworkable act. We have an opportunity to listen to the courts, lawyers, academics and fans and the chance to repair relationships between fans and the police. This is not the time for arrogance or stubbornness; it is time for the Scottish Government to accept the need to repeal the act.

The Deputy Presiding Officer: We move to the open debate. I cannot impress on members enough just how tight time is in this very short debate. Speeches will be generally four minutes, including interventions.

15:34

Oliver Mundell (Dumfriesshire) (Con): It would be easy to think that today’s debate is about tackling the blight of sectarianism, which—despite significant progress—still plagues modern Scotland. However, such arguments in this context are nothing more than a straw man because, as we have seen, the legislation does nothing in practice to tackle the underlying issues or to change behaviour. In fact, the only positive thing to come out of the legislation—I give the Scottish Government credit where it is due—is that it has succeeded in uniting football fans across the divide in a common cause. It has shown that—albeit in a narrow context—people can put aside their traditional rivalries in the interest of the game, and it has brought together Opposition parties in the chamber. I hope that the Scottish Government will reflect on that.

Stuart McMillan (Greenock and Inverclyde) (SNP): Will the member take an intervention?

Oliver Mundell: No, thank you.

The legislation is tokenism at its worst and—perhaps more worryingly—it is very poor legislation that muddies the waters rather than delivering on any tangible policy aims. The warning signs are clear for all to see as judges, civil rights groups, and football fans and clubs have all highlighted continuing concerns. The Law Society of Scotland put it diplomatically when it said:

“We believe that the policy intention and objectives of the 2012 act to address the serious issues of offensive behaviour at football matches and threatening

communications is entirely laudable. However, we remain concerned about a number of aspects of the act, which we expressed at the bill stage in 2011.”

That is just the point. The Scottish Government rushed through the bill, railroading it through Parliament without addressing any of the legitimate concerns and criticisms that were levelled. We now find ourselves back where we started, with legislation that is not fit for purpose and which is riddled with exactly the same problems that were predicted back in 2011.

Drafting and legal considerations aside, the most worrying and undesirable consequence of the 2012 act is that it brings so many young males into the criminal justice system for the first time. Of the 287 charges that were brought under the act in 2015-16, approximately 98 per cent of those charged were male. Sadly, almost half were 20 years of age or under and a further 29 per cent were aged between 21 and 30. That tells a very sad story and seems to point to a more worrying trend that continues to exist outside football. That is the point: these problems exist inside and outside football, which is why it is wrong to focus our political effort in this way.

What is more, the act provides no solutions whatsoever. By implication, rather than focusing our financial and political efforts on addressing offending behaviour, we are simply seeking to label the problem and make an example of a small number of individuals.

As YouthLink Scotland rightly highlighted in its most recent consultation response on the subject, we must be mindful of the fact that having a criminal record will impact on a young person’s attainment and employment prospects. That issue seems to fly in the face of the Scottish Government’s own priorities for justice.

After almost a decade in government, is not it time for the SNP to recognise that sometimes gesture politics is not without consequences? It is time for the Government to think again, to listen to legitimate criticisms and to call time on the dog’s dinner that is the 2012 act.

15:38

Rona Mackay (Strathkelvin and Bearsden) (SNP): I want to highlight the meaning of the word “justice”. The dictionary definition states that it is

“a concern for justice, peace, and genuine respect for people; fairness, equity and egalitarianism”.

Those values are precisely what the 2012 act promotes. It sends out a clear message that we will not permit discrimination, violence, sectarianism, prejudice or hate crime in Scotland.

I want to clear up a few myths about the act. It is working and is reducing sectarianism at football. In

2016, the number of people charged with offensive behaviour from the previous year has increased by 49 per cent, which means that the amount of abusive behaviour and language on our football terraces and streets has reduced by 49 per cent.

The fact is that the 2012 act is supported by the majority of the public—around 80 per cent. Those people just want to enjoy a game of football without having to experience the bile and hatred of a tiny minority of fans.

Neil Findlay: Will the member take an intervention?

Rona Mackay: I am sorry, I have too little time.

The 2012 act is also, in the main, supported by football clubs across Scotland.

The 2012 act is not confined to football. An offence is also committed if material is intended to stir up religiously motivated hatred. Sectarianism is not a matter for football in isolation, because the problem goes way beyond the football ground. The 2012 act is also designed to address online communications and hate crime.

Of course we will consider ways of improving the 2012 act's application. We are happy to do so. However, to repeal the act and get rid of an additional and useful tool, which strengthens existing legislation for police and prosecutors, is not a priority for this Government. The Crown Office said that repeal would leave a gap in legislation, and we would be the only part of the United Kingdom that does not have such legislation. Repeal would be an entirely retrograde step. What message would it send to the next generation?

When my son was a football-mad six-year-old and wanted a football top, we bought him a Partick Thistle Football Club top so that he would not be identified with either side of the old firm. How do we explain sectarianism to a young child? We simply cannot do so, and we should not have to do so. Sectarianism has been the curse of the west of Scotland, and any steps that our Government takes to put a stop to it should be welcomed.

Douglas Ross's motion, which asks for the repeal of the act, is regressive and negative. The motion is right to say that

"sectarian behaviour and hate crime are a blight on society in Scotland",

but Douglas Ross's party, like Labour, has not come up with a single solution to the problem. What is the Opposition's alternative? Breach of the peace is simply not strong enough.

Douglas Ross: Will the member take an intervention?

The Deputy Presiding Officer: She is in her final minute.

Rona Mackay: Labour and the Tories supported the approach whole-heartedly in 2011.

To members who oppose the 2012 act, I say that we are proud that, rather than pay lip service to the problem, the SNP Government is prepared to tackle it head on and rid Scotland of a poison that has been a blight on our nation for far too long.

15:41

James Kelly (Glasgow) (Lab): Let us be clear. The football act has been a failure. It was imposed on the Parliament against the will of all the Opposition parties, it unfairly targets football fans, it causes friction between police and supporters, and it has been ineffective in tackling sectarianism. That is why 70 per cent of the more than 3,000 people who responded to the consultation on my member's bill proposal support the repeal of sections 1 to 5 and 62 per cent support the repeal of sections 6 to 9.

The Opposition parties are unanimously opposed to the 2012 act continuing, just as they were unanimous in opposing the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill at stage 3 in 2011. It is time that SNP members started to listen to us, instead of hectoring and lecturing us.

The repeal of the 2012 act would be important, first, because the act causes a lot of confusion and what is needed in the justice system is legal certainty. We need only consider some of the cases. In one example, a whole morning was taken up in a sheriff court by legal debate about whether the jaw movements of a young man whose mouth had been covered with a scarf could be construed as representing an offensive song that might cause public disorder. It really is ridiculous.

As Oliver Mundell rightly pointed out, in the recent tranche of cases, nearly half involved young men under 20, many of whom were being brought into the criminal justice system for the first time. I have listened to many debates on justice and sincere speeches from Michael Matheson and I cannot for a minute believe that that is a policy outcome that the Government wanted or wants to continue.

We must also consider the cost. Some £2 million has been spent on a unit that films football supporters in and outside football grounds. That is not to mention the cost of overzealous pursuit of cases. In recent times, we have seen the return of numerous dawn raids, in which police officers sit outside offenders' houses in shifts, in order to

carry out an arrest. Surely the amount of money that we invest in such measures would be better invested in better ideas in the public services.

The Scottish Government has got the approach to tackling sectarianism wrong in making the 2012 act its flagship policy. A lot of hate crimes are carried out away from the football, and the ministerial team does not appear to have grasped that.

I believe that we can do better as a Parliament. Surely, in 21st century Scotland, we should not have a law that targets one section of sports fans. Surely, in a modern progressive country, we should not be filming football fans going in and out of grounds.

The Deputy Presiding Officer: Would you come to a close, please, Mr Kelly?

James Kelly: Surely we can do better than a policy that criminalises young people under the age of 20. I think that there is an opportunity—

The Deputy Presiding Officer: Mr Kelly, would you close please?

James Kelly: —for the SNP to reach out and build consensus with other parties and groups in Scotland, and it should start with the repeal of the 2012 act.

15:46

John Finnie (Highlands and Islands) (Green): The Scottish Green Party manifesto position was to support the repeal of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, and that is entirely consistent with objections that Patrick Harvie raised at the outset of the passage of the bill. Indeed, throughout its passage the Scottish Green Party MSPs repeatedly made it clear that although there may be a case for incitement to hatred legislation in Scots law, it should be developed with careful consideration. People have talked about the haste with which the bill was passed. Incitement to hatred legislation must have a significant level of consensus, but there was not consensus on the 2012 act, and it must treat everyone equally before the law—it is felt that the 2012 act targets football supporters.

Various references to judicial comment have been made. In one case at the High Court, the judge said:

“In enacting s1(1) the Parliament created a criminal offence with an extremely long reach”.

Many sheriffs are of the view that the Parliament overstretched itself.

I am sure that many members have had representations on the 2012 act. Someone said to me:

“I am no expert on intersectionality but an approach to religious or sexual discrimination which targets a section of the population doesn't seem to fit ... The offence in s38 of the Criminal Justice and Licensing (Scotland) Act 2010 has faced none of this criticism because, I'd suggest, it applies across the board.”

I hear a consensus that we need to tackle sectarianism.

Maree Todd (Highlands and Islands) (SNP): Constituents have also written to me. One said that although they accept that the 2012 act probably does not deal with the numerous nuances of behaviour at matches, to repeal it would send a dangerous message to offending groups. I know that that constituent also wrote to John Finnie.

John Finnie: Yes, indeed; this morning they got a courteous reply that outlined the Scottish Green Party's position and the rationale for it.

Another representation that I had said:

“Unpicking the complex social histories and fabric which has resulted in the sectarian problems we have today is essential. The final report from the Advisory Group on Tackling Sectarianism in Scotland is the best basis we have for a strategy that will deliver on that complex task.”

The Morrow report talked about the need to challenge our acceptance of low-level sectarianism and the need to work across political parties, which I hope will happen. It also called for leadership from churches, community organisations, local authorities and football clubs, and it spoke about the need for funding for grass-roots activity.

The Morrow report was keen to portray the reality that sectarianism is not rife across football. Rather, it is strong in pockets. Sectarianism extends much wider into society and it is wrong to conflate football and sectarianism. There is no way of addressing the issue in football without addressing the wider issue.

How we go about that can be successful only if the approach is consistent and long term, and that can happen only if there is a shared political vision for the work. There never was a shared vision for the 2012 act. The Scottish Parliament is at its best when it is united. We have seen that in relation to some important issues and I hope that we will see unity in condemnation of sectarianism.

As I said, Parliament was never united on the legislation although there is no place for sectarianism in Scotland. The Scottish Green Party believes that the 2012 act unnecessarily restricts freedom of expression and has not been the most effective way of addressing the concerns, and Green MSPs voted against the legislation in 2011. However, I stress that there may be a case for incitement to hatred legislation in Scots law if we can get consensus on that.

I conclude by quoting Patrick Harvie's final words in the stage 3 debate. He talked about the mistakes in the bill that MSPs would

"need to come back to correct in good time."—[*Official Report*, 14 December 2011; c 4658.]

This is a good time to correct them—correction by repeal.

15:50

Liam McArthur (Orkney Islands) (LD): I thank Douglas Ross for securing the debate and pay tribute to James Kelly for his diligence in keeping a spotlight on the deficiencies of the 2012 act and for his bill to repeal that ill-thought-through legislation. Like other members, I make it absolutely clear that I utterly condemn sectarian language, acts and behaviour, which are still too prevalent and pervasive in our society. I will happily work my socks off with any party, any group and any individual in a bid to rid our country of that stain. However, I am not interested in quick fixes, headline-grabbing stunts or shows of legislative muscle that are counterproductive and which damage the very relations that we will depend on for a long-term solution.

I say that partly in response to what I thought were insultingly patronising comments attributed to a Scottish Government spokeswoman earlier this week. She said:

"Critics of the act seem to think our only option is just to accept this contempt for fans and players."

If that is the minister's view, it does her no credit. For me, it has unpleasant echoes of the former justice secretary's view that those who opposed the SNP Government's plans to abolish corroboration were somehow sympathisers with or apologists for domestic violence and sexual assault.

Annabelle Ewing: Will the member take an intervention?

Liam McArthur: No, thank you.

I do not believe that over 70 per cent of the respondents to the consultation on James Kelly's bill are apologists for sectarianism any more than I believe that any member of this chamber is. They are groups and individuals who reflect the widely held view that the act was flawed from the start—a view that has been borne out by what has happened since the act was introduced. It was introduced by a justice secretary and a majority SNP Government that showed scant respect or regard for the Parliament, for civil liberties or for the complexities of the problem that they sought to address. It was a knee-jerk reaction in response to reprehensible scenes at an old firm game and accusations that the then First Minister and his Government had taken their eye off the ball and

failed to carry forward the work on sectarianism that had previously been led by Jack McConnell.

I dare say that we will now be offered an inquiry into how the act is performing, but the time for an inquiry would have been prior to legislating in the first place. Emergency legislation is sometimes necessary, but its use in that instance was not justified and was based on no compelling evidence that the tools at the disposal of the police, the courts and our judicial system were inadequate at the time. No wonder the bill was described as "mince". It singled out one sport and left what constitutes offensive behaviour open to the widest possible interpretation. Considering how quickly SNP colleagues can be offended when it suits them, such an elastic definition of offensiveness is surely not tenable.

What is the solution? Nil by Mouth and others call for the problem to be dealt with holistically, with action not stopping at criminalising the behaviour of one section of society in one particular circumstance. As John Finnie said, the advisory group on tackling sectarianism has established the foundations for change through initiatives that focus on prevention and building trust and understanding, recognising that councils, churches, football clubs, schools, the media, community organisations and others are all key in delivering grass-roots solutions. The advisory group has set out a series of recommendations. I accept that none of them is as easily packaged and sold as a single piece of newly minted statute, but if we are truly to tackle this scar on our society we must recognise that it will require patient, time-consuming, intensive work by many people and organisations over a sustained period.

We need to show sectarianism the red card, but that can be done more effectively by sending this ill-conceived act for an early bath.

15:54

Gordon Lindhurst (Lothian) (Con): The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 is an unfortunate relic of the previous parliamentary term and an act on which proper scrutiny was never allowed. Good law that works must take into account a range of views, particularly those from people who are affected by and involved in carrying out its provisions. The fundamental problem with the bill—pointed out well in advance of it becoming law—was its lack of clarity.

The concept of offence to a notional person, rather than to an actual individual who is affected by the crime, was always bound to be problematic. It has effectively placed the police and the courts in the difficult position of not just identifying but defining the alleged culprit.

The pre-existing law on breach of the peace is, by comparison, relatively clear—and that is saying something. What about the law in practice? Predictably, as has been mentioned, there have been conflicting decisions by respected judges in very similar cases. Different judgments have been handed down for the singing of the same song in the same year. In March last year, on a case a month after the one referred to, *Donnelly and Walsh v Procurator Fiscal, Edinburgh*, the then Lord Justice Clerk and now Lord President—the highest judge in Scotland—Lord Carloway, said:

“There is no blanket ban on singing sectarian songs and the appellants are at liberty to indulge their desire to do so at many alternative venues.”

Annabelle Ewing: Will the member take an intervention?

Gordon Lindhurst: No, I will not—thank you.

The law has, unsurprisingly, been branded as “capricious” and “unfair, unnecessary and unworkable” by Brian McConnachie QC, former chair of the Scottish criminal bar association.

It is astonishing not just to me but to my Edinburgh and Lothian constituents that football supporters visiting Tynecastle, Easter Road or Meadowbank stadium may be treated differently from those watching rugby matches at Murrayfield stadium. That seems nothing short of ridiculous.

The act provides a platform for the promotion and creation of social division. That is surely the opposite of its supposed purpose. Critically, as has been said, the act does not have the support or the respect of the fans. Police Scotland needs to have fans’ support and respect to maintain law and order, which the vast majority of football supporters want to see. Police Scotland’s job is difficult enough without being added to by unclear law such as this act.

There is, of course, a real issue that requires to be dealt with: sectarianism and its ugly consequences. The way to deal with that is through education and removing the circumstances that lie at the root of the problem. A law that fails in so many ways is not the answer.

Professor Ewen Cameron of the University of Edinburgh has rightly said that the legislation

“doesn’t really address the underlying issues, the deeply held cultural attitude and feelings. It addresses a symptom of sectarianism, the particular problem of ... sectarian language. Underlying attitudes can’t really be dealt with by criminalising songs.”

There is no point in having laws for their own sake. We need to deal with the underlying root causes and not just the consequences of sectarianism. I sincerely hope that the Scottish Government will, for once, listen.

15:58

James Dornan (Glasgow Cathcart) (SNP): I am sad to say that I will not be able to take any interventions, because I have only four minutes. If I had had more time, I would have been happy to do that.

Presiding Officer,

“there are still instances of online campaigns which are sectarian in nature and are unacceptable ... The job for a ... parliament is to look at the laws around the internet”

to see if

“they’re tough enough ... we want the authorities to act”

and get

“the appropriate tools in legislation at their disposal to clamp down on this.”

That was a comment by James Kelly on 22 April 2011, which was coincidentally about two weeks before an election, which shows to me that this debate is nothing to do with trying to improve the legislation and everything to do with trying to defeat the Government. This is a political stunt by two parties that have been working very closely together for quite some time now.

Ruth Davidson (Edinburgh Central) (Con): Will the member take an intervention?

James Dornan: The member obviously was not listening to the beginning of my speech.

I have heard a number of people say that they cannot understand why football was singled out. The people who are saying that do not know anything about the situation in the west of Scotland.

The one defining picture of sectarianism in Scotland has always been football. That is not where it all comes from or where, deep down, it lies. All those things have been dealt with, but if we are trying to pretend that sectarianism and football have not been ugly brothers for some time, we have not been paying attention. We had to take on the sectarianism and antisocial behaviour at football, and the death threats that managers were getting. I cannot believe that the Conservatives are keen to get rid of section 6 of the 2012 act. There is absolutely nothing to replace it.

James Kelly rose—

James Dornan: We have been told that we should do nothing. It is ridiculous. Douglas Ross said that we should do nothing, as did James Kelly. *[Interruption.]* No, Mr Ross, you said that we should do nothing. Yesterday, James Kelly told me that we should let the clubs deal with the issue, and that is what Douglas Ross is saying today. The clubs refused to do anything. The Scottish Football Association wanted to bring in strict

liability, but the clubs said no. The supporters of two clubs fought at the Scottish cup final at Hampden—the whole world saw it—but neither club was found guilty of anything. *[Interruption.]* That is the whole point. We are saying that there is still work to be done. The Conservatives' argument is that we should go back to having less legislation, with the result that we will be less able to hold people to account. We must hold the clubs to account. We must hold people to account. *[Interruption.]*

The Deputy Presiding Officer: Could members all talk through the chair, please, instead of holding private conversations?

James Dornan: I apologise, Presiding Officer. That is what happens at football matches all the time.

The clubs will not do anything unless we make sure that there is legislation in place for them. We must keep the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012. We must send out a message that we take the issue seriously.

I know that there is no member who is complacent about sectarianism. Douglas Ross says that we are wrong, but I say that I honestly believe that the message that the Conservatives would send out by repealing the 2012 act would be that they do not think that there is a problem that still has to be dealt with. I know that that is not Douglas Ross's intention, but that is the message that would go out loud and clear to people all across the country.

I know lots of football fans; I have been a football fan for longer than most Conservative members have been alive. *[Interruption.]* Not you, Jackson. Many of the people I know support the 2012 act because they want to go to a game and enjoy their football. They want to take their children and their grandchildren with them, and they do not want to have to listen to the rubbish that I had to listen to when I was a kid, which my sons had to listen to when they were kids.

I ask members to support the Government and not to support the motion, because it is flawed.

The Deputy Presiding Officer: The last of the open debate speakers is Kate Forbes. I can allow you around two minutes, Ms Forbes.

16:02

Kate Forbes (Skye, Lochaber and Badenoch) (SNP): I support the Government's amendment because the Conservatives have lodged a motion that rightly condemns sectarian behaviour and hate crime, which it says are "a blight on society"—I agree—but it does not offer a single solution. It is a weak Opposition that will carp and

criticise as it sits in the stands and a strong Opposition that gets on the pitch with an actual plan.

The appalling scenes at the recent Scottish cup final humiliated this nation. Quiet indulgence or passive acceptance of sectarian banter runs as a fault line through Scottish society. I know that none of us is resigned to the status quo. One thing that can be said for the Government is that it is not resigned or indifferent.

Immediately prior to the introduction of the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill, Opposition parties lined up to ask the Government what specific action it would take to address sectarianism. We did something. I repeat that question to the Opposition parties: what is their viable alternative that would solve football-related sectarianism? With the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, we criminalised hateful behaviour that incites public disorder and sent a message that Scotland would not tolerate any form of hate crime. We will continue to consider ways to improve the application of the act, but we are yet to hear of anything better to replace it with.

Education is, of course, important, but it is not the only answer. Funding is vital, but it will not fully solve the problem. We need legislation. Therefore, I repeat the question that was asked by Opposition parties more than four years ago: what are they going to do, when bullets and explosive devices are sent through the post, when banners with threatening remarks are displayed or when inflatable dolls are strung up at football matches? What is their alternative to the 2012 act when hundreds of police hours are spent investigating crimes after football matches and tens of people are arrested after a cup final?

That is the reality in Scotland. There is public support for tackling hate crime, for a strong criminal justice system and for clarity in enforcing legislation. We are committed to that, which is why this act exists. We can debate and oppose it if we want, but it is just empty rhetoric and—to use Mr Mundell's words—gesture politics if there is no viable alternative.

The Deputy Presiding Officer: We move to the closing speeches, and I call Mary Fee. You may have four minutes, Ms Fee.

16:05

Mary Fee (West Scotland) (Lab): Sectarianism is an intolerable form of human behaviour that should never be treated with acceptance or ignorance. I thank the Conservatives for bringing this debate to the chamber this afternoon, because I think that their motion reflects the mood

of the Opposition parties, football fans, academics and law bodies. We want to tackle sectarianism through education and prevention and to work with anti-sectarianism charities, churches, football authorities and fans to develop positive measures to stamp it out in Scotland.

I do not doubt the Scottish Government's intentions in tackling sectarianism, and I believe that they are sincere. Like many others, however, I also believe that the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 was rushed and is reactionary.

There have always been wider problems surrounding football, particularly in Glasgow and the west of Scotland, but to tackle sectarianism adequately, we must look at the deeper roots and attitudes of those holding biased and sectarian views, whether or not they are football fans. James Kelly has outlined his reasons for holding a consultation to repeal the 2012 act. Over 70 per cent of respondents believe that the Scottish Government should listen to their views and join the rest of the chamber to scrap the act and take other measures to tackle bigotry.

Prior to the act becoming law in 2012, there were already eight pieces of legislation that tackled hate crime, sectarianism and behaviour of football fans. The 2012 act is illiberal and treats football fans differently from any other sports fan or, indeed, anyone in any other walk of life. Sectarianism occurs in the workplace, in the school and on the streets; it does not start when a fan walks through the turnstile and does not end when the full-time whistle blows.

Assumptions based on bias or bigotry can be made about something as simple as a person's name. I have been in that position, having been abused because of the connotations of my surname for some people. That did not happen at a football game or while watching sport, and the same thing happens throughout society across the whole of Scotland. I believe that the 2012 act discriminates against fans; it has damaged trust between fans and police; and it has failed to tackle sectarianism in a proportionate or effective way.

Football across the world has a problem with inclusivity in a range of areas, especially homophobia and racism. Working with national Governments, the governing bodies of football—FIFA and UEFA—and the national football associations must do more at local and grass-roots levels to tackle all forms of discrimination.

The views across the Opposition benches are clear: the Scottish Government will have the chamber's full support if it listens to the fans and goes back to the drawing board to work with a range of stakeholders, including fans, churches,

anti-sectarianism groups, clubs, schools and many more, on a more effective way of educating people and understanding and tackling the root causes of sectarianism.

16:09

The Cabinet Secretary for Justice (Michael Matheson): I have listened with interest to the contributions that have been made. It is fair to say that there is a level of consensus in the chamber, particularly on the need to do everything that we can to tackle unacceptable behaviour that takes place in or outwith football grounds. We all have a collective desire to drive out unacceptable behaviour in our society, whether it takes place during the 90 minutes of a football match or in communities.

It is important to recognise that no one says that legislation is a panacea to tackle unacceptable behaviour in our football grounds or communities. A variety of measures need to be taken to tackle unacceptable behaviour effectively. Through our schools, community-based programmes and partnership work in communities, we need to educate young people about unacceptable behaviour, whether that is sexism, homophobia, racism or sectarianism, all of which have no place in our society.

There is no doubt that our football clubs have an important part to play in tackling unacceptable behaviour that takes place in the environs of their grounds, and I have no doubt that clubs could do more to support that objective.

Douglas Ross: Will the cabinet secretary give way?

Michael Matheson: Let me make progress, please.

Equally, alongside that, legislation has a part to play in supporting our law enforcement bodies and our prosecutors to deal effectively with unacceptable behaviour in any shape or form, wherever it takes place.

Throughout the debate over the four years since the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 was passed, there have been people who have said that the act does not work and should be repealed. We have repeatedly asked Opposition parties what they would do differently and how the existing legislation could be improved or how the deficiencies in it could be addressed. However, we have been struck by the silence from the Opposition parties.

I will pick up a couple of points.

Ruth Davidson: Will the cabinet secretary take an intervention?

Michael Matheson: Let me make progress on issues that have been raised in the debate.

I was struck by the lack of an alternative approach being set out by any of the other parties. I was particularly struck by James Kelly's contribution. He referred to the Police Scotland focus group that deals with tackling unacceptable behaviour in football grounds. That group was not set up because of the legislation; it was set up on the basis of a recommendation from the joint action group on tackling unacceptable behaviour in football and it helps to address the issue in football grounds.

I was also struck by the contributions that were made across the chamber that tried to make the focus of the debate purely about football. The act deals with unacceptable behaviour in football grounds, but it also deals with issues to do with threatening communications. Section 6 is an important part of the act. Many contributions, such as those from Douglas Ross and other members, completely ignored that issue.

James Kelly: I am glad that the cabinet secretary mentioned the threatening communications section. Does he accept that, with only three cases having been brought in the past year, it is clear that prosecutors do not see that section as a viable way of tackling online abuse?

Michael Matheson: Looking at whether legislation is viable on the basis of how often it is used is a simplistic approach to dealing with such an issue.

Let us remember that section 6 was put into the legislation because a football manager received bullets through the post and because two members of the public, including a Deputy Presiding Officer of the Parliament, received viable explosive devices through the post. All of that could have been dealt with only on a summary basis in our courts, which would have limited their powers to sentencing people to no more than a year. However, we put such offences on indictment through the legislation, which allows our courts to deal with matters much more effectively.

Those who say that the legislation is just about football have to recognise that, if they want to repeal the act, they also want to repeal an aspect of it that is essential to dealing with threatening communications. If that was repealed, we would be the only part of the United Kingdom that did not criminalise threatening communication that has the purpose of stirring up religious hatred. That is what the Opposition parties seek to do with the motion, which is why it should be opposed.

16:14

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

At the start of the debate, Douglas Ross set out the case against the legislation. It is unnecessary, unworkable and illiberal, and I will deal with each of those aspects in turn and take the opportunity to respond to some of the points that have been made.

We believe that the legislation is unnecessary. The Scottish Government introduced it as part of the something-must-be-done mentality to address a legitimate concern about sectarianism in Scottish society. It ignored the fact that, as we have heard throughout the debate, laws already existed to address the problem, including common-law breach of the peace. The Law Society of Scotland's briefing for the debate says:

"A substantial proportion of the offensive behaviour related to football which leads to a public disorder was likely to be caught by the substantive criminal law which existed prior to the 2012 act coming into force and continues to exist."

The Law Society is quite clear that the laws were already in place.

I have experience of those laws. I remember standing in football grounds in the 1980s and seeing the police lift people from around me who were singing threatening and offensive songs. One of the individuals in question is now a prominent Scottish lawyer, whom I will not name in the chamber. For the avoidance of doubt, I say that it was not Professor Tomkins.

We heard the cabinet secretary, Kate Forbes and Rona Mackay ask what would replace the legislation, but that completely misses the point of what we and others have been saying. If the existing laws were properly enforced with proper resources, they could deal with the problem.

At the start, the minister said—it is covered in her amendment—that we need to send a message. We have the act because it sends a message about the unacceptability of sectarian behaviour. There are better ways of sending messages than criminalising hundreds of young men. Oliver Mundell talked about young men, and there will also be young women who have had their life chances adversely affected because they have been criminalised under the act. The act has soured relationships between fans and the police.

Mr Dornan accused us of political opportunism for taking the issue as a chance to defeat the Government, but our view has been entirely consistent. We opposed the bill from the start, as did all the Opposition parties. Is it any surprise that we now see an opportunity to repeal what we believe is bad law?

My next point is that the law is unworkable. Claire Baker said that laws need to be clear and

easy to understand. In her opening speech, the minister said that the act had brought clarity to the law.

Annabelle Ewing: Will the member take an intervention?

Murdo Fraser: I tried to intervene on the minister to ask her to explain that remark. I will be delighted if she can now explain why all the people in the legal profession and the judiciary who have criticised the law are wrong. Why does the Government think that it is right and they are all wrong?

Annabelle Ewing: In his characteristic manner, the member is perhaps overegging his case in saying that the whole legal profession takes the view that he just described. I quoted the 2015 judgment in the appeal court, when the Lord Justice Clerk of the time, Lord Carloway, was sitting on the bench.

Murdo Fraser: The minister has not responded to the broad criticism that is contained even in today's briefing from the Law Society of Scotland, which talks about the lack of clarity in the law. That is backed by a range of experts sitting on the bench, whose concerns have been quoted throughout the debate.

We heard an interesting and well-informed contribution from John Finnie for the Greens. He said that there might well be a case for a law against inciting hatred, but it needs to be a general law and not one that applies just to football, because such an approach is inappropriate. We all agree that there is a genuine concern about sectarianism but, if we are to address it, we need to do so across society and not just at football. One of the concerns about the act that the cabinet secretary just mentioned is that it criminalises people in relation to football but not in relation to wider Scottish society.

My final point is that the act is illiberal. It criminalises those who cause offence to others. I believe that people should not offend each other—they should be better behaved—but that does not mean that we should make criminals of those who cause us offence. The act launches a new class of victimless crime, as Gordon Lindhurst reminded us.

In the Joseph Cairns case, a Celtic fan attended a match against Ross County in Dingwall and was filmed by police officers singing two Celtic songs—"The Roll of Honour" and "The Boys of the Old Brigade"—which led to him being prosecuted under the act. This was a victimless crime. Nobody complained to the police that they were offended by his singing and nobody was incited to public disorder. He was one of several thousand fans in the ground who were singing at the same time, yet he was the only one who was singled out

for attention. As James Kelly said, the act unfairly targets people who are in football grounds or are associated with football. It does not address sectarian behaviour in other contexts.

The act is bad law. It has united commentators, football fans, lawyers and the judiciary in opposition and it is unworkable. It creates tensions between football fans and the police, it is unnecessary because what it does is covered by existing laws, and it is illiberal. For those three reasons, it should be repealed, and for that reason we should all support the motion in Douglas Ross's name.

National Health Service

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-02232, in the name of Donald Cameron, on the national health service in Scotland.

16:21

Donald Cameron (Highlands and Islands) (Con): The subject of the debate is, of course, Audit Scotland's report "NHS in Scotland 2016". The report is now a week old. The picture that it paints of the NHS in Scotland is, however, much older. That is the true tragedy. As I will discuss later, the problems that are described are the problems that Audit Scotland described 10 years ago. That is 10 lost years, 10 years of inaction and 10 years of delay.

I will remind Parliament of some key points: only one of the eight key performance targets has been met, the number of out-patients waiting for an appointment went up by more than 20,000 in a year, and there is a recruitment crisis with skills gaps across the NHS. Those are just some of the damning statements in the report.

I have always said that we will welcome successes when they arise, and there are small glimmers of light in the report, so it would be churlish not to acknowledge them. Audit Scotland states that NHS Scotland met its drug and alcohol treatment standard, which we welcome, and the cancer target of 31 days between a decision to treat and first treatment was missed by a very marginal 0.1 per cent. There is also recognition that there has been a reduction in bed days lost to delayed discharge.

However, although there are morsels of good news, in any balanced view the report remains a stark indictment of the SNP's handling of the NHS. Why do we keep hearing that? The SNP Government refuses to acknowledge that after nearly 10 years in its hands the NHS in Scotland is in critical condition. The longer the Government buries its head in the sand, blames other people and talks about a good record, the worse that will get.

Unlike the Government, we want to analyse the problems that are facing our NHS and, more important, talk about the solutions that will make it work not only for patients, but for the front-line staff who care for them. Those staff are one of the many reasons why people have such huge good will—for the moment—towards the NHS. That affection for the NHS does not mean that there are not fundamental problems with the way it is being run here in Scotland. In the report, charge after charge is levelled and proved. It is a forensic

critique of a public service that is on its knees, so it would be incredible if the Scottish Government and the Cabinet Secretary for Health and Sport were to describe the report as anything other than deeply alarming.

A politician uses rhetoric at his or her own risk because its currency is devalued by overuse, but the position that we are in is more than "challenging" and "difficult". It is truly a crisis. If we take targets as one aspect, all but one were missed, as I said, and performance on some is going backwards. Performance on the 18-week referral-to-treatment target is down by 1 per cent on last year, performance on the 12-week treatment time guarantee is down by 2 per cent on last year, and performance on referral to out-patient appointments is down by 3.4 per cent on last year. Those are not mere numbers: they represent real people across Scotland who are relying on our NHS but are being let down—each missed percentage point a person, and each fraction a family.

As I said earlier, and as Ruth Davidson pointed out last week, for the past 10 years Audit Scotland reports have been warning the Scottish Government about the lack of a clear plan to deliver a better NHS. Crucially, they have been warning about the failure to shift the balance of care. When the SNP took office in 2007, Audit Scotland published a report that said that there was

"no evidence that resources are shifting"

from traditional means of delivering services to community-based services.

John Mason (Glasgow Shettleston) (SNP): I thank Donald Cameron for giving way. Does he accept that shifting of services out of acute hospitals into the community might make targets harder to reach—in the short term, at least?

Donald Cameron: As I was saying, in 2008, Audit Scotland said that despite the Government's policy of shifting the balance of care closer to home, there was

"no evidence available to show changes in the balance of expenditure"

had occurred. In its 2009 report, it said the same thing—that

"significant changes in the balance of care from acute to more community-based services have yet to become evident".

In 2014, the same thing was said. Last year, in its 2015 report, Audit Scotland was scathing about the Government when it said:

"the Scottish Government has not made sufficient progress towards achieving its 2020 Vision of changing the balance of care to more homely and community-based settings".

We know what the 2016 report says: exactly the same thing—no progress, no shift in the balance of healthcare, and much more action required.

Year after year, the warnings have been ignored and we are now at breaking point. Despite the long wait, I welcome some of points that were made in the cabinet secretary's statement earlier. I welcome the fact that the Government intends to accelerate the shift from acute care to primary, community and social care. I welcome the fact that the Government is committing to shifting 50 per cent of front-line NHS funding to outwith the acute hospital sector. However, the fact remains that that should have happened years ago, when Audit Scotland first raised the issue.

That said, as I read the cabinet secretary's amendment I was encouraged. I thought, "At last—a genuine attempt to set out a list of actions, some of which we could support." I should have known better. The final line of the amendment refers to UK Government welfare policy. How depressing that, at the last, the cabinet secretary chose to include a partisan red herring at the end of her amendment to try to shift the blame on to someone else. As far as I have been able to see, the Audit Scotland report makes no mention whatever of the effects of welfare policy. Reverting to type is an attribute of the Government.

Let us rise above that. It is clear that a fundamental change in direction is required. To carp from the sidelines is futile and, as a strong Opposition, we do not intend to do that. I have said it before and I say it again—blanket opposition to change in the NHS is irresponsible. The NHS can never be static and we accept that tough decisions have to be taken. The current political debate is failing the NHS because saving the health service now and for the future is more important than the politics of anyone in Parliament.

We want to contribute positively to that endeavour, which is why the Scottish Conservatives are setting out 15 things that we say can be done now and over the next few years to take our NHS through this difficult period, thereby showing that there is a middle course between underaction and overemotion. We are setting out several proposals that we feel can help our NHS to grow, to meet the challenges ahead and, crucially, to ensure that many of the recommendations that Audit Scotland has routinely made can be met.

For example, we are calling on the Government to consider the following: to give immediate clarity on which services will change and which will not; in the next six months, to evaluate the impact of splitting elective and acute care; to expand mental health services into primary, emergency and community settings; and to publish a national workforce plan and commit to six-monthly updates

to this Parliament. Those are just a few examples; they are just sensible, straightforward and pragmatic suggestions that should be being implemented but are not. They should be being implemented because in order to solve the problems that exist, new ideas are required.

To sum up, if the SNP truly cares about the future of our health service and wants to provide better government for Scotland instead of endless constitutional navel-gazing, it must deliver an NHS that is fit for not just the next five years, but for the next 25 years and beyond.

I hope that the Audit Scotland report goes down in Scottish political history as a seminal moment in the story of our health service. I hope that the report really does mark a turning point, because we are truly at the stage of make or break.

I move,

That the Parliament welcomes the publication of the Audit Scotland report, NHS in Scotland 2016; believes that the report paints a picture of a health service in crisis; notes that the NHS in Scotland has failed to meet seven of its eight key targets, that NHS boards are facing unprecedented levels of savings and that the health service as a whole is experiencing widespread problems in recruiting and retaining staff; believes that, after almost 10 years in power, the SNP administration must take responsibility for the clear and significant failures in the NHS, and, as a matter of urgency, calls on the Scottish Government to set out its response to all of the recommendations made in the Audit Scotland report.

16:29

The Cabinet Secretary for Health and Sport (Shona Robison): Audit Scotland has provided a balanced overview of the NHS and has made several recommendations, which we accept in full.

As we consider the report, we have to recognise the challenges in our health services, but we must also acknowledge the many achievements. First and foremost, with patient satisfaction levels up to 90 per cent, I begin my speech by commending highly the commitment of all our staff across the NHS in Scotland. It is our staff—our nurses, our midwives, our doctors, our paramedics—whose dedication allows us to meet the challenges that we face and to implement new initiatives to ensure that we continue to deliver a health service that we can rightly be proud of.

I am proud of the national health service, I am proud of the record level of investment of close to £13 billion that has been committed by this Government, I am proud of the highest ever levels of staffing, and I am proud of our improvements in health, patient safety and survival rates. All those investments were acknowledged in the Audit Scotland report, but this Government wants to go further to ensure that the NHS receives the resources that it needs to equip it for the future.

For example, having increased front-line health spending by 8.2 per cent since 2010-11, we will go on to increase the NHS revenue budget by almost £2 billion by the end of this parliamentary session, which is the highest commitment by any party in Parliament.

However, we need to do more than just give the NHS extra money. As I said earlier this afternoon, the NHS cannot stand still—we need to reform. We all recognise the nature and scale of the challenges that our whole system of health and social care faces. That is why we will continue to drive forward our significant programme of transformational change.

John Scott (Ayr) (Con): Will the cabinet secretary take an intervention?

Shona Robison: I will, in a second.

The strategy is founded in our twin approaches of investment and driving reform. It underpins our 2020 vision, and will be delivered through the key programmes of work.

We will continue to deliver integration of health and social care. We will implement our national clinical strategy with its recognition of the need for new investment, for new ways of delivering medical services more effectively to communities, and for new approaches to practice. We will accelerate reform of primary care and of our comprehensive approach to public health improvement. To support those programmes, we will develop a national workforce plan.

John Scott: On transformational reform, are you aware that at Ayr hospital between April and September this year there were a total of 7,594 missed appointments, which represent 9 per cent of the total number of appointments? I presume that that figure is replicated elsewhere in Scotland. Do you agree that, if that problem could be addressed that would go a long way towards reducing pressures on our overburdened NHS?

The Deputy Presiding Officer: I ask members to speak through the chair.

Shona Robison: I agree with John Scott that missed appointments are a challenge that we need to address. Boards are looking at ways of addressing that challenge through text messages, through follow-up and through reminders. I do not think that the answer is to charge people for missed appointments—which is what the Tories are proposing—because that would just compound health inequalities in our society.

I hope that I have managed to lay out the intense level of activity that we are undertaking to meet our aspirations on the 2020 vision. We have to move at pace, so for that reason, by the end of this year and as recommended by Audit Scotland, I will present a transformational change delivery

plan to deliver that vision, which will bring the various elements together in a single framework.

The Audit Scotland report confirms that our strategy is the right one. We need to work together across Parliament and with our colleagues in health boards, local government and the workforce to progress it, to ensure public confidence in it, and to make it happen at pace on the ground. It is the right plan, and no one and no party in Parliament has come forward with a different plan. I have looked at the Tory plan—it is mainly our plan with a few small additions. I suppose that imitation is the best form of flattery, so I thank them. I hope that we will get the backing of Parliament for the plan's implementation.

We know that simply doing more of the same things yet faster will not deliver the standards of care to which people in Scotland should have access. We also need to ensure that the mechanisms that we use to measure performance keep pace with our wider reforms and our commitment to improvement. To do that, we have put in place a review of targets and indicators for health and social care. The review will ensure that targets and performance indicators lead to the best outcomes for people who are being cared for—whether that is in hospital, primary care, community care or social care services. I am delighted that Sir Harry Burns has agreed to bring his expertise to the role of independent chair of the review. I am sure that members will offer support for Sir Harry in the review, along with support from the different sectors and professional bodies that provide care.

The Government is serious about ensuring that people are supported to maintain their independence as long as possible in their own homes and communities, and about ensuring that fewer people need to go to hospital to receive care. Where hospital care is necessary and appropriate, people should spend less time there and should return home more quickly. I am pleased that delayed discharge has reduced under this Government, and I remain committed to eradicating it by continuing to invest in preventative and rehabilitative services. We know what works. If all partnerships were delivering the reductions in delay that have been achieved by the top 25 per cent, we would immediately halve all delays. We will work with partnerships to help them to deliver change to reduce delays.

In her manifesto, the First Minister outlined the SNP's continued commitment to the six essential actions for accident and emergency, which were launched a year and a half ago and have led to significant improvement in unscheduled care. The actions comprise a home-grown programme to improve whole-system emergency care, based on clinical feedback. The programme was produced

jointly with Academy of Royal Colleges and the Royal College of Emergency Medicine. It is no coincidence that Scotland's core A and E departments have been the best performing in the United Kingdom for the past 18 months. That is a credit to all involved. However, despite those improvements, we absolutely recognise the challenges and are facing up to them. We accept that although we have a huge amount of work still to do, there is a general consensus nationally, locally and among representative bodies about enhancing the patient experience and ensuring optimal care, and there is enthusiasm in that regard.

Audit Scotland recognises the need to make a real shift from relying on treating people in hospital to providing care in the community and in primary settings, as well as in the home. We agree, which is why we are increasing the share of the NHS budget that is dedicated to mental health and to primary, community and social care. The First Minister has announced an additional £500 million to be invested in primary care, which will help to further shift the balance of care. That means that, for the first time ever, at least half of front-line NHS spending is being invested outwith acute hospitals.

The Deputy Presiding Officer: Can you wind up, please?

Shona Robison: As I bring my remarks to a close—

The Deputy Presiding Officer: You will have to stop. I am sorry—we are very tight for time.

Shona Robison: I move amendment S5M-02232.3, to leave out from first “believes” to end and insert:

“recognises that health and care services face increasing demand pressures and that the NHS must evolve to deliver more care in community and primary settings, as well as in the home; notes that the Scottish Government has welcomed the report's recommendations, and, by the end of the year, will set out a cohesive framework for the delivery the integration of health and social care, the National Clinical Strategy, public health strategy, Realistic Medicine, workforce recruitment, supporting population health, and meeting the 2020 Vision; believes that the shift from acute to primary, community and social care must be accelerated; supports plans that, by the end of this parliamentary session, at least 50% of frontline NHS funding will be outwith the acute hospital sector, and condemns that the UK Government's welfare cuts have harmed the physical and mental health of some of the most vulnerable people in society and have further increased demands being placed on health and care services.”

16:36

Anas Sarwar (Glasgow) (Lab): I welcome the cabinet secretary to the chamber. It is nice to see her twice in one day, with nobody to hide behind.

Last week, Audit Scotland published its annual state of the NHS report. It is the worst report on the NHS since devolution—a damning indictment of 10 years of SNP mismanagement of our NHS that lays bare the failings of the cabinet secretary and her Government. No amount of Government spin or warm words from the cabinet secretary can hide the fact that Audit Scotland—an authoritative, expert and, crucially, independent body—has painted a picture of an NHS in crisis. Only one out of eight patient standards has been met. That is not just a statistic—behind it are thousands of patients and families who have been let down.

However, this is not just one bad report. It identifies a trend under this Government and this cabinet secretary. In 2013, only four out of eight standards were met; in 2014, only three out of eight standards were met; in 2015, only two out of eight standards were met; and now, in 2016, only one standard in eight has been met. What will it take before the cabinet secretary recognises that the NHS is in crisis? Does the level of standards that are met have to hit zero before there is any admission of the failures of this Government?

At its heart, the report reveals one key failing: workforce planning. It reveals a Government that is letting down our hardworking and dedicated staff—the doctors, nurses, midwives, healthcare assistants, porters, physiotherapists, radiographers and many more. There are too few staff working too many hours and dealing with too many patients, but without the support or resources that they say they need to do the job properly.

I have heard members of the Government party say that exposing the failures of the Government on the NHS somehow lets down our hardworking staff. However, we should be in no doubt that betrayal of our staff comes not from those who are exposing the Government's failures but from those who wilfully underresource, undervalue and overwork them.

I use this moment to thank all our staff who have dedicated their lives to caring for others and to say, “It's you and your patients we are fighting for today.”

We have heard from nursing leaders that their workforce is reporting inability to cope with their workload and that the situation is only getting worse. It is unacceptable that we now have more than 2,500 nursing and midwifery vacancies. As a direct consequence of that, we have seen spending on private nursing agencies skyrocket.

The Audit Scotland report found that the cost to the NHS of a whole-time equivalent private nurse is in excess of £80,000 a year, but an NHS nurse costs only £32,000. Locum consultants earn as much as £400,000 per annum, which is enough to

pay for four NHS consultants. At the same time as the Government is cutting budgets, £173 million is being spent on private agencies.

On budgets, the independent Auditor General confirms what Labour has been saying for months: this year there will be almost £500 million of cuts, on top of £300 million last year. Those cuts are having a direct impact on staff, on patients and on services. They are deliberate, conscious and calculated decisions to force cuts on health board after health board. Those decisions have consequences. The health secretary let the cat out of the bag when she said on “Good Morning Scotland”, on the morning of the publication of the Audit Scotland report, that Labour should stop—I quote—

“putting blocks in the way to any changes to services in Parliament.”

The services changes we are trying to stop—closures at the Vale of Leven hospital, the Royal Alexandra hospital, Inverclyde royal hospital and Lightburn hospital—are to services that we were promised were all safe by the cabinet secretary.

There is an alternative. We could use the powers of the Parliament to invest in social care and to invest in front-line services. To conclude, as the Royal College of Nursing said:

“How many more reports will be published by Audit Scotland before action is taken? Patients, staff and families deserve a decisive response from the health secretary.”

Well, cabinet secretary—what is it to be?

I move amendment S5M-02232.1, after “unprecedented levels of savings”, to insert:

“, which will mean cuts to local services; notes the vote in the Parliament on 28 September 2016 on motion S5M-01677 and reiterates its call for the Cabinet Secretary for Health and Sport to call-in service changes for ministerial decision; notes”.

The Deputy Presiding Officer: We move to the open debate. It is a tight four minutes for speakers; I will try to give time for interventions, but please make them short.

16:42

Miles Briggs (Lothian) (Con): Our NHS workforce does an amazing job. What is clear is that none of the criticism of the performance of NHS Scotland is aimed at the work that staff do to deliver health services to communities across our country.

The Audit Scotland report set out clearly the major key challenges facing the health service in Scotland perhaps, as Anas Sarwar suggested, specifically on recruitment and retention of staff within the service.

It is increasingly clear that this Government has failed to deliver a sustainable workforce in Scotland. The impact of that is affecting the delivery of key services and the meeting of the Government's health targets. How have we reached this position? It is worth reflecting that student nurse numbers were cut by the Government by around a quarter between 2007 and 2013—particularly between 2011 and 2013 when the current First Minister was health secretary. That has clearly impacted on our health services and, as the Royal College of Nursing briefing for today's debate states:

“our health services are now reaping the consequences of decisions taken by Government at that time.”

The financial position of our health service is also of great concern, as outlined in the Audit Scotland report. As a Lothian MSP, I am acutely aware of the financial challenges facing my local health board and how that is impacting on the delivery of health services to the people I represent in Parliament.

Behind those statistics, as Donald Cameron has mentioned, let us not forget that we are talking about people—our family, friends and neighbours. As has already been said in the debate, health boards have failed to meet seven out of eight key national targets, reporting lengthy waits for emergency treatment, in-patient and out-patient appointments, cancer treatment and mental healthcare for children.

Given the concerns being expressed by alcohol and drug partnerships across the country about their funding arrangements, I too question whether we will see them maintain the service they provide and meet the treatment targets that they have set for the future.

The Scottish Government has a waiting target for orthopaedic appointments of 12 weeks from the date of receiving a general practitioner referral. However, NHS Lothian admitted to me in a letter only last week that such is the increasing number of patients referred to orthopaedics in the Lothian region that they are finding it impossible to meet the target. I have a number of elderly constituents who are in desperate need of hip replacements and who are in severe pain every day but who face waits that they have been told could be up to seven months just for an initial consultation with an orthopaedic consultant. That is clearly unacceptable and it is happening on the SNP Government's watch.

In fact, the Audit Scotland report outlines that the number of people waiting is increasing, with over 275,500 out-patients waiting just for an appointment.

All organisations and political parties agree that we need a shift in the balance of how care is

provided away from the acute setting. We agree. However, the question that is being asked again and again is whether the Government is providing the leadership that is needed to actually achieve that.

Shona Robison: Will the member give way?

The Deputy Presiding Officer: The member is in his last minute, I am afraid, so unless it is very short—

Miles Briggs: I will give way if it is very quick.

The Deputy Presiding Officer: Very short.

Shona Robison: Does Miles Briggs recognise the £200 million investment in the elective centres, the aim of which is absolutely to address the future requirement of his constituents for work on hips, knees and eyes?

Miles Briggs: I recognise that, but the issue is the impact on healthcare in Lothian. As I said, constituents are coming to see me who have been told that they have to wait seven months before they can have a consultation—yet we are told that they have 12 weeks to wait.

Sometimes in politics, reports are published that should act as a wake-up call for the Government of the day. I have no doubt that Audit Scotland's publication of its report last week is one such occasion. I began by paying tribute to those who work in our health service. I am sorry to say that, increasingly, it seems that they are lions led by SNP donkeys.

16:46

Ash Denham (Edinburgh Eastern) (SNP): There are significant challenges facing our beloved NHS. Some of them are very serious and will require new ways of working, some will require creativity and all will need serious levels of funding to solve them. However, they are in no way unique to Scotland. We are facing budget challenges, an ageing population and huge price hikes for essential life-extending medicines, but those same challenges face many countries such as ours right now; indeed the same challenges currently face the rest of the United Kingdom. That has led the Auditor General for Scotland, Caroline Gardner, to comment:

"We know that many of the pressures that we are seeing in Scotland apply across the UK and elsewhere. Scotland's performance stands up well against that of the rest of the UK."

This year, the NHS budget is £12.2 billion, which amounts to 40 per cent of the Scottish Government's budget. That is a serious commitment by the Government to the NHS. By the end of this session of Parliament, health funding will be at least £500 million more than it

would be with inflation-only increases, and that was a manifesto commitment that only the SNP had.

That level of financial commitment has allowed overall staff levels to be at their highest ever, with over 138,400 whole-time-equivalent staff as of March this year, which is an increase of 11,000 since the SNP came to power. There are more staff across the board, from nurses and midwives to general practitioners, paramedics and oncologists. That level of financial commitment is made all the more remarkable when set against the fact that the money that is available to the Scottish Government has been rapidly dwindling.

Miles Briggs: Does the member acknowledge that, since 2010, the UK Conservative Government has provided £1.46 billion in Barnett consequential funding for our health service in Scotland?

Ash Denham: That money has been passed on, but would the member want the Scottish Government to follow the example of the Conservative Government in England, which has led to striking doctors, low morale, an accident and emergency crisis and chronic levels of underfunding?

The UK Government has reduced Scotland's fiscal departmental expenditure limit budget by 10.6 per cent in real terms between 2010-11 and 2019-20.

The rising cost of drugs is another major pressure. In 2014-15, the NHS spent £150 million more on drugs than in the year before, even after adjusting for inflation, which is an increase of more than 10 per cent in one year.

NHS boards in Scotland have successfully increased the prescribing of unbranded rather than branded medicines to generate efficiencies and Scotland now has one of the highest generic prescribing rates in the world. However, there is a trend for even unbranded drugs to be subject to massive price hikes. Prescriptions of one drug for irritable bowel syndrome fell by a third when the overall cost to the NHS rose by 300 per cent because of a 500 per cent price increase. Westminster is taking action on the issue and a bill that seeks to limit unbranded drug price rises is expected to be passed next year, which will be a welcome development.

No one wants their loved ones to miss out on new and potentially life-saving drugs, so the Scottish Government has provided more money through the new medicines fund, which has gone up from £21.5 million in 2015 to £85 million in 2016. We must do more with less while striving hard to provide high levels of service to patients. The Scottish Government places a high priority on

resourcing the NHS and on developing it to tackle head-on the issues that our society is facing.

16:50

Neil Findlay (Lothian) (Lab): I declare an interest as my wife and daughter both work in the NHS.

No member in the chamber should be under any illusion that the publication of the Audit Scotland report last week was a watershed for the NHS in Scotland. For years, patients, staff, families, elected representatives and trade unions have known about the mounting pressures that the NHS is facing, and every one of us has been lobbied by people who want to raise their personal concerns. Many of those concerns have been dismissed by ministers who respond with robotic statements in which they reel off numbers and percentages from their ministerial briefing folder, all of which are unrecognisable to the patients, the staff and the dogs on the street who all know full well the impact of those pressures on their loved ones.

Audit Scotland has confirmed once and for all that none of those concerns are attempts to scaremonger, talk down staff or undermine our greatest public service. They simply reflect the material reality that NHS patients and staff experience every day. I hope that the Government starts to listen and take responsibility. We want no more diversionary tactics, no blaming of someone else and no wishing away the array of problems that the report exposes.

Early on, the report gets to the heart of the issue when it states:

“NHS funding is not keeping pace with increasing demand and the needs of an ageing population.”

The First Minister and the cabinet secretary claim that record funding is going into the NHS. In that case, is not the Audit Scotland report a damning indictment of the mismanagement and ineffectiveness of that funding? A football club owner or manager can put record funding into a team, but if the results continue to be poor, those who pay their wages rightly call for their head.

The truth is that health inflation is at 6 per cent and demand is rising, yet boards have received just over 1 per cent. Only one standard of eight has been met; agency spend is up; vacancy rates are soaring; there is a GP crisis; and social care is on the brink. In the real world, that means that more people are finding themselves in the same situation as my constituent James Neilson—mentioned at First Minister’s questions last week—who is unable to walk because of a blocked artery and has been told that he must wait for more than 30 weeks just to be assessed. More people are stuck in hospital when they should be at home; mental health patients are going through

crisis with no support; and more and more people are unable to get a GP appointment.

The tragedy is that there are thousands more James Neilsons out there. NHS Lothian has already warned us that it will fail to meet most of its treatment time guarantees as result of the so-called efficiencies that it has to make. When will we stop hearing ministers and civil servants misleading the public? If they cannot meet legally binding treatment time guarantees, they should—for heaven’s sake—stop taking the people for fools by calling those cuts “efficiencies”.

It is people who suffer when targets are not met, it is people who suffer when the workforce is under pressure, and it is people who suffer when they cannot get an appointment with their GP.

I direct my final comments to the Tory party. That the Tories should come to this chamber to lecture anyone about the national health service—the greatest piece of social legislation ever introduced—is beyond satire. They would privatise the NHS, outsource it, sell it off and break it up in a heartbeat.

We must invest in our public services. We must use our resources effectively. The Audit Scotland report suggests that the Government is failing miserably on both counts.

16:55

Alison Johnstone (Lothian) (Green): I thank Audit Scotland for its far-reaching and detailed report and for the crucial recommendations that it has made.

The report rightly criticises the Government for the lack of detail that it has provided on major service reforms. David Hogg, a GP based on Arran, told the Health and Sport Committee yesterday that we cannot talk about realistic medicine without presenting realistic plans for service delivery. I am glad that the Government’s amendment establishes a timeframe for delivering the cohesive framework that Audit Scotland has asked for, and I want the framework to be delivered by the end of the year, as promised. Audit Scotland’s call for three-year financial frameworks for health boards is a sensible one, and I hope that that sensible move forward will be included in the Government’s plans.

At this point, it is worth asking what recommendations Audit Scotland would have made to this Parliament. I do not think that it would have advised us to keep retreading the same debate that we seem to be continually having.

The report makes it perfectly clear that even with real-terms increases to the overall health budget, spending is not matching increased public demand. Shortcomings in funding and service

delivery are not acceptable, but we need to pair criticism with proposals for action. Once again, a wholly critical motion has been presented by a party that consistently resists any move towards more progressive taxation and refuses to take a realistic approach to funding high-quality public services. I do not know how the Conservative Party thinks that we are going to develop more sustainable health services without fairer public spending and taxation.

Donald Cameron: I do not accept the charge that we have not produced proposals. We produced a 15-point plan, which contains a number of ideas, and we have tried to create a positive prospect for the NHS. Will the Green Party echo that?

Alison Johnstone: It is fair to say that the NHS is having to deal with the impact that Tory austerity has had on many of our most vulnerable citizens, and that this Parliament has had to spend money to mitigate the impact of many damaging cuts. It would have been nice to see some of those constructive proposals in Donald Cameron's motion.

It is absolutely right to criticise the Government for doing too little to shift the balance of care. The Royal College of Nursing has called the pace of change painfully slow. However—although it does not feel comfortable for any of us to say this—we need to think carefully about our approach to service redesign. Audit Scotland says that NHS boards face significant

“political resistance to proposed changes to local services.”

I accept that there have been issues with public consultations on some of the service changes that health boards have proposed. Part of the problem, as Audit Scotland has pointed out, is that neither the Government nor individual health boards have done enough to open up meaningful public conversations about the long-term direction of service delivery. However, the Parliament has an incredibly important role to play in that regard. We must debate the issues broadly, openly and collaboratively, wherever possible.

The British Medical Association put a very blunt statement to us when it said:

“there needs to be a significant increase in the investment to close the funding gap. If there cannot be a commitment to more resources then a range of realistic future health service models using current planned resources must be set out.”

The truth is that we need both. We need sustainable investment in our health services and we need to think about future health service models that meet people's complex needs.

Audit Scotland has asked the Government to model the cost of implementing the national

clinical strategy. I want that modelling to consider the contribution that health services make to local communities and local economies, because such consideration has been lacking so far. We cannot have a fully informed debate about the impact of service changes without understanding the economic and social role that health services play in different parts of Scotland.

We need to ensure that there is equitable access to primary healthcare. I point out that yesterday's report—

The Deputy Presiding Officer: I am afraid that you cannot point out anything—

Alison Johnstone: Even though I took an intervention?

The Deputy Presiding Officer: You must conclude. Sorry.

Alison Johnstone: Thank you, Presiding Officer.

16:59

Alex Cole-Hamilton (Edinburgh Western) (LD): The SNP is

“able to win elections but it is seemingly unsure what to do thereafter. The danger is that”

Nicola's

“Government end up simply managing, not leading”—

The Deputy Presiding Officer: I ask the member to use full names in the chamber.

Alex Cole-Hamilton: I am actually quoting somebody here—I will come to that.

“The danger is that”

Nicola's

“Government end up”—

The Deputy Presiding Officer: Well, you did not say “I quote.” Slow down.

Alex Cole-Hamilton: Can I have the time back?

The Deputy Presiding Officer: Make it clear that you are quoting, or I will misunderstand you—heaven forbid. I do not want to do that, Mr Cole-Hamilton.

Alex Cole-Hamilton: May I have some time added on at the end?

The Deputy Presiding Officer: I will decide whether you get the time back, and the answer is yes.

Alex Cole-Hamilton: Thank you.

In the sage words of your friend and mine, Kenny MacAskill, the SNP is

“able to win elections but seemingly unsure what to do thereafter ... The danger is that her”—

Nicola Sturgeon's—

"Government end up simply managing, not leading, the political agenda; much indeed, as Labour did in years before devolution. Mitigating austerity but managing decline."

Those words are now being stencilled on lunch boxes across the unionist movement.

If a measure of a civilised society is how we care for our sick and infirm, by any stretch of the imagination the SNP Government is failing on many of its tasks. In any other profession, if the senior management team of an organisation that had 10 years to fix the problems and meet the key performance indicators that were before it had spent so much money on so doing, it would be on its final warning. As report cards go, that published by Audit Scotland was excoriating. It reads like a horror show.

By any stretch, it is a target-rich environment for Opposition spokespeople. However, in the ministerial statement that we had this afternoon, which was well padded out with sycophantic questions from members on the Government benches, we heard not one admission of failure. The first step to fixing a problem is admitting that one has it in the first place.

Nearly two years ago, the cabinet secretary said:

"I want, over the course of this year, to eradicate delayed discharge out of the system and I'm absolutely determined to do that."

However, in its report Audit Scotland cited glacial progress in that area at best.

This is the question that I would have asked after the ministerial statement. On Monday, a family came to my surgery: four siblings whose 83-year-old father is a resident in Corstorphine by the name of George Ballantyne. George had a fall in March and was taken to Liberton hospital. After treatment and a mild infection, he was declared fit to go home in June. Following extensive renovations and adaptations to his house, he was told on three separate occasions to prepare to go home the next day. However, this evening he will spend his 150th night at Liberton hospital since he was told that he was fit to go home. Given that she comprehensively failed to address delayed discharge in her statement, will the cabinet secretary or her ministers explain to Mr Ballantyne in their summation why he is still in hospital tonight?

The fact is that the integration of health and social care, which promised so much, has been underfunded, has not been properly orchestrated and is failing patients across the country.

Right across Audit Scotland's reports we see failures, but Donald Cameron is right to point out

successes. I accept that meeting the three-week waiting time for treatment for drug and alcohol problems is to be supported, but what the Scottish Government gives with one hand it takes away with the other. You can bet your bottom dollar that the 22 per cent cut to alcohol and drug partnerships in our communities will see that progress eradicated. Put simply, as I said yesterday, in Edinburgh alone that equates to £1.3 million in service cuts year on year. That is a fire sale and the cost will be measured in human lives.

On this most solemn, most important duty the SNP has been found wanting. When the SNP asks Opposition members what they would have done differently, it is often offered alternatives, yet its members ram fingers in their ears and bury their heads in the sand. The eyes of the nation are on the Government to discharge its duties in this area. Who can blame them if they now wish to turn away in disgust?

17:04

Ross Thomson (North East Scotland) (Con):

Anyone watching the debate at home will no doubt feel a sense of déjà vu, as this Parliament discusses another Audit Scotland report that yet again highlights serious strain on our NHS—on services, on staff and on patient care.

Just last week, the First Minister played to her nationalist back benchers, who were no doubt impressed by her warm words on the state of our NHS. However, the public are less than impressed, and I assure the First Minister that the residents that I represent in the north-east of Scotland are less than impressed by the fact that the latest Audit Scotland report highlights the still-unresolved challenges of a severe skills shortage and the struggles that we face in recruiting and retaining medical staff.

In 2015-16, staff turnover in NHS Grampian was 8.9 per cent, which was considerably higher than the national average of 6.4 per cent. Figures from June showed that emergency medicine consultancy had a vacancy rate of 26.3 per cent in NHS Grampian compared with a vacancy rate of 9.7 per cent in Scotland as a whole—it was almost three times that level. Further, the most recent primary care workforce survey showed that, in NHS Grampian, over two thirds of shifts were unfilled 48 hours before work days, weekends and public holidays.

In the midst of this recruitment crisis, the Scottish Government continues to impose caps on the number of Scottish-domiciled students who attend our universities and, in particular, those who wish to study the very subjects that could help us to resolve this catastrophe. When the residents whom I represent are experiencing a decline in the

quality of service, and when they tell me that NHS Grampian is reaching breaking point, it beggars belief that our universities are forced to turn away talented Scots due to bad Government policy.

Shona Robison: Will the member give way?

Ross Thomson: I have got only 4 minutes.

The current capping policy is simply making the situation worse. Just over 1,030 Scottish-domiciled students applied for medicine courses starting in 2017—reflecting an 11 per cent drop over the past five years—and the situation is so poor that the leadership of NHS Grampian has expressed deep concern. Speaking in evidence to the Health and Sport Committee, Gerry Lawrie, the deputy director of workforce, stated that she was extremely disappointed by the dramatic fall in the number of local trainee doctors. She said that, when she started her career in the NHS, 95 per cent of the junior doctors were trained locally. However, she went on to say:

“Twenty years down the line, I am lucky if the figure is 50 per cent ... I am disappointed that the University of Aberdeen has reduced the number of places, because we are struggling to recruit not just in primary care, but in other areas.”—[*Official Report, Health and Sport Committee*, 27 September 2016; c 21.]

In response to such a damning criticism, the health secretary denied that there was any crisis in GP recruitment. Clearly, the trappings of high office are preventing ministers from seeing what is happening on the ground, or perhaps they are blatantly denying the existence of the problems because that is more convenient.

The Minister for Mental Health (Maureen Watt): Will the member give way?

The Deputy Presiding Officer: The member is in his last minute.

Ross Thomson: Audit Scotland reported on NHS Grampian's financial settlement, and there in black and white we can see that the region is 1.4 per cent below its NRAC allocation six years after the funding allocation formula for health boards was introduced. That is an astonishing £12.2 million that NHS Grampian should get but does not get. Despite all that, NHS Grampian is still being asked to make efficiency savings of 3 per cent this year. That is yet more evidence that—as in all other public services—the SNP is short-changing the north-east of Scotland.

The Parliament has the full powers to deliver an NHS that is fit for the future. However, since May, the priority of this Government has been to posture on Brexit and consult on another divisive and destructive referendum. The SNP has given up on governing for Scotland, and it is clear that its obsession with separation transcends its concern for the quality of patient care.

17:08

Clare Haughey (Rutherglen) (SNP): The Audit Scotland report demonstrates that there is still work to be done. However, as my colleague Ash Denham said, there is nothing unique about the challenges that are faced by the health service in Scotland. Those challenges are faced by other Administrations throughout the UK and, indeed, many other countries worldwide, and the Scottish Government is focused on meeting those challenges.

Unlike the crafters of the Conservative motion, Audit Scotland acknowledges some of what has been achieved by the Scottish Government. The report states:

“Over the last decade, there have been improvements in the way health services are delivered and reductions in the time that patients need to wait for hospital inpatient treatment. There have also been improvements in overall health, life expectancy, patient safety and survival rates for a number of conditions, such as heart disease.”

Audit Scotland also acknowledges that the demands on health and social care services have been increasing because of demographic changes and because people are living longer with multiple long-term health conditions and increasingly complex needs.

As a nurse and a trade union official in the NHS, I knew only too well the challenges that staff and management faced over the years I was employed in the service. I also have first-hand experience of the hard work, diligence and compassion of nurses and midwives, medics and allied health professionals throughout the NHS, who are supported by lab staff, administrators and facilities staff. Those are the qualities that all those staff bring to their workplace every day as they seek to help and care for their patients.

That dedication and hard work is acknowledged in the recently published high patient satisfaction rates, with more than 90 per cent saying that their overall care was good or excellent. However, I would not want members on the Conservative seats to let an accurate health statistic get in the way of them scoring cheap political points and undermining the good work of our NHS staff.

It is right to acknowledge the challenges facing the health service, and this SNP Government is doing that. Indeed, it is not only acknowledging the challenges, but tackling them. It is addressing them through reform in areas such as health and social care integration, and by moving the focus of care from hospital to community settings.

NHS staffing numbers are at record levels—they are up more than 11,000 under the current Government—but, looking forward, the service faces challenges in recruitment, and the Scottish Government has been working with partners to

address those challenges. However, the task is not being made any easier by the UK Tory Government's recent actions, particularly following changes to UK immigration rules on post-study work visas, and its dismissive attitude following the Brexit vote to the fate of thousands of EU nationals on whom the health service and social care providers rely.

Miles Briggs: Will the member take an intervention?

The Deputy Presiding Officer: The member does not have the time.

Clare Haughey: At yesterday's Health and Sport Committee, we heard a stark example of how our rural services rely on overseas-born staff. Of the 13 consultants employed in the Western Isles, only one is Scots born. The Western Isles has been actively recruiting in Spain for other vacancies, but uncertainty about EU nationals' status post-Brexit may hamper efforts. Given that this is a consequence of a situation wholly attributable to the UK Conservative Party, the irony of the Conservatives in this chamber crowing about the recruitment challenges facing the Scottish NHS will not be lost on my constituents.

As we watch with concern the mismanagement of the English health service under Tories in Westminster, including increasing privatisation and a record number of trusts in special measures—including another one yesterday—for either quality or financial reasons, I for one am thankful that we have a devolved health and social care service and a Government with a strategy for ensuring that it evolves to meet our people's needs.

The Deputy Presiding Officer: I am sorry, but I have to tell Mr Mason that he has only three minutes for his speech. We will try to make it up to you on another day. Thank you.

17:12

John Mason (Glasgow Shettleston) (SNP): I might hold you to that, Presiding Officer. Because of that, I will not take any interventions.

I start with some of the key messages and the wording that appears in Audit Scotland's report. Under the summary, the key messages start by saying:

"Over the last decade, there have been improvements in the way health services are delivered and reductions in the time that patients need to wait".

That is certainly a very positive start, despite what some Opposition members have said.

Point 3 of the key messages says:

"However, boards are struggling to meet the majority of key national standards and the balance of care, in terms of spending, is still not changing."

If I want to concentrate on one point this afternoon, it is this: are we serious about community and preventative care or are we serious only about targets that are easy to measure? Are we willing to sacrifice some hospital targets in the short term in order to invest more in primary care and prevent hospitals being needed so much in the longer term?

Part 1 of the report deals with financial and service performance. Key message 3 says:

"NHS boards need to look at reorganising acute services to free up more resources for investing in community-based facilities".

Why is that not happening? The report goes on to explain—Alison Johnstone has cited this already—that the health boards

"are often faced with considerable public and political resistance to proposed changes to local services."

The British Medical Association and the RCN make that point, too. The RCN says that health boards are

"caught in the crossfire of political and public opinion."

The BMA says:

"politicians ... are quick to criticise planned service changes".

I think that virtually all of us agree that we should emphasise the community, but it is too easy for the Opposition to say that it is all a crisis, that someone had to wait too long for a hospital appointment and that someone else did not get the expensive drug that they wanted. Perhaps we as politicians all need to take more collective responsibility. The NHS can never provide all that people want, and we need to switch resources to the preventive and to the primary site.

The report says that we need to manage expectations. Do Opposition members agree with that part of the report? Will they commit to helping to manage expectations?

After those key messages, we have the heading:

"Although health spending has increased it is not keeping up with growing demand and the needs of an ageing population".

The suggestion seems to be that demand and needs are the same thing, but surely they are not. I will not expand on that point, as I do not have time.

We are all proud of our health service and we all want the best for it, but all of us need to be a bit more honest and realistic with the public.

The Deputy Presiding Officer: Thank you very much for taking just three minutes.

17:15

Colin Smyth (South Scotland) (Lab): For the record, I declare an interest in relation to the debate. When I was elected in May, I was employed by Parkinson's UK, although that employment ceased in May. I am also a councillor on Dumfries and Galloway Council.

Today's debate has given members an opportunity to reflect on Audit Scotland's assessment of nearly 10 years of SNP control of our NHS. Had it not been for Opposition time and Opposition pressure, there would have been no debate and no last-minute statement from the cabinet secretary.

We can see why the SNP did not want to talk about the report. It is a damning verdict on nearly a decade of SNP mismanagement of the NHS, which is in crisis. Seven out of eight key patient standards have been missed, health boards face unprecedented financial cuts, there is a soaring drugs bill, and a recruitment and retention crisis is being experienced across nursing, GPs, consultants and social care.

The crisis was entirely predicted. When we read the Audit Scotland report, it is like groundhog day—we have been here before. Audit Scotland, the BMA, the RCN and others warned six years ago that the crisis was going to happen and their warnings were ignored by the Government. Even today, the SNP amendment talks about the need for change but then says that we will have to wait until the end of the year for a change plan. It is a case of more dithering and delay from the cabinet secretary. Maybe we would have had a plan by now—if only the SNP had been in power for the past 10 years.

As the Auditor General says in the report, no one disputes the need for change and the need to shift the balance of care from hospitals to the community but, despite that being the Government's policy aim for a decade, it has little to show for it. It is on funding of the NHS and social care that the report really exposes how utterly divorced the Scottish Government's rhetoric is from reality. Day after day, we are subjected to sycophantic press releases from the Government that tell us that money is pouring into the NHS, if only staff were not so inefficient in how they used it.

It is true that there are inefficiencies. The spending of £7.5 million more on agency nursing costs, which was caused by an utter failure in workforce planning by the Scottish Government, is one of those inefficiencies but, as the report says, the simple truth is that

"NHS funding is not keeping pace with increasing demand and the needs of an ageing population."

The Government needs to start being honest with the public and to admit that health boards, rather than just having to make efficiency savings, are being forced to make cuts to services that they do not want to make, which have nothing to do with change and which are just to balance the books.

When will the Government start to accept that, for all its rhetoric about increased investment and moving the balance of care to the community, its nasty and vindictive attacks on local government budgets are having entirely the opposite effect? Does the Government seriously think that it is possible to savage council budgets by 25 per cent and expect that not to impact on social care or the many council initiatives that are crucial in supporting our communities' health needs?

It is time that we had an open and frank discussion about what we want from health and social care and how we plan to pay for it. I agree entirely with Alison Johnstone that it is time to admit to the public that, if we want to properly fund social care when we face a massive rise in demand, we will need to use the Parliament's tax powers and ask those with the broadest shoulders to pay a little more, but that is not the position that is set out in the SNP's amendment.

It is time that we had a coherent, joined-up change programme that is built on genuine consensus with staff and the public rather than the arrogance that the Government displays as it pats staff and the public on the back but dismisses with a we-know-best attitude their genuine concerns about service cuts. It is time that the SNP and the cabinet secretary took responsibility for the failings that are set out in what is unquestionably the worst Audit Scotland report since devolution, which has been published on the Government's watch.

17:19

Shona Robison: The only point that I will make to Colin Smyth is that at the previous election, the SNP stood on a platform of making the biggest investment in the NHS of any of the parties, and we were elected on that manifesto.

Colin Smyth: Will the cabinet secretary give way?

Shona Robison: Labour was roundly trounced and came third on its manifesto commitments.

Colin Smyth: Will the member give way?

The Deputy Presiding Officer: Sit down.

Shona Robison: The people have judged who they believe would provide better stewardship of the NHS, and that is SNP members, not Labour ones.

Jackie Baillie (Dumbarton) (Lab): On the promises that were made in the election, the

cabinet secretary promised my community that services at the Vale of Leven hospital would be protected. I would like nothing better than for her to keep that promise.

Shona Robison: We have saved the Vale of Leven from the cuts that the then Labour Government put in place to undermine that hospital. Our commitment to the vision for the Vale of Leven remains and, as I set out in my statement, a consultation process is under way for any changes that are proposed. Jackie Baillie knows that fine well.

Neil Findlay: Will the cabinet secretary give way?

The Deputy Presiding Officer: Please sit down, Mr Findlay.

Shona Robison: I will come on to Mr Findlay's comments, if he will give me a minute.

Donald Cameron said that he welcomed the commitments that I made in my statement, and I welcome his welcome. However, he then criticised us for mentioning the UK Government's welfare changes in our amendment. It is remiss of the Tories not to understand the impact of welfare changes on health inequalities. If they do not think that welfare changes are having an impact on health inequalities, they are living on a different planet from the rest of us. Of course the changes are having an impact, and it is right and proper for that to be recognised in the debate.

Miles Briggs mentioned orthopaedic appointment waits in NHS Lothian. I absolutely understand the issue, which we are working with NHS Lothian to overcome. I will soon have more to say about out-patient appointments and helping boards to tackle out-patient waits. In my intervention on Mr Briggs, I pointed out that we have a plan for elective centres, two of which will be on the east coast and will therefore have a direct impact on the demand for services for hips, knees and eyes not only now but from our ageing population in the future.

A number of members—including, I think, Miles Briggs—talked about UK Government funding. In the past week, the UK Parliament's Health Select Committee has forensically dismantled the UK Government's claims about £10 billion of funding, which that committee has called incorrect and misleading. It really does the Tories no good to start lauding what the UK Government claims to be spending on health when the Health Select Committee has only this week driven a coach and horses through those claims. The Conservatives need to reflect on their own UK Government's performance on financial support to the NHS.

Ash Denham made important points. She reminded us of the Auditor General's comment

that Scotland's NHS performance stands up well against the performance of the rest of the UK. I am not claiming that we do not have challenges—indeed, I set out in my statement our response to those challenges—but, compared with performance in the rest of the UK, Scotland's NHS stands up to scrutiny, and we should be proud of its achievements. There are now 11,000 more staff than there were when we came to power, but there are vacancies that need to be addressed.

Neil Findlay talked about what patients think. Ninety per cent of in-patients have rated their treatment as good or excellent. That is not to say that there are no challenges—of course there are—but our NHS still has high satisfaction rates, which we should welcome. I wrote to Mr Findlay in response to his concerns about Mr Neilson; he should get that response today, and I hope that he and Mr Neilson will welcome that letter.

Neil Findlay: Will the cabinet secretary give way?

Shona Robison: Okay, but I am short of time.

The Deputy Presiding Officer: Very briefly, Mr Findlay.

Neil Findlay: Does this not get to the crux of the problem? Constituency cases should not have to be raised at First Minister's question time to get results for constituents who are sitting in pain at home.

Shona Robison: I agree, which is why we are working with NHS Lothian to improve out-patient performance. As I said, I will have more to say about that shortly.

Alison Johnstone made important points about the debates that we have in this place. She talked about not retreading the same debates and the need to look at sustainable funding and models, and she said that we perhaps all need to face up to difficult issues. I agree and I hope that we can have a more mature debate on some of those difficult matters.

The Deputy Presiding Officer: I am sorry, cabinet secretary, but I have to stop you there. The point about having a mature debate seems a good place to stop.

Shona Robison: I will write to members—in particular Alex Cole-Hamilton—to respond to issues that they raised.

The Deputy Presiding Officer: Thank you very much.

17:25

Brian Whittle (South Scotland) (Con): Presiding Officer,

"Given the extraordinary health pressures that we face from a rapidly ageing population, dwindling birth rate ... changes in working patterns, evolving technology and an ever expanding health gap between rich and poor, it should be obvious to all that the status quo definitely cannot be an option."

Those words are from the Kerr report, which a past Scottish Government commissioned in 2005. Since then, the report's recommendations have done little more than gather dust on a shelf. We sit here approaching the end of 2016 and precisely none of the issues that Professor David Kerr mentioned is any less prevalent.

The cabinet secretary stated that the Scottish Government is spending more money on the NHS but, as many in the real world outside the chamber understand, what is key is not the amount of money that is spent but what it is spent on. In other words, effective budgeting and planning are required.

Prevention is often mentioned in health debates in the chamber. In reality, there is scant evidence of any move by the Government towards that kind of innovative approach. The explosion in type 2 diabetes cases now accounts for some 12 per cent of the Scottish health budget. According to the Scottish Association for Mental Health, the rise in poor mental health is costing the economy some £3.6 billion a year. Musculoskeletal issues are costing in excess of £350 million a year. Along with the likes of cardiovascular disease and strokes, those conditions are not just costing NHS Scotland money but shortening life expectancy and reducing the quality of lives.

All those things are fundamentally affected by inactivity or obesity, or both. The obvious answer is to set up a long-term strategy to tackle those mounting issues, which are putting more unnecessary strain on our NHS.

Actions speak louder than words, so let us look beyond the words of ministers in the chamber and look at the Scottish Government's actions. Jogscotland, which has 40,000 weekly active members—80 per cent of them are women—and gives the opportunity for organised exercise in a safe environment, is having its funding cancelled. That £100,000 equates to £2.50 per person per year to positively impact on their health and wellbeing now and in the future, not to mention the likely related health and wellbeing impacts on their families.

Swimming lessons are not compulsory in Scottish primary schools, but they are in England.

The Deputy Presiding Officer: There are a wee bit too many conversations going on. Give the member the privilege and politeness of listening to what he has to say.

Brian Whittle: The Scottish Government has pulled the £1.72 million of top-up funding to support school swimming lessons. The result is that 40 per cent of children—around 15,000 each year—are heading to high school as non-swimmers, according to Scottish Swimming, and a higher percentage of them live in socially deprived areas.

There is much talk of health inequality, inequality of opportunity and closing the attainment gap. However, all the evidence points to the fact that exactly the opposite is happening. Expert advice from agencies is falling on deaf SNP ears. In the words of Tolstoy,

"The most difficult subjects can be explained to the most slow-witted person if they have not formed any idea of them already; but the simplest thing cannot be made clear to the most intelligent person if they are firmly persuaded that they know already".

In my short time so far in this building, that has typified the Government's approach—it thinks that it knows better than everybody else.

None of us in the chamber should be surprised that the first bill that the Government put out to consultation was about independence. We should be disappointed, but not surprised. However, with the damning Audit Scotland report, we see the consequences of a Scottish Government that has forgotten that it is responsible for more than satisfying its own constitutional obsession. The SNP spent years, millions of pounds and countless hours of resource on a 650-page plan for independence. Is there any possibility of its devoting even a fraction of the energy that it put into that to a long-term, sustainable plan for the Scottish NHS?

The Scottish Conservatives were voted into the Parliament to be a strong Opposition and to hold the Government to account. People should rest assured that we accept that role, and we will do it to the best of our ability every day of the parliamentary session. However, sometimes issues arise that transcend party politics, and we believe that this is one of those issues.

With the publishing of the Audit Scotland report, it is now possible for all to see that our most precious of services—the NHS—is under increasingly intolerable pressures. It must therefore be the duty of all Opposition parties to ensure that the Government's lack of initiative and focus and the Government's continued attempts to duck its responsibilities are called to account.

The SNP's cunning plan to avoid criticism of its NHS plan by having no plan at all cannot be allowed to go unchallenged. Our NHS deserves better and the Scottish public will demand better. The SNP Government needs to be shaken out of

its constitutional daydreaming and I therefore commend the motion to Parliament.

Business Motion

17:30

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-02270, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau.

Motion moved,

That the Parliament agrees the following programme of business—

Tuesday 8 November 2016

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Ministerial Statement: Unconventional Oil and Gas

followed by Scottish Government Debate: Scotland Values its EU Workforce and their Contribution to Health and Social Care

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 9 November 2016

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions
Rural Economy and Connectivity;
Environment, Climate Change and Land Reform

followed by Scottish Government Debate: Working Together to Prevent and Eradicate Hate Crime and Prejudice

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 10 November 2016

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

12.45 pm Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Scottish Parliamentary Corporate Body Question Time

followed by Ministerial Statement: Scotland's Contribution to International Action on Climate Change and the Paris Agreement

followed by Scottish Government Debate: The Scottish Government's Consultation on a Strategy for Science, Technology,

Engineering and Mathematics (STEM)
Education and Training

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 15 November 2016

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 16 November 2016

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions
Culture, Tourism and External Affairs;
Justice

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 17 November 2016

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

12.45 pm Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time—[Joe FitzPatrick]

Motion agreed to.

Parliamentary Bureau Motions

17:31

The Presiding Officer (Ken Macintosh): The next item of business is consideration of five Parliamentary Bureau motions. I ask Joe FitzPatrick to move en bloc motions S5M-02120, S5M-02271, S5M-02274, and S5M-02275, on the approval of Scottish statutory instruments, and motion S5M-02273, on the office of the clerk.

Motions moved,

That the Parliament agrees that the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016 [draft] be approved.

That the Parliament agrees that the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016 (Fixed Penalty Notice) Regulations 2016 [draft] be approved.

That the Parliament agrees that the Scottish Local Government Elections Amendment (No.2) Order 2016 [draft] be approved.

That the Parliament agrees that the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2016 [draft] be approved.

That the Parliament agrees that the Office of the Clerk be closed on Wednesday 28, Thursday 29 and Friday 30 December 2016.

The Presiding Officer: The question on the motions will be put at decision time.

Decision Time

17:31

The Presiding Officer (Ken Macintosh): The first question is, that amendment S5M-02231.1, in the name of Annabelle Ewing, which seeks to amend motion S5M-02231, in the name of Douglas Ross, on justice, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Evans, Mairi (Angus North and Mearns) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)

Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (South Scotland) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Thomson, Ross (North East Scotland) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)

The Presiding Officer: The result of the division is: For 63, Against 64, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S5M-02231, in the name of Douglas Ross, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (South Scotland) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Thomson, Ross (North East Scotland) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Evans, Mairi (Angus North and Mearns) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)

Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 64, Against 63, Abstentions 0.

Motion agreed to,

That the Parliament believes that sectarian behaviour and hate crime are a blight on society in Scotland and should not be tolerated under any circumstances; notes that there are laws in place to prosecute acts of hatred in addition to the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012; further notes with concern that the legal profession has repeatedly criticised the 2012 Act for being unworkable and badly drafted; regrets that the Scottish Government hastily pushed the legislation through the Parliament, despite widespread criticism from stakeholders and opposition parties, and urges the Scottish Government to repeal the Act as a matter of priority.

The Presiding Officer: I remind members that, if the amendment in the name of Shona Robison, on the national health service in Scotland, is agreed to, the amendment in the name of Anas Sarwar falls.

The question is, that amendment S5M-02232.3, in the name of Shona Robison, which seeks to amend motion S5M-02232, in the name of Donald Cameron, on the NHS in Scotland 2016, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Evans, Mairi (Angus North and Mearns) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)

Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)

Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (South Scotland) (Con)
 Harris, Alison (Central Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Thomson, Ross (North East Scotland) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 69, Against 58, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The amendment in the name of Anas Sarwar falls.

The next question is, that motion S5M-02232, in the name of Donald Cameron, on the NHS in Scotland, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)

Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)

Davidson, Ruth (Edinburgh Central) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Evans, Mairi (Angus North and Mearns) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (South Scotland) (Con)
 Harris, Alison (Central Scotland) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rennie, Willie (North East Fife) (LD)
 Ross, Douglas (Highlands and Islands) (Con)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Thomson, Ross (North East Scotland) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 67, Against 60, Abstentions 0.

Motion, as amended, agreed to,

That the Parliament welcomes the publication of the Audit Scotland report, *NHS in Scotland 2016*; recognises that health and care services face increasing demand pressures and that the NHS must evolve to deliver more care in community and primary settings, as well as in the home; notes that the Scottish Government has welcomed the report's recommendations, and, by the end of the year, will set out a cohesive framework for the delivery the integration of health and social care, the National Clinical Strategy, public health strategy, Realistic Medicine, workforce recruitment, supporting population health, and meeting the 2020 Vision; believes that the shift from acute to primary, community and social care must be accelerated; supports plans that, by the end of this parliamentary session, at least 50% of frontline NHS funding will be outwith the acute hospital sector, and condemns that the UK Government's welfare cuts have harmed the physical and mental health of some of the most vulnerable people in society and have further increased demands being placed on health and care services.

The Presiding Officer: I propose to put a single question on Parliamentary Bureau motions S5M-02120, S5M-02271, S5M-02274, S5M-02275 and S5M-02273. Any member who objects should say so now.

As no member has objected, the question is, that motions S5M-02120, S5M-02271, S5M-02274, S5M-02275 and S5M-02273, in the name of Joe FitzPatrick, be agreed to.

Motions agreed to,

That the Parliament agrees that the Council Tax (Variation for Unoccupied Dwellings) (Scotland) Amendment Regulations 2016 [draft] be approved.

That the Parliament agrees that the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016 (Fixed Penalty Notice) Regulations 2016 [draft] be approved.

That the Parliament agrees that the Scottish Local Government Elections Amendment (No.2) Order 2016 [draft] be approved.

That the Parliament agrees that the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2016 [draft] be approved.

That the Parliament agrees that the Office of the Clerk be closed on Wednesday 28, Thursday 29 and Friday 30 December 2016.

James Kelly (Glasgow) (Lab): On a point of order, Presiding Officer. [*Interruption.*]

The Presiding Officer: The Parliament will listen to Mr Kelly's point of order, please.

James Kelly: I rise to make a point of order under rule 8.17 of standing orders. The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 is clearly dead in the water after tonight's vote. The Government must therefore bring forward immediate plans for how it will repeal the act as a matter of urgency. Presiding Officer, I ask you how you will authorise that within the remit of the Parliament.

The Presiding Officer: I thank Mr Kelly for raising the point of order. In this case, if I may explain to Parliament, as I think most members will know, resolutions of the Parliament are not binding. However, the Parliament has made its voice heard and its views clear, and it is for the Scottish Government to reflect on how to respond.

Welfare Conditionality Study

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a members' business debate on motion S5M-01360, in the name of Sandra White, on the welfare conditionality study. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes with concern the first wave findings of the welfare conditionality study that was carried out by researchers from several leading universities, including the University of Glasgow and was presented to MSPs on 7 September 2016; understands that it found universally-negative experiences of conditionality, which it reported as creating both "widespread anxiety and feelings of disempowerment" among service users and leading some people to turn to crime in order to survive because of the sanctions that they faced; recognises the report's conclusion that the common thread linking stories of successful transition to work was the availability of individual support rather than the threat of sanctions; notes that the report includes what it considers to be deeply disturbing service users' accounts of the conditionality; understands that some described the system as "intimidating, dehumanising and disempowering"; congratulates the University of Glasgow and the other researchers on what it considers to be its important work, and looks forward to the next wave of findings being published.

17:39

Sandra White (Glasgow Kelvin) (SNP): I thank the researchers at the University of Glasgow and their partners across the United Kingdom who have collaborated on the welfare conditionality research that has been funded by the Economic and Social Research Council. The project, which is looking at conditional welfare in the UK, started in 2013 and will finish in 2018. The motion highlights the first wave of findings. I also thank the media that have covered the research, and particularly the *Daily Record* for highlighting the human costs of the conditionality, which are shown in the research.

Researchers were looking at two main areas:

"how effective is conditionality in changing the behaviour of those receiving welfare benefits and services?"

and

"are there any particular circumstances in which the use of conditionality may, or may not be, justifiable?"

The findings are undoubtedly a stark reminder of the complete and utter failure of the UK Tory Government to provide meaningful support to those who need it. I will give members a snapshot and an overview of the findings.

Sanctions often came as a shock, without warning, with many of the interviewees believing that they had been compliant. Loss of income through sanctioning was usually disproportionate;

for example, interviewees had no money for food for a whole month because they were five minutes late for an appointment.

There were variations in the expectations of different job coaches, contributing to mistrust in the system, which was often viewed as deliberately designed to catch claimants out so that they could be sanctioned.

There was the material impact of sanctions, both the short-term crisis and the long-term paying off of debt. Sanctions can result in rent arrears, eviction threats and homelessness.

There were very few cases where sanctions worked at all. The issues that interviewees said prevented them from finding work are not helped by sanctions. A high number of sanctions are still caused by Department for Work and Pensions administration errors.

There was poor implementation of easements and flexibilities for particular groups, such as homeless people and lone parents. We should pay particular attention to the fact that levels of awareness about that particular group are low.

There is also the inadequacy of support, which is neither intensive enough nor tailored enough to be effective in helping people overcome barriers to work.

One of the most galling findings from the report is the fact that sanctions do nothing at all to help people find work. The running theme behind examples of people getting into work was the availability of appropriate support rather than the threat of punishment. The research demonstrates that the very foundation of the sanctions regime is flawed. The fact is that people by and large want to work and in many cases have long histories in employment before their circumstances changed.

I have no doubt that members across the chamber will all have many cases of constituents who have fallen victim to the sanctions regime and have sought their advice and support. The report highlights many cases and, with your indulgence, Presiding Officer, I would like to highlight a few to put into perspective the reality of the situation for welfare service users. I do not like the word "welfare" and I try not to use it, but it is the word that the report uses.

Take, for example, a man in his fifties who was made redundant and could only find part-time work. He is relying on universal credit to top up his wages. Prior to universal credit, he would have had the opportunity to apply for working tax credits, which would have been free from conditionality. In his own words, he describes his interaction with the system:

"The first moment I walked into the Jobcentre I felt criminalised ... you're looked down upon ... to me it was as if I'm signing up to a prison."

The man's problems did not end there. There was a long delay in receiving the universal credit payment as well as administrative errors that resulted in three months of rent arrears. He requested that the housing element of universal credit be paid directly to his social landlord, but that did not happen. He has been taken to court over the rent arrears that accrued and now he feels that everything is looming over his head and he is suffering from depression and anxiety.

One lady who is disabled said:

"It is demeaning, condescending ... painful ... damaging, it actually makes your disabilities worse".

A man who had a history of paid employment until an accident prevented him from working has had to manage his treatment and hospitalisation for on-going problems while being sanctioned for not replying to a letter that was sent while he was in hospital. He said that it was "a very hard time" that he went through:

"I'm not only coping with an illness that affects your daily life, but I'm also affected that somebody has just clicked a button and just stopped my benefits, stopped the bit of income that's coming in ... when they took it away they gave me this telephone number".

They told him that he was to phone his local council, which might be able to help him. Unfortunately, when he rang the council, he was told:

"you don't qualify because you're not getting this type of benefit."

This research clearly illustrates that the sanctions regime is dehumanising and ineffective and pushes people into destitution and reliance on food banks, often through no fault of their own.

The Tory Government approach to benefit claimants is to presume guilt and to punish disproportionately. Not only does that fail to help jobseekers to find work, it puts many people in the position of being penniless. We in this Parliament have an opportunity to shape services to fit the needs of the users, rather than having the one-size-fits-all approach of the UK Tory Government, and I welcome the commitment from the Scottish Government that participation in work programmes will be voluntary. Our social security system must be person centred and must treat people with dignity and respect at every stage of their journey into work, focusing on developing their skills to fulfil their employment potential.

Although the Scottish Parliament will take over responsibility for employability programmes, and some responsibility for social security relating to disability is to be devolved, the UK Government remains entirely responsible for some decisions

and, in particular, the decisions over claimant conditions and sanctions. I hope that the minister will touch on that aspect in summing up.

What kind of society do we want to live in? One where we protect and support people when they need protection and support, or one where we actively work to demonise those in need? I will always opt for a society where we protect, support and nurture. The UK Tory Government must halt the sanctions until an immediate review of the claimant conditionality and sanction regime has been carried out. For the sake of all our citizens, I hope that it will do that.

17:46

Adam Tomkins (Glasgow) (Con): I congratulate Sandra White on securing a debate in Parliament on this very important matter, even if I did not agree with everything that she said in her remarks. I would like to start with some facts.

First, sanctions are, and always have been, an important part of our welfare system. It is right that they are in place for those few who do not fulfil their commitment to find work. Sanctions prevent abuse in the system and create fairness for taxpayers.

Secondly, sanctions affect only a tiny number of claimants.

Sandra White: Will the member take an intervention?

Adam Tomkins: I am afraid that I do not have time to take interventions this evening.

Only about 2 per cent of jobseekers are sanctioned and a quarter of 1 per cent of employment and support allowance claimants are sanctioned. That is to say, 399 of every 400 claimants of employment and support allowance are not sanctioned at all.

Thirdly, the UK has a far less strict sanctions regime than those operating in most European countries. Indeed, there are only seven European Union member states with a less strict regime than the one that is operating here. If we are out of line with the European average, it is because we are more lenient than others, not stricter.

Fourthly, I point out that the Scottish Government's expert working group on welfare, which produced a report in 2014 about what social security would look like in an independent Scotland, argued:

"there is a general acceptance that receiving benefits will inevitably imply some form of conditionality".

The report stated:

"The social security system"
of an independent Scotland

“will be based on positive conditionality with expectations on individuals and the State.”

The Minister for Employability and Training (Jamie Hepburn): Will the member give way?

Adam Tomkins: I am afraid that I do not have time to give way this evening.

It is far from clear how such conditionality would be any different from the reformed and vastly reduced sanctions regime that is in operation now in the United Kingdom.

Getting people into work is a good thing. I think that we now all recognise that work—for those who can—represents the best route out of poverty. Getting disabled people into work is a good thing, which is why I welcome the fact that there are 360,000 people with disabilities in work now in the UK who were not in employment two years ago. However, I recognise that the disability employment gap remains far too big, which is why we on the Tory benches have a commitment to halve it. I have invited the Scottish Government ministers to join us in that commitment, but that invitation has yet to be taken up, I am sad to say.

This evening is an opportune time to be debating these matters. Just this week, the UK Government published its work, health and disability green paper. The green paper makes it plain that a higher employment rate is not merely good for the economy but vital to the health and wellbeing of our citizens, including our citizens with disabilities. That is why it really matters that the disability employment rate is even lower in Scotland than it is in the UK as a whole. I have already said that it is too low in the UK, but it is even lower in Scotland, where only 42 per cent of people with a disability are in employment.

We hear a lot in this Parliament about dignity, fairness and respect, but I ask this: how is it treating disabled people with fairness and respect to subject them to a welfare system that parks them on benefits, tells them that they are not fit for work and denies them the dignity of employment? That is why—like Mark Atkinson, the chief executive of Scope UK, and like members of the House of Commons, including, to be fair, Dr Eilidh Whiteford, speaking for the SNP—I applaud this week’s green paper, because, in its very opening paragraph, it expresses an understanding that the disability employment gap is

“one of the most significant inequalities in the UK today”

and is, indeed, an

“injustice that we must address”.

However, this issue is not all about work. The social security system must do all that it can to move people off benefits and into employment but, at the same time, it must also support those of our

fellow citizens who, for whatever reason, genuinely cannot work.

The Deputy Presiding Officer: Close now, please.

Adam Tomkins: That is why it is important to record, in closing, that spending on disability benefits has increased since 2010. It went up by £3 billion in the previous session of the Westminster Parliament and, in this session, £50 billion will be spent in the United Kingdom on disability benefits. That represents more spending on disabled people in every year of the current Parliament than was the case when the Conservatives came to power in 2010.

The Deputy Presiding Officer: I will just say that, if people do not take interventions, I would not expect them to go over their speaking time, even in a members’ business debate.

17:51

Neil Bibby (West Scotland) (Lab): I welcome the debate and congratulate Sandra White on securing it.

In September, I was delighted to sponsor in Parliament a briefing event that presented the interim findings of the groundbreaking research on sanctions and conditionality that we are debating tonight. I know that some members who are in the chamber this evening attended that event, and am sure that they would agree that it was a helpful and informative briefing. It was organised through the welfare reform network, which is run by policy Scotland at the University of Glasgow. I want to thank again Dr Sharon Wright, Professor Peter Dwyer and Dr Sarah Johnsen for their helpful presentation on the research, which was conducted by academics from six universities across the UK.

I am sure that members across the chamber will agree that there is increasing awareness of the impact of sanctions and conditionality on constituents and their families. The research is particularly useful in helping to place in a wider context the individual cases that we hear about. Although the research focuses on conditionality, which is reserved to Westminster, there are important implications for this Parliament in respect of our considering how we operate the social security powers that are now under the Scottish Government’s control.

As the motion highlights, the study found universally negative experiences of sanctions. Linking of continued receipt of benefit services to mandatory behavioural requirements has created

“widespread anxiety and feelings of disempowerment among service users”.

Members have mentioned some of the other key points that the study raises. For example, sanctions have often come as a shock, without warning, with many interviewees believing that they had been compliant. Loss of income through sanctioning has also usually been disproportionate to the so-called crime. For example, as Sandra White said, having no money for food for a whole month has sometimes been the result of a person's being just five minutes late for an appointment.

The research found few cases in which sanctions had actually worked. The running theme behind examples in which people had got into work was availability of appropriate support, rather than the threat of punishment. Worryingly, however, there was a view that the system is designed to catch claimants out so that they can be sanctioned. Those are very real and serious concerns that have been expressed by some of the most vulnerable people in our communities, so it is vital that we not only listen to them but learn from what is being said by those people who know the welfare system best—the people who rely on it. All too often, debates on welfare become arguments about facts and figures. However, what the study does effectively is highlight the human consequences of welfare sanctions and conditionality.

I know that Adam Tomkins said that he believes that few claimants had been affected by sanctions, but the research shows that of the 481 welfare service user participants in the study, 134 were in Scotland. Some of the case studies from our communities highlight truly shocking examples of the consequences of sanctions. One male welfare user in Scotland said:

"My daughter could not attend school for two weeks. I didn't have any money for that; you have to give her some money every day for some lunch and for a bus."

Barnardo's Scotland, in its briefing ahead of the debate, highlighted the difficulties that were experienced by another parent. She was 10 minutes late for an appointment because of an unforeseen incident with one of her children. She was sanctioned, which had a devastating impact on her family: she was without money for four weeks and was unable to buy fuel cards for her gas and electricity meters or feed her children. Those examples alone should set alarm bells ringing for all members about the consequences that decisions can have on the very people whom our welfare system is supposed to protect.

Members will be aware of the new film "I, Daniel Blake", which highlights the devastating reality. Far too many people need our support but are simply not getting it. It is encouraging to see such a film shine a light on those experiences—

The Deputy Presiding Officer: Draw to a close, please.

Neil Bibby: The more people are made aware of such circumstances, the better.

I conclude by thanking again all those who were involved in this important study. Its findings should serve as a wake-up call and should make the Tory Government think again about the damage that its welfare policy is doing.

The Deputy Presiding Officer: Due to the number of members who wish to speak in the debate, I am minded to accept, under rule 8.14.3, a motion without notice to extend the debate by 30 minutes.

Motion moved,

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[*Sandra White*]

Motion agreed to.

The Deputy Presiding Officer: Thank you.

17:56

Clare Haughey (Rutherglen) (SNP): I thank Sandra White for the debate and welcome the findings of the welfare conditionality study. The findings support the view of many members that for too many users the welfare sanctions system is draconian, dehumanising and ineffective.

The study illustrates that linking receipt of benefits to mandatory behavioural requirements is too often a very blunt instrument that creates

"anxiety and feelings of disempowerment"

among service users. The detrimental impact of sanctions is not only financial; it is material and emotional and can have serious health repercussions for the individual.

Many users do not understand the reason for the sanctions that have been applied to them. Poor communication, as well as the health and personal circumstances of the service user, can lead to unfairly imposed sanctions. Many sanctions are subsequently overturned on appeal. However, appeal is not an easy process and the impact on users who are waiting for the appeal can be devastating.

A young man in his early twenties who was living independently in my constituency of Rutherglen suffered a severe orthopaedic trauma eight years ago, which led to several major surgical interventions to rebuild his limb. He was at the same time diagnosed with severe epilepsy and was therefore simultaneously under the care of two senior consultants who both, individually, confirmed his inability to work long term. He was forced to attend an Atos assessment with his leg in plaster and using crutches, but was deemed to

be fit to work due to his ability to use his fingers to text on his mobile phone. That ability was used to reduce his qualifying points and his benefit was withdrawn. No regard was given to the medical evidence from his consultants. That ridiculous decision was overturned on appeal, but the process took nearly six months. Had it not been for the intervention of his parents, he would have been out on the street and starving. As it was, they were able to assist, but the short-term financial impact on them was not insignificant. Thankfully, he was able to get the support of his family. Many young people in similar circumstances are not so fortunate and can end up in severe debt, evicted and needing to use food banks regularly to survive.

Ken Loach, the director of the critically acclaimed film "I, Daniel Blake", which highlights the negative experiences of benefits claimants who have been unfairly targeted by the DWP sanctions regime, last week accurately called the situation "conscious cruelty". The University of Glasgow research has shown—as in the example that I cited—that sanctions often come without warning, with users believing that they had been compliant. That is consciously cruel. The research also found that loss of income through sanctioning was disproportionate to the perceived infringement—for example, claimants having no money for a month due to having missed an appointment by a few minutes. That is consciously cruel. The material impact of rogue sanctions on claimants' debt can result in rent arrears and homelessness. That is consciously cruel. Thankfully, Atos has gone, but the sanctions system remains, and it remains consciously cruel.

Prior to my career in nursing, I worked for two years in the then Department of Social Security. It was at the height of the Thatcher era and over the period of the miners' strike. At that time, the ethos in the department was completely different from the target-driven dehumanising ethos that prevails today. I can assure Adam Tomkins that it was not a system that used benefit sanctions—which he thinks have always been in the system. I will correct his figure on the number of sanctions of disabled people: it is 3,000 out of 85,000. Of course, the main purpose of the service was to help people to get back into work. However, at a time when major industries were being closed down or privatised, with mass redundancies and few other work opportunities, the ethos was very much one of support, and not judgment. How times have changed.

In designing a social security system for Scotland, we have the opportunity to build dignity and respect back into the administration of some benefits and work programmes. I therefore welcome the commitment from the Scottish Government that under a Scottish social security

system, employability support programmes will be voluntary and the Government will help to ensure that people are not sanctioned by the DWP when they are on those programmes.

18:01

John Finnie (Highlands and Islands) (Green):

I join others in congratulating Sandra White on bringing the debate to the chamber and in applauding and thanking the researchers for their work. It was my intention to say that we have all heard of or dealt with cases involving the devastating and harrowing impact that sanctions can have, but perhaps Mr Tomkins and his colleagues have not or, if they have heard, they have not listened, which would be more worrying.

The effect of removing people's only means of support has a mental and physical health impact on them and their families but, unfortunately, the situation is even worse when we consider what jobseekers are being asked to do and how likely that is to improve their chances of finding employment. Around 65 per cent of participants leave the work programme without having gained and stayed in a job for at least six months. The figure is considerably higher for participants with health conditions or disabilities, around 85 per cent of whom have not entered and stayed in employment for at least three months. For those who are considered furthest from employment, the figure is as high as 94 per cent.

The report gives clear reasons why that might be the case. Claimants are asked to apply for jobs regardless of whether they are appropriate. The study's interim findings show that people are being forced to apply for jobs that they tell Jobcentre Plus and employment programme providers they cannot do because of disability, ill-health or childcare responsibilities, yet those organisations insist on claimants applying. The report of interim findings cites the ridiculous case of a Scottish universal credit claimant who was asked to apply, under the threat of sanction, for a job as a driving instructor, despite the fact that he had said that he did not have a driving licence.

Much of the support offered is of a generic nature when, as others have said, it should be person centred. It has been limited to things such as help with writing CVs and job search skills. Individualised packages of support are needed. Sick and disabled jobseekers who were interviewed in the study reported being offered only that very general kind of support.

The DWP's own survey of work programme participants found that over 70 per cent of those on the programme with a health condition were not offered health-related support to help them find work. Providers have openly admitted that there is

not sufficient funding in the work programme to pay for on-going specialist support to help participants with disabilities and health conditions. The Centre for Social and Economic Inclusion reported that work programme providers spend as little as £545 to provide up to two years of support for employment and support allowance participants.

One of the few positive messages to come out of the report is that on the great work done by Jobcentre Plus disability advisers. Perhaps inevitably, in the topsy-turvy world of the DWP where nothing seems to make sense, those advisers are now being withdrawn from jobcentres and mainstream jobcentre staff will be expected to provide specialist disability support. The structure of the contracts, which prioritises job outcomes, means that those who are relatively close to the labour market are offered the most support and that more disadvantaged jobseekers are provided with very little practical help.

If the purpose of sanctions is to help benefit recipients into work by enforcing, under the threat of sanction, participation in employment programmes and other schemes of support, and if that support is unlikely—in some cases very unlikely—to help them find employment, the whole basis of the sanctions regime is brought into very serious and fundamental question.

We can now use the powers in the Scotland Act 2012 to chart a different course. Sandra White spoke about dignity and respect, and those principles should underpin our approach.

Although sanctions are not devolved, powers over the employment programmes—some of which are currently compulsory—have now been devolved and new programmes will operate from spring next year. Those will involve a more supportive approach in which people are encouraged to take up offers of employment support not because they are bullied into doing so, but because there are genuine opportunities to find work.

I was very proud to stand for election earlier this year on the only party manifesto that pledged to use the new powers over employment services to reduce significantly the numbers of benefit sanctions that are applied in Scotland. My colleague Alison Johnstone, who has worked with others on that issue, called on the Scottish Government to use the powers in that way and released a plan that explains how it could be done.

Last month, I was pleased to hear the Minister for Employability and Training commit to operating those new programmes on an entirely voluntary basis, and I commend that approach. It will require significant investment in schemes of support that go far beyond the current DWP schemes.

Finally, I turn to the costs of complying with benefit conditionality, which can be considerable. That is an issue in particular for benefit recipients in rural areas, where the cost of transport from recipients' homes to the nearest jobcentre to attend appointments or to the nearest library in order to use computers to apply for jobs can eat significantly into the scant amount that those people are paid in benefits.

Dignity and humanity will be the hallmark of the way in which we use the newly devolved powers, but we can apply that approach to the entire system only when we have the ability to use all the powers, which will come with independence.

18:06

Joan McAlpine (South Scotland) (SNP): I apologise to other members and to you, Presiding Officer, as I have to leave after giving my speech because I have another appointment.

I, too, congratulate Sandra White on bringing the debate to the chamber, although I take part with a heavy heart because the evidence that the first wave report presents is not new. It is now more than two years since the Welfare Reform Committee in the previous session of Parliament, of which I was a member, published its "Interim Report on the New Benefit Sanctions Regime: Tough Love or Tough Luck?" in 2014.

The report examined the consequences of the DWP's decision in 2012 to introduce a more punitive system of sanctions for those on jobseekers allowance and employment and support allowance. It is important to highlight that to address the point that Adam Tomkins made: there has always been an element of conditionality in the system, but the 2012 changes introduced a far harsher regime. It included three categories of sanctions—higher, immediate and lower, extended the length of sanctions to a maximum of three years and speeded up the rate at which sanctions started, which meant that people could be faced with destitution almost overnight.

The committee's report found that the number of those on jobseekers allowance who were penalised increased very rapidly throughout 2013, from 3 per cent at the start of the year to almost 6 per cent by the end. The committee stated in the report that it believed that there was

"a deliberate policy ... to drive up the level of sanctions to previously unheard-of levels through managerial pressure on JobCentre staff."

The report identified a number of failings, such as

"a consistent failure to notify people that they are being sanctioned and why ... misapplication of sanctions ... A failure to appreciate that many people on benefits do not have the necessary IT skills at day one to utilise the DWP's Universal Jobmatch facility"

and

"The lack of a deadline for decision-making on DWP reconsiderations"

when a mistake had been made.

The committee's 2014 report is only one of a number of publications that have exposed the sanctions regime since 2012. A substantial body of evidence has been gathered by organisations such as the Joseph Rowntree Foundation, the Child Poverty Action Group, the churches, Citizens Advice Scotland and others, but they have all been ignored.

Conservatives still insist, as they did in 2012, that many benefit recipients welcome the "jolt" that sanctions give them. That is the term that was used in evidence to the Welfare Reform Committee. Two years later, there is very little in the findings of the first wave report to suggest that anyone is jolted into work by a sanction. In contrast, as others have said, there is the sudden onset of destitution and the stigma that accompanies it; the feeling of being disempowered along with feelings of deep resentment, desperation and depression; and the question of how someone can present themselves as an attractive and confident potential employee when they cannot afford soap and water and they are crippled with anxiety about how to feed their kids.

To address the point about disabled people, I note that Inclusion Scotland reported official figures that showed that, from the introduction of the regime in 2012 until March 2014, 14,000 people on employment and support allowance—those are people who have an incapacity of some sort—found a job or a positive outcome as a result of the work programme, to which conditionality is attached.

However, in the same period, sanctions were dealt out to almost 42,000 ESA claimants. That means that a disabled person on the work programme was three times more likely to be sanctioned than they were to find a job. Far from jolting people into work, sanctions send claimants tumbling further downhill into illness and continued unemployment.

I will conclude with a bit of historical context and talk about the 1834 report into the English poor law, which was written by social reformer Edwin Chadwick. At the time there was also a system of conditionality: it was the workhouse—or the "poorhouse", in Scotland. It was designed to be so unpleasant that working class people would be deterred from seeking the help to which they should have been entitled—morally, at least.

One supporter of the regime told Chadwick:

"The workhouse should be a place of hardship, of coarse fare, of degradation and humility; it should be administered

with strictness—with severity; it should be as repulsive as is consistent with humanity."

Thirty years ago, Margaret Thatcher spoke about the desirability of a return to Victorian values. The punitive sanctions regime that David Cameron's Tory Government introduced suggests that that has been achieved. Like the threat of the workhouse, it is designed to degrade. However, it is worse than that. The Victorian workhouses and poorhouses provided food, heat, light and shelter, as was "consistent with humanity", as Chadwick's correspondent might have put it. The sanctions regime that we are talking about can deprive its victims of those basic necessities. It does not even merit the term "Dickensian"; it is truly inhuman.

18:11

Annie Wells (Glasgow) (Con): When I read the report, I was, of course, concerned about the issues that it raised, namely that sanctions are creating feelings of anxiety and disempowerment among service users and that many people who were involved in the study reported negative experiences.

I really do not want welfare service users in Glasgow or any other part of Scotland to feel anxiety about the welfare system. I also do not want the debate to become a bear pit in which members attack policies, the essence of which the public at large agree with, at least in principle.

The Scottish Government itself acknowledges that sanctions are necessary in the welfare system. In 2014, its expert working group on welfare concluded that although it did not agree with the way in which the UK Government was implementing its sanctions policy, conditionality was nevertheless necessary.

Jamie Hepburn: Will the member take an intervention?

Annie Wells: Not at the moment, sorry.

Jamie Hepburn: At what point will the member take an intervention?

Annie Wells: I have not even been speaking for a minute. I ask the minister to let me make some progress, please.

Jamie Hepburn: I will do my best.

Annie Wells: It is not the existence of welfare conditionality that has caused controversy; rather, it is the way in which the approach has been implemented. There must be a case for a light form of conditionality, at the very least.

Jamie Hepburn: Will the member take an intervention on that point?

Annie Wells: Not yet. I want to make progress.

There is an acknowledgement in the report by some professionals that enforcement, coupled with support, could act as a positive catalyst for change.

Would the minister like to intervene now?

Jamie Hepburn: Indeed. I thought that it was telling that the member talked about light-touch conditionality or a light-touch sanctions regime. I do not think that any member of this Parliament does not accept that criteria have to be applied in any social security system. However, the approach must be proportionate and sensible. Given everything that Annie Wells has heard in this debate about the lived experience of people who have had sanctions applied to them, does she accept that the current approach is hardly one of light-touch conditionality?

Annie Wells: I am saying that there must be light-touch conditionality and that the Scottish Parliament must work to make that case, to ensure that such an approach is taken. I am not for a minute saying that the things that I heard from Sandra White and Neil Bibby did not happen, but we need to put the issue into perspective. The number of sanctions is less—

John Finnie: Will the member take an intervention?

Annie Wells: Not at the moment. I am running out of time. I am sorry.

When it comes to mandatory support from Jobcentre Plus or the work programme, there are examples of good practice and positive accounts from welfare service users, particularly when it comes to trying to deter users from harmful lifestyles. Even the Joseph Rowntree Foundation made the key point in a report in 2014 that

“with appropriate support, interventions including elements of conditionality or enforcement may deter some individuals from anti-social behaviour and street-based lifestyles.”

Sandra White: Will the member take an intervention?

Annie Wells: I am in my last minute

With the devolution of employment services to Scotland, why does the Scottish Government not seize the opportunity to work further on that basis?

I would like to bring perspective to the debate and remind members that fewer than 2.5 per cent of jobseekers allowance claimants and only 0.26 per cent of ESA claimants in the UK are sanctioned.

As always, it is right to question the Government on these issues, but to constantly bring them to the forefront of debate seems disproportionate. I wonder why those who are linked to the SNP Government are bringing up the same issues over

and over again when the Government has its own battles to fight and its own welfare reform powers to work with. Often repeated in this chamber is the claim that the Scottish Government has control over only 15 per cent of the benefit budget, yet it now has the ability to top up any reserved benefit that it sees fit.

As my colleague Adam Tomkins highlighted, in many EU countries we see tougher benefit sanctions than we see in the UK. In 2014, Belgium, Germany, Ireland, Luxembourg, the Netherlands and Sweden all ranked higher in terms of the percentage of those sanctioned.

Of course, I welcome any work in this area but I would reiterate that sanctions are by and large rare occurrences. We need perspective when it comes to conditionality and we need to be able to at least acknowledge the benefits of a welfare system that incorporates some aspect of it.

18:16

Pauline McNeill (Glasgow) (Lab): I thank Sandra White for bringing the debate to the chamber and offer special thanks to Glasgow university and the other universities that were involved in compiling the report. It provides evidence on things that we have probably known for some time. Some of us have seen the movie “I, Daniel Blake”, which has taken the country by storm. I must say that the Scottish Tories are out of touch if they do not appreciate that the system that they are defending is becoming a more topical issue by the day. The report is disturbing reading, and the issue affects many Scottish families and individuals.

The Scottish Tories are missing this point: there is evidence to show that there are high numbers of sanctions—I will come to that—but the issue is the disproportionate nature of the sanctions regime that we have now. Joan McAlpine, who is not here, highlighted the sharp change that there has been in sanctions. That is the point that we are addressing.

Claimants can be anyone whom we know. They are not all from the same group of people. Any one of us or anyone from our families would be required to have conditions if we were unemployed and claiming benefits.

The research confirms that under-25s face substantially higher sanctions and that younger claimants face direct discrimination and are more likely to be sanctioned than any other group.

Members have talked about the ethics of conditionality that is designed to change the behaviour of welfare claimants. Of course there should be a system of some kind to ensure that people meet the basic requirements to claim their

welfare benefits, but however the policy started the debate is about the fact that it has lost its way and has to change. It is disproportionate, cumbersome, unresponsive to people's real needs, lengthy, punitive and inhuman. Most of all, as Sandra White said, it does not even work.

I believe that the policy also distorts the employment market, because people are forced to take jobs for which they are overqualified or which are not on the career path that they wish to take. They must take those jobs, because they will not get benefits if they do not. As has been discussed in other debates, that can lock people into a circle of low-paid employment from which they cannot get out.

We all have stories to tell. We all know about the man who was sanctioned for going to a hospital appointment, even though he told the employment office that he was going. The problem is that once something goes wrong in the system, it is very difficult to communicate to the DWP that it has made a mistake. Its way of dealing with claimants' problems seems to be exceptionally lengthy.

People who turn to the state in most cases do not have a slush fund to revert to. They may be lucky enough to have families who can help them out, but people often have no one to turn to when sanctions of four weeks, 13 weeks or 26 weeks are imposed on them. It can take up to six weeks for the DWP to reconsider a decision and, as we read in the report, it can take up to a year for an appeal, which is simply not good enough on anyone's terms. People should have the basic human right to appeal against a decision and have their appeal heard speedily. We would not accept the situation in our courts, and I do not think that we should accept it in our welfare benefits system. According to David Webster, who has done work on the issue, between 2013 and 2014 1 million sanctions were imposed on those claiming employment support allowance and jobseekers allowance—the highest rate since JSA was introduced.

The work programme is evidence in itself. Those who work for the work programme were told to increase sanctions for clients. That is in the evidence; it is in black and white. A former employee has testified to it. That cannot be right. The former employee says that that is what happens when we privatise the public and place financial targets on human needs.

The unemployed deserve better than this. This has no place in a modern Britain or a modern Scotland, and we are not talking about isolated cases—they are real cases. Of course, we need a sanctions system, but we need one that treats people with respect, dignity and fairness and one that is easy to navigate so that people understand

exactly what is happening to them when they are in it.

18:21

Clare Adamson (Motherwell and Wishaw) (SNP): I very much appreciate the opportunity to speak in the debate. I had not intended to do so—I had intended to listen to Sandra White's speech and the other contributions—but I find myself becoming more and more concerned by what I am hearing, particularly from the Conservatives.

I do not believe that it is the Scottish Government's job to mitigate decisions that are made elsewhere and a system over which we have no control, but we are already doing that. We mitigate the bedroom tax and we have introduced a Scottish welfare fund that steps in and helps those who have been sanctioned by the DWP. I do not think that it is the job of Scottish taxpayers to fund a discredited system that is failing in every respect. When the number of appeals against sanctions is running at 50 per cent, we must ask ourselves why the system is being allowed to continue when it is obviously broken.

More than anything, what has compelled me to speak is the figures produced by the Department for Work and Pensions that have been cited by the two Conservative members who have spoken this evening. Those figures show that fewer than 6 per cent of JSA claimants and fewer than 1 per cent of ESA claimants have been sanctioned. However, David Webster of the University of Glasgow has called those figures a

"gross and systematic misrepresentation",

arguing that a "large minority" of claimants are affected. The freedom of information request that he submitted to the DWP produced figures showing that 18 per cent of JSA claimants were sanctioned in 2013-14. So concerning were the figures that the DWP released that the UK Statistics Authority has stepped in and has asked the DWP to produce a more comprehensive analysis of sanction rates among JSA claimants, supported by a clear explanation.

What is going on? The DWP is looking at the average number of claimants who are sanctioned on a month-to-month basis, which would be fine if claimants claimed only for a month. However, taking the figures on a month-to-month basis is actually a gross misrepresentation and does not reflect the exceedingly high number of sanctions for JSA claimants. That is a really important point. The UK Statistics Authority, which is the watchdog authority, has told the DWP that it needs to produce objective and impartial sanctions statements. Would it not be good if we also had impartial and objective sanctions statements from all areas of the chamber rather than a gross

misrepresentation of what is happening to our citizens?

If only one citizen was being subjected to cruelty in the system, it would be one too many for a civilised organisation and a civilised country.

18:25

The Minister for Employability and Training (Jamie Hepburn): I join other members in thanking Sandra White for securing the debate. My notes say that I should thank all members for their speeches, but I thank only some of them for their contributions.

A number of salient points have been made. We have heard truly desperate stories about the impact of sanctions on individuals and their families. The research that is the subject of today's debate and which was funded by the Economic and Social Research Council and developed by a consortium of research bodies is detailed, comprehensive and moving.

As Neil Bibby set out, members had the benefit of an information session with Dr Sharon Wright from the University of Glasgow and her colleagues who were involved in the work. Unfortunately, I could not attend the session, but my officials had a productive meeting with Dr Wright and her colleagues that has helped to shape our thinking.

Those who were at the information session will have heard that, for many people, sanctions come as a shock—not a jolt—because they do not know what is happening. Members will have heard that, as Sandra White said, many sanctions are still being put in place as a result of administrative error, and that even when the DWP has agreed flexibilities in the system, those flexibilities are often not implemented. The report provides yet more clear evidence of what the Parliament has heard for some time and what we have debated more than once—the fact that the current UK Government's benefit conditionality and sanctions regime causes suffering, which is not just in material terms, as it also has a negative emotional and health impact on those who are affected by it.

The research is part of a growing stack of reports that highlight the negative impacts of benefit sanctions. For some years, research has pointed to the effect of sanctions. As Joan McAlpine mentioned, the Joseph Rowntree Foundation reported that the system is having a disproportionate impact on young people, with severe impacts on vulnerable groups, such as those who are homeless. It further found that, although sanctions raise the number of exits from benefits, long-term outcomes for job quality, employment retention and earnings are unfavourable.

The research is supported by findings that were published in October by the Behavioural Insights Team, which is a social purpose company that is part owned by the UK Government. It stated that the UK Government's welfare conditionality policies can lead to poor claimant decision making and, in turn, result in lower-quality and lower-paid work outcomes. Even the UK Government's own social purpose company highlights that its system is working against supporting the very outcomes that we regard as crucial measures of delivering successful employment support in Scotland—good, sustained jobs and a decent level of income.

In the latest in a long list of reports, the University of Oxford has published research in the past fortnight that found that, when the rate of sanctioning increased in local authorities, the rate of food bank use also increased. I see that the Social Security Committee, of which Ms White is the convener, has today published further evidence from Sheffield Hallam University.

All the research tallies with the experience that many of us have as elected members. I will always remember two cases. The first was of a young man who attended one of my surgeries to report his concerns that, when he informed the DWP that he might not be able to turn up for an appointment at the jobcentre because he had to attend a funeral the next day, he was threatened with sanctions. The second involved a woman who had faithfully turned up to every single appointment at the jobcentre. One day—the first time that she was unable to attend on time—she turned up five minutes late for understandable reasons and she was sanctioned. Can there be a more ludicrous example of the system than that which John Finnie highlighted, where an individual who could not drive was told that they had to apply for a job as a driving instructor or face sanctions? That speaks to the existence of a ludicrous system.

Incidentally, Annie Wells said that we had to get into perspective the numbers who have been sanctioned and Adam Tomkins said that they are a tiny number. According to the latest statistics, as at March, about 1,330 people were receiving sanctions in Scotland. I do not consider that to be a tiny number. Irrespective of the numbers that are involved, behind those numbers are individual human beings who will bear the human cost of such decisions. I very much agree with Clare Adamson's point that one adverse impact for one individual is one too many. Ms Wells and Professor Tomkins will perhaps want to reflect on that.

To be fair, Ms Wells and Professor Tomkins were correct that the expert group that the Scottish Government established to inform the decisions that we might have taken in the event of a yes vote in 2014 set out that there should be criteria

and conditionality in the social security system. As I said in my intervention on Ms Wells, I do not think that any member would suggest that there should not be criteria that can be applied to those who receive benefits, but the issue—Pauline McNeill made this point well—is to do with proportionality and the practical application of specific conditionality. Everything that we have heard in the debate suggests that the DWP and the UK Government are getting that wrong.

Annie Wells suggested that the Scottish Government should focus on what we can do with the devolution of some social security powers. I am happy to turn to that. We have already set out that we will, in effect, abolish the UK Government's punitive bedroom tax in Scotland as soon as we can; that we will extend winter fuel payments to families with severely disabled children; that we will increase carers allowance so that it is paid at the same level as jobseekers allowance; and that we will use our powers over universal credit to offer Scottish claimants a choice about how often they receive their payments and whether to have their rent paid directly to their social landlord. We will also introduce a jobs grant to help young people aged 16 to 24 who have been unemployed for six months when they start work. Those are real decisions that will use the powers that are coming to the Parliament to make a difference to the lives of people here in Scotland.

However, Sandra White is correct to say that sanctions policy remains outwith the Scottish Government's hands. I see that I am running up against time, Presiding Officer, but this is an important point to make. Sandra White invited me to set out how we will use the devolved employment support programme to do things differently. That does not come without its challenges, because we know that we face a significant reduction—an 87 per cent reduction—in the funding that we get from the UK Government but, in delivering devolved employment support, we have an opportunity to do things differently in Scotland and to take a different approach, and that is what we will do.

As I set out clearly on 5 October when we debated the future of devolved employment services, I firmly believe that attendance at the new programme should be on the same basis as that for other Scottish Government employability and skills support—in other words, it should be voluntary. Those who attend a programme should do so without the ever-present threat of sanctions hanging over them. People who attend our programmes should be there because they know that they will receive high-quality support to get into work; they should not be there because their benefit will be stopped if they do not attend. I have written again to Damian Green to confirm our intentions on the matter, and I have asked my

officials to take forward urgent discussions with the DWP.

I understand that Mr Green will tomorrow attend a meeting of the Social Security Committee. I am sure that Professor Tomkins will take the opportunity to tell him what a good job he is doing, but I hope that other committee members will take the opportunity to discuss sanctions with him and to urge him to address the suffering that is being inflicted on those who survive on the very lowest levels of income. I hope that members will also take the opportunity to impress on Mr Green the Scottish Government's determination—and the Parliament's expressed will—that devolved employment programmes will not interact with the UK Government's horrendous sanctions regime.

I conclude by thanking Sandra White for securing the debate. I hope that we will not have to debate welfare conditionality too many times in the future. Ultimately, I believe that the powers in question should be in the Parliament's hands so that we can do things rather better.

Meeting closed at 18:33.

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.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba