OFFICIAL REPORT
AITHISG OIFIGEIL

Meeting of the Parliament

Thursday 27 April 2017

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

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CONTENTS

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

General Question Time

Ayrshire Growth Deal

1. **Brian Whittle (South Scotland) (Con):** To ask the Scottish Government what support it will provide to the proposed Ayrshire growth deal. (S5O-00909)

The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown): As I made clear to the three Ayrshire council leaders when I met them on 8 March, I am fully committed to finding ways to support regional economies to thrive. Together with the Scottish Futures Trust and my officials, those councils are continuing to refine their growth deal proposals. I am impressed by the collaborative approach of the three councils working together and they have been chosen to be a pathfinder for the regional partnerships strand of the enterprise and skills review.

While the work is under way, we have continued to invest in Ayrshire. Just last month, North Ayrshire was selected for one of the two remaining tax increment financing pilots, in a project that will directly benefit the aspirations for the growth deal.

Brian Whittle: Jamie Greene, John Scott and I recently met Greg Clark, the Secretary of State for Business, Energy and Industrial Strategy. We also arranged a positive meeting between the secretary of state and the Ayrshire growth deal team to establish how the deal fits in with the new industrial strategy framework.

As the cabinet secretary knows, the timeline starts with aligning local government and private enterprise funding, before getting a commitment from the Scottish Government on the projects that it will support and on the level of funding that it is prepared to invest, prior to the United Kingdom Government looking at any shortfall. That will be an on-going process as many projects come on line. With that in mind, will the cabinet secretary tell Parliament whether the Scottish Government has done the assessment and quantified what it means by its commitment to supporting the Ayrshire growth deal?

Keith Brown: The process that we follow is similar to the city deal process. We take the proposals that come in, which in the case of the Ayrshire growth deal are from the councils and their partners. We analyse the proposals to see which are most susceptible to support and will generate economic growth in the area. The councils are well aware of the process and we have made it clear to them that we are going through the process.

In my meeting with Greg Clark, I said that we would like the UK Government—having moved away from the city deal model now that all the cities in Scotland have been through that process—to talk about the industrial strategy, which might be the means of providing additional support. If that is the case, it would be much better if we worked together to maximise the benefit, and I said that to Greg Clark.

We and the three local authorities have asked a number of times for the UK Government to be part of the Ayrshire growth deal, but it has refused. However, it is still possible for us to work together through the industrial strategy and I encourage the UK Government to do that. In the meantime, we will continue to process the proposals that we have received from the growth deal partners.

Kenneth Gibson (Cunninghame North) (SNP): On 10 February, I submitted a motion for a members' business debate on the Ayrshire growth deal. It was non-partisan and said:

"the UK Government has displayed an encouraging attitude and expressed its support for the initiative so far".

That followed Patricia Gibson MP having led a Commons debate on the deal on 19 January. She then wrote to all Ayrshire Tory MSPs to call on them to lobby the chancellor to back the deal, which all three Ayrshire councils and the Scottish National Party Government support. None of the Tory MSPs gave her the courtesy of a reply.

Does the cabinet secretary agree that it is at best disappointing that not a single Tory, or other Opposition MSP, supported my motion for a debate in the Scottish Parliament on the Ayrshire growth deal, and that the chancellor did not even mention the deal in his budget speech—despite heavy hints—let alone allocate a single penny to the £359.8 million that is required to generate and stimulate the lasting economic growth that Ayrshire badly needs?

Keith Brown: In writing and face to face with members of the UK Government, I have consistently expressed my desire to have discussions with the UK Government to support the deal. It is unfortunate that we have not had explicit support from the UK Government for the growth deal, along the lines of the city deals on which we have worked together in the past. I still hope that we can have involvement from the UK Government, including possibly financial assistance for some of the growth deal's ambitions. Derek Mackay wrote to the chancellor ahead of his recent budget to ask him to join us in

tripartite discussions, but the UK Government failed to make that commitment.

The Scottish Government will continue to support the progress of the Ayrshire growth deal in determining priorities, timelines and next steps. As I said, I discussed support for the deal with Greg Clark earlier this month, and I will continue to press the UK Government on the matter, as I am sure Kenneth Gibson will.

Welfare Support Advice

2. **Anas Sarwar (Glasgow) (Lab):** To ask the Scottish Government how it is assisting local authorities to provide welfare support advice. (S5O-00910)

The Minister for Social Security (Jeane Freeman): Local authorities have statutory duties to fulfil in the provision of advice support in a number of areas. In total, the Scottish Government will spend about £21 million on advice-related projects in 2017-18. Of that, £660,000 will be provided to local authorities through the Scottish Legal Aid Board funding programmes to support advice provision for people who are affected by debt and the United Kingdom Government's welfare cuts.

Since 2013, the Scottish Government has provided some £6.85 million to Citizens Advice Scotland for the provision of welfare advice across its network of 61 bureaux in 30 local authority areas. Additionally, we estimate that about £5.6 million of funding for local authority financial inclusion-related projects will be provided between April 2015 and June 2019 through the European social fund, to support people who are affected by poverty and social isolation.

In 2017-18, we are providing local government with a total funding package that amounts to more than £10 billion and, in addition to what I have mentioned, many councils are using that to fulfil a range of statutory duties to provide advice and additional welfare support.

Anas Sarwar: Like the minister, I oppose Tory welfare cuts. However, it appears that the Scottish Government is happier to court grievance, foment anger and wave flags than to get on with the job of governing. We know that the Government's recent benefits uptake campaign lasted just one week and had a budget of just £6,000. Now, the minister has shamefully decided to cut £600,000 of funding for welfare support and advice services in Glasgow alone—a decision that the Tories would be proud of. How can she justify that shameful attack on the most vulnerable in our communities?

Jeane Freeman: Well, Presiding Officer, I think we knew that that one was coming. It is a matter of some regret—[*Interruption*.] Members should not shout at me, but let me speak. It is a matter of some regret that political point scoring is yet again at the forefront of Labour's minds, rather than looking at the detail of what the Government is doing to support individuals across Scotland who are facing the damaging austerity cuts imposed by the UK Government.

Misinformation and misrepresentation of the facts serve our constituents and the people of Scotland poorly, and I counsel Labour to think again about that. We have prioritised our use of the available funding to the areas that are most in need, including those that are most affected by the roll-out of universal credit. It is wrong to suggest that the Government is not funding advice and support services in Glasgow, because we are, as we are in constituencies across Scotland.

If the member had done me the courtesy of listening to what I have said previously in the chamber about the benefit take-up campaign, he would understand that, along with citizens advice bureaux, we jointly agreed on the first stage, and more of that work will come forward over the next four years. That is a great deal more than Labour ever did when it formed the Scottish Government.

Glasgow City Deal (Motherwell and Wishaw)

3. **Clare Adamson (Motherwell and Wishaw) (SNP):** To ask the Scottish Government what benefits the Glasgow city deal will bring to Motherwell and Wishaw. (S5O-00911)

The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown): The Scottish Government is a full partner in the Glasgow city region deal, which is now in its delivery stage, and the Government is contributing up to £500 million over 20 years into the £1.13 billion Glasgow city region deal infrastructure fund. The deal empowers Glasgow and its city region partners, including North Lanarkshire Council, to identify, manage and deliver a programme of investment in infrastructure.

Three core North Lanarkshire projects have been identified by the Glasgow regional partners for delivery within the first 10 years of the deal, accounting for a total capital investment of around £170 million. Those projects include potential investment in strategic roads infrastructure to improve access between Motherwell and the M74 and to improve road and pedestrian links within Motherwell town centre.

Clare Adamson: The Ravenscraig site in my constituency has been a national priority since 2013. Can I have the assurance of the cabinet secretary that, when capital expenditure is being considered across portfolio areas, the unique opportunities that that brownfield site offers in relation to infrastructure, central belt location and

land are considered, to ensure that further regeneration of the site can be achieved?

Keith Brown: I reiterate that, in the Glasgow city region deal, it is up to the partners to prioritise the projects, which are supported by both the Scottish and UK Governments. The Scottish Government remains committed to working with North Lanarkshire Council and other parties on options for the further redevelopment of the Ravenscraig site. To date, more than £45 million has been invested in remediating the site and delivering the first phase of development.

However, as the member knows, market conditions have rendered it impossible to deliver the proposed phase 2 of the Ravenscraig Ltd master plan. In August 2016, Scottish Enterprise approved a contribution of up to £415,000 to part fund the development of a new master plan that will enable Ravenscraig Ltd to identify a realistic, deliverable phase 2. A draft of the new master plan is due in late spring or early summer this year.

Graham Simpson (Central Scotland) (Con): There have been cross-party concerns around some of the projects in the Glasgow city deal. Road schemes in particular have been plucked off dusty shelves—having lain there sometimes for decades—and dusted off and thrown into the mix on the back of business cases that, to be frank, do not stack up.

Holytown link road in North Lanarkshire and Stewartfield Way in East Kilbride are just two of the schemes for which there is little or no justification. Clare Adamson is right to point out that Ravenscraig would be a useful area on which city deal money could be spent, but as far as I can see there is nothing planned. Such are the concerns that the Local Government and Communities Committee is going to undertake an inquiry into city deals.

Does the minister agree that the Glasgow city deal should be refreshed in order to deliver economic growth across the region as it was set up to do?

Keith Brown: I would not want to rule out looking afresh at those matters, but I highlight that the basis of the city deal includes an assurance framework to which both the UK and Scottish Governments have signed up. If there is dissatisfaction with the assurance framework, the member might want to take that up with the UK Government to see if it shares that view. I have not had such feedback from the UK Government as things stand.

The upcoming local authority elections may provide us with the opportunity to look afresh at these matters. As for whether projects have been taken off dusty shelves, projects were put forward by local authorities themselves and we agreed to support them. Local authorities chose the priorities, and we have backed them up in their choices.

Transvaginal Mesh Implants

4. **Neil Findlay (Lothian) (Lab):** To ask the Scottish Government how many women in Scotland have been implanted with transvaginal mesh since 2007. (S5O-00912)

The Minister for Mental Health (Maureen Watt): The number of women in Scotland who have been implanted with transvaginal mesh since 2007 is 13,665.

Neil Findlay: The minister will be aware of the devastation that is felt by Scottish mesh survivors, who feel that the review of the use of mesh was a whitewash. If the Government is confident that it is not a whitewash, when will it bring forward a debate on the issue, which is so important to the women and men of Scotland?

Maureen Watt: As Neil Findlay knows, members had the opportunity to question the Cabinet Secretary for Health and Sport when she came to Parliament with a statement on 30 March. The cabinet secretary is also due to appear in front of the Public Petitions Committee. Once that process has taken its course, ministers are happy to agree to a debate if it is required.

Green Spaces

5. **Sandra White (Glasgow Kelvin) (SNP):** To ask the Scottish Government what action is being taken to preserve green spaces. (S5O-00913)

The Minister for Local Government and Housing (Kevin Stewart): Scottish planning policy requires local development plans to identify and protect open spaces that have been identified as valued and functional. The national planning framework aims to enhance green networks significantly, particularly in and around our towns and cities.

Sandra White: In my constituency of Glasgow Kelvin, north Kelvin meadow, which is a green space that is owned by Glasgow City Council, was saved after the local community came together to oppose a planning application from a developer and the application was subsequently called in by the Scottish Government.

What further support can the Scottish Government offer to communities that are campaigning to save green spaces such as north Kelvin meadow, and how is that support communicated to local communities?

Kevin Stewart: I know that Sandra White has been a very keen campaigner on North Kelvin

meadow, so I assure her that the Scottish Government has taken action to support green space. I understand that North Kelvin meadow is owned by Glasgow City Council. Thanks to our Community Empowerment (Scotland) Act 2015, community bodies have a right to request from local authorities any land that they feel they can make better use of, through the asset transfer process, which may be an option in this case. Asset transfer, of course, will give more communities the opportunity to control land or premises to help them to develop their own economies and environments. Any community body interested in using asset transfer to preserve green space in its area should get in touch with the community ownership support service, which is a programme funded by the Government to help community groups take on land or building assets for their communities.

Attainment Gap (Scottish Borders)

6. **John Lamont (Ettrick, Roxburgh and Berwickshire) (Con):** To ask the Scottish Government what progress it is making in closing the attainment gap in the Scottish Borders. (S5O-00914)

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): The Scottish Government, through the Scottish attainment challenge, is providing increased support for local authorities, including Scottish Borders Council, in their work to close the poverty-related attainment gap. The Scottish Borders have received over £315,000 from the attainment Scotland fund over the course of the past two years and will receive £1.8 million of pupil equity funding in 2017-18. Headteachers will have the flexibility to target resources at interventions that they know will help close the attainment gap and they are currently preparing their plans for use of that funding.

John Lamont: I thank the cabinet secretary for that reply, but the attainment gap in the Borders remains one of the worst in Scotland. Indeed, the Scottish National Party's record on education in the Borders over the past 10 years is not good. Class sizes are at a record high as teacher numbers have dropped by nearly 80; the number of supply teachers has plummeted by 40 per cent; and only one in 10 of primary 1 to P3 pupils are in smaller classes, which is a record low, despite smaller classes being an SNP election pledge. The standard of education across Scotland, which used to be a world leader in education, is now only average.

Teachers work incredibly hard in the Scottish Borders, but they and their pupils are being let down by the SNP Government. Is that a record that the cabinet secretary is proud of?

John Swinney: Well, we know the cheerful, optimistic tone that John Lamont will be taking to the doors of the Borders over the course of the next few weeks. I was going to be generous to Mr Lamont because I know that he will be leaving us tomorrow, but, based on the miserable tone that he has expressed, I will say that he cannot realise the significant investment that has been made in the Borders. I look forward to making sure that the young people and the electors of the Borders understand the strenuous efforts that this Government is going to make to close the attainment gap in the Borders. I look forward to Mr Lamont being a distant observer of that process.

Organ Donation

7. **Jackson Carlaw (Eastwood) (Con):** To ask the Scottish Government what discussions it has had with the Welsh Government regarding organ donation since the Human Transplantation (Wales) Act 2013 came into full effect in December 2015. (S5O-00915)

The Minister for Mental Health (Maureen Watt): Scottish Government officials have been in regular contact with Welsh colleagues since the introduction of the Human Transplantation (Wales) Act 2013 and are due to meet soon to discuss the operation of the act. Additionally, the opt-out system in Wales is discussed at regular meetings on organ donation, such as NHS Blood and Transplant Board meetings and taking organ transplantation to 2020 strategy meetings, where all four Governments of the United Kingdom are represented.

Jackson Carlaw: The Scottish Conservatives supported the Scottish Government during the progress of Anne McTaggart's member's bill—the Transplantation (Authorisation of Removal of Organs etc) (Scotland) Bill—when the Government took the view that we should wait to see what the experience in Wales was. The Government at that time undertook to ensure that, early in this session of the Parliament, it would introduce fresh proposals in the light of the Welsh experience. We are now almost 18 months on from the introduction of the change in Wales, so when will that introduction of new, fresh Scottish Government proposals come?

Maureen Watt: As Jackson Carlaw will know, the Scottish Government has recently gone out to consultation, with a presumption in favour of moving to an opt-out system, assuming that it can be introduced safely. The consultation responses are being independently analysed and we will learn from that analysis as well as from experiences and evidence from elsewhere in the world, including Wales. We will look at that analysis carefully before reaching a decision on the way forward. We expect to receive the

analysis in May and will take steps in the months thereafter.

First Minister's Question Time

12:00

Engagements

1. **Ruth Davidson (Edinburgh Central) (Con):** To ask the First Minister what engagements she has planned for the rest of the day. (S5F-01184)

The First Minister (Nicola Sturgeon): I have engagements to take forward the Government's programme for Scotland.

Ruth Davidson: Last week, Willie Rennie failed to get a single answer from the First Minister on whether the Scottish National Party will support full European Union membership in its manifesto. He should have waited a week, because now we have two: Nicola Sturgeon's stated position is to be a full member of the European Union; her MPs' stated position is to leave the common fisheries policy. However, full membership of the European Union means full membership of the common fisheries policy. Is that not the case?

The First Minister: Ruth Davidson has clearly not been paying attention. The SNP has been consistent over many years in our criticisms of the common fisheries policy and very clear about our intentions to see it fundamentally reformed. Our 2007 manifesto pledged to

"continue to work for withdrawal from the Common Fisheries Policy".

In 2011, our manifesto stated:

"The CFP is well past its sell-by date."

The 2014 white paper on independence stated that independence for Scotland in the European Union would

"give Scotland the opportunity to take a leadership role in driving reforms to the CFP".

The reality is that it is the SNP that always stands up for Scottish fishing and always will stand up for Scottish fishing. The uncomfortable truth for Ruth Davidson is that it is successive Tory Governments that have sold out the fishing industry. I know that Ruth Davidson does not want to hear what is coming next, but we remember the words of the Tories:

"in the wider UK context"

the fishermen

"must be regarded as expendable."

That is the Tory record on fishing.

We know that the Tories are lining up to sell out fishing again, because the Brexit white paper makes it clear that fishing will just be a negotiating

chip in the Brexit talks. The SNP stands up for fishermen; Tories sell them out.

Ruth Davidson: That is priceless. The First Minister quoted internal SNP documents, so let me quote a document—chapter 13 of a little thing called the EU conditions for membership, which "requires the introduction" and

"participation in the common fisheries policy".

It does not get much clearer than that.

Let us spell out the complete absurdity of the SNP's position—or should I say positions? First is the SNP's position that Brexit is a terrible threat to Scotland and that fishermen are better off being governed by the EU's hated common fisheries policy. That is the position that Angus Robertson outlined at the weekend, when he said, "We're in favour of Scotland being a member state of the European Union and we are in favour of a reformed common fisheries policy."

However, it is also the SNP's position that Brexit is a "Sea of Opportunity" for our fishermen and that

"We must avoid any policy, practice, regulation or treaty which could return us to the Common Fisheries Policy".

We know that because, on Tuesday, Eilidh Whiteford and Mike Weir, two of Mr Robertson's parliamentary colleagues, signed a pledge written by the Scottish Fishermen's Federation saying so.

I ask the First Minister, was Mr Robertson wrong when he was on the telly at the weekend, or are Ms Whiteford and Mr Weir wrong? Or does the SNP plan to try to say that they are all right, because they think that people are so daft that we will not notice?

The First Minister: Ruth Davidson has managed to hold several different positions on Brexit all by herself. "Brexit is a terrible threat to Scotland," is what Ruth Davidson says is the SNP's position, but the problem for Ruth Davidson is that that used to be her position as well—we remember her screaming it from Wembley. Now, of course, her position is different; she has fallen into line with Theresa May and now Brexit is the greatest thing since sliced bread.

On this issue, Ruth Davidson flip-flops more than a fish being landed—flip-flop, flip-flop on Brexit. The truth of the matter is that the SNP always has stood up and always will stand up for fishing.

We have already heard that the Tories think that fishing is expendable—"expendable" was the word that the Tories used about Scotland's fishing industry. However, let us come more up to date. In the Brexit white paper, paragraph 8.16 says:

"Given the heavy reliance on UK waters of the EU fishing industry and the importance of EU waters to the UK, it is in both our interests to reach a mutually beneficial deal that works for the UK and the EU's fishing communities."

Let me translate that for Ruth Davidson: it means that the Tories are lining up to sell out the fishing industry in the negotiations and to allow European countries what they say they do not want, which is access to Scottish fishing waters. The Tories are preparing to perpetrate a con on Scotland's fishermen and they will not get away with it. The SNP stands up for our fishing industry.

Ruth Davidson: Maybe Nicola Sturgeon's MPs did not report back to her, so let me quote to her what the chief executive of the Scottish Fishermen's Federation told MPs at Westminster this week:

"Two Secretaries of State and two Ministers said that the UK is leaving the CFP and we will regain control over our fishing".

If she wants to go toe to toe over fishing, let us bring that on.

This week, Mike Russell was in Brussels, speaking to fishing industry chiefs. His pitch is that Scotland will leave the EU with the rest of the UK and that, after independence, it will go straight back in but will opt out of all the things that it does not like, including the common fisheries policy. That is utter nonsense.

Right now, we have SNP MPs in fishing communities saying that the CFP is terrible and that Scotland would pull out. At the same time, we have Nicola Sturgeon standing up in Edinburgh trying to win the votes of remainers by saying that Scotland would go straight back in. Does the First Minister not see the utter hypocrisy here?

The First Minister: I see utter consistency, over years, in the SNP's position on the common fisheries policy; from the Tories, I see flip-flopping all the time on Brexit and on fishing.

If Ruth Davidson's argument is that the Tories are not preparing to sell out the fishing industry and use it as a bargaining chip in the negotiations that lie ahead, I give her the opportunity today to explain to the chamber in simple terms what exactly the Brexit white paper means when it says that the UK Government wants a deal

"that works for the ... EU's fishing communities."

What does that mean if it does not mean allowing Spain and other countries access to Scottish fishing waters? Why can Ruth Davidson not be honest with the fishing community? The Tories are preparing to treat it as being expendable all over again. It is the SNP that will always stand up for fishing.

Ruth Davidson: After Brexit, we will be out of the CFP, but members of Nicola Sturgeon's party want to take us back in.

The SNP says that it is in favour of joining the European Union, but the First Minister is not confirming whether the SNP will back full membership in its manifesto. The SNP says that it is in favour of the common fisheries policy—except for MPs in fishing communities, who say that they are against it.

Then we have the real whopper. In Scotland, Nicola Sturgeon says that the coming election has nothing whatsoever to do with independence, but from the broadcasting studios of London, up pops Alex Salmond to confirm that the SNP wants to use this election to demand a referendum that the rest of us do not want.

If the First Minister thinks that on fishing, on EU membership and on independence she can face both ways and promise all things to all people, is it not the case that she is treating the electorate as fools?

The First Minister: As I said yesterday morning, this election is an opportunity to determine who chooses Scotland's future: is it a Tory Government at Westminster, or is it this democratically elected Scottish Parliament? That is exactly the same as Alex Salmond's comments of yesterday afternoon.

Let us get back to fishing. What we have just seen is Ruth Davidson all at sea, drowning in our fishing waters, because she cannot explain what she really must explain, in simple terms, to Scotland's fishing communities. I gave her the opportunity to do so once and she failed, so I will give her the opportunity again. What does it mean when the UK Government says that it wants a deal

"that works for the ... EU's fishing communities"?

It can only mean that the Tories are preparing to sell out Scottish fishermen, grant other European countries access to fishing waters and treat that vital Scottish industry as being expendable once again. That is crystal clear from what Ruth Davidson has said today. It is the SNP that will, as it always has done, stand up for Scottish fishing.

Engagements

2. **Kezia Dugdale (Lothian) (Lab):** To ask the First Minister what engagements she has planned for the rest of the week. (S5F-01180)

The First Minister (Nicola Sturgeon): Engagements to take forward the Government's programme for Scotland.

Kezia Dugdale: Next week, voters will go to the polls to decide the future of local services such as our schools. The First Minister used to claim that education was her number 1 priority, but even she does not claim that any more. After 10 years of Scottish National Party government, Scottish education is facing challenges like never before. Since the SNP took office, there are 4,000 fewer teachers and 1,000 fewer support staff and class sizes are bigger. International studies show that Scotland is declining in maths, reading and science. John Swinney's response has been to publish a mini-manifesto repeating the very promises that he has broken every year since 2007. Can the First Minister tell teachers, parents and pupils why they should believe the SNP this time around?

The First Minister: Education is my top priority. That is why—[*Interruption*.] Kezia Dugdale does not like to hear this, but that is why, right now across Scotland, headteachers and teachers have in their hands £120 million of additional funding. That is why local government services are better off to the tune of £400 million under this SNP Government.

I say to Kezia Dugdale that she has zero credibility left—not a shred—on the issue of local government funding. For years—and in her local government manifesto that was published just days ago—she has complained about the council tax freeze and how it is strangling local government services, yet, of the eight councils that are freezing the council tax in this election, how many are Labour led? All eight. This is from Stirling—"Stirling Labour Freeze Your Council Tax". Kezia Dugdale should not come here talking about funding for local services when it is her councils that are failing to raise the money that we need for our schools.

Kezia Dugdale: That is from a First Minister who has cut £170 million out of local services this year alone. If education was her top priority, she would be listening to the teachers across Scotland who are crying out for help. Blackhall primary school in Edinburgh felt the need to email all parents to say:

"As you may be aware, there is currently a national shortage of teachers. This makes it challenging for head teachers around the country who are trying to fill vacant posts or cover classes".

There is a teacher shortage in Scotland, so will the First Minister be honest? How many schools are struggling like Blackhall? How many teacher vacancies are there across the whole of Scotland?

The First Minister: John Swinney and I and this Government have never shied away from the fact that Scotland—like many countries right now—has an issue with teacher recruitment. That is one of the reasons why we have increased the intake to teacher training to train more teachers to work in our schools and close the attainment gap.

The fact is that this SNP Government is investing in local services. Whatever Kezia Dugdale tries to say, there is £400 million extra available in this financial year for council services.

The question for Labour is this: if it does not think that there is enough money for council services, why are eight Labour-led councils going into this election promising to freeze the council tax? Maybe Kezia Dugdale will give us a straight answer to that straight question.

Kezia Dugdale: In all of that, there was no answer to the question that I asked. I will give the First Minister the answer. There are 700 teacher vacancies in Scotland, and 400 of them are in our secondary schools, where pupils will begin exams in a matter of days.

I can reveal today that the Government's own internal documents admit that it could take up to three years to fill those vacancies—three years for the Government to ensure that there are enough teachers to educate our children; three years to clean up the mess that the SNP has been making for the past 10; three years to give our young people a fair chance in life. However, we all know that Nicola Sturgeon will spend the next three years campaigning for independence. Can the First Minister really keep a straight face and tell teachers, parents and pupils once again that education is her number 1 priority?

The First Minister: As I said, we recognise the challenge in teacher recruitment. Scotland is not unique in that regard. Kezia Dugdale might not want to listen to this, but that is why in 2017-18 we are making resources available to train an additional 371 teachers, and it is why the General Teaching Council for Scotland has a number of initiatives under way to encourage people back into teaching and to encourage new people into teaching. Those are the actions that we are taking to tackle what is a problem and a challenge for many countries. Of course, we are doing that in conjunction with our national improvement framework, our attainment challenge and our attainment fund, which is putting extra resources into the hands of headteachers, because our commitment to raising attainment and closing the attainment gap is absolute. We will get on with the hard work of doing it, leaving Labour, as usual, carping from the sidelines.

Jenny Gilruth (Mid Fife and Glenrothes) (SNP): The First Minister will be aware that, last Thursday, Diageo announced plans to cut up to 100 jobs in Scotland, potentially affecting up to 70 workers at its Leven premises in my constituency. The GMB union has laid the blame squarely on a Tory hard Brexit. What reassurance can the First Minister give my constituents who now potentially face redundancy due to Conservative recklessness?

The First Minister: Obviously, I was concerned to learn that Diageo has begun a consultation with the staff over potential job losses at its sites in Leven and Shieldhall, and I know that this will be an extremely anxious time for the company's employees and their families. Keith Brown has already arranged to meet Diageo, and officials in Scottish Enterprise are already fully engaged with the company. We will do all that we can to explore all possible options for supporting the business and protecting jobs in Scotland.

Although the families and individuals who are affected by this situation also have the right to expect a similar response from the United Kingdom Government, it is troubling that the main union, the GMB, appears to have raised concerns about the impact of Brexit on these jobs and has got very little response from the UK Government. This is yet another example of the threat that Brexit poses to Scotland—what Ruth Davidson used to tell us but does not any longer, but what I still believe and what examples such as this one, sadly, illustrate. However, we will continue to do everything possible to support the workers at Diageo.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I declare an interest as a trustee of the St Abbs Lifeboat trust.

One of the best examples of a community campaign that I have ever seen was the campaign in St Abbs in Berwickshire for the creation of an independent lifeboat when the Royal National Lifeboat Institution withdrew its service. The community rallied together and organised a tremendous fundraising effort to raise the funds needed to establish its own lifeboat service for this important part of the coastline. When the donations started to roll in, the local St Abbs Community Trust was used to collect the funds while the new lifeboat trust was set up. The money was then transferred to the new lifeboat trust and the new boat was purchased.

I had the pleasure of sitting beside the First Minister at the launch of the new lifeboat.

Members: Question!

John Lamont: On Twitter, the First Minister spoke of the "incredible achievement", of the "community coming together" and of the community having "achieved something really special".

It now transpires that Scottish Water's Business Stream has stripped the St Abbs Community Trust of its water rates exemption for the community cafe and the Ebba centre. I have been in correspondence with the SNP's Cabinet Secretary for Environment, Climate Change and Land Reform, but she has confirmed that she will not give an exemption to the community trust.

Members: Question!

John Lamont: Given the exceptional circumstances surrounding this situation, will the

First Minister—unlike her back benchers—apply some common sense to this matter?

The First Minister: The water and sewerage charge of around £900 that has gone to St Abbs Community Trust has already been drawn to my attention. From the investigation into the matter that I have done so far, that charge appears to be a direct result of the trust's excellent efforts to raise funds for the St Abbs lifeboat—funds that did not belong to the trust but which it held and then transferred to the lifeboat trust's account when that account was set up.

Given those circumstances, I am hugely sympathetic to the situation that the trust finds itself in, and I have this morning instructed my officials to look again at the issue in order to find a solution. I was at the launch of the St Abbs lifeboat, which was a fantastic example of a community coming together to preserve a service that is vital to life in that community. I have looked into the matter and it seems unfair, which is why I have instructed officials to see what they can do to fix it. That is the kind of action that people can expect from an SNP Government.

Cabinet (Meetings)

3. **Patrick Harvie (Glasgow) (Green):** To ask the First Minister when the Cabinet will next meet. (S5F-01188)

The First Minister (Nicola Sturgeon): I think that I heard that question. Tuesday.

The Presiding Officer (Ken Macintosh): I think that the reason why the First Minister could not hear was the fact that the Deputy First Minister was shouting across the chamber and into her ear. I know that this is an election time, but I suggest that all members be a little more respectful to all other members so that we hear the questions and the answers.

Patrick Harvie: If the Deputy First Minister wants to continue to distract the First Minister, that is no great skin off my nose.

This week, the Scottish Government proposed tax cuts for aviation, which we all know—even though the Scottish Government at first denied it—will increase the carbon emissions that are driving climate change at a time when we should be cutting them radically.

Even if the First Minister thinks that aviation's damage to the climate can be ignored, it is clear that the tax cut will also be very unfair. Research that has been published by the Green Party has shown just how unfair it will be. Even if the airlines pass on the full tax cut through reduced ticket prices, the highest-income households stand to gain far more than anyone else. Of the £90 million-odd tax giveaway going to United Kingdom leisure passengers alone, the richest 10 per cent of households will gain more than £33 million while the poorest 10 per cent stand to benefit by just £8.5 million.

When public transport, which people depend on every day, remains expensive and unreliable, how can it possibly be fair to offer a tax break that drives up both pollution and inequality?

The First Minister: I will deal with both those issues, taking the climate change issue first, as that is extremely important to the Government. We are, of course, meeting our climate change targets although we have some of the most ambitious climate change targets anywhere in the world. The UK Committee on Climate Change has previously commented on the issue and has made the point—it is a point that I would endorse more generally—that, when any policy has a potential adverse effect on emissions, that increases the responsibility of the Government to make sure that we balance that in other ways. Our overall ambition to meet our climate change targets is an absolute commitment that the Government has set.

On the wider issue of reducing air departure tax, I should say that the discussions and vote in Parliament this week were not about rates; they were about transferring the legal responsibility over the tax from the Westminster Parliament to the Scottish Parliament. This is about trying to improve Scotland's connectivity, because we know that improving Scotland's connectivity is one of the key things that we need to do to grow Scotland's economy. We all know that growing Scotland's economy is really important to supporting the public services that we all rely on, which is why we must have a balance in our policies.

As Patrick Harvie will be aware, in response to the Finance and Constitution Committee's stage 1 report, we have confirmed that we will commission an independent economic assessment and that the Government will bring forward tax exemptions at stage 2, so there will be plenty of opportunity for the Parliament to scrutinise the detail of the proposals.

It is important that we get our policies right in the round not only so that we support our vital public services but so that we support the economic growth that is vital to our doing exactly that.

Patrick Harvie: Indeed, the vote this week was not on rates and bands. The Green Party will move amendments to introduce some social and environmental principles into the legislation, and we will not vote for it unless those amendments are agreed to.

The First Minister cites the UK Committee on Climate Change, which has argued for a cap on aviation emissions growth. She also says that we

need more connectivity. It is perfectly clear from the continuing growth of our existing aviation sector that air passenger duty has not stopped that growth. Even for routes where rail is a perfectly viable option, we are failing to ensure that that is the affordable choice for people to make. Relentless aviation growth cannot possibly be sustainable.

Today, we have visitors to Parliament: those who are most directly affected by that growth and the noise and pollution from increasing numbers of flights here in Edinburgh, and those who are campaigning against an additional runway at Heathrow. The aviation industry can well afford to lobby hard, sponsoring lavish events here, at Westminster and even at the First Minister's party conference. Should we not be listening more closely to those whose lives will be most affected by increased inequality and pollution here at home and by the effects of climate change around the world? Is it not time that the Scottish Government had a coherent policy on aviation levels, including a cap on emissions and protections for communities from the direct impacts that they have to live with daily?

The First Minister: First, I will try to find consensus. Of course it is important that all voices are listened to. The Scottish Government has made clear its view that there are benefits to Scotland from Heathrow expansion. However, it will be for the UK Government, in taking forward that policy, to answer the questions on the impact both on people living around that area and on the environment. We will continue to pay very close attention to the answers to those questions and to the case that is made as it develops.

On our policy, Patrick Harvie talks about "relentless" growth in aviation. That is not what I am proposing, and it is not what the Scottish Government is proposing or advocates. We advocate good connections for Scotland. Of course good rail connections are vital. I encourage people to use the train when travelling across the UK, but our economy also needs good aviation connections. We know the constraints in our economy that there have been over past years from the lack of certain routes, particularly the lack of direct flights into and out of Scotland.

We need to get the policies right. We must grow our economy. How many times—rightly and understandably—in this chamber do we talk about the challenges facing Scotland's economy and the need to have policies to grow our economy? That is a key Government priority, and connections for business and exporters are a vital part of that growth. However, we must ensure that all our policies, taken together, pass the climate change challenge.

It would be one thing to level such criticisms at the Scottish Government if it was not meeting its climate change ambitions. We are not only meeting those ambitions—and we have been praised by the UK Committee on Climate Change for our record—but meeting the targets ahead of schedule. We are not complacent about that—indeed, we want to up our ambition and go further—but we need to have balance in our policies, so that we support economic growth and have the support for the public services that all of us across the chamber want to see.

Cabinet (Meetings)

4. **Willie Rennie (North East Fife) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S5F-01181)

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

Willie Rennie: The First Minister has done nothing in the past 20 minutes to avoid her party looking shifty and evasive on Europe and independence. On Monday, the First Minister, said that this election is not about independence. Yesterday, we saw her sitting on a "Yes to independence" branded motorbike, in the shadow of the Wallace monument on the B road to Bannockburn. What is the First Minister's position today?

The First Minister: My position is as it has always been, so maybe Willie Rennie should listen carefully, because he seems to be struggling to understand it. I support Scotland being independent and being an independent member of the European Union. There you go. How can Willie Rennie struggle to understand that?

Willie Rennie is right. Yesterday, I went to Bannockburn. I visited a fantastic heritage project—the proposed restoration of Bannockburn house, where Bonnie Prince Charlie stayed back in those days. It was a fantastic visit.

I am proud in this election to be getting out there, making the case for a strong opposition to the Tories at Westminster and making the case that, on the key questions, including independence, it should be the voice of this Parliament—this democratically elected Parliament—that determines the future of Scotland, not the voice of an increasingly right-wing Tory Government at Westminster.

Willie Rennie: Does the First Minister really think that we are all buttoned up the back? Once again, she has refused to say that the election is about independence, but her predecessor was on the radio saying that that is exactly what it is about. It is about independence—first, last and every priority.

Last week, the First Minister was evasive about her future plans on Europe. This week, there is utter confusion about independence, starting with denial and ending with a Hells Angels tour of the central belt. Meanwhile, the economy is teetering on the edge of recession, our performance in the international education rankings has slipped and the mental health strategy is months behind schedule. The First Minister should be ashamed of that record. The best way out of all that is for her to do what the majority of people in the country would applaud her for. Why can she not just cancel the divisive independence referendum campaign and get back to doing her job for Scotland?

The First Minister: So says the guy who is going around the country arguing for a second EU referendum. In direct answer to Willie Rennie's first question, I think that most people watching this would start to think that, yes, the Liberal Democrats appear to button up the back. If the cap fits, perhaps Willie Rennie should wear it.

Willie Rennie raises in passing issues such as education, the economy and mental health. I agree that they are fundamentally important issues, which begs the question why he did not take the opportunity of his questions to ask me about any of those matters. He had the opportunity to do that. Here I stand. He can ask me anything that he likes but he chooses not to ask me about education, health or the economy. Why is that? It is because all the Opposition parties are the ones that want to talk only about independence. Why is that? It is because that is a smokescreen—none of those parties is prepared to talk about its own policies or record.

I will tell members what I will work to do in the election: I will work to win it. No other party in the chamber is prepared to say that that is what it is trying to do.

Monica Lennon (Central Scotland) (Lab): I have a question on domestic matters. It is about education.

The First Minister will be aware that college lecturers are on strike today. They are gathering outside Parliament for a rally this afternoon after talks at the Advisory, Conciliation and Arbitration Service on Tuesday, which were aimed at resolving the continuing industrial dispute, failed to reach a resolution.

The Scottish National Party has been promising lecturers equal pay since 2011. Lecturers have already compromised by agreeing to stagger pay harmonisation over three years up to 2019 but, despite that, the deal that was agreed last year has still not been honoured. What message does the First Minister have for the striking lecturers? What urgent action are ministers taking to resolve the dispute?

The First Minister: The Minister for Further Education, Higher Education and Science will meet the lecturers who are visiting Parliament, or their representatives, later today.

I want the dispute to be resolved because strike action in our colleges is in no one's interest. It is certainly not in the interests of college students. However, let me be clear what has happened. As we were asked to do, we have put in place arrangements for national bargaining. When we have arrangements for national bargaining, the issue becomes, ultimately, a matter for the trade union and the employers to resolve.

As I understand it—I pay close attention to such matters—the dispute is not actually about pay. The pay increases have, broadly, been agreed. The dispute is now about terms and conditions: the amount of class contact time and numbers of holidays. I would encourage the employers to go the extra mile to resolve the dispute and I hope that they will be able to do that through discussion with the union.

The move to national bargaining is a significant step forward. However, once we have the Government stepping in to resolve those matters, we no longer have national bargaining. If we want national bargaining to work, both sides must be prepared to come to a resolution. I hope that that happens very soon.

Tavish Scott (Shetland Islands) (LD): The First Minister will know that farmers and crofters have three weeks to make 2017 payment applications. She will also know that the £180 million computer system to make the payments does not work. Given that the system continues not to work, will she undertake to give her long-suffering officials in department offices across Scotland the tools to make their job possible, which does not include continuing with a computer system that does not work?

The First Minister: We support our officials across the country and the officials working on the matters raised by Tavish Scott are working exceptionally hard. We will ensure that they are equipped with the tools that they need to do the job. It is vital that payments to crofters and farmers more generally are paid, and paid on time. Fergus Ewing is very focused on that.

I am happy to ask Fergus Ewing to meet Tavish Scott to discuss the action that we are taking, listen to any concerns that he continues to have and set out what we are doing to address them.

Children and Young People (Online Protection)

5. **Fulton MacGregor (Coatbridge and Chryston) (SNP):** To ask the First Minister what action the Scottish Government is taking to protect children and young people online. (S5F-01206)

The First Minister (Nicola Sturgeon): Last week the Minister for Childcare and Early Years launched the Scottish Government's action plan on internet safety for children and young people. It contains a range of actions that we will undertake, working in partnership with the police, health boards, third sector organisations and—crucially—children and young people.

Our approach seeks to help children and young people develop the skills that they need to be safe on the internet and to support parents and carers to be more aware of the potential risks that their children face online.

Fulton MacGregor: I welcome that development. It is vital that we all do what we can to keep children safe in every aspect of their lives. What role is envisaged for service providers and technology businesses, which clearly also have a key responsibility to protect children from harm online?

The First Minister: The online industry and social media providers in particular have a key role and responsibility in ensuring that children and young people stay safe online. It is reassuring to see the industry taking its responsibility to protect children seriously through a range of actions and measures. Where it is necessary, we should continue to put pressure on the industry to take appropriate action. There is more for the industry and providers to do.

There is more that we can all do to help keep children safe online. The action plan that we published last week sets out how the Government will take the steps that it is our responsibility to take and I look forward to the industry playing its role fully, working with ministers and other stakeholders to implement those measures.

Overwhelmingly, the internet is a force for good and we should embrace that positively. The internet opens new worlds to children every day, but the downside is the dangers and risks that children face. We must tackle those so that children can continue to enjoy and benefit from the internet in the ways that many of them do.

"Government Expenditure and Revenue Scotland"

6. **Liam Kerr (North East Scotland) (Con):** To ask the First Minister what the Scottish Government's position is on the accuracy of the GERS figures. (S5F-01182)

The First Minister (Nicola Sturgeon): GERS is a national statistics publication, which means that it has been independently assessed by the United Kingdom Statistics Authority to ensure that it meets the code of practice for official statistics. That code ensures that statistics are of high quality and of public value.

GERS estimates the level of public revenue raised in Scotland and the level of public spending for residents of Scotland under the current constitutional arrangements. It is based on a range of estimates and is not an indication of the finances of an independent Scotland, which would be dependent on a range of other factors, including the spending choices and priorities of the Government of the day.

Liam Kerr: I thank the First Minister for that reply. She must say that to those Scottish National Party supporters, including members of the Scottish Parliament, who in recent months have mounted a concerted campaign to undermine and delegitimise GERS. Will she also put on record that GERS are official statistics, produced by her Government to the highest standards, and that people who denigrate the figures—including those in the chamber—are simply wrong?

The First Minister: May I recommend to the member that when he comes to the chamber and asks a question, he listens to the answer? Let me repeat what I said in my first answer—[*Interruption*.] The member stood up to ask his supplementary question and asked me to put on record that the GERS figures are national statistics. The first words in my original answer were:

"GERS is a national statistics publication".

A bit of listening, instead of heckling, might have gone down well.

The simple point that I am making is this: GERS does not tell us anything much about the finances of an independent Scotland. It is not just me who says that—the Fraser of Allander institute says that GERS reflects "current constitutional arrangements", and, of course, a leading anti-independence campaigner himself said on the radio recently:

"Nobody suggests that the GERS figures show what a future independent Scotland would look like."

Yes, they are official statistics; official statistics are known for being high quality and of public value. They are underpinned by a range of estimates, as everyone is aware, and, crucially, they reflect the position in Scotland—as the Fraser of Allander institute said—under current constitutional arrangements, not under independence.

Free Personal Care

7. **Alex Rowley (Mid Scotland and Fife) (Lab):** To ask the First Minister what action the Scottish Government will take to ensure that older people receive the free personal care payments that they are entitled to, in light of research by Age Scotland, which suggests that thousands are missing out due to delays in assessing and arranging care. (S5F-01192)

The First Minister (Nicola Sturgeon): Age Scotland's figures show that 95 per cent of older people who are assessed as needing care receive the services that they need within six weeks, and that the majority of assessments for older people with critical or substantial needs are conducted within two and a half weeks.

That said, no one should have to wait longer than necessary to receive their care package, which is why we continue to work closely with councils to make provision even better than it already is.

Alex Rowley: The fact remains that for many individuals and many families, far too often their experience of health and social care is not good. Pope Francis said:

"Where there is no honour to the elderly, there is no future for the young."

Provision of support and care for older people at the point when they need it must be the accepted will of every Scottish Government. Will the First Minister agree to set up a review to examine progress to date in rolling out integrated health and social care, to consider what is working and what is not working and why, to build on best practice across Scotland and to ensure that every individual who needs health and social care can access it?

The First Minister: I agree very strongly with the sentiments behind Alex Rowley's question; caring for our older people is very often the mark of a civilised society. That is why I think that we should all be proud of free personal care in this country, and that we should all be proud that the vast majority of older people get good high-quality care timeously, based on an assessment that says that they need that care.

Yes, there are still individuals for whom that is not the experience. We must continue to work to resolve that, and we are determined to do so. It is exactly for that reason that the Government took the step that no previous Government was prepared to take, which was to integrate health and social care formally, by statute. It is also why, as Alex Rowley is aware, we are doing the difficult thing—which, again, Governments have shied away from for a long time—of transferring money from acute health services to social care and community care, in recognition of the fact that those services are essential for individuals, especially older people, and for relieving pressure on our acute health service.

Alex Rowley asked for a review. The progress of integration is, and will continue to be, under constant monitoring and review, which is absolutely the right thing to do. Initiatives of such magnitude clearly meet challenges along their way, but I regularly speak to people who work in healthcare and people who work in social care in various parts of the country, who point to improvements that are already being made because of integration.

We—or, rather, the people out there who are working in the services—are delivering high-quality services for the vast majority of older people. Our determination—working with local authorities, the health service and voluntary organisations, which are crucial in this—is to ensure that that is the experience for every older person in Scotland.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): As the First Minister is aware, the introduction of free personal care in 2002 has saved, over 15 years, tens of millions of pounds for the Treasury, because it is not required to pay out attendance allowance. Those tens of millions could have gone towards free personal care. Does the First Minister agree that it is ironic—indeed, hypocritical—that the Tories, in the same breath as they defend their cruel rape clause and demand that the Scottish Government provides funding to support victims of that callous clause, refuse to pay out savings that we in the Scottish Parliament have made through our compassionate policies?

The First Minister: Christine Grahame is absolutely right. Actually, it remains something of a national scandal that the United Kingdom Government clawed back attendance allowance from Scotland following the introduction of free personal and nursing care under a previous Administration, in 2002. I may have misheard, but I think that Christine Grahame talked about the tens of millions of pounds that have been lost to the Scottish Government as a result of that move by past and current UK Governments. Let me tell her exactly how much that is over the past 15 years. It now amounts to £600 million—more than half a billion pounds that rightly should be here in Scotland helping to support our older people, but which is now currently in the pockets of the London Westminster Treasury.

I have to say that the policy was started by a Labour UK Government, although it has been continued by a Tory UK Government. If either of those parties now wants to say that it stands up for pensioners—although that will be difficult for the

Tories, who are preparing to abandon the triple lock on pensions—and talk about what more we need to do for older people, its support for the Scottish Government in trying to get that money back for Scotland, although certainly overdue, would be very welcome indeed.

Ruth Davidson (Edinburgh Central) (Con): On a point of order, Presiding Officer. During this edition of First Minister's question time, Nicola Sturgeon made a number of claims. One of them was that there is not a fag paper between her position and Alex Salmond's position on whether the general election is or is not about independence, and a second, in response to Willie Rennie, was that only the Opposition wants to talk about independence. I wonder whether the First Minister is aware that, at the exact time that she was making those statements, her predecessor, Alex Salmond, was on Sky News and can be quoted as having said that, in this general election, one of the issues will be whether

"to back our Parliament's right to decide when to have an independence referendum",

and that it would "reinforce" the mandate of Holyrood to do so. I just wonder whether the First Minister would like to reconsider her comments in the light of that embarrassing intervention by her predecessor, as she was speaking.

The First Minister *rose—*

The Presiding Officer: I am sorry, First Minister, but this is a point of order for the chair and not one for debate. I suggest that those matters are best pursued outside the chamber—[*Interruption*.] Excuse me, Mr FitzPatrick—it is a point of order and a question for the chair to rule on. I rule that it is not a point of order. Those are debating points to be conducted in the general election context outside the chamber. The point has been made. [*Interruption*.] I am sorry, but that was not to open up a debate; it was a question for the chair. It was not a point of order. We are finished FMQs and will now move on to members' business.

Edinburgh Airport (Consultation)

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a members' business debate on motion S5M-04708, in the name of Neil Findlay, entitled "Flawed Airport Consultation". The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes what it sees as the growing concerns about Edinburgh Airport's plan to introduce new flight paths; understands that around 120 people attended the latest in a series of public meetings in Livingston to voice their opposition; believes that a number of flaws within the consultation have been identified, including the lack of inclusion of a health impact assessment of the proposed changes to airspace use since 2014, despite a number of residents reporting mental and physical health effects due to increased noise over their homes, the lack of evidence for the assertion that 25,000 fewer properties will be overflown as a result of the changes, that Winchburgh and East Calder residents were informed through the first consultation that they would not be affected by any proposed changes but have since found that they will be affected by new plans, and the use of outdated census data from 2011 as the basis for the consultation, and notes calls for the Scottish Government to urge the Civil Aviation Authority to demand that Edinburgh Airport scraps what is considered this flawed consultation and begins the process again with up-to-date information and a more robust and credible consultation process.

12:51

Neil Findlay (Lothian) (Lab): I thank colleagues from the Labour Party, the Scottish Green Party and the Liberal Democrats who signed my motion. It is a matter of regret that no Scottish National Party or Tory member has signed it.

Air travel is a modern necessity, whether for work or leisure, and many of us use it at some point. People who live near an airport know that they must endure some disruption. However, it is incumbent on the airport authorities and the Government to keep the impact of air travel to a minimum and to reduce the disruption to people's lives.

Airports might need to expand at some point, but that should happen only when they reach capacity, when there is an unanswerable evidence base for expansion, when actions are taken to ensure that there is widespread community support for it, and when real and genuine mitigation measures are put in place that carry public confidence.

None of that has happened with the current proposals that Edinburgh airport has put forward. There is no evidence base for expansion; the airport is not at capacity; there is huge community opposition to the proposals; and the mitigation

measures do not carry the confidence of the communities that will be affected.

From the outset, the consultation process on the proposals has been shambolic and flawed in so many ways. As I said, Edinburgh airport is not at capacity; it is operating at below 2007 levels. The airport claims that it has scheduling issues at peak time, around 7 am only. Is it not ironic that to address those issues, the airport has brought in charges on airlines to manage peak demand for slots? Edinburgh airport is one of the most vocal advocates of scrapping air passenger duty to increase demand, yet it imposes its own flight duty to manage peak demand. Of course, it imposes drop-off charges for its passengers, too. Its brass neck is something to behold.

In the initial phase 1 consultation process, more than 200 consultation responses were lost. Residents in places such as East Calder, Winchburgh, Kirkliston, South Queensferry and Kirknewton were advised by the online tool to check their postcode, or their future postcode, to see whether they would be affected by new flight paths. Thousands of people were advised that there would be no impact on them, so they never made submissions to the consultation, then—lo and behold—the phase 2 route options came out and those same people found that they were very much affected by the plans, having just spent their hard-earned money and life savings on a new home.

That occurred because the consultation process is based on the population from the 2011 census, which is six years out of date. It fails to take into account the huge number of new houses that have been built in East Calder, Winchburgh, Kirkliston and other areas. It is astonishing that the developers in Winchburgh, where 4,000 new houses, a secondary school and much more infrastructure will be built, have not been consulted on the proposals. I have spoken to a number of residents who bought houses in new developments on the basis of their belief that they would not be affected, only to find out that they will be.

The airport claims that 25,000 fewer people will be overflown, but the methodology behind that claim is nowhere to be seen. Yet again, there is no evidence base for this flawed process.

The consultation process has been heavily loaded in favour of the airport. Community councils, whose members are ordinary people with limited expertise in the highly technical world of aviation, have been asked to comment on very complex documents without any support or technical advice being available to them. That is completely unfair and it loads the process in favour of a big, wealthy, powerful and influential business that has consultants, technicians and spin doctors coming out of its ears. That is neither fair nor just, and I pay tribute to all the community councillors and people in the community who have committed huge amounts of time and effort to the cause and to submitting their views.

Most disconcerting of all is the fact that the new consultation sets community against community. In effect, the airport is saying to people, "Okay, you might not want flights over your property, so tell us which community you want to send them over." That is a divide-and-rule strategy, if ever there was one. Other concerns include the way that data has been presented and the failure to adequately address noise, health and environmental impacts.

We must be clear that Edinburgh airport is not developing the plans in isolation. The response to a freedom of information request that I have just received lays bare the fact that the airport is absolutely complying with Scottish Government policy. At a meeting between the First Minister and the chief executive of easyJet in November, the First Minister said:

"The Scottish Government will continue to support all Scottish Airports to grow the number of routes to and from our airports."

The paper goes on to say:

"We are keen to explore further route development options with easyJet and to support their aspirations to expand in Scotland."

The policy could not be clearer. I notice that there are some Cabinet ministers in the chamber listening to the debate. It is hypocrisy for Cabinet ministers to sit around the Cabinet table and agree to that policy, which affects people in their constituencies in places such as Broxburn, Linlithgow, Uphall, Dechmont and East Calder, then to campaign in the community and say that they are gravely concerned about the airport's proposals. They are the same Government and Cabinet ministers who also agreed a policy to cut air passenger duty. Those policies are designed to increase the number of routes and flights, which will increase pollution and noise impact. They have been rumbled trying to ride two horses at once.

I am more convinced than ever that the plan for more routes and flight paths is about one thing only, which is fattening up Edinburgh airport for a future sale at an inflated profit. The consultation is as fundamentally flawed as the airport's expansion plan, and both should be scrapped. [*Applause*.]

The Deputy Presiding Officer: I say to our visitors in the public gallery that I would appreciate it if there was no clapping, catcalls or show of feelings about any of the speeches. That is not allowed in this Parliament.

12:59

Liam Kerr (North East Scotland) (Con): I thank Neil Findlay for securing this topical debate. Edinburgh airport is coming towards the end of a 13-week second-stage public consultation on changing its flight paths, which were designed in the 1970s when the airport had around 1 million passengers each year; that figure is now more than 12 million.

I note that the modernisation is intended to improve efficiency and capacity of the airspace, and that it will potentially reduce noise impact, increase runway capacity and reduce flight delays. However, any changes to flight paths are very important to residents. I know that, because I grew up underneath the current flight path. It is local people and communities who live with the effects of aircraft flying overhead every day.

Mr Findlay's motion highlights various failings in and concerns about the consultation. Edinburgh airport disputes much of that analysis and, among other things, suggests that the process has been independently assessed and audited, and that it is following the Civil Aviation Authority's CAP 725 process.

I want to make two related points. First, I spent 14 years litigating in the employment tribunal. In considering an unfair dismissal, a tribunal was not permitted to decide retrospectively that, because the dismissal process could have been better, or the tribunal could have done better in the circumstances, its "better" decision should be substituted. Instead, it could come to a decision, highlight areas where flaws in the employer's process had been exposed and look forward to ensuring that any inadequacies were not repeated.

At the end of the process, I would advise clients that it was imperative for them to learn from those flags and to ensure that, in future, their processes were robustly challenged and rigorously scrutinised, and that they constantly ensured that all stakeholders were best served. Every process can be improved, and I urge Edinburgh airport to listen carefully to today's debate and to take on board those learning outcomes.

The second point is related. Buried in the consultation's online frequently asked questions is the statement:

> "It is in everyone's interest that our information is clear and concise so that as many people as possible can comment and inform future decision making."

I agree, which is why I decided to respond to the consultation to find out whether it met that criterion. To do that—which I would only know how to do if I got the letter on the airspace change programme, which I did not—I had to access the website, which, for those who need to do so, is www.letsgofurther.com. I could have written to a freepost address, but without the maps, diagrams and FAQs I would have been hamstrung. I could have downloaded and printed the 158-page full-colour guide via the website's hyperlink, but as I was there already, I did it online.

That troubled me. There is a serious risk of disenfranchising some groups, such as the elderly, who might not be information technology literate, those of more limited means, who might not have IT access, those in potentially affected areas who do not have broadband access, and those whom Mr Findlay flagged up, who might not be so au fait with a lot of the technical language that is used. I have a real concern that those people whose voices are raised and heard in consultations might be those who are best networked and best connected in a number of senses, and those with financial and social means. I am not convinced that that is fair to those who, for whatever reason, are less able or willing to engage, including those who are not notified in time.

The questions in the consultation are somewhat concerning. There are eight maps in the interactive section, which talk clearly and concisely—for the avoidance of doubt, that is sarcasm—about design envelopes, ICAO design criteria, which preclude certain routes, EDIBO holds and vectoring areas. I was asked to what extent I agreed with the preferred flight paths, before being asked to rate the non-preferred options, again by the extent to which I agreed with them. What does that mean? "Liam 'partly agrees' with non-preferred route A3." So what? How is that consulting me to find the best solution? It begs the question, what is the best solution that I am trying to help the airport to find?

Finally, at the bottom of the form, there was an opportunity for me to explain my answer, but what was I supposed to say? "I have got a better idea than all the technicians." Presumably, as Mr Findlay pointed out when he said that the consultation is pitting communities against one another, if someone lives underneath the flight path, they will say, "I do not like it because I am underneath it," and if they are not, they will say, "Great—let's go with route C3a. That looks the best to me."

I thank Neil Findlay for lodging the motion and highlighting areas of concern. I have sought to flag up some of my own concerns, and I hope that Edinburgh airport will review its processes and ensure that the consultation is the best and fairest that it can be. I am not persuaded that Edinburgh airport should scrap the consultation, because recommencing from the start would incur cost, delay resolution of the issue for all stakeholders and, perhaps most concerningly, dangle uncertainty and fear over huge numbers of people

in our Lothian communities and beyond for so much longer.

13:04

Alex Rowley (Mid Scotland and Fife) (Lab): I, too, thank my colleague Neil Findlay for bringing to the chamber this important debate on the Edinburgh airport flight path consultation. I must say at the outset that I believe that, such is the public concern over the proposals, and such is the belief that the consultation is flawed, full of contradictions, lacking vital information and misleading, that there is no public confidence in the consultation. The Government must step in and put a stop to the process, and tell the airport authorities to begin again.

I have been contacted by constituents from across Fife, who have all voiced their concerns and highlighted the flaws in the consultation process. There has been a disregard for the potential health impacts on the communities that would be affected. Major changes appear to have been made to the original proposals, yet those who would be most impacted by the changes were never informed of them.

I have raised my concerns on the issue publicly since the consultation was launched in order to draw it to the attention of local people so that they would be aware of it and would be able to examine the likely impact of the proposals on their communities. In the short time that I have available today, I will highlight a few of the many concerns that people have raised with me.

A constituent from North Queensferry was concerned that she had not been informed of changes to the proposals. She said:

"Similar to Winchburgh, North Queensferry was not expected to be affected by the proposed changes, but is now due to be directly overflown by two separate routes, with separate wind directions such that it will be overflown every single day of the year if the proposed changes go ahead."

One constituent raised concerns for Dalgety Bay, pointing out that:

"The combined impact of these new routes means that there would be aircraft over or near Dalgety Bay 365 days a year compared with only 69 days at present. With the addition of Route D0 this is around a further 15,000 flights per year by 2023. There will be no trial and little recourse for residents to change flight paths once in place."

On the actual consultation document, one couple had this to say:

"The consultation document itself is severely flawed. It is not at all clear what the flight frequencies will be, nor what noise levels mean or even clear what heights what types of planes will fly at. There is no environmental impact assessment in terms of health impacts, wildlife impact or economic impact and the inconsistent and incomplete information in technical jargon does not allow any confident consideration".

They go on to say:

"There have been no trial periods to test presented impacts against reality so the presentation as is, is based on technical guesswork."

There is a severe flaw in the process, given that residents received a letter when the first consultation document came out in summer 2016 but were not notified that there was a second document—they have still not been informed about that by Edinburgh airport. The public have no confidence in the consultation, and it is time that the airport authorities and the transport minister listened to the widespread concern coming from both sides of the Forth. The minister must bring the consultation to an end. There is no other sensible way to proceed—it is the right thing to do.

The Deputy Presiding Officer: I should say that silent clapping from those in the public gallery is not really on, either.

13:09

Mark Ruskell (Mid Scotland and Fife) (Green): They may be allowed to think it, Presiding Officer.

I thank Neil Findlay for raising an issue that has been steadily filling my inbox since the phase 1 consultation was launched last summer. That consultation ended with nearly 6,000 responses, the overwhelming majority of which were negative. That does not include the 200 responses that the airport managed to lose.

In Fife, as we heard from Alex Rowley, two thirds of the people who responded to the consultation said that the airport's plan would have a negative impact on their lives. The airport said that it had taken the findings of phase 1 and listened, but here we are debating a deeply flawed and divisive phase 2 consultation that has addressed none of those concerns.

It is clear that the proposals will impact heavily on west Fife, with Dalgety Bay alone going from being overflown on 70 days per year to potentially facing flights 365 days a year for 18 hours a day, with no respite. However, to focus on the detail of specific routes plays into the hands of the unfair consultation, which pitches communities against each other and encourages residents to say, "Not over my head—stick the flight path somewhere else." Instead, we need to agree that the consultation is not fit for purpose and should be halted immediately.

Last week, I held a meeting in Parliament for community councils that are affected by the proposals. Representatives from 20 community

councils across six local authority areas attended and each had their own story to tell about how they had struggled to make sense of the documentation and how they felt misled and misinformed. They will be writing an open letter to the Civil Aviation Authority asking for the consultation to be halted because they cannot make fair and informed submissions on behalf of their residents. I will give the Parliament some of the reasons why they cannot do that.

The consultation booklet runs to 156 pages and is full of technical jargon, which constituents have repeatedly told me they find impenetrable. However, the amount of information that it manages to leave out is staggering. Professor Greenhalgh of Glasgow Caledonian University said that it is the most flawed technical document that he has seen in 30 years as it has no baseline statistics for flight numbers or noise and contains inaccurate flight data and blatant inconsistencies in how populations have been accounted for. The booklet contains no information on the social, economic or environmental impact of the proposed routes because those assessments have simply not been done. In addition, the document with that flawed information has not even been readily available to communities. Consultation booklets were not available for the first three weeks of the consultation and some communities, such as North Queensferry, have been missed out of household notification.

The CAA has already agreed that its rules on consultation, as laid out in the guidance that Liam Kerr mentioned, are not fit for purpose. The CAA is undertaking a full review of how consultations should be carried out, but it has given Edinburgh Airport Ltd permission to carry out its own consultation during this time so that any potential routes can be introduced by April 2018. I say to Liam Kerr that it is now time to scrap the consultation because we do not have a proper process in place. He talked about the CAP 725 guidance, but it is going and a new regulatory regime is coming in. Why not wait until we get that regime, which will be able to look at the true environmental impacts of Edinburgh Airport Ltd's proposals?

In all my time in politics, I have never come across a consultation that has been carried out according to rules that have already been deemed unfit for purpose. Let us face it—the consultation is being run by a private business, as Neil Findlay said, that is attempting to fatten itself up from duty-free sales, supported by a free-for-all approach to regulation. The Scottish Government must step in and force the CAA to put a halt to the consultation. I call on members of the Scottish Parliament to join their constituents on the matter and to lend their support to the letter that we will be sending to the CAA next week.

13:13

Gordon Lindhurst (Lothian) (Con): I, likewise, welcome this debate, which has been brought to Parliament today by my Lothian colleague Neil Findlay. Like him and other members in the chamber, I have been struck by how important this issue is not just to my constituents but to people in other constituencies and regions that are represented in the Parliament.

It is important, when looking at some of the issues that have been raised, also to bear in mind the context and why the process is taking place. Changes to flight paths have already been mentioned by my colleague Liam Kerr. Although it may be true that aircraft are now bigger and carry more passengers et cetera, the attractiveness of Edinburgh airport to carriers has seen demand skyrocket at peak times such that the airport says that it can no longer meet the demand.

Edinburgh airport uses the slogan

"Where Scotland meets the world".

I see it as a positive that the world wants to meet Scotland, and many in the world choose to do so through Edinburgh airport. However, let me be clear, as I have been in my motion on the same issue, that there are aspects of the consultation that the airport must reflect on and concerns that it must respond to. My motion, like Mr Findlay's, highlights concerns about the use—or lack of use—of up-to-date data reflecting existing and planned housing. The 2011 census data is not enough to go on. It is a start, and it is perhaps the most comprehensive data that is available but, as we have seen in the past weeks, a lot can happen over the course of a short space of time, and it is six years since that census was carried out. In many communities, a lot has changed in the intervening period in terms of housing make-up and location. Residents in new developments in places such as East Calder and Winchburgh should not be forgotten by focusing on census data alone.

At a community council meeting that I attended in Ratho, the airport representatives told us that local development plans also form part of the consideration of new flight paths. I understand, too, that the airport has engaged with developers and local authorities to assess how housing will change in particular communities over the coming years. That is all well and good, but my motion urges the airport to fully consider all the aspects of future population trends and densities. That is only fair to those who are already committed to new communities, who did not know before they moved there about the mooted changes to flight paths.

The airport should redouble its efforts with communities that have been brought into the flight path envelopes following the first consultation. I

have been contacted by constituents who checked the airport's postcode tracker during the first consultation. Some of them—understandably—did not respond when they realised that they were not within the swathes. To their surprise, they are now within the design envelopes. The airport must ensure that sufficient attention is given to those who did not respond to the first consultation for that very reason. They feel that they are on the back foot. Some people may have had two bites at the cherry, yet for others the news that the new flight paths may now be directly overhead has caused them to distrust the consultation process. The airport should address that.

The emails that I have received from constituents include some very real and legitimate concerns. Although the Consultation Institute has given the let's go further process a good practice rating so far, the airport must be conscious of the anomalies in the process. Local concerns must be heard. I look forward to airport officials reflecting on today's debate, listening to the concerns of local people and taking action to ensure that all voices are heard in the process.

13:17

Andy Wightman (Lothian) (Green): I thank Neil Findlay for securing this vital debate. Like other members, I have been deluged with emails from constituents over the past few months in relation to the proposals for an airspace change. I do not have time today to describe in full the anxiety, stress and impact from the proposed changes for families in Winchburgh, South Queensferry and places elsewhere who have contacted me. Suffice it to say that the consultation has been seriously flawed and that the airport operators have misled the public and displayed arrogance and a contempt for public opinion. In my short contribution, I want to say something about why that is happening.

Behind many such issues lie questions of governance. Tony Benn famously asked five questions of those in power. He asked,

"What power do you have? Where did you get it from? In whose interests do you exercise it? To whom are you accountable?"

and, famously,

"How do we get rid of you?"

In order to answer those questions, let us first understand what is going on. The governance and control of airspace is governed by the Civil Aviation Authority and by National Air Traffic Services, or NATS. An airspace change is being proposed by Edinburgh Airport Ltd and the decision maker is the Civil Aviation Authority. The CAA's predecessors were the military, which controlled airspace from the 1930s through to the 1950s.

The CAA's costs are substantially met by charges on those whom it regulates. In 2015-16, that amounted to £78 million out of total income of £132 million. Meanwhile, NATS is a private company that is owned by the UK Government and airlines and funded by airline operators. Therefore, airspace changes are initiated by private operators—in this case, Edinburgh Airport Ltd—and the plans are then evaluated by a regulator that is in the pay of that same private company. That is not a governance framework that can work in the public interest.

I turn to Edinburgh airport. Who is Edinburgh Airport Ltd? The company is owned by another company, Green Midco Ltd, which in turn is owned by a company called Green Topco Ltd. No such company exists in the United Kingdom. Green Topco might be a company that is registered in Luxembourg or it might be a company of the same name that is registered in Grand Cayman. When members of the Scottish Parliament, members of Parliament and councillors engage with the wide range of issues relating to the provision of aviation services in Edinburgh, where exactly is the line between the public interest and the private gain, and how can we ever know? Critically, are the proposals in the public interest or are they designed to boost the asset value of a company that is to be sold off at profit in the years ahead by a bunch of faceless offshore speculators?

I turn to Tony Benn's famous five questions. How might we answer them?

"What power do you have?"

Edinburgh Airport, NATS and the CAA have virtually all the power.

"Where did you get it from?"

They got it from Conservative Governments that privatised the airports and NATS and created the modern CAA, whose statutes privilege commerce and the needs of the private airline industry.

"In whose interests do you exercise it?"

Edinburgh Airport exercises power in the interest of its faceless shareholders in faraway tax havens.

"To whom are you accountable?"

Edinburgh Airport is accountable to its shareholders. The CAA and NATS are nominally accountable to the UK Government and Parliament but are funded by the airline industry and, thus, are accountable to private interests as well.

"How do we get rid of you?"

We cannot do that without substantial political effort directed at bringing the governance of

airspace and airports infrastructure under public control, regulation and oversight. The CAA's most recent annual report states that

"our airspace is a key part of our national infrastructure",

but to all intents and purposes it is a private realm.

Gordon Dewar, the chief executive of Edinburgh Airport Ltd, told constituents of mine who are campaigning against airport expansion:

"The people that you need to blame are your politicians. They're the ones who sold the airport to us in the first place. What do you think we are going to do?"

I cannot help but think of Renton in "Trainspotting", who said:

"It's a shite state of affairs to be in".

Our job should be to clean it up.

The Deputy Presiding Officer: I know that that was a quote, but I remind members that they should be careful about the language that they use.

13:22

Alex Cole-Hamilton (Edinburgh Western) (LD): I congratulate Neil Findlay on bringing the motion to Parliament for debate. I say for the record that although I had some reservations about it, I signed it, so that the debate could proceed. There are important issues that need to be aired.

As the MSP for Edinburgh Western, I am in many ways proud to host Edinburgh airport in my constituency. It is the source of 23,000 jobs in the Lothians, 6,000 of which are at the airport itself. It does good work for charities and community groups through the community board, which I chair. However, although the airport is unquestionably an asset, it has a duty to be a responsible neighbour.

For many years, inbound and outbound flights over the village of Cramond have been a major source of casework for me and my forebears. We may now be nearing progress being made on inbound flights. Through a combination of use of RNAV—area navigation—technology and discussions with the Civil Aviation Authority, there may be an opportunity to divert inbound aircraft over the River Almond, through a type of diversion that has previously been offered only over Tel Aviv as a means of avoiding surface-to-air missiles, although I am certain that the good people of Cramond are not quite at that point, yet. That type of diversion would be a positive development.

On outbound flights, the first iteration of the flight path consultation saw more than 2,000 signatures being attached to a petition in my name and the name of my Liberal Democrat colleague Kevin Lang, which called for the left turn that is currently undertaken by outbound aircraft to be commenced earlier, at the end of the runway, in order to avoid Cramond altogether. I am gratified that the airport seems, as I understand it, to have acted on that call, so I thank it for that.

My principal concern around the consultation process centres on the community of South Queensferry. In the first iteration of the consultation, the design envelope for westerly outbound routes covered an expanse of territory over West Lothian; such was the proposition that was mailed out to tens of thousands of homes across the Lothians. Not unsurprisingly, the airport received a deluge of responses from residents in West Lothian—some of whom are in the gallery today—stating their absolute opposition to that design envelope. I fully understand that.

What happened next however, was, to be frank, astonishing. In its second iteration of the consultation process, under the moniker "You spoke and we listened", and buried in a heavy document, the airport revealed that its preferred route for westerly outbound flights—route D0—would now avoid West Lothian entirely and would, instead, overfly the Echline estate on the western periphery of South Queensferry.

On learning of that, I contacted the airport directly, which explained that it had received no objections from South Queensferry in the first round. I immediately pointed out that no such responses were forthcoming from South Queensferry because residents were under the impression that they were some 10 miles east of the preferred design envelope and did not know that they were even in consideration. They know now—my Liberal Democrat colleagues and I are working round the clock to make sure that citizens in that community are aware of that fact and are responding to the consultation. They shall do so in great numbers, and not only because of the density of the population in the area—which is far greater than was cited from census data that are, as we have heard, six years old—but because of the houses that are still to come with the Builyeon Road development, to name but one.

South Queensferry is a beautiful community that I am proud to represent, but it is often taken for granted. Its citizens pay Edinburgh council taxes, yet it is not served by adequate public transport links. We cannot blame the citizens of South Queensferry for feeling that they are being taken for granted yet again. I am keen to work with the airport on the matter, and I have already engaged with colleagues at the airport and from across the chamber on taking South Queensferry out of the design envelope. That issue represents a red line for me. I urge the airport to think again, to act as the responsible neighbour that it needs to be and

to protect the skies above communities that never thought that they were part of the consultation.

13:26

The Minister for Transport and the Islands (Humza Yousaf): I thank Neil Findlay for bringing the debate to the chamber and I thank members for their contributions. Many of the points that have been made have been very reasonable, but there were some that I take issue with. I will try to address some of the points of consensus, and Edinburgh Airport Ltd should be able to move forward on the issue.

The first point that I will address was made by Neil Findlay about colleagues on my left and on my right. They are cabinet secretaries, but they are also constituency MSPs. For those who are not familiar with parliamentary or governmental protocols, processes and conventions, it should be highlighted that it is not a protocol or, indeed, a convention for cabinet secretaries to take part in a members' business debate—that is for the minister who has the appropriate remit and responsibility. However, I should say that Angela Constance and Fiona Hyslop have both, in their constituency MSP roles, made representations to me on the matter on behalf of their constituents.

When I have, in my ministerial role, had conversations with Edinburgh Airport Ltd about the consultation on the potential expansion of airspace, it has acknowledged that there have been flaws in the process. It heard the calls and took the advice of an independent body, which has, as Gordon Lindhurst mentioned, given the quality of the airport consultation the mark of good practice. Edinburgh Airport Ltd should not take that to mean that it has ticked every box and engaged appropriately, and that it should dismiss concerns. Some of the concerns that have been raised have been extremely valid. Gordon Lindhurst made, in a reasonable speech, the reasonable point—which was reiterated by a couple of other members—that it is not an acceptable state of affairs that people had put in their postcodes during the first stage of the consultation and thought that they would not be affected, only to find out that they possibly would be. I encourage Edinburgh Airport Ltd to listen to their concerns.

Neil Findlay: Edinburgh Airport Ltd can listen all it likes, but some people have moved their families and spent their life savings to move to properties that they believed would not be affected. Listening does nothing for those people. What is the minister's advice to them?

Humza Yousaf: That is not an unreasonable point to make.

I will go through the process and go on to address points that were made about the governance of the CAA. Ultimately, Andy Wightman and others are right to say that Edinburgh Airport Ltd will, on the back of its consultation—flawed or otherwise—make an application to the CAA and that it will be for the CAA to make a decision. The point is, of course, that there are concerns. I urge Edinburgh Airport Ltd—as I have already done—to consult local communities further. It has held 24 public meetings, which more than 1,000 people have attended. I understand from people who attended the meetings that constituents have put their views robustly to Edinburgh Airport Ltd. It is absolutely correct for them to have done so.

On my involvement in the issue, a number of members have said that the Scottish Government should demand—I think that Mark Ruskell said "force"—the airport to scrap the consultation, and a number of other members have said that it is the Government's responsibility to step in now. However, I am afraid that it is not the Government's responsibility: it is Edinburgh Airport Ltd's consultation, and it will make the application to the CAA. As other members have said, the CAA will ultimately make the decision.

Alex Rowley: If the public have lost all confidence in the consultation process—we have seen lots of evidence for why—surely the duty of the Government is to stand up for the communities around the Forth and to say that the consultation needs to be halted.

Humza Yousaf: The point that I was coming to is that other members from across the chamber have rightly acknowledged that Edinburgh airport is expanding, and that that is good for local communities because there are 600 jobs in the airport and more than 5,000 more that are supported in and around the campus. Furthermore, there were 1 million passengers when the airspace was designed in 1970, but about 13 million are projected by the end of 2017. There is a need to explore and examine—

Alison Johnstone (Lothian) (Green): Will the minister give way?

Humza Yousaf: If Alison Johnstone does not mind, I would like to make some progress. I have already taken a couple of interventions and time is short.

Another concern that was raised—it was an extremely reasonable point—was about proposed future developments. Fiona Hyslop, who represents Linlithgow, invited me to look at the Winchburgh development. From my point of view—and that of members from across the chamber—it beggars belief that that development,

which is one of the largest developments in the central belt, could be ignored.

There are some extremely reasonable concerns, and it is the Government's view that the deep concerns about the consultation that have been expressed must be listened to by Edinburgh Airport Ltd. If Edinburgh airport makes an application to the CAA on the back of the consultation, that will give local communities and politicians another opportunity to reiterate their concerns about the proposed plans, so an application being made does not in any way represent the end of the road.

On governance, Andy Wightman made an interesting point—

Neil Findlay: Will the minister give way?

Humza Yousaf: No. I want to tackle Andy Wightman's point.

Hannah Bardell MP has also suggested the establishment of a substantial regulatory body to monitor noise and is independent, which would be important. By highlighting that issue at Westminster, she managed to secure a commitment from the UK Government to set up an independent aviation noise authority. Hopefully, that will allay some of the fears that Andy Wightman raises.

Edinburgh Airport Ltd will be listening to the concerns that have been raised today—I know that it is watching the debate closely. Some of the points that have been raised on behalf of constituents, many of whom are in the gallery, have been extremely reasonable. I urge Edinburgh Airport Ltd to continue to consult local MSPs, regional MSPs and communities. Ultimately, however, if it makes its application to the CAA, I encourage members who have spoken today, as well as community councils, other MSPs and—after the local elections—councillors to make representations to the CAA, if they continue to be unhappy.

We all want continued and sustainable economic growth, and many members from across the chamber want Edinburgh airport to expand—although I acknowledge that some do not. As many members have said, it is incumbent on it to take communities with it on that journey.

13:34

Meeting suspended.

14:30

On resuming—

Social Security Agency

The Deputy Presiding Officer (Christine Grahame): Good afternoon. The next item of business is a statement by Jeane Freeman on the new social security agency. The minister will take questions at the end of her statement, so there should be no interventions or interruptions.

14:30

The Minister for Social Security (Jeane Freeman): Today, as I announce the model for the delivery of social security in Scotland and publish the evidence supporting the decision, we mark the next significant milestone in building Scotland's new social security system.

I will outline the shape and approach of Scotland's social security agency and touch on both the estimated number of people it will employ and the estimated costs involved in delivery. In the autumn, I will announce the location of the agency and the next steps for our assessment model for determining eligibility for benefits.

Following the decision last March to establish a new executive agency, we have undertaken a second-stage options appraisal to examine how the agency could deliver a rights-based social security service in a way that both aligns with our core principles of dignity, fairness and respect and achieves value for money. In doing so, we have again underlined our commitment to co-production and transparency by involving partners from the third sector, local government and academia and using the responses to the social security consultation to determine and assess the appraisal criteria. That was a formidable and detailed analytical task, which has led to a thorough and balanced options appraisal report, which itself demonstrates the integrity and robustness of the process and the evidence base from which we have worked.

Our preferred model for delivery has two key strands. Ten of the 11 devolved benefits will be delivered directly by the new social security agency through an efficient centralised function. However, our social security agency will also provide locally accessible face-to-face pre-claims advice and support, co-located—where possible—in places that people already visit. Discretionary housing payments and the Scottish welfare fund will continue to be delivered by local authorities.

The option that we have chosen will best deliver on our key objectives, which are: consistency of provision across Scotland; a person-centred,

rights-based service; a strong, local, human face to improve accessibility and support; and a safe and secure transition for the 1.4 million people who rely on the service.

That local presence will be one of the key differences between our social security agency and the current United Kingdom system. Our approach will provide consistency of service across Scotland—irrespective of where an individual lives—and a more responsive service.

We welcome the 11 benefits being devolved, but too much remains reserved and will continue to be delivered in a UK system that has all the deficiencies and faults that are so eloquently detailed in responses to our consultation. We want to see all welfare being devolved, so the agency that we are creating will have built into it the ability to expand to accommodate new powers in the future.

Our next steps will be to decide on the agency's central location. Again we will take a systematic, evidence-based approach, taking into account a variety of socioeconomic factors and using the same multicriteria framework that was used for the wider options appraisal. In identifying co-location opportunities for the local presence that is central to our model, we will begin discussions with local partners.

There is no doubt that the jobs created in the new agency will bring a major economic benefit to Scotland. We estimate that at least 1,500 people will work in Scotland's social security agency when it is fully operational. With our provision of a local presence across Scotland, those jobs will not be confined to one central location.

As one would expect, we required the options appraisal to closely examine the estimated running costs of the new system. I am pleased to report that our chosen delivery model not only meets our principles, but represents the best value for money. Although the figures will be refined as we move forward, we estimate that when the agency is fully delivering all the benefits its annual running costs will be around £150 million.

Before I conclude, I will say a little about the assessment model that we will use for the disability and ill-health related benefits. In the past 11 months, I have learned a great deal about how the current UK system goes about assessments. Over and over again, I have heard the personal experiences of so very many people who have found assessment to be one of the most difficult, distressing and demeaning aspects of their whole experience.

I am in no doubt that the current UK assessment model must be substantially changed. I make clear that the approach that we will take will give due recognition to self-assessment and to clear, third-party, professionally founded supporting evidence. If relevant information is secured at the first decision point in the overwhelming majority of cases, we can speed up decisions, getting more right first time and reducing the demand for appeals, which currently place additional psychological and financial strain on individuals.

We will be guided by people's personal experience through our experience panels, and by the expertise of our disability and carers benefits expert advisory group, which met for the first time last week.

We will also be guided by our principles. One of those principles is that profit should never be a motive or play any part in making decisions or assessing people's health and eligibility. I have seen and heard enough evidence to know that the private sector should not be involved in assessments for Scotland's benefits. I can confirm to the Parliament that in our assessment model there will be no contracting with the private sector.

I have begun to explore the potential to use the existing information and expertise of the health and social care sector. I want a genuine partnership to access only the already-known information that is relevant to social security decisions, with appropriate consents and robust safeguards. That will free up the time that health and other professionals currently spend dealing with the negative impact of the UK system on individuals, and enable our skilled and professional health and social care staff to focus on the role that they have trained to take on: caring for and supporting the health and social care of their patients and clients.

We need to get this absolutely right, so we will be working as a Scottish public sector with the professional interests of those in the health and social care sector, drawing on the views of our experience panels and asking the expert advisory group to map out clearly the application and assessment process, to enable us to gather evidence as early as possible and get our first and subsequent decisions right first time. I will return to the chamber in the autumn to provide members with an update and detail on our next steps.

Today's announcement is not just the culmination of a major and robust options appraisal but the starting point for the design of more detailed operational arrangements—agency locations, staff numbers and service design. Next will be our forthcoming social security bill, which is on track for introduction in the Parliament by the summer, and a timescale for the first suite of benefits that we will deliver.

Our number 1 priority remains the safe and secure transition of 11 benefits for the 1.4 million people who rely on them. Our social security

agency will deliver the benefits in an efficient and person-centred way that will be tailored to individual needs. It will provide major economic gain with a significant number of new jobs. It will demonstrate that social security is an on-going investment in the people of Scotland, and we will demonstrate that there is a better and fairer way of delivering social security to those who are entitled to and rely on that support.

This Government will build a social security system that will stand the test of time and the test of trust from the people of Scotland who rely on it. This is a challenging time—as Audit Scotland said, it is "an exceptionally complex task"—but it is also a golden opportunity, and I am determined that we will get it right.

The Deputy Presiding Officer: The minister will take questions on the issues raised in her statement. I intend to allow 20 minutes or so for questions, after which we will have to move on to the next item of business.

Adam Tomkins (Glasgow) (Con): I thank the minister for providing early sight of her statement. It is good that progress is finally being made on the delivery of social security devolution, now that we are getting on for three years since the Smith commission agreed its terms. It is not news that there is to be a new Scottish social security agency—we have known that for more than a year—but we still do not know where it will be located, how it will be structured, what powers and responsibilities it will have and to whom it will be accountable. In particular, we do not know what opportunity we in the Parliament will have to scrutinise appointments to and decisions made by the new agency. Will the agency report only to the minister, and if so will that be in public or in private, or will the new agency be directly accountable to the Parliament? How will the new agency function? Will it be operationally independent of Government, like for example Revenue Scotland, or will it have a closer working relationship with ministers than that?

Jeane Freeman: It is a bit disappointing that Mr Tomkins has chosen to take that approach. He said that we have made progress "finally" and after "three years", but that is finally after three years with a Holyrood election in between, and we knew before that election—in fact, in March 2016—that we would have an executive agency.

To answer Mr Tomkins's specific question, the agency will be directly accountable to ministers, who are directly accountable to the Parliament. As he will know from the most recent evidence that I gave to the Parliament's Social Security Committee, on which he sits, the legislation that we will introduce will include not only the principles and the fact that the system will be rights based but a requirement to create a charter that outlines clearly the responsibilities of the social security system to the people of Scotland and to those who use it. Under that charter, ministers will be accountable to the Parliament and therefore to the people of Scotland for our delivery of the model that I have outlined.

At this point, we have made very clear the direction of travel that we are going in and the specifics. We did so before the election that brought Mr Tomkins and me to the Parliament and we have done so since then. I would hope that he listened on the three occasions that I have appeared before the Social Security Committee to explain very clearly the approach that we are taking. We know that 1.4 million people will rely on our safe and secure delivery of the benefits. There are key steps that we have to take and we are taking them. Importantly, we are taking them by building on people's direct personal experience of using the benefits system. How very different that is from the approach of the UK Government.

Pauline McNeill (Glasgow) (Lab): Labour whole-heartedly welcomes a great deal of what is in the statement, including the intention to create a new social security system that gives face-to-face contact and pre-claims advice and that seeks to have a local presence in communities. Labour very much welcomes the fact that the assessment model will not contract with the private sector. My colleague Mark Griffin has been particularly vocal about that.

The minister has been reported as saying that the new arrangements will not be implemented until at least 2021. Will she clarify whether there is any intention to go beyond that date? Does she recognise that thousands of claimants desperately want the arrangements that she talks about sooner rather than later, as they are at the mercy of the current system? Will the minister give a commitment that the pre-advice and support will be available in every deprived community and that the basic model of co-location, which she mentioned in her statement, will not be the exclusive approach, to ensure that Scotland's new social security agency has a local presence across the country?

Jeane Freeman: I am grateful to Ms McNeill for her support for at least the bulk of what I said in my statement and in particular for our determination and decision not to involve the private sector in contracts for assessments.

On the new arrangements, the accurate reflection of what I have said in the past is that, by the end of this session of Parliament, we will be delivering all 11 benefits. I also said at the Social Security Committee that we will take on responsibility for each of those 11 benefits incrementally following the passage of legislation in this Parliament, which we will introduce before

June and which I expect to take until the spring of 2018 to pass. I said in my statement that, in addition to introducing legislation, we will advise members of the next steps in delivering the suite of benefits that come first.

I hope that that answers Ms McNeill's question and provides reassurance that we will not wait until 2021 for a big bang to happen before we introduce all 11 benefits. That is not because we are under pressure from anyone to do otherwise, but because to do so would risk the safe and secure transfer of benefits.

Pre-advice and support will be available to individuals across Scotland regardless of where they live. We will largely be talking to public sector partners and perhaps third sector partners about that. I am particularly looking for co-location in order that we as the Scottish public sector make it as easy as possible for things that are currently available, such as discretionary housing payments and welfare fund payments, to be triggered by an individual's first appearance, whether to their local authority or the social security agency.

The Deputy Presiding Officer: Ten members still wish to ask questions. Everyone can see the clock, which shows that we have only 14 minutes left. I ask for short questions with no preambles and for economic answers too, please.

Sandra White (Glasgow Kelvin) (SNP): I thank the minister for her statement. I am grateful for it because we have all been working towards the new social security system. We have all had people at our surgeries who have issues around communication with the DWP. People dread it; even seeking out basic information causes them great stress and anxiety. Will the minister reassure me that, in serving the people of Scotland, the social security agency will be an exemplar in how to communicate, in stark contrast to how the DWP does that at the moment?

The Deputy Presiding Officer: That did not quite follow my request, but I live in hope.

Jeane Freeman: I can reassure the member about communication. From the outset, even in recruiting to the experience panels, we have worked directly with individuals who will be involved in the system and with those who have experience of the current system to help us make sure that our communication is as clear and direct as possible. We will use a wide range of communication methods. We will have digital, telephone and face-to-face contact and we will be able to translate, as we have done for applicants to the experience panels. We will maximise our use of all possible communication channels to make our system as accessible as possible.

Annie Wells (Glasgow) (Con): Within the analysis of the written responses to the consultation, I note an entry by Dumfries and Galloway Council regarding the delivery of social security. It states:

"Local authorities have a proven track record for delivering centralised benefits in a localised responsive way to meet the needs of its citizens."

Why is the Scottish Government ignoring the proven track record of local authorities in delivering newly devolved benefits and why—

The Deputy Presiding Officer: That is fine. I want to get everybody in.

Jeane Freeman: I refer Ms Wells to the options appraisal analysis, which shows that exclusive local delivery was judged to dilute accountability, lack the consistency of service across 32 separate systems and lack the flexibility to easily incorporate changes into existing structures. As I said, the appraisal process was undertaken with our partners including COSLA. COSLA's response to the consultation, while expressing a preference for local authority delivery, noted:

"we are not suggesting all the elements being devolved fit within the local government family."

Ben Macpherson (Edinburgh Northern and Leith) (SNP): I strongly welcome and agree with the no-profit motive in our social security system. I recently noticed that the DWP—

The Deputy Presiding Officer: No, sorry. I am going to put my foot down. I want questions, please.

Ben Macpherson: With regard to overpayments for personal independence payment assessments, does the minister agree that public funds should be used for public services, not for private profit?

Jeane Freeman: Yes, I do.

Richard Leonard (Central Scotland) (Lab): Of the 1,500 people who the minister has announced this afternoon will work in the agency, how many will be in new jobs—extra jobs that have been newly created? Are those 1,500 full-time equivalent jobs? When will the jobs be created? What about the old jobs—will the current workforce who are providing those services be transferred and offered redeployment?

The Deputy Presiding Officer: That is how to do it, Mr Leonard.

Jeane Freeman: Fifteen hundred is our estimate of the number of jobs that there will be in the social security agency. In that sense, they are new jobs, because the social security agency will be new. The number of those jobs that may currently be being undertaken by existing DWP staff working in Scotland is still to be determined. As I said at the outset, the next step following our decision on the shape of the agency is to begin to

design the specific jobs that will be required in our model and in our agency, taking into account face-to-face delivery and the communication methods that I mentioned. That will be done in discussion with the Public and Commercial Services Union, the Scottish Trades Union Congress and others.

When it comes to the transfer of existing DWP employees, at this stage it is not clear to us or to the PCS whether the jobs that are required in the final shape of the agency will match any that are currently at the DWP, so we cannot yet say whether COSOP, the Cabinet Office statement of practice, which is the public sector version or equivalent of TUPE, the Transfer of Undertakings (Protection of Employment) Regulations, will apply. However, as a Government, we have made a commitment so, should COSOP apply, we will undertake that.

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): I welcome the announcement from the minister. As we know, when profit has a role in assessments for benefits, claimants can suffer major stress, especially those who are disabled and suffering with mental health issues. Does the minister believe that the decision will result in reduced anxiety among claimants, especially those suffering from poor mental health who have been stigmatised by the Tory Government?

Jeane Freeman: The degree to which what we intend to deliver will be significantly different from the experience that individuals currently have will be one of the major tests of the decisions that we are taking. I am convinced that it will be different. In particular, I am convinced that the model of assessment that we will devise—with the benefit of help from the experience panels, the expert group and our partners in health and social care—will be better able to deal with mental health conditions and fluctuating conditions. The model will use the clinical experience that is directly relevant to the condition that the individual suffers from in assessments for disability benefits. I firmly believe that that is the case. Should it ever be found that what we are attempting to do does not in reality match our principles, we will not do what the UK Government did, which was to change the rules because the Upper Tribunal disagreed with what it was doing. We will always change our practice to meet our principles.

Alison Johnstone (Lothian) (Green): The minister and the previous questioner highlighted the demeaning and distressing experience that so many people with ill health and disability have had when applying for benefits. The minister said that she is exploring using existing information. Does that mean that a letter from a general practitioner would do away with the need in the system for assessments? That would be a great step forward.

Jeane Freeman: With the help and assistance of colleagues in health and social care, allied health professionals and others, and with the welcome involvement in our expert advisory group of individuals with experience, including the Scottish Association for Mental Health and Dr Alan McDevitt from the British Medical Association's GP group, I am attempting to secure evidence that currently exists in health or social care in order to make the decision at the first point a decision that determines eligibility based on self-assessment and supported by that additional professionally founded evidence.

That is not straightforward, because there are issues with confidentiality and data protection, and it will always require the individual's agreement to have their data shared, but if we can manage that, I am convinced that we will then be able to make more decisions at first determination, without the need for face-to-face assessment unless the individuals themselves wish that to take place. That should speed up the whole process but, in addition, it should allow us to use the right individual to undertake the assessment—someone who is professionally qualified in relation to the condition with which the applicant is presenting. All those things, taken together, are a significant improvement on the current UK system.

Alex Cole-Hamilton (Edinburgh Western) (LD): I thank the minister for early sight of her statement, and for the inclusive approach that she has taken to adopting the new system. However, there is no mention in the statement of the information technology infrastructure that will underpin that. We have seen the failure of IT systems elsewhere in the public sector, despite years of development, not least in the £60 million i6 police system.

The Deputy Presiding Officer: Can we have a question please?

Alex Cole-Hamilton: What confidence does the minister have that the new system will have IT infrastructure that is capable of supporting a smooth transfer of powers and payments?

Jeane Freeman: I am grateful to Mr Cole-Hamilton for that important question. The starting point in my answer is that our approach is not to see the IT system as some stand-alone thing that sits outside our design of the benefits and assessment process or the way in which the agency will operate but to see it as an integral part of that. I am pleased to advise the chamber that, in the work that has been done by officials up until this point, all the teams are integrated. We have digital specialists, IT transformation programme managers and policy officials all working together to define a solution. We are taking the same step-by-step process to the IT build as we are to everything else, learning the lessons that have

gone before and using individuals with experience of the current system to test out our emerging and developing IT system.

That alpha process is significantly advanced, and we will continue to work it through, so that, when we pass the legislation, however that is formed in this Parliament, and we begin to deliver these benefits, we have a system that has been tried and tested. We will then take over delivery of the benefits incrementally, so that we continue to refine and develop that system without putting 1.4 million people's financial support at risk.

Ruth Maguire (Cunninghame South) (SNP): It was good to hear the minister ruling out a role for profit in the assessment for benefits, and saying that we are not following the failed assessment model of the Tories that caused so much stress and worry. What evidence has the minister looked at in coming to that decision, and what role will the experience panels have as the assessment process is developed.

The Deputy Presiding Officer: Give a short answer please, minister. We are running out of time.

Jeane Freeman: I looked at the evidence from how the current system is being delivered and I looked at the evidence from our consultation exercise, most particularly the experience of those applying for benefits in the current system and also those advising those people on their applications. Also, critically, I looked at the evidence from unions that represent people who are currently working in the DWP and in that system. That, broadly speaking, is the evidence that I looked at.

The experience panels will play a significant role, giving us the benefit of their direct personal experience, of course, but also testing out for us our policy and system development ideas and helping us to make sure that what we think is the right thing will, in practice, make the system efficient and accessible.

Bill Bowman (North East Scotland) (Con): In her statement, the minister said that the annual running costs of the agency will be around £150 million. Can the minister tell me how much greater that is than the cost of the current system that operates in Scotland, and also how that figure compares with the running costs of the last significant agency that was set up by the Scottish Government—Revenue Scotland?

The Deputy Presiding Officer: The minister only has time to answer one bit. Answer the first bit please, or we will be out of time.

Jeane Freeman: There is no current system in Scotland, so the figures that I have given represent our estimate of the agency model as we have devised it. It is just over 5 per cent of what we expect to be the overall cost of the total service, including administering the benefits, and it is significantly less than the DWP's administration costs for non-pension benefits, which are estimated at 6.3 per cent.

The Deputy Presiding Officer: That must conclude questions to the minister; I apologise to Fulton MacGregor. That is what happens if members take too long—another member does not get to ask their question. I will allow a minute or so for front-bench members to change places before we move to the next item of business.

Limitation (Childhood Abuse) (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Christine Grahame): I am moving straight on, as time is tight in this debate as well. The next item of business is a debate on motion S5M-05290, in the name of Annabelle Ewing, on the Limitation (Childhood Abuse) (Scotland) Bill at stage 1.

15:00

The Minister for Community Safety and Legal Affairs (Annabelle Ewing): I am very pleased to open the debate on the general principles of the Limitation (Childhood Abuse) (Scotland) Bill. I thank all those who gave evidence, and I thank the convener and members of the Justice Committee for their detailed scrutiny of the bill at stage 1. In particular, I thank the survivors who have been brave enough to come forward and share their experiences. Many survivors have campaigned for this change in the law for many years and I thank them for their bravery and persistence. Without them, we would not be here today.

I welcome the Justice Committee's support for the general principles of the bill. I am pleased to see that the committee recognises the importance of widening access to justice and removing a barrier that has proved insurmountable for so many survivors. The committee has highlighted some key issues that I will seek to address in the debate.

As some members will be aware, the bill was introduced in response to a recommendation by the Scottish Human Rights Commission. Through the SHRC's work in the interaction process, which is a facilitated negotiation within a human rights framework, and its subsequent "Action Plan on Justice for Victims of Historic Abuse of Children in Care", it brought to light the clear difficulties that survivors currently face in trying to access the civil justice system. The SHRC's work, along with evidence from a range of other sources, demonstrates that the three-year limitation period is a barrier that most survivors have found impossible to overcome.

That is why I am here today. The bill is about access to justice. It is about acknowledging the unique position of survivors of childhood abuse, in addition to recognising the abhorrent nature of the abuse, the vulnerability of the child at the time and the profound impact of such abuse, which lasts well into adulthood.

The bill removes the three-year limitation period for cases of childhood abuse and does so for rights of action arising before or after the bill comes into force. Moreover, the bill allows cases that have been raised previously, but which were unsuccessful precisely because of the limitation period, to be relitigated. The bill is a significant step for survivors of childhood abuse, as it recognises their unique position and the barriers that they have faced in the past.

As I have been keen to point out, the bill is about striking a balance. At every step in the process of developing the policy and drafting the bill, important judgments have had to be made about where the balance should be struck. That has included careful consideration of the implications of the European convention on human rights and striking a balance between being inclusive and, at the same time, avoiding unintended consequences.

On the definition of abuse, I have listened carefully to the evidence that has been presented to the Justice Committee and I have noted the committee's recommendations. The bill goes further than other jurisdictions by including sexual, physical and emotional abuse, while similar legislation elsewhere has been limited to sexual abuse only or has included only emotional abuse that is connected to other forms of abuse.

I have noted the committee's concern about the uncertainty around emotional abuse. Although it may be more challenging to define and prove emotional abuse, that does not make the impact of such abuse any less fundamental or its consequences any less severe. We are concerned with abuse that seriously damages a child's emotional health and development.

It will ultimately be for the court to decide whether a case presented to it involves emotional abuse. Providing any further definition on the face of the bill might prove to be misleading or exclusionary. I agree with the Scottish Human Rights Commission that the Scottish courts are well placed to assess on a case-by-case basis whether a case meets the relevant threshold to constitute abuse.

I have also considered the evidence that was put to the Justice Committee about the different forms that abuse can take and how that might influence the bill's definition of abuse. I am keen to ensure that the bill is confined to truly abusive behaviour, avoiding unintended consequences such as satellite litigation testing and pushing its boundaries. It is also important to point out that for forms of abuse not mentioned in the bill, the definition is inclusive rather than exhaustive and that the court is well placed to make appropriate judgments based on the evidence. I have, however, reflected on the evidence to the committee and its recommendation in relation to abuse that takes the form of neglect, and I will be giving that issue further careful consideration.

The bill seeks to insert proposed new section 17C into the Prescription and Limitation (Scotland) Act 1973. It provides that cases that were previously raised but were unsuccessful because of the time bar can be relitigated, regardless of whether they were determined by the court or settled between the parties without damages being paid, including where there is a decree of absolvitor. I recognise that that is a unique step, but it is being taken because the position of childhood abuse survivors is unique. The context of childhood abuse, the particular impact that it has on survivors and the fact that limitation periods have in the past operated so as to frustrate access to justice for survivors provide the necessary special justification.

If decrees of absolvitor were not included in the bill, a large number of survivors who previously raised cases—often cases that were sisted behind a lead case awaiting the outcome of that case—would not benefit from the bill. Those survivors agreed to the disposal of their cases because of the limitation period and it would be fundamentally unfair to treat those cases differently from cases that happened to be the lead case and that were therefore disposed of by the court, by decree of dismissal, on the basis of those same limitation grounds.

Liam McArthur (Orkney Islands) (LD): I very much understand the rationale for including decrees of absolvitor in the scope of the bill, but I am struggling to understand how that does not necessarily set a precedent that has the potential to be dangerous in other areas of the law.

Annabelle Ewing: What I have tried to stress at the outset today and, indeed, in committee is that the bill was drafted further to very careful consideration of striking the right balance in both reflecting the unique set of circumstances pertaining to survivors of childhood abuse and, of course, respecting laws that are otherwise applicable, including the ECHR. Having conducted that careful consideration, I do not share the member's concern about there being any wider application. The way in which the bill has been drafted clearly sets forth the special justification requirement that has to be adduced in order to displace certain elements that would otherwise be applicable. Having carefully considered the matter, I can assure the member that I am satisfied that the bill's provisions are ECHR compatible.

I have listened with interest to the evidence presented to the Justice Committee in relation to previously raised cases. The committee has noted concerns about the bill's provisions that prevent actions from being reraised where there was a financial award that went beyond simple reimbursement of expenses. Those provisions are based on the policy that only actions that previously failed on time bar should be allowed to be reraised, thus reflecting the balance that I explained to Mr McArthur a moment ago. If a survivor received financial compensation from the previous action, the link to failure due to time bar is not there.

As I said, the bill is about striking a balance, and the issue of previously raised cases is one of the issues where special care has to be taken. The bill already goes further than other jurisdictions that have implemented similar legislation. Those other jurisdictions either do not allow relitigation at all or restrict relitigation to cases determined by the court. I noted earlier the Justice Committee's concern about including the decree of absolvitor in the bill and whether doing so would be ECHR compatible. However, the suggestion mooted by the committee of off-setting any compensation previously paid against any new compensation that would be awarded would take the ECHR concerns to a whole new level and would significantly tip the balance away from the special justification and proportionality that are required in respect of potential interference with ECHR, in particular article 1 of protocol 1.

I have also noted concerns with regard to potential difficulties in establishing the terms of the settlement. As I said in my evidence to the committee, a pursuer seeking to rely on section 17C would have the burden of proving that the circumstances of their case fell within its terms unless that fact was admitted by the defender. Proving that the case is covered by section 17C will involve the pursuer leading evidence to that effect, which could involve a statement of their own understanding of what previously took place. It could also include records that the court holds, or the pursuer could call on the defender to disclose any formal documentation to which the defender had access. I will reflect on what, if anything, can be clarified in the explanatory notes.

The committee has also noted some concerns about proposed new section 17D of the 1973 act, which will ensure that actions to which the bill applies will be able to proceed only if the defender's convention rights would not be breached as a consequence. Although it is clear that, even without the section, such actions would not be able to proceed, section 17D ensures that there is a mechanism for those issues to be dealt with and it sets out the test that the court is to apply. Those provisions make it clear that, as a legislature, we do not expect every single case to proceed just because it falls within the new section 17A, and we recognise that there will be cases where issues of fairness and prejudice will have to be carefully assessed. That is important, especially in the context of the unusual steps that we are taking in the bill. Without section 17D, it might appear as if the legislature assumed that all

cases should go ahead regardless of ECHR concerns. Removing that section could therefore result in a challenge to the bill, which would have an impact on all potential cases, with the result that survivors would be deprived of the benefit of the bill while that challenge was resolved.

Section 17D is another difficult area that has required careful reflection on where the balance should be struck. Although I sympathise with calls for more clarity—it is, after all, a very difficult and complex area of law—it is important to keep in mind the point that each case must be considered on its own facts and circumstances. It is clear that what is relevant in one case could be completely irrelevant in another. Although it is impossible to predict what will be important in each case, factors that the courts might consider to cause prejudice to the defender include the diminution of the quality and availability of evidence, or the defender's affairs or resources having been arranged in reliance on the disposal of an earlier case. However, it must remain a task of the court to assess whether or not those or other factors would give rise to the defender being substantially prejudiced in all the circumstances of the case and whether, having had regard to the pursuer's interest, the prejudice is such that the action cannot proceed. I am, however, keen to avoid a checklist approach to those complex issues. My concern is that more guidance in the legislation, such as a list of factors, could unhelpfully constrain the court's considerations.

In conclusion, I thank the Justice Committee once again for its detailed scrutiny of the bill and for its support of the general principles. This bill is about access to justice and about recognising the unique position of survivors of childhood abuse and the barriers that they currently face. That unique position means that the current limitation regime acts as an impossible barrier for most survivors. It requires the survivors to explain to the court why they have not raised an action earlier, a task that has proved extremely challenging and traumatic for many survivors. It is clear that the current limitation regime has created an in-built resistance to allowing historical claims to proceed. The bill recognises that that inbuilt resistance is not appropriate for cases of childhood abuse because, by the very nature of those cases, it is likely to take years—often decades—before a survivor is in a position to come forward.

When meeting survivors, I have been struck by their dedication, their bravery and their determination to keep fighting for the acknowledgment and recognition that they deserve, and for justice. I hope that all members will join me today in supporting the general principles of the bill, which gives them that recognition.

I move,

That the Parliament agrees to the general principles of the Limitation (Childhood Abuse) (Scotland) Bill.

The Deputy Presiding Officer: I call Margaret Mitchell to speak on behalf of the Justice Committee.

15:14

Margaret Mitchell (Central Scotland) (Con): It is a pleasure to speak in the stage 1 debate on the Limitation (Childhood Abuse) (Scotland) Bill and, on behalf of the Justice Committee, to thank the various witnesses who took the time to provide evidence to the committee. My grateful thanks are also due to the clerks and the committee members for their hard work in producing the report.

In particular, I pay tribute to those survivors of childhood abuse who were willing to share their views with the committee, either in private or during our formal evidence sessions. Their contributions have been invaluable in shaping our thinking on the bill, and we fully recognise the immense courage that it took to appear before the committee.

Childhood abuse, in whichever form it takes, is abhorrent. The committee heard that being the subject of childhood abuse can have a silencing effect. Shame, guilt and fear, as well as the stigma associated with abuse, can prevent survivors from disclosing the abuse until many years after the event. In addition, because abusers are often figures of authority, survivors are frequently left with feelings of fear or mistrust towards authorities, which in turn means that it may be a considerable number of years before survivors feel able to disclose or to take action—if they can ever feel able to do so. Despite that, current civil law fails to recognise why there can be delays in reporting, and survivors are expected to make a claim by their 19th birthday.

The courts have typically not accepted explanations for delay based on the shame, fear and psychological difficulties that can result from childhood abuse. Although the current law provides judges with the discretion to allow a case to proceed even if it is brought outwith the three-year limitation period, that discretion has virtually never been used. In more than 40 years, just one reported case relating to historical childhood abuse has been allowed to proceed. In view of that, the committee considers that survivors have been let down by the justice system and have been denied the opportunity to have their voice heard.

The bill removes the limitation period, which is also known as the time bar, for civil claims relating to childhood abuse. The committee heard powerful evidence that the time bar has created an

insurmountable barrier to access to justice in the civil courts. Survivors of such abuse should be able to bring a civil claim for damages if they wish to do so. The committee is therefore unanimous in its support for the bill, which gives survivors a voice and, crucially, removes a barrier to accessing justice. Furthermore, given the nature of childhood abuse, the committee considers the retrospective effect to be both necessary and justified.

Pursuing a civil action will not be the right solution for all survivors, and in that respect the bill is not a panacea. In fact, the committee heard that the court process could sometimes do more harm than good. However, it is extremely important to recognise that, as one survivor told the committee,

"The significance of the bill is that, at long last, survivors will have the choice."—[*Official Report*, *Justice Committee*, 21 February 2017; c 5.]

That said, support must be available to survivors to take that choice. The committee whole-heartedly agrees with the minister that without such support, the bill will be an "empty gesture".

If a survivor does not decide to pursue civil action, there are other options open to them, including through the Scottish childhood abuse inquiry and under the Apologies (Scotland) Act 2016.

I turn to other provisions. The bill does not remove the time bar for survivors who were abused before 1964. That is because their substantive right to claim compensation will have been extinguished entirely by the law of prescription. To revive those rights in the bill would involve imposing legal liability anew where none had existed for more than 30 years. The committee is persuaded by the Scottish Government's argument that that approach would raise serious human rights implications, and it urges the Government to consider what other options for redress could be made available in pre-1964 cases.

The bill defines "abuse" as including physical, sexual and emotional abuse, and, overall, the committee agreed with that definition. However, members heard strong support, particularly from the Scottish Human Rights Commission, for explicitly including "neglect" within the definition. The committee considers that that would be consistent with other domestic and international law, including the United Nations Convention on the Rights of the Child and the Scottish Government's own national guidance for child protection in Scotland, which clearly documents that abuse and neglect are forms of maltreatment.

More complex provisions include proposed new section 17C of the Prescription and Limitation (Scotland) Act 1973, which allows certain previously raised cases to be reraised, including those disposed of by a decree of absolvitor. That, in turn, has proportionality and human rights implications, in particular in relation to a person's right to a fair trial and their right to peaceful enjoyment of their possessions. A decree of absolvitor is a final judgment of the court in favour of the defender and usually prevents the same issue from being litigated again. The committee understands that there is no precedent for legislating away decrees of absolvitor, as provided for in the bill, and that section 17C therefore raises issues about legal certainty. Furthermore, it was the view of some witnesses that that approach undermines fundamental principles of Scots law and could breach convention rights.

Proposed new section 17D of the 1973 act provides safeguards for defenders. The committee's report raises a number of concerns about the provisions in that section, which I hope other members will refer to in more detail. Suffice it to say that the minister told the committee that the bill is all about striking balances, and the committee recognises that to be the case. Notwithstanding the minister's opening comments, it has, therefore, asked the Government to look again at those provisions to ensure that the right balance is struck.

Finally, a vitally important issue raised during the committee's scrutiny concerned the bill's financial and resource implications. The committee heard that those could result in significant costs for bodies such as local authorities and charities. The financial memorandum does not attempt to quantify those costs. While the committee recognises the difficulties in doing that, it considers that the financial memorandum does not fully reflect the fact that those costs go beyond any compensation to be paid. There may be, for example, a significant administrative burden in responding to information requests from people who are considering making a claim. The committee's report therefore highlights the potential negative impact of the bill's financial and resource implications on the provision of current services. That includes the potential adverse effect of the provisions on support services. In the words of one witness, it would be "illogical" for the bill to adversely affect the vital support provided today to children who have been abused or who are at risk of being abused. The committee has, therefore, called on the Government to ensure that the bill is properly resourced.

The committee supports the removal of the limitation period for childhood abuse claims and fully endorses the general principles of the bill.

15:23

Douglas Ross (Highlands and Islands) (Con): Scottish Conservatives support the bill and its aims. Like the convener, I put on record my thanks, as a member of the Justice Committee, to the clerks and the Scottish Parliament information centre for their work during our stage 1 considerations. I acknowledge the sensitive and constructive way in which Margaret Mitchell chaired our meetings and the evidence sessions that looked at such an emotive and personal issue.

Above all, like the minister and the convener, I pay tribute to everyone who gave evidence and responded to the committee's call for evidence. The bravery shown by the witnesses who had been victims of childhood abuse highlighted their resolve that a change in the law is required.

As a committee, we heard powerful evidence that the current limitation regime has created a significant barrier to access to justice for survivors of childhood abuse. Although section 19A of the Prescription and Limitation (Scotland) Act 1973 allows the courts to ignore the time bar where it seems "equitable to do so", the fact that the courts have used that discretion only once since the 1973 act was passed more than four decades ago means that a change is needed.

We know that victims often do not come forward with compensation claims until many years or decades after their abuse. It is wrong that the limitation period should prevent victims from seeking that course of redress. Tonight, the Parliament, by approving the stage 1 report, can start the process of correcting that wrong.

Although there is support from the committee for the bill, it noted in its unanimously agreed report concerns that I hope the Government will continue to monitor and address.

I have read the minister's response to the committee report and have concerns that legitimate issues that we raised have so far received only a superficial response from the Government.

An example concerns the Scottish Government's financial memorandum, which is based on a figure of 2,200 cases that could be brought forward initially following the passage of the legislation. The Government's response to our report maintains that position, despite several witnesses questioning that figure and the committee noting at paragraph 222 that the

"2,200 figure could be a significant underestimate."

Police Scotland argued that there is value in "further scoping" the methodology that is used in the financial memorandum and considered the 2,200 figure to be a "conservative estimate". Further, Harry Aitken of Former Boys and Girls Abused in Quarriers Homes highlighted to the committee that one firm of solicitors previously had 1,000 survivors prepared to raise an action, but that it had not been able to proceed following a test case relating to the time bar.

It is paramount that survivors who have previously been unable to raise a civil action due to the time bar are not then left frustrated and disappointed with the legislation because the Scottish Government has not adequately projected the number of cases that could be brought forward. The Government must put in place the necessary resources to support that possible increase in actions.

To stay with finance, I put on record my concern about the Finance and Constitution Committee's scrutiny of the bill—I note that the convener of that committee is in the chamber. At paragraph 37 of our report, we note that the Finance and Constitution Committee received responses to its call for evidence on the financial memorandum but then agreed that it would give no further consideration to the financial memorandum. I understand that that has not been the practice in the past and I would be keen to understand why the Finance and Constitution Committee took that approach when many others have raised issues about the financial implications of the bill.

Another concern that was shared by some witnesses concerned the capacity of the court system. It is important that people who have waited for many years to raise an action are not discouraged by lengthy and potentially avoidable delays. On page 10 of her response to the committee report, Annabelle Ewing said that she expected

"that the actions raised as a result of the Bill will be spread over a number of years".

However, I would suggest that there is a compelling argument that many people who have waited several decades for a genuine opportunity to raise an action will want to do so very soon after the bill becomes law. That issue must be fully considered by the Scottish Government.

The final issue that I want to raise is the recommendation at paragraph 245 of the committee's report, which the convener just alluded to and which members of all parties agreed to. It says:

"It is important that the Bill is properly resourced to ensure both that its policy intent is achieved and to prevent any negative impact on the provision of current services by local authorities."

That recommendation is far stronger than the response that I got from the minister at committee when I asked whether the Scottish Government was addressing the issues that the Convention of

Scottish Local Authorities had raised about resourcing investigations of claims and potential financial awards. The minister responded that the Government were "in conversation with COSLA" and said:

"We have to see what happens."—[*Official Report, Justice Committee,* 14 March 2017; c 25.]

The committee says that the Government must resource the bill and that local authorities must not have to cut services to pay for historical offences. We need the Scottish Government to accept that recommendation and tell us how it will achieve that.

As the Justice Committee's report states, the bill is no panacea: it will not be a solution for everyone. However, there can be no doubt that, from the point of view of the witnesses—witnesses whom I felt privileged to listen to—the bill is an important step forward for many in terms of their ability to access justice.

It is our duty as a Parliament to ensure that the bill meets the aspirations of the people who have suffered childhood abuse. Having waited so long for this opportunity, it is incumbent on each and every one of us to give the victims the best legislation and ensure that we give survivors the voice that they have been denied for so long.

15:29

Claire Baker (Mid Scotland and Fife) (Lab): The bill is narrowly defined, but important. The issue that it seeks to address has been recognised as an injustice for a number of years. Child abuse—sexual, physical and emotional—has a lasting and damaging impact on the person's life; we are aware of the risks and vulnerabilities that they must face in creating safe, secure and happy lives for themselves. The civil justice system is a part of that process that some survivors want to access, so the bill will make that possible. The report acknowledges that although the bill is not a panacea and will not be the right path for everyone, it will provide choice.

I was struck by the committee's thanks to the survivors who presented evidence to it, recognising their courage in sharing their experiences. We should all recognise that the legislation is being introduced in order to provide options for people who have suffered a traumatic and damaging childhood and adolescence. The bill is limited in what it can achieve in that it provides a date beyond which claims cannot proceed. Although the bill will extend access to justice, it is not a path that all survivors will wish to take. Nevertheless, it increases the options for people to have their voices heard and acknowledged.

Some evidence questions the necessity of the bill and highlights the fact that section 19A of the Prescription and Limitation (Scotland) Act 1973 gives courts discretion to waive the time limit. There has also been debate about whether the bill will undermine legal certainty, about whether it will create an exemption that will set a precedent, and about the quality of evidence, which could be compromised by the passage of time. However, the courts' discretion has been exercised only once.

Witnesses described the barriers that survivors who seek to take legal action face, the fact that the time bar does not recognise the complexity of the nature of the abuse, which creates barriers to raising a claim, and the inconsistency with being able to pursue a criminal case for child abuse. The submission from Victim Support Scotland outlines some of the difficulties that survivors face. It states:

"It can take many years for someone to realise that what has happened to them was in fact abuse, and it is common for abusers to use silencing tactics to ensure that the abuse is kept hidden. A significant amount of time can also be required for a person to feel able to disclose their abuse ... Because abusers are often figures of authority in the victims' lives, they are regularly left with feelings of fear or mistrust towards authorities, which presents challenges in reporting the abuse or participating in court action."

The Association of Personal Injury Lawyers gave evidence and argued that

"Anyone who has looked at this matter over the years would be forced to conclude that the Scottish judiciary is an extremely conservative body and that it has operated the discretionary power in a way that has simply closed the door".—[*Official Report, Justice Committee*, 21 February 2017; c 24.]

Although the bill is welcome, it is regrettable that it has perhaps taken longer than was necessary to introduce it. The difficulty with the time bar is well documented. In 2008—nearly 10 years ago—Lord McEwan said in a judgment:

"I have an uneasy feeling that the legislation and the strict way the Courts have interpreted it has failed a generation of children who have been abused and whose attempts to seek a fair remedy have become mired in the legal system. ... The concerns I expressed ... remain with me although sitting in the Outer House there is little I can do about it except to hope that reform will not be long delayed."

I welcome the Government's having introduced the bill in this session, but I cannot help but consider the survivors who have continued to be excluded from civil action when they could have been given an earlier remedy.

The bill has been introduced in the shadow of the Scottish child abuse inquiry, which has been hugely challenging, but also problematic, and has struggled to maintain the confidence of all survivor groups. Although the bill addresses one aspect of the legacy of abuse and goes further than the

scope of the inquiry, it is imperative that the inquiry delivers accountability, answers and transparency.

Although I, along with the committee, support the broad principles of the bill, a number of areas require further clarification or debate. In recognising that the bill provides choice for survivors, there must also be recognition that bringing an action is, as has been said, a "difficult task", given all the normal practices of the legal system. The minister might want to say more about what support could be made available to survivors who bring civil actions, and about what training or specialisation there could be in the legal profession. There was also a discussion of the merits of specialist courts, which the Government could legislate for, were it to accept the case for them.

There is a further debate to be had about the definition of abuse. Although I was not convinced by the arguments opposing a non-exhaustive definition, there were persuasive arguments about expanding the categories of abuse to ensure consistency with the ECHR and international human rights law. I welcome the minister's comments in that regard this afternoon. Witnesses also raised questions about spiritual and psychological abuse, which the minister considered and thought would be covered by emotional abuse. However, a bit more certainty on that might be helpful.

There are two final issues that I wish to raise: a financial redress scheme and the accuracy of the financial memorandum. The Convention of Scottish Local Authorities, Social Work Scotland and the Society of Local Authority Lawyers and Administrators in Scotland argue the merits of a financial redress scheme. The bill will not apply to people who were abused prior to 1964, and there is no civil action available to them; I understand that a financial redress scheme could be a way to acknowledge their experience. It is also argued that that could avoid the stress and exposure that would come with the public declaration that would be needed in a civil case. Such a scheme might also acknowledge the age and the health of some complainers by ensuring that they are provided with redress while they can access it. A financial redress scheme has been described as being a way to complement the bill rather than to be an alternative to it. I urge the Government to advance work on that as soon as possible.

The committee expressed concern about the bill's financial impact and the potential number of actions that will be brought forward; it believes the estimate to be conservative. The committee also heard from COSLA and others concerns about potentially significant costs to defenders. The Government must resolve those important matters.

I imagine that there will at stage 2 be greater interrogation of the bill on retrospective application, the fair hearing test and the substantial prejudice test. It is important that we get right the legislation and that it delivers the policy objective that it aims for, which we all support. The Government will have our support in taking forward the legislation.

15:35

Rona Mackay (Strathkelvin and Bearsden) (SNP): Access to justice is fundamental to a civilised democratic society, and the Scottish system has a track record to be proud of. Consequently, the Limitation (Childhood Abuse) (Scotland) Bill that is before Parliament today is important and necessary. It will be the vehicle for access to justice for thousands of the most vulnerable and wronged people in our society—people who have been barred from justice simply because they were unable to bring a civil action within a three-year period. Three years is not long enough for survivors to garner the strength to proceed with civil actions against their abusers. They have been emotionally terrorised, stricken with fear and guilt and they simply need longer—much longer—to come to terms with what has happened to them.

In a study of sexual abuse allegations that were made by 180 survivors against the Anglican clergy in Australia, the average time from the alleged sexual abuse to a complaint being made was 25 years for males and 18 years for females. These are not court actions about neighbours fighting over a piece of land or about suing a company for damages; they are about seeking recognition and an apology for being robbed of a childhood and being sentenced to a lifetime of unimaginable emotional distress.

During the evidence-taking process, Justice Committee members heard shocking, painful and distressing accounts of the terrible abuse—sexual, physical and mental—that survivors had suffered during childhood. If it was painful for us to hear, it must have been agonising for the survivors to recount, and I cannot thank and commend highly enough those who had the bravery and courage to do so. From somewhere deep within, they found the strength to speak out about their traumatic experiences, about the cruelty that had been visited on them, often by people they trusted, and about how they were left feeling worthless and violated. They spoke out so that such vile crimes would never again be covered up. They did it to send a message to abusers that they will be caught and that justice will be done, so that future generations do not have to endure a lifetime of suffering, as they have. They did it to ensure that there is no hiding place for abusers.

As Douglas Ross and others mentioned, there have been fears that the bill will open the floodgates to people seeking compensation, which would be costly and would put extra pressure on the court system. At this stage, the numbers who would seek access to justice for historical crimes is unknown—estimates vary widely. There is simply no way of making predictions, although the Scottish Human Rights Commission considers that the vast majority of survivors will not go down the civil court justice route, and is certain that that recourse will not be suitable or desirable for everybody. Many survivors could simply not face the prospect of publicly resurrecting the horrors that they have kept locked away in a box throughout their lives; bringing that to court would not be the answer for them. For those who bring a case to court, it is clear that their expectations must be managed, in particular in claims that may be historic or partial. There must be support for claimants.

As was discussed at the committee, there may be potential to have specialist judges or courts. Ultimately, that decision is for the Lord President to make. The committee also carefully considered the definition of abuse and decided that it should be non-exhaustive and inclusive, because survivors have suffered such a wide range of abuse.

We found a common thread through most of the testimonies: most survivors would not bring a case to court for the money. Many will simply want the perpetrators to be brought to justice and an apology made for the terrible injustice and violation that they have suffered and that has blighted their lives. It is only now that they feel strong enough to seek justice.

Many survivors have been so emotionally damaged that they have been unable to forge successful careers and attain a good standard of living. Their financial potential has not been realised and they have struggled to make ends meet. However, how can we put a price on what they have suffered? We simply cannot, which is why, for most survivors, it is not about money, but about long-awaited justice.

Of all the speeches that I have written for debates in the chamber over the past year, this has been the hardest to write because it is about something that is so sensitive and personal to the people who are affected that, as someone who has never endured that suffering, I hardly feel qualified to comment on it. However, the bill will bring some light at the end of a long, dark tunnel for some survivors, so I am happy to commend its general principles to Parliament.

The Deputy Presiding Officer (Linda Fabiani): Time is a bit tight, so I would appreciate everybody doing as Ms Mackay did and coming in below time, if possible.

15:40

Jeremy Balfour (Lothian) (Con): I welcome the bill, the debate and the work that the Justice Committee has done to get the bill to this stage. As someone who is not a member of the committee, I have to say that it was fairly harrowing to read the report. I did not have to listen to their evidence directly, so I pay tribute to the people who came in and were brave enough to give the evidence that was required, and to the committee for dealing with it so sensitively.

As members are aware, the bill will create for childhood abuse cases a special regime in respect of the time limit for personal injury actions by removing the three-year time limit that exists for certain types of claims. The practical consequences will be immense. Survivors of child abuse will no longer have the difficult—in fact, almost impossible—job of persuading the courts to overrule the limitation period and will have a right to raise an action regardless of the time that has elapsed.

As we have heard already from some of my colleagues, the Conservative Party agrees that cases of childhood abuse have unique characteristics that justify a special limitation regime. Those characteristics are derived from the horrible nature of the acts, the particular vulnerability of the victims and the effects of the abuse, which continue throughout the victim's lifetime. Abuse at a time when a person is vulnerable and, perhaps, in a dependent relationship has been shown to have long-standing and severe adverse consequences. Mental health issues, incapacity, addiction, post-traumatic stress and self-harming behaviour often go hand in hand with a person's having suffered such abuse.

The witnesses who support removal of the limitation period emphasised in their evidence the impact of childhood abuse on survivors and the length of time that it could take for a survivor to be able to bring a civil action. It is common for adult survivors to suppress abuse because of shame, guilt, fear or stigma—the so-called silencing effect. Furthermore, some survivors do not know or understand that they were subjected to abuse until many years later. It is widely recognised that child abuse often causes victims to hold back from telling others until well into their adult years. Those views were echoed by many witnesses, including Police Scotland, the Law Society of Scotland and—perhaps most harrowing—the survivors of childhood abuse whose private testimonies the committee heard.

I will highlight two slight concerns on which I would be interested to hear the Government respond. The first, which was raised by the Faculty of Advocates, is that litigation is inherently stressful and might place extra strain on victims and add to their suffering and anxiety if cases do not come to proof quickly. I appreciate that that may be an issue for the Lord President to consider, but it would be helpful if Parliament sent out a message that such cases should be dealt with as quickly as possible while also going through the appropriate judicial process.

In addition, it is important that there is appropriate support and advice for victims and survivors of childhood abuse. Will there be extra funding for third sector organisations or local authorities that provide such support? We need to ensure that that is in place.

The second issue on which I would like to hear the Scottish Government's view is, perhaps, one that has not been considered. Given that we are going back decades, some organisations may face litigation because they have taken over other organisations in the meantime and if a claim is successful it might cause the current organisation real financial hardship, thereby preventing it from doing what it currently does that is positive. We have heard from Douglas Ross about that in respect of local authorities. I would be interested to know whether any protection can be given to third sector organisations that face litigation through no fault of their own, but because they have taken over other organisations.

That said, the Scottish Conservatives support the bill and its aims. I look forward to Parliament passing the bill, in due course. I hope that victims will feel that due process has been carried out.

15:46

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Like others, I welcome the bill, although I take no pleasure in the fact that we have had to come to a legislative solution to such a problem.

Some survivors that we spoke to made the point that not all of them are looking for a court solution and that there are some for whom there is no resolution. The issue is not just about institutional abuse, because the bill covers abuse by individuals perpetrated on individual children and in some cases the abuser is simply no longer around—they have died—and such closure cannot be given. I am grateful to the person in that position who came to tell their story. That was very emotional for the person concerned and for those of us who heard it because in such cases we cannot provide any way forward through legislation.

The courts are one way in which to get peace after suffering abuse. The Jersey process, which went farther back than 1964, but in very limited and different circumstances, was of interest to the committee because it provided a quicker way of dealing with some things and was perhaps a less stressful approach. There is scope for considering whether there are ways in which we can assist people through pre-action protocols and other non-court approaches. We should not yet discount such ways of helping people.

During our committee consideration I made a very brief reference to an issue that I have subsequently thought further about, which is whether there is further scope for our thinking about what is a child. A child is someone who has not reached the capacity of someone of more than 18 years old, but the description may also be held to reasonably apply to people whose calendar age is in excess of 18, but who have not got the capacity of an adult. I wonder whether there is an opportunity to ensure that we capture people of a greater age, but a more limited capacity, who have suffered exactly the same kind of abuse.

Paragraph (2) of proposed new section 17A of the Prescription and Limitation (Scotland) Act 1973 simply defines "child" as

"an individual under the age of 18."

There might be scope for looking again at that. It is not something that the committee has considered in detail, so I will understand if we cannot see how we might move forward on that.

As we discussed in the committee, the bill is structured so as to make it clear that we must look at the circumstances of the abuse in the light of the legal and practical position at the point when the abuse took place. That is, of course, a difficult issue, because it almost means that we are endorsing abuse that we would now castigate in law, in practice and in our moral code, because it might not have been so castigated at the point when the abuse took place—post-1964, which is the period that is covered by the bill. I see no resolution that would enable us properly to address that.

There is also the issue to do with cases in which a nugatory financial settlement was made—perhaps £1, although it is fair to say that there seems to be no evidence of such nugatory settlements, so perhaps that is an academic issue. On the principal point, which is that there would be risks to the bill's legitimacy as a whole if provision were made to reopen cases in which a financial settlement had been made, I think that I have ultimately been convinced—I was not initially convinced—that the bill is cast in the right way.

The bill is very simple, in that it covers two sides of paper, but the complex legal issues that it

covers are much more substantial than is suggested by the limited number of words in it.

Members mentioned the financial memorandum and the uncertainty about the number of people who are involved. I think that the minister's response to the committee was simply that there are other views, which is correct. All the views that can be expressed by various people are no more than that—views. No one actually knows.

We must rise above a rather pointless debate about numbers and say that this is a principled matter and that we wish to support people who have suffered childhood abuse. We simply have to deal with the practical effects of that when we come to them, while making proper initial provision to cover what we think is a middle-point estimate. Let us not imagine that we can keep looking at the numbers and find a magic, certain answer—I am convinced, as I think others are, that there ain't one to find. We do this as a matter of principle, not as a matter of money.

15:52

Johann Lamont (Glasgow) (Lab): I am grateful for the opportunity to participate in this debate, and I thank everyone who had a role in getting us to this stage, whether it is the ministerial team or the committee and others who contributed to what is a thorough report.

This is an important stage in the long journey of confronting the reality of child abuse, addressing the needs of those who suffered in the past and reaffirming our wish to do all that we can to eradicate child abuse, protect young people and secure justice for all those who have been abused in the past.

In recognising progress, we should of course be alive to the continuing hurt of those who remain excluded because the abuse happened before 1964. We should also salute the survivors—some are in the public gallery today—who, despite the trauma of their experience, have spoken up and spoken out, giving voice to those who were silenced in the past and demanding justice for the past and action to protect those who might be at risk, right now and in future.

This is a day on which to reflect on the progress that has been made and to resolve to continue in the search for justice, so that we bring out into the light of day a scourge of our society, which went too long without even the words to describe it, with people silenced in their suffering.

The bill reflects progress, and we should be optimistic about that. It represents a change in attitudes to and understanding of the causes and consequences of child sexual abuse. We know that for survivors of abuse, their experience was one of not being heard or believed. That was all too common. The experience was compounded by the reality that justice was not possible, because of a time bar—a rule that seemed to have been wilfully designed to reinforce the message that people had experienced all too often as children, which was that their abuse did not count. The time bar reinforced the message that their experiences were disregarded, and it silenced them, without any recognition that people were often silenced into adulthood by a suffering about which they could not talk and that had a massive impact on their health and wellbeing.

We live in times when revelations of abuse seem to emerge by the day. We hear of abuse in football, in sports clubs, by celebrities, in youth clubs and in churches. We see the progress, stumbling as it is, of the national inquiry into child abuse, which is revealing evidence of the absolute betrayal of young people, who were abused while in the care of the state. They were brought in to be protected and were abused more. We also hear of young people being abused as they were educated.

Some say that they are shocked by what has been reported about football, but the truth is that, as survivors will tell us, although the individual experience that people report of their abuse is shocking, it is ultimately not surprising. That is because abuse is defined not by category or location but by the opportunity for abusers to abuse—to use their power against those without power. That is why active child protection measures are of such importance wherever our young people are. It is particularly welcome that the Government has recognised that in the bill and has provided rights for all survivors of abuse.

We should take the opportunity to reflect on how we tackle child abuse. The development of the strategy on domestic abuse and violence against women more broadly was underpinned by the three Ps of prevention, provision and protection. I ask the minister to confirm that the Scottish Government will commit to taking that approach to child abuse. It is essential that work on prevention is given a high priority and that we educate our young people and adults to be vigilant so that they know that it can happen and can find a way of speaking out if it does. Of course, that preventative work needs investment.

It is also essential that there is effective provision for survivors of abuse and an awareness of how that trauma is experienced and can be tackled. I urge the Government to resist the temptation to see support in only medical terms and to give proper recognition to the groups and organisations with a proven record in providing support that is shaped by the needs and wishes of survivors. The solutions are not only clinical—

there are solutions that have been developed over time alongside survivors, and they must not be lost to us.

We recognise the steps that are taken through the bill to protect young people from abuse in future by giving a strong message that such abuse is a crime and that there will be criminal and civil remedies. The bill and the Parliament's concentration on the issue send a powerful message that child abuse is unacceptable. They speak powerfully to the importance of protecting people by creating an understanding that there are consequences for those who seek to perpetrate abuse.

I urge the Scottish Government to work with survivors and to recognise their achievements and the progress that they have already secured, no matter how difficult that has been. I ask the Government to work with the cross-party group on adult survivors of childhood sexual abuse, whose campaigning work brought about the first successful survivor strategy and a focus on this important issue. We would welcome a commitment to an effective survivor strategy with a ministerial focus on that work.

We should acknowledge that the journey continues to be difficult. In the film "Hidden in Silence", which was screened last night in the Parliament, a survivor of abuse said—I apologise if I paraphrase—"I do not see myself as a victim. If I say I am a victim, I continue to blame myself. I am a survivor who wants to move on with my life." The bill seeks to support survivors in getting on with their lives, certain that they are being heard and with their right to justice confirmed. I am grateful to the Government for introducing the bill, and I welcome the work that will be done to support the needs of survivors as the bill continues its progress. [*Applause*.]

The Deputy Presiding Officer: I ask those in the public gallery not to show pleasure or otherwise while they are sitting there. Thank you.

15:59

Mairi Evans (Angus North and Mearns) (SNP): The Limitation (Childhood Abuse) (Scotland) Bill is a strong and necessary step towards achieving justice for the survivors of child abuse in Scotland. I agree with Johann Lamont's point about our use of language such as "victim" and "survivor".

I will demonstrate why the removal of the limitation period, or the time bar, in civil action cases relating to child abuse is a vital step and what the bill needs to include.

I echo what we have heard from members across the chamber: the current law does not recognise the innumerable reasons why someone might not come forward about childhood abuse by the age of 19. In its evidence to the committee, Victim Support Scotland outlined some of the reasons why survivors might not come forward. It takes some people years to realise that their experiences were abuse and many will not yet have come to terms with it.

To keep their victims from talking about what happened, abusers use silencing tactics that are effective years into the future, even when that person is no longer under the direct influence of the abuser. Shame, fear of authority and the stigma associated with the events are all reasons why a survivor of childhood abuse might not come forward and take civil action in the current period of limitation.

The limitation period punishes those who have survived such trauma by, in effect, not allowing them the time to come to terms with what they experienced. The committee heard direct evidence of that when we met a survivor of childhood abuse who shared her harrowing experience with us. She spent most of her early life in foster care and had been systematically abused by her own family, her foster family, in a children's home and by a professional who worked with children. She carried with her a constant guilt and started the incredibly long journey towards addressing what had happened to her only years later when she sought help for depression. She spoke to a health professional who identified the potential cause of the feelings that she was experiencing. Her brother who had been in care with her had committed suicide, which she said might not have happened if he had known that this remedy was coming along. In a note to the committee she wrote:

"Abuse of power is a mental trap for the victim. It can take many years if not a lifetime to find our true being."

That is why the bill is vital.

The current law allows courts to use discretion and permit a case to proceed even if it would normally be limited. However, that discretionary ability has been used only once in the 44 years since the law was enacted in 1973. The Government's policy memorandum notes that the way in which judges have used that discretionary ability has created an "insurmountable barrier" to justice for victims of childhood abuse.

A number of organisations commented on that in their written and oral evidence to the committee. The Scottish Human Rights Commission highlighted a judgment that said:

"the legislation and the strict way the courts have interpreted it has failed a generation of children who've been abused".

There has been no cognisance or understanding of the legitimate reasons why some cases simply could not have been brought within three years.

There is no confidence in the use of discretion, which has been borne out in the number of cases presented since 1973. The bill is essential to give survivors the confidence to bring cases forward.

One area of the committee's report that I hope that the Government will take into consideration concerns what constitutes abuse and how broad or restrictive the definition should be. I will focus specifically on the inclusion of neglect. As the bill is drafted, childhood abuse covers sexual abuse, physical abuse and emotional abuse, with neglect omitted on the ground that it could

"become problematic by broadening the scope [of the bill] beyond what was intended."

The Government noted that some types of neglect could equal abuse and argued that it would fall under the label of emotional abuse. Although I fully agree that we should not attempt to create an exhaustive list of actions that could constitute abuse, I think that neglect is a category of abuse that is separate from the current definition.

During one of our evidence sessions the representative from the Scottish Human Rights Commission strongly encouraged the explicit addition of neglect in the definition of abuse to bring the bill into line with international human rights standards, which clearly list neglect as a separate category. The inclusion of neglect in the definition would not change the substantive law regarding the proof that is required by the victim or pursuer to win the case but, as COSLA also noted, it could give more certainty to victims of an abusive form of neglect who wish to come forward. I urge the Scottish Government to consider including neglect in the definition of abuse. Neglect can manifest itself differently from a form of emotional abuse, and not explicitly including it could add more doubt to victims who are struggling to come to terms with what they went through.

Disposing of the limitations on childhood abuse civil cases is a huge step to help the generations of survivors of childhood abuse on their journey to recovery, justice and, perhaps for some, a form of closure. I commend the Scottish Government for taking that step and for introducing the legislation.

The bill has the general support of the Justice Committee, of a number of key organisations and, most important, of the survivors whom it will most affect. The bill will not be able to right all the wrongs for those who suffered childhood abuse and it certainly will not be the answer for everyone. From here on in, it is vital that survivors receive the support that they need if they are looking to take forward an action, and that the survivors of abuse that took place prior to 1964—currently inhibited by the law of prescription—are also provided with adequate paths to justice.

16:06

Liam McArthur (Orkney Islands) (LD): I start with an apology to the Presiding Officer, the minister and MSP colleagues as I need to catch a flight back to Orkney this evening and will be unable to stay to the conclusion of the debate.

I confirm that Scottish Liberal Democrats strongly support and will vote in favour of the general principles of the bill. Having consistently, with others, made the case for such a measure, we warmly welcome the Government's decision to introduce that very short, but crucially important, piece of legislation.

The bill does not stand in isolation and the Scottish Human Rights Commission was right to remind us how it fits in a wider context of efforts to ensure that survivors of historical childhood abuse have access to justice and effective remedies, including through the Apologies (Scotland) Act 2016, the national inquiry and the survivor support fund. Nevertheless, the bill represents an important milestone, which will have practical and symbolic significance.

Before touching on the detail of the bill and some of the areas in which improvements are still needed, I thank committee colleagues, clerks, SPICe and all those who gave evidence to our committee. It is not an easy or comfortable issue to address, but we were fortunate in the candour and sensitivity with which the evidence was presented. Much of it was compelling but, without doubt, the evidence that hit home the hardest was that from survivors. As others have done, I offer special thanks to them for showing the strength and courage to share their experience and insights, and to say what the bill means to them.

In the company of a survivor, it does not take long to understand very clearly why the changes to the law are essential. It is estimated to take, on average, 22 years for a survivor of childhood abuse to be in a position to feel able to talk openly about what they have suffered and, for some, that point never arrives. That silencing effect goes to the heart of why a new approach is needed.

The courts already have discretion to set aside legal limitations in such cases, but in practice—as we heard repeatedly in committee and again this afternoon—that discretion has scarcely been used. Therefore, the bill offers greater clarity and certainty to those who take the difficult step of bringing a civil case about what they can expect. As the committee concluded, simply providing

further guidance to the courts on how discretion should be applied would not achieve that.

Taking forward a civil action is not an easy option. The testimony that we heard in public and in private sessions underscored the imperative for ensuring that survivors have access to the widest possible support and advice. I am pleased that the minister recognised that in her written response to the committee, although—as Claire Baker said—it would be helpful to have a bit more detail about the type of support that is likely to be available.

Definitions were another issue that was considered by the committee. I very much welcome the decision to broaden the scope of the bill to cover not only those who suffered abuse in a care setting. Under human rights law, the vulnerability of the pursuer who was a child at the time of the abuse is the critical determining factor, not where the abuse took place. Also helpful is the fact that the definition of abuse has been expanded to include not just physical and sexual, but emotional abuse. Like Mairi Evans, I think that the bill needs to go further still to bring it into line with international human rights law standards with an explicit reference to neglect.

Clearly, the retrospective application of the legislation is fundamental to the bill achieving its objectives. By and large, I think that the right balance has been struck, including the difficult decision not to overturn the substantive law of prescription. However, as I said to the minister earlier, I have some misgivings about permitting cases disposed of by decree of absolvitor to be reraised. I entirely accept and support that we must ensure fair treatment for those who have tried to bring actions in the past, but who were time barred. In cases disposed of by decree of dismissal that seems relatively straightforward. However, by also opening up cases disposed of by decree of absolvitor, I worry that we may be setting a dangerous precedent, albeit with the best of intentions. The minister said in a written response:

"Given the uniqueness of this category, it will not set a precedent for future categories of claims."

The basis on which such an assertion can be made is difficult for me to understand.

Finally, let me offer a few thoughts on the financial aspects of the bill, which also raised concerns among those from whom we took evidence. In truth, as Rona Mackay rightly pointed out, no one can know for certain the number of cases that are likely to be brought, or indeed the nature and extent of the support that survivors might require in pursuing claims. Of course, some will opt not to go down a legal route, but many will. Police Scotland's evidence pointed to a number much higher than the 2,000 or so projected in the bill's financial memorandum. Meanwhile, we heard suggestions that one law firm already has 1,000 clients on its books. Knowing, as we do, the pressure that our court service and staff are already under, I feel that we should not underestimate the potential risks.

Likewise, as Jeremy Balfour reminded us, we heard evidence about the risk that some organisations that are vital to providing support and care to vulnerable young people today could themselves be liable for large claims. That, in turn, would put the services that they provide under threat. None of that is easy, nor is it an argument against the approach that is laid out in the bill. However, in addressing the failures of the past, we must guard against creating the conditions whereby they can be repeated in the future.

Let me give the final word to one of the survivors we heard from. Mr Aitken said:

"It will have a dramatic impact on the lives of ... the thousands of survivors in this country who have suffered the most terrible and horrific abuse. They are still suffering from that abuse to this day. ... As they grow older, every survivor loses resilience and resource, and the effects of the trauma that they suffered in childhood surface. ... In many cases, they end up in hospital, the criminal justice system or prison. Worst of all, there are friends of ours who have suffered so badly that they have taken their own lives."—[*Official Report, Justice Committee*, 21 February 2017; c 3-4.]

The bill may not be a panacea, but I look forward to Parliament agreeing its general principles this evening.

16:12

John Finnie (Highlands and Islands) (Green): I say at the outset that the Scottish Green Party will be supporting the general principles of the bill at decision time tonight. As a member of the Justice Committee, I, like others, convey my thanks to the many people both within and without the Parliament who have brought us to this point, with particular reference to the Scottish Human Rights Commission and the action plan that it drafted.

A lot of people have touched on points that are worthy of repetition, including the importance of the removal of the limitation period—the time bar, which generally requires that civil actions must be raised within three years. Everyone has rightly said that the policy is about improving access to justice and addressing barriers. It is fair to say that it is part of a package, in that not all barriers to justice are legal or have a legal remedy.

There has often been discussion in the chamber about how changing the law for a single category of claims can have unintended consequences. The minister addressed that at the outset by saying that it is about striking a balance, and I

think that the balance has been properly struck. The bill will have retrospective application and I hope that that will address the silencing effect, which has not been appreciated.

We know that the Scottish Government considered the wider rights aspects of the matter and had to find a special justification for bringing the bill forward. It is certainly my view that childhood sexual abuse has unique characteristics, which have been touched on by other speakers, and that those characteristics—the abhorrence of the acts, the vulnerability of the victim and the effect of the abuse—justify a special limitation regime.

Reference has also been made to some of the consequences of abuse—mental health issues, effective incapacity and post-traumatic stress. It is also important to say that all survivors are individuals and people are affected in different ways. We heard very powerful evidence about the insurmountable barrier that victims face at the moment.

We heard about section 19A of the Prescription and Limitation (Scotland) Act 1973, which provides—as other members mentioned—for discretion in overriding time limits. Under the act, the court retains the discretion to allow an action to proceed

"if it seems to it equitable to do so".

However, we have seen from the statistics that that course has never—bar one occasion—been followed. Indeed, the onus is on the pursuer to show that justice requires action to be taken. It was suggested to the committee that the judiciary has been conservative—I stress that that is with a small c—on that aspect.

I would like to touch on the private evidence that we heard. Members will understand that a large measure of confidentiality attaches itself to the process as a result of the need to respect individual privacy. The experiences that we heard about, and people's views on the bill, informed us greatly in our consideration.

I heard from the same gentleman to whom Stewart Stevenson referred; he was abused not only by individuals but in the public system by various groups. He was passed around carelessly and callously, and finally abandoned, in the system. It was a humbling experience to listen to him. I have great respect for, and I am grateful to, all the individuals who came forward to speak to us, not least because some, as we know, will not necessarily benefit from taking the route for which the bill provides.

I am always concerned about human rights, and even more so if they are extinguished. The Scottish Government stated that it had considered whether anything could be done to "revive the rights extinguished" in respect of abuse that occurred prior to 1964. The Justice Committee has asked the Government to look at other options for redress that could be made available to the group in question.

Members talked about the expectations that have been raised; the impact on the Scottish Courts and Tribunals Service, which the committee report also picked up on; and the potential adverse impact on the ability of the third sector to provide support. Again, the committee has asked the Government for input in that respect. We do not know what the numbers are, and it is not necessarily helpful to speculate.

We heard that the passage of time, and the poor quality of evidence and potentially missing evidence, could lead to unfair trials. I roundly reject that suggestion. It is certainly the case that witnesses may be dead, incapacitated or untraceable, and that key documents may have been lost or destroyed. As some of us will know from our constituency work, getting information can be a challenge. However, we know that criminal offences are not subject to any limitation period, and the passage of time has not prevented Police Scotland from doing excellent work, with support from the statutory agencies, third sector support groups and a dedicated unit in the Crown Office and Procurator Fiscal Service, to prosecute historical cases successfully. Each case is dealt with on its individual merits, but it is important to point out that a higher degree of proof—beyond all reasonable doubt—applies in criminal cases. There is a lower threshold—the balance of probabilities—for civil litigation.

In the short time that I have left, I reiterate the comments from other members on the inclusion of the term "neglect" in the definition of abuse. The use of such terminology is consistent, as we have heard, with domestic and international law and with the United Nations Convention on the Rights of the Child, which is an important factor.

I have learned the phrase "decree of absolvitor", which I had not heard before. The decree of absolvitor route is not for everyone. I also learned the phrase "legal certainty". We want to leave survivors with the certainty that their position has been recognised, and that principle may be an avenue of redress for some survivors.

16:18

Fulton MacGregor (Coatbridge and Chryston) (SNP): As a member of the Justice Committee, I support the bill, and I agree with other members that it will improve access to justice for survivors of historical childhood abuse. I thank the minister and the Government for

introducing the bill, and I thank the convener and all the members of the Justice Committee for agreeing to the general principles of the bill in such a consensual and sensitive way.

In committee, we dealt with many of the technicalities of the bill—which other members have mentioned—and scrutinised it fully. We heard evidence from a number of people. As other members said, the most powerful evidence came from the survivors, whom I cannot thank highly enough for coming to committee and giving evidence. Although there are undoubtedly some shortfalls in the bill, for me, as a social worker and a socialist, it represents our continuing progression as a nation. It represents the fact that, as a country, we treat the issue of abuse with the utmost seriousness; that we acknowledge that we got things wrong for victims in the past; that we are on the right path towards truly tackling the issue.

It is absolutely right that the time bar should be removed for these types of horrible offences. Earlier this week, the chamber engaged in a debate on the rape clause, and many members who spoke—including Kezia Dugdale, who read out a letter from a woman affected—referred to the difficulties that people have in coming forward about rape and the fact that they often stay silent about it for many years. That is also the case with the sort of offences that the bill deals with. Through my experience in social work and through speaking to people from that fabulous charity the Moira Anderson Foundation, I know that many people do not speak out about childhood abuse until they are parents. As another speaker in this debate said, it is not uncommon for social workers, health professionals and others to have a parent of a family disclose their childhood abuse for the first time, after many years, when the reason for their initial engagement is something totally different.

Last night, I, like Johann Lamont and other MSPs, viewed “Hidden in Silence”, which is a powerful film that documents the trauma of two women from an ethnic minority background who were sexually abused in their childhood. One of them chose to speak out about her abuse to authorities, but the other did not. However, both came back to the issue after many years, and the film demonstrated through the contrasting approaches the difficulties that they had faced. I thank Margaret Mitchell, the convener of the cross-party group on survivors of childhood sexual abuse, for arranging the screening. I encourage all members to view the film when they get the chance.

I believe that the bill takes the steps that are needed to ensure that access to justice is available to survivors of historical childhood abuse. It is vital that we continue to explore the measures that can ensure that survivors of historical childhood abuse have the support and means to deal with the effects of that abuse. At present, individuals are not able to bring personal injury cases to civil court after a time limit of three years, including for side effects such as post-traumatic stress disorder, anxiety and depression. Survivors currently face barriers in attempting to access the civil justice system to bring a civil action against their abusers. Although it is impossible ever to remove the damage and hurt caused by abuse—I think that everybody has recognised that—removing the time limit for cases means that those who suffered historical abuse while in care, or outwith care, can now have access to a further means of justice. They might take some comfort from that and be able to have their voices heard.

As we heard from the Justice Committee, the bill is not designed to be a solution for all survivors, but we must ensure that support for survivors is always available in varying forms. Civil action will not be for everyone, but I believe that it should still be an option and that we should have measures in place to ensure that it is accessible to those who choose that route.

I am glad that the bill is all-encompassing, regardless of where abuse takes place. That could bring in those affected by historical abuse in football, for example, to which Johann Lamont referred. Just yesterday, the local media in my area reported on the fairly high-profile case of an individual originally from my constituency who has now been convicted of sexually abusing several victims over 40 years ago. Previously, a case involving him had failed to result in prosecution in the 1970s because of a lack of evidence, but he has now been found guilty of four serious sexual offences. The individuals concerned now have further options open to them, if they wish to take them.

Does the bill go far enough? Maybe not, but it is a start and it puts us ahead of many other countries on the issue of historical childhood abuse. Should there be any reason for not passing the bill? Of course not. The bill’s purpose is to bring justice to some of those who were abused and give them a voice. I believe that we should make further provision for those who were affected pre-1964. However, as I said at the start of my speech, the bill represents more, because it is a statement from a bold and progressive Government. The bill is part of a journey, and I am confident that there will be further developments as we move forward. I am delighted that the Justice Committee has agreed to the bill’s principles and I urge all in the chamber to agree the motion in the name of the minister.

16:23

Gordon Lindhurst (Lothian) (Con): For the avoidance of doubt, I refer members to my registered interest as a practising member of the Faculty of Advocates.

I welcome the Scottish Government seeking to address the unfortunate issue of childhood abuse past, present and future. As the policy memorandum that accompanies the bill makes clear—it has already been referred to—one of the reasons for pursuing the bill is that the social taboo that has long been attached to childhood abuse has added to survivors' reluctance to come forward.

It is important that the law and the legal system should be a facilitator of and not a barrier to justice for survivors. As evidence before the Justice Committee has indicated, and as is set out in the committee's report, the limitation period can pose a particular difficulty for victims of childhood abuse. The discretion that is set out in section 19A of the Prescription and Limitation (Scotland) Act 1973 is not often exercised, and it is against that background that the new provisions for the 1973 act are proposed.

The committee's support for clarification and improvement of that law is to be welcomed. At the same time, the committee has rightly raised a number of matters that require further consideration and attention. Although they may be thought at first sight to be matters of mere detail, on closer examination it is clear that they merit greater scrutiny.

As someone who is not a member of the Justice Committee, I commend it on its thorough and thoughtful approach to the bill and on the fairly comprehensive report that it has prepared. I say "comprehensive" but I know, as a lawyer, that inevitably something will not have been covered, although every issue that arose in my mind has certainly been covered. I encourage the Government to respond to the points that are raised in the report for further consideration. Some of them have been referred to in today's debate, and I will focus on one aspect in particular.

That issue is the costs that may arise and which appear to be wholly uncertain, according to the committee's report. There are a number of aspects to consider. The Government has sought to estimate the number of survivors who may seek to raise a civil action, but the report details a number of factors that could mean that that number rises significantly. An example is the role that claims management companies or personal injury lawyers play. A larger number of claimants than expected could mean that court costs rise, especially for complex cases. It is essential to take that possibility into account at this stage, in order that any required changes are made so that the bill is effective in ensuring justice in a timely manner. Resources are key, as is a more accurate picture of the number of cases that are likely to be brought.

Jeremy Balfour raised the issue of successor organisations in the third sector. Voluntary organisations that provide essential support services in society today may find themselves having to shoulder responsibility—financial and otherwise—for the unauthorised and unacceptable actions of individuals who previously worked for or with those organisations, sometimes decades before. Such an organisation might not have had insurance at the time or might have an insurance policy that does not indemnify it against such claims, or its insurance provider might no longer exist. An organisation could face dissolution in order to meet a claim. In such circumstances, how can we ensure that essential work that the third sector does is not lost as a result of unintended consequences?

What of local authorities? How will all this further impact their ability to deliver services? They are likely to face similar issues. That question has already been raised today, and it was raised before the Justice Committee by COSLA. A number of concerns that are raised in the committee's report relate to the potential for a higher percentage of claims to be against local authorities because they provided the majority of children's services. No estimate is available at present of the costs that local authorities could face. The main insurance provider for them between 1975 and 1992 ceased operations in the 1990s. Insurance premiums that cover such matters now could rise significantly as a result of the bill.

I emphasise that those are not reasons to vote against the bill and its purposes; rather, we must ensure that the bill will not have unintended consequences that are desired by no one. It is clear that assistance must be given to all survivors so that they can assess for themselves which solution they want to follow, whether through the court process or by other means, and that the bill has support across the chamber.

I look forward to a detailed response from the Government to the areas of concern that the committee identified, particularly in relation to resolving potential unintended and undesired consequences of the bill, which I have briefly sketched.

16:29

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Like Gordon Lindhurst, I refer members to my voluntary entry in the register of

interests, in which I state that I am a non-practising member of the Law Society of Scotland.

I commend the Government for introducing an important bill. Like other members, I commend fellow members of the Justice Committee, and Margaret Mitchell for her stewardship during the bill process. The way in which the committee worked collaboratively and constructively on the bill demonstrated the strength of the Scottish Parliament's committee system when members and parties work together on matters of importance.

Like other members, I thank witnesses from organisations who gave evidence and, in particular, the survivors who gave evidence in private. The experience of taking evidence from the survivors was incredibly moving and upsetting for all of us. I was struck not only by their powerful evidence on their determination to seek justice and the harrowing experiences that they had gone through, but by the sense among the survivors to whom I spoke that the bill has already started to give important recognition to their suffering. Although we absolutely should focus on the bill's technicalities and practicalities, we should recognise that a process of justice has already begun because of the fact that the bill is being discussed here, in the Scottish Parliament.

Like all members of the committee, I welcome the bill's aim of improving access to justice for survivors of horrific historical abuse and I endorse its general principles. By removing the three-year time limit on victims of childhood abuse bringing a civil action against the abuser, we are creating not a panacea but an important choice for survivors. In the current system, as Kim Leslie of the Law Society said, it

"does not square ... that there is no such time limit for a criminal prosecution."—[*Official Report, Justice Committee,* 28 February 2017; c 9.]

An individual case cannot be prosecuted after a lengthy time when it comes to a civil matter. The bill will—rightly—address that injustice.

I will pick up on two particular points. The first concerns cases in which abuse occurred before 1964 and the other is about the definition of emotional abuse.

The Government gave serious consideration to prescription and cases in which abuse occurred before 1964, and I am glad that it did. It was clear from the oral evidence that the committee took that, in the view of witnesses, the Government had struck the right balance. The Faculty of Advocates said that there could be a "potential challenge" to the bill if prescription was sought to be extinguished. Like Margaret Mitchell and Mairi Evans, I urge the minister to address what other redress measures can be made available to those who were abused before 1964.

Many of the points about the definition of emotional abuse have been covered by other members. I support the inclusive and non-exhaustive definition of abuse. However, in oral evidence, Laura Dunlop QC, who represented the Faculty of Advocates, said:

"It is open to the courts to develop the concept of abuse—in particular, emotional abuse".—[*Official Report, Justice Committee,* 28 February 2017; c 15.]

Will the Government comment on whether guidance on the definition of emotional abuse would be useful, particularly given that the committee has asked the Government to respond to uncertainties about the term? Spiritual abuse and psychological abuse were both raised in the committee.

I support what members have said about neglect and, in the interests of time, I will not expand on that.

As members have said, it was emphasised to the committee that the bill is not a panacea, and I share that view. However, I finish by quoting Harry Aitken, who gave evidence in one of our first sessions and represented Former Boys and Girls Abused in Quarriers Homes. He said:

"The significance of the bill is that, at long last, survivors will have the choice. That element of choice has been denied to them up until now ... they will already have heard that it will be a difficult task for them to go to court. They will have to have a robust case, that case will be cross-examined and it will have to stand up to the normal practices of the legal system. However, having made that choice and found the courage to go forward, I believe that that will fortify them."—[*Official Report*, *Justice Committee*, 21 February 2017; c 5.]

We should support and pass the bill to help to fortify survivors—as Mairi Evans powerfully said—on their journey to recovery, in the interests of justice and to seek the closure that they so rightly desire.

The Deputy Presiding Officer: We now move to the closing speeches. I call Mary Fee.

16:35

Mary Fee (West Scotland) (Lab): In closing for Scottish Labour, and as our member on the Justice Committee, I thank all the individuals and organisations who assisted the committee to produce this stage 1 report on the Limitation (Childhood Abuse) (Scotland) Bill. I praise the outstanding bravery of the survivors of childhood abuse who gave the committee a very powerful insight as to why this bill is needed.

I commend everyone who has taken part in the debate for maintaining a respectful and calm atmosphere as we discuss highly sensitive and

emotive issues. Contributions from members across the chamber today indicate that this legislation is, rightly, a priority that all of us share.

The Limitation (Childhood Abuse) (Scotland) Bill will enable many survivors of childhood abuse to make the choices that they need to make, to seek appropriate reparations for the abuse that they suffered. The reasons for introducing the bill are sound and I support the Government in its aims. The Justice Committee report supports the general principles of the bill. Like the committee, I have a few reservations about some small technical details. The recommendations of the report are well researched and well thought out, and I will touch on some of them in order to raise with the Government how we can work together to find the right outcomes for survivors of childhood abuse.

The current three-year limitation period is, as we have heard, a barrier to seeking justice that the bill will overcome. That was agreed by the committee and the majority of those who presented evidence to the committee. Removing the current time bar will enable survivors to exercise their rights and bring a civil action against an offender. That may not be the right option for all survivors, as we heard in evidence sessions and in the chamber today. However, very importantly, it will give survivors further choices.

During one of our evidence sessions, Laura Dunlop QC pointed out that the process of bringing an action could, in some cases, do "more harm than good" because of the significant emotional impact of speaking about their abuse and reliving the trauma. That is why I believe that we must ensure that support is available for survivors to make the right decision.

The Scottish Human Rights Commission also highlighted that there would remain a

"necessary or significant evidential burden"

for survivors in raising this through the court and identifying the offender. In supporting survivors, we help them to make the right individual choice and, as the committee report states,

"this could help to manage survivors' expectations about what can be achieved".

The minister advised the committee that steps would be taken to ensure that support is available and, as others have raised in the chamber today, I look to the minister for further detail of that support.

On the definition of abuse and the setting, the committee rightly welcomed the decision to allow action against abusers regardless of the setting in which the abuse took place. It would have been a further injustice to survivors to create a two-tier system that prevented some from seeking redress because they had been abused in a protected place, while others were able to take action.

As we have heard, in cases in which the abuse started before 1964, Scottish Labour is happy to work with the Government and people across the chamber to find some form of restitution.

During the evidence sessions, other options were proposed. However, we would like a model that would fit not only Scotland's needs but, far more importantly, survivors' needs. The Scottish Government must work with survivors, listen to their needs and find the most suitable solution for them.

I recognise that there were mixed views on the inclusion of neglect within the definition of abuse. However, the inclusion of neglect would mean consistency with other domestic and international laws and, as argued by Detective Chief Superintendent Lesley Boal, would be a deterrent to such behaviour. I support the inclusion of neglect and welcome the commitment from the minister to consider the issue further.

On the financial implications that were highlighted by COSLA and third sector organisations, there are serious concerns that the backroom costs will impact on the resources that are available for current services. Although we wholly support the Government's aim of widening access to justice for survivors, we need more information on how the Government will deal with the financial implications. I welcome the minister's acknowledgement of the fact that there is great sympathy for local authorities, charities and third sector groups, and we look to the Scottish Government for information on how it plans to support those organisations.

We welcome this bill and praise the courage of the survivors, some of whom are in the gallery today, in contributing to the Justice Committee's report and in campaigning to end the time bar that has denied them access to justice for too long. I confirm our support for the aims and provisions of the bill.

16:41

Annie Wells (Glasgow) (Con): I thank everyone who has spoken today and I give special thanks to those who gave evidence to the Justice Committee, especially the survivors, who spoke on such sensitive and personal issues. I will start by reaffirming my support and that of my party for the bill.

Widening access to justice for survivors of historical childhood abuse is the right thing to do. The very nature of the crime means that it is absolutely right to expect that it can take survivors many years to come to terms with what they have

been through and to seek the justice that they deserve. Of course, the current law provides judges with the discretion to allow cases outwith the three-year limitation period to proceed but, as my colleague and convener of the Justice Committee, Margaret Mitchell, has stated, along with many other speakers, that discretion has virtually never been used.

We all understand the practical rationale behind the three-year time limitation on civil court claims. The longer the delay, the less concrete the evidence. The wider the window for potential legal cases, the more difficult it becomes for organisations to have the certainty and finality that is needed for day-to-day business as well as the security of knowing that there are no pending legal claims. Those are the reasons why similar time bars for personal injury claims exist in nearly all developed legal systems in the world. However, despite those practical concerns, we are unanimous that the time limitation for survivors of historical childhood abuse—whether sexual, physical or emotional—should be lifted so that survivors get the justice that they deserve.

Underpinning the bill is the unanimous recognition of the unique experiences of survivors of childhood abuse. Victim Support Scotland supports that idea, highlighting the length of time that it might take for someone to realise that they have been abused, and the silencing tactics that are used by abusers, as well as the feelings of shame, embarrassment and trauma that might prevent someone from coming forward for many years. The National Society for the Prevention of Cruelty to Children Scotland, through a piece of research involving 60 adults, found that it took a survivor an average of eight years to tell someone about their abuse. Therefore, I am pleased not only that the three-year limitation will be lifted but also that the law will be applied retrospectively, which means that the bill will apply to abuse that occurred as far back as 1964.

In line with what has been raised in the chamber today and was raised previously in the Justice Committee, there are, of course, considerations to be made as we look beyond our agreement on the bill's general principles.

Although it is undoubtedly the right and moral thing to do, the committee highlighted what it saw as a conservative estimate by the Government of the number of survivors who could come forward. My colleague Gordon Lindhurst touched on that in detail, citing the difficulty in predicting such numbers and, therefore, in identifying the cost implications.

Local authorities and third sector organisations will be affected, as we heard when COSLA came before the Justice Committee. Although they very much support the bill, concerns were raised about its financial implications for local authorities and how such costs would be met with currently identified insurance policies. Furthermore, there are practical considerations for such bodies when it comes to giving evidence. How will such organisations answer questions on behalf of a defender—perhaps an ex-employee who has either passed away or long since left?

Douglas Ross spoke about the broader impact that the bill will have on the courts' resources. What is the courts' capacity to take on a number of new cases, an estimate for which we do not have, and how do we ensure that survivors are not deterred from pursuing cases because of lengthy and potentially avoidable delays?

I would like to touch on the more human aspects of the bill. As my colleague Jeremy Balfour suggested, pursuing a civil action will not be the right solution for all survivors. At times, the court process could do more harm than good—a point that was made by many members across the chamber. Jeremy Balfour also said that we need to consider the vulnerability of survivors and the long-standing effects that go hand in hand with abuse, such as alcohol and drugs misuse. We need to make sure that there is support there for the survivors. Furthermore, what potential action could the Scottish Government take to ensure justice in cases of abuse that occurred prior to 1964?

As Margaret Mitchell highlighted, given the overall financial resource implications of the bill, we need to ensure that current support services for survivors are not adversely affected by the bill. As other members have mentioned, last night, the cross-party group on adult survivors of childhood sexual abuse screened an extremely insightful documentary on the experiences of victims of childhood abuse from the black and minority ethnic community. In such cases, in which survivors already face vast sociocultural barriers to coming forward, we would seek to reaffirm support for the existing services.

In closing for the Scottish Conservatives, I reaffirm my party's support for the bill. To rightfully acknowledge the unique case of childhood abuse victims, the three-year time limitation that is in place for civil claims should be lifted. Concerns exist over the bill's implementation but, as long as we are realistic about what those are and what measures should be put in place early on, they will be manageable.

I hope for further scrutiny in the later debates, and I very much welcome the bill at stage 1.

16:48

Annabelle Ewing: It has been a valuable and important debate, and I thank members for their

speeches. Mary Fee was absolutely right to say that the tenor of the debate has been excellent and fitting for the subject that we are addressing.

I am pleased that members share the aim of widening access to justice for survivors of childhood abuse. Ben Macpherson was absolutely right to say that the key objective of ensuring justice for that group of people, who have been through so much, should not become obscured when we discuss the bill's more technical provisions, important though those discussions are.

I am also pleased to note that there is support across the chamber for the general principles of the bill. I assure members that I have listened carefully to the points that have been raised and will give them full consideration. I will touch on some of the issues that have been referred to. If I do not have time to address them all, members should not hesitate to corner me and seek further clarification.

I am grateful to Mary Fee, Claire Baker and others for raising the issue of support for survivors. I agree that it is important that survivors be given the right support to make their decisions—whether it is a decision about whether to raise a civil action or about what support will be best.

I point out to members that, since 2017, more than £10 million has been distributed through the survivor support innovation and development fund to third sector and voluntary sector organisations. This financial year's budget for the fund is £1.8 million. Furthermore, in May 2015, we announced investment of £13.5 million over five years to expand and enhance support for survivors of in-care childhood abuse through a dedicated support fund, which was relaunched this year as the future pathways fund.

As we have heard, decisions on civil actions are complex—that point was well made by Rona Mackay—and anyone who faces such a decision needs good-quality impartial advice and guidance. We are in active discussions with the Law Society of Scotland about how best we can raise awareness among solicitors of the very particular issues that are involved in such cases, and how they can be better equipped to support survivors. We are also planning an event, in conjunction with the Law Society, that will bring together the legal profession and professionals in survivor support organisations in order to ensure mutual understanding and sharing of knowledge. We, of course, remain committed to exploring what other forms of support can be made available.

On the definition of abuse, I am grateful in particular to Mairi Evans, Liam McArthur—who has had to leave us to catch his flight to Orkney—John Finnie and others for raising the question of how abuse should be defined in the bill. It is important to keep in mind, when we look at how abuse is defined elsewhere, that each definition is designed for its own purpose, so what works best in one context may not be the best approach in another. As I mentioned in my opening speech, it is important that the definition sends the right signal while avoiding, as much as is possible, unintended consequences. I listened carefully to the evidence that was presented to the committee and to the arguments that have been made today. As I said in my opening remarks, I will carefully reflect on them.

On the estimation of numbers, I note concerns about the impact of the bill and the estimates that we have made of the number of survivors who are likely to come forward. As members will have seen, we estimate that between 400 and 4,000 survivors may come forward, with the mid-point of 2,200 being considered to be the most likely figure. I accept that this is not an exact science; we simply do not know, and that is our position. We have used a variety of methods and looked at a range of sources. It is, of course, possible that more or fewer actions than that will be raised. It is clear, at this stage, that we do not know whether the estimates will be right or wrong.

All witnesses who came to the Justice Committee's meetings accepted that the number will be difficult to predict. Nothing in the evidence indicates that there is a better estimate that should be used instead—a point that was well made by Stewart Stevenson. It may interest members to note that the Law Society says in a briefing for the debate that the likely impact of the bill has been adequately captured in the financial memorandum.

Reference was made to Police Scotland data. It is helpful to hear about the on-going work by, among others, Police Scotland. It is also important to keep in mind that the number of victims who are identified in police files is not the same as the number of survivors who will come forward to raise actions. In deciding whether to go ahead with an action, factors that will need to be considered include whether there is a solvent defender, whether there is sufficient evidence to prove the case and—perhaps key above all—whether the survivor is prepared to go through the often challenging court process. Not all cases that are identified by the police will translate into civil actions. Witnesses who gave evidence to the committee recognised the difficult task of estimating numbers and the great uncertainties involved.

On the potential impact on local authorities, third sector organisations and their insurers' finances and resources—which several members have raised this afternoon—I acknowledge that costs might go beyond the costs that are directly

associated with defending against actions. However, as we set out in the financial memorandum, it is not possible at this time to estimate what the impact will be.

The bill's general principles are supported by COSLA and many third sector organisations. I will continue my engagement with COSLA; in fact, I recently met Councillor Stephanie Primrose, who is COSLA's spokesperson for education, children and young people. We agreed that the best way forward is to continue our dialogue and that we should not rush ahead and draw conclusions before the facts of the matter are known, so we will carefully consider evidence on the impact of the bill.

Annie Wells—I think—made the point that no estimate has been made of the impact on courts. I refer her to the financial memorandum, in case she has not had time to read it, in which we provide a gross cost estimate of £280,000. [*Interruption*.]

The Deputy Presiding Officer: Excuse me, minister.

I ask members to have a bit of courtesy and be quiet. An important discussion is going on with the minister.

Annabelle Ewing: Thank you, Presiding Officer.

It is important to keep it in mind that not all people will pursue an action. That is absolutely a decision for the survivors themselves. It is important to bear in mind the fact that, if survivors decide that they want to take that route, not all the actions that are raised in court will be raised at exactly the same time or be of exactly the same length. It is also important to remember that many actions settle out of court. The Government will, of course, continue to have discussions with the Scottish Courts and Tribunals Service and the situation will be continuously reviewed.

Reference was also made to the fact that one particular law firm might have a significant number of cases. That example was raised in committee as well but, of course—[*Interruption*.]

The Deputy Presiding Officer: Excuse me again, minister.

I ask members to be courteous and quiet. Thank you.

Annabelle Ewing: Thank you, Presiding Officer.

Reference was made to a law firm having, I think, 1,000 potential cases on its books. It is important to recognise that not all those cases might be reraised. Again, that goes back to the choice of the survivor. We should not seek to usurp that choice in any way; it will be entirely a matter for each survivor to determine for themselves. Although we cannot predict exactly how many actions will be reraised, it is likely that not all cases will end up in the courts.

I will clarify again proposed new sections 17C and 17D of the 1973 act. With regard to section 17C, I return to the decree of absolvitor, which some members raised. I think that members will be surprised to find that they are becoming, as John Finnie suggested, legal experts on our civil procedure. However, it is important to recall that whether a decree of absolvitor was the most appropriate disposal for the actions would have been a matter for the parties who agreed the settlement. The fundamental point is that those cases did not receive an adjudication on their merits. For the sake of completeness, it should be noted that, in current Scots law, a decree of absolvitor is not an absolute in any event. There is the possibility of new evidence being brought forward under the res noviter procedure—albeit that that is extremely rare.

Some members, including Johann Lamont, referred to wider issues for survivors. As we have heard, raising a civil action will not be the solution for all survivors. A number of strands of activity are currently under way, including work that the centre for excellence for looked after children in Scotland—CELCIS—is doing with survivors directly on framing further engagement, and on consultation on financial redress. That work will consider the position of in-care survivors who were abused before September 1964. That process is being led by CELCIS and the interaction action plan review group, and it will fully explore issues around redress and gather a wider range of views.

I thank, once again, all the members who contributed to the debate. It has been an engaging and meaningful debate that has raised a number of important issues. I am pleased to reiterate that there is support across the chamber for the principles of the bill. That is a very important signal that Parliament can send to the survivors who have been through so much, and to whom we have paid tribute for their bravery and determination to ensure that their voices were listened to so that they could get the justice that they have been seeking.

It has been an important and useful debate. I will reflect carefully on the issues that members have raised, and I look forward to further progressing the bill.

Limitation (Childhood Abuse) (Scotland) Bill: Financial Resolution

17:00

The Presiding Officer (Ken Macintosh): The next item of business is consideration of motion S5M-03812, on the financial resolution for the Limitation (Childhood Abuse) (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Limitation (Childhood Abuse) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—[*Michael Matheson*]

Decision Time

17:00

The Presiding Officer (Ken Macintosh): There are two questions to be put as a result of today's business. The first question is, that motion S5M-05290, in the name of Annabelle Ewing, on the Limitation (Childhood Abuse) (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Limitation (Childhood Abuse) (Scotland) Bill.

The Presiding Officer: The final question is, that motion S5M-03812, in the name of Derek Mackay, on the financial resolution for the Limitation (Childhood Abuse) (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Limitation (Childhood Abuse) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.

Meeting closed at 17:00.

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