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Scottish Parliament

Thursday 21 September 2017

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

General Question Time

Carbon Capture and Storage (St Fergus)

1. **Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** To ask the Scottish Government what the timescale is for a feasibility study into developing carbon capture and storage at St Fergus. (S5O-01275)

The Minister for Business, Innovation and Energy (Paul Wheelhouse): The acorn CCS project will be officially launched in Aberdeen on 26 September 2017. The launch will signal the formal start of the feasibility stage of the project which is anticipated to last 18 months. The acorn project is managed by Pale Blue Dot, an energy transition consultancy that is based in Banchory, Aberdeenshire.

Stewart Stevenson: I welcome the Scottish Government's commitment to the St Fergus project. Does the minister share my disappointment in the United Kingdom Government's anti-carbon capture and storage inaction at St Fergus and its proactively hostile actions at Peterhead? Does that put at risk an opportunity that would not only benefit the environment, but create jobs and boost the economy across Scotland?

Paul Wheelhouse: I agree with Stewart Stevenson's assessment that the UK Government's decision to scrap the £1 billion carbon capture and storage programme, which included a strong commitment to Peterhead, is a disgrace and a lost opportunity for Scotland and the UK. Had the competition been allowed to run its course, the world's first commercial-scale gas-powered CCS plant could have been built at Peterhead and the world's attention would have been drawn to Scotland and the UK as a trailblazer in that technology. Unfortunately, the first mover advantage has been lost to some extent. Undoubtedly it would have attracted significant investment to the UK, bringing with that further opportunities for job creation and skills development, potentially positioning the UK to take its place in the supply chain for Europe of that important technology.

It is worth emphasising that the need for CCS remains. The Intergovernmental Panel on Climate Change says that it would cost 138 per cent more to achieve a 2°C climate change mitigation

scenario without carbon capture and storage. Despite the clear need for CCS, all UK Government efforts to date to bring forward the technology have failed. Given that track record of failure—in the rest of the UK as well as Scotland—it is now essential that the UK Government sets out a clear and robust policy framework, hopefully working with the Scottish Government and others who want to support the technology, in its soon-to-be-published UK clean growth plan.

Farming Industry

2. **Peter Chapman (North East Scotland) (Con):** I remind the Parliament of my entry in the register of members' interests.

To ask the Scottish Government what policies it is implementing to support the development and progression of the farming industry. (S5O-01276)

The Cabinet Secretary for Rural Economy and Connectivity (Fergus Ewing): The Scottish Government currently implements the common agricultural policy in Scotland, using the flexibilities available in the European Union regulations to deliver a CAP that best supports Scotland's farmers and crofters. Since being re-elected, the Scottish Government has developed and progressed a range of policies to help support Scotland's farming industry, including paying around £65.5 million per annum in less favoured areas scheme payments, committing £99 million to 1,417 businesses under the agri-environment and climate change scheme since the scheme opened, and introducing initiatives such as the women in agriculture taskforce.

Peter Chapman: I welcome "Ambition 2030" and its ambition to grow and double our food and drink industry by 2030. That could mean a great deal to our fantastic food and drink industry. However, the strategy does not mention a single policy providing support for profitability and the sustainability of our farmers. What is the Government doing to rebalance the food chain to ensure that the producer gets a fairer share of the consumer spend for their high-quality produce?

Fergus Ewing: Scotland's food and drink sector promotes fine Scottish farm produce and wishes to see even more success in the sales of such produce. The Scottish Government and the sector work closely together. Just yesterday I met the NFU Scotland president once again. It is a bit churlish not to recognise the good work that Scotland Food and Drink does.

As I said in last week's debate on food and drink, we want farmers to receive more credit for their excellent work. They produce fine quality food and they are the custodians of our landscape.

When I meet Mr Gove on Monday, I will tell him that the lack of clarity about continued payment

after 2019 to Scotland's hill farmers—more than 12,000 of them—could, as I explained when I met him at the Royal Highland show in June, lead to thousands of hill farmers being forced out of business, which would be a catastrophe for Scotland. I hope that, at long last, the UK Government will start to do its day job on this matter and give some absolutely clear-cut assurances, for which hill farmers, particularly those in Scotland, have been waiting for far too long.

Gail Ross (Caithness, Sutherland and Ross) (SNP): The chamber will be aware that convergence funding was earned in Scotland due to our average per-hectare rate, which brought the UK-wide average below the 90 per cent qualifying threshold. Has the Scottish Government received any guarantee from the UK Government that it plans to pass on the EU convergence uplift funding to Scotland?

Fergus Ewing: This is a very serious issue. The UK received £190 million because, and only because, Scotland's farmers receive 45 per cent of the European Union average per hectare. That money was intended for Scotland and only for Scotland's farmers, who received far less per hectare than any other farmers in the UK. Successive UK Government ministers have promised a review of that, but every single one of them has broken that pledge. When I raised the matter with Andrea Leadsom last October, she promised that she would reply quickly, but no reply has been received. Again, as members might expect, I will raise the matter with Mr Gove on Monday. That money is due to Scotland's hill farmers. It is worth around £14,000 to each hill farmer in Scotland. That money was taken by the UK Government. It is Scotland's money and we want it back.

Waverley Station (Accessibility)

3. Miles Briggs (Lothian) (Con): To ask the Scottish Government what action it is taking to improve access at Waverley station for disabled, blind and visually-impaired people. (S5O-01277)

The Minister for Transport and the Islands (Humza Yousaf): The Scottish Government continues to encourage Network Rail, which manages Waverley station, and ScotRail to work closely with the station stakeholder group that was set up to build on the access improvements achieved over recent years. I know from my meeting with the station group in March that more can be done and that is why I recently asked Network Rail to convene a further meeting of the station group to explain recent developments on a wide range of on-going issues that have a particular impact on disabled passengers. As Mr Briggs is aware, the group met on 7 September

and those involved will continue to work through the detail of any unresolved matters.

Miles Briggs: Is the minister aware of the level of anger and frustration among blind and disabled rail users and members of the city's access panel that Network Rail's planned taxi rank for New Street car park will now not go ahead? Given the importance that the minister gave to the accessible travel framework, which he launched last year, will he agree to intervene and demand that the plans to improve access for disabled and visually impaired people are developed? Will he reconsider his decision to refuse to meet me and the city access panel, which has identified urgent action points that would improve access at the station right now for vulnerable travellers?

Humza Yousaf: I recognise the involvement of Miles Briggs and many other MSPs, such as Ash Denham, in this issue, which is of paramount importance. However, I want to add some context, which Miles Briggs left out of his question. Miles Briggs will know that Network Rail, which is a reclassified body under the Department for Transport, is responsible for managing Waverley station. The reason why the New Street car park proposal is not going ahead as planned in 2017 is that the City of Edinburgh Council now says that significant remedial work to North Bridge is required and that access for it will come in through New Street. I am disappointed, just as Miles Briggs is. I understand the anger and frustration, but I am sure that he will agree that the safety of passengers is paramount. If remedial work needs to be done at North Bridge, with access via New Street, I am sure that he will agree that that is an important priority.

That is not to say that the issues and concerns that the stakeholder group and the member have are not equally important. I take some issue with Miles Briggs saying that I refused to meet him. I simply suggested that he should meet Network Rail, which manages the station, and the City of Edinburgh Council to understand a little bit more. If he wishes to meet me, I am, of course, more than happy to meet him and discuss the issue further.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Is the minister aware, as I am through my constituency mailbox, that there are difficulties for disabled passengers on the Borders railway, which terminates in one direction at Waverley station? Those difficulties are also in part due to the aged class 158 rolling stock. Will he advise me when the rolling stock on that line will provide better carriages?

Humza Yousaf: I recognise Christine Grahame's interest in the matter. She has been in contact with me previously about it. However, 26 of the fleet of 40 class 158s, which are the most

operated on the Borders route, have already been upgraded to meet the requirement for persons with reduced mobility. That includes fitting two dedicated wheelchair spaces, companion seating, call-for-aid buttons, enhanced universal access, accessible toilets, improved customer information screens and priority seating.

The entire ScotRail fleet will meet the rail vehicle access standards before 1 January 2020, as required by legislation. Class 170 rolling stock that is used in the Borders has been compliant since its introduction to Scotland in 1990. I assure Christine Grahame that plans are still in place to cascade carriages across the network to ensure that we continue to provide the most up-to-date rolling stock, and the best rolling stock that we possibly can, to the Borders and across the network to Scotland.

Daniel Johnson (Edinburgh Southern) (Lab): The changes to Waverley station have been in place for some time now and the changes to the taxi rank have had a significant impact on access for people with mobility issues. I note that, in his answer to Miles Briggs, the minister stopped short of saying that he would meet the Edinburgh access panel. Will he take the opportunity to agree to meet not just Miles Briggs but the access panel? In short, will he make himself accessible to talk about accessibility?

Humza Yousaf: That is a wonderful soundbite, but I said that I have already met the accessibility panel. I am the one who helped to facilitate and convened the meeting that Daniel Johnson did not attend but, I should say, Ash Denham and Miles Briggs did.

For the avoidance of any doubt, I would be more than happy to meet Miles Briggs and the accessibility panel. My point is one of fact and context. The station is managed by Network Rail. Alongside the City of Edinburgh Council, it has complete responsibility for the remedial works that are going on in the station. I do not have a ministerial magic wand but I will, of course, meet the access panel and meet members. However, I ask the member to realise that safety must be the priority for passengers whether or not they have accessibility issues.

Single-use Carrier Bags

4. **John Mason (Glasgow Shettleston) (SNP):** To ask the Scottish Government what estimate it has made of the proportion of retailers adhering to single-use carrier bag legislation. (S5O-01278)

The Minister for Business, Innovation and Energy (Paul Wheelhouse): Enforcement is a matter for local authorities, so the Scottish Government does not hold that information. Local

authorities will hold information on enforcement activity that is undertaken in their areas.

John Mason: Last week, I bought an article of clothing—a jersey—on the Royal Mile and was not charged for the bag. That has happened to me several times in my constituency when I have been shopping. Does the minister have any concern that there is a bit of non-adherence to the legislation?

Paul Wheelhouse: I wish Mr Mason luck with his new jersey. I hope that it is an attractive one. As I mentioned in my original answer, enforcement—not just on fashion but generally—is a matter for local authorities through trading standards services. It is carried out on an intelligence-led basis.

On a serious note, if Mr Mason—or, indeed, any member of the public—has concerns about particular retailers, he may wish to raise them with the trading standards team in Glasgow City Council. However, all the evidence that we have seen, such as that from the Marine Conservation Society beach clean, suggests that the charges are having the desired effect of cutting the overall number of bags that are being dispensed and that the environment on our beaches is greatly improved.

Maurice Golden (West Scotland) (Con): Can the minister provide an estimate of the potential impact that a charge on disposable coffee cups might have on the Scottish Government's target of a 15 per cent reduction in waste by 2025?

Paul Wheelhouse: I recognise the issue that Maurice Golden raises. The Scottish Government is aware that the use of single-use cups is a concern. We are looking to undertake work to understand the potential impact of such a measure and are constituting an expert panel to look into a range of measures that could be taken along similar lines to the carrier bag charge. That work will kick off with consideration of a charge on single-use cups such as coffee cups, which often become litter and are very difficult to dispose of and recycle. We will seek to encourage people to use reusable alternatives. I will raise Maurice Golden's point with the Cabinet Secretary for Environment, Climate Change and Land Reform and see whether we can provide further information on the potential impact of a charge.

Rail Travel (Ticketing)

5. **Stuart McMillan (Greenock and Inverclyde) (SNP):** To ask the Scottish Government what consideration it has given to implementing a European-style ticketing model for rail travel. (S5O-01279)

The Minister for Transport and the Islands (Humza Yousaf): I understand that the question

has its origins in the area of penalty fares, which are not operated in Scotland at present. ScotRail is undertaking a number of initiatives to reduce ticketless travel, including a buy before you board advertising campaign and advertising the benefits to passengers of switching to smart travel cards.

Stuart McMillan: Does the minister believe that a European-style ticketing system would aid Abellio ScotRail with revenue collection and assist with some of the antisocial behaviour that has occurred due to the many unstaffed stations on the network? Will he ask Abellio to examine the feasibility of introducing such a model?

Humza Yousaf: At the moment, there are no plans to introduce penalties for ticketless travel but, if Abellio ScotRail were to approach us about that, we could look at the feasibility of the contract variation that that would involve.

With regard to antisocial behaviour, I am working with a number of MSPs across the political parties with regard to stations in their constituencies, such as Hamilton Central and Helensburgh stations, and we are seeing a reduction in antisocial behaviour as a result of some of the actions that have been taken. If Stuart McMillan thinks that there is a particular problem at a station in his constituency, I am more than happy to meet him and to see how we can help to reduce such behaviour.

Social Housing (Edinburgh)

6. Ben Macpherson (Edinburgh Northern and Leith) (SNP): To ask the Scottish Government what action it is taking to increase social housing in Edinburgh. (S5O-01280)

The Minister for Local Government and Housing (Kevin Stewart): Today is Scottish housing day and, over this parliamentary session, the Scottish Government has allocated affordable housing supply programme funding of nearly £190 million to the city of Edinburgh, which we expect will deliver around 4,000 homes. That money is for the housing association and city council-led 21st century homes programme to deliver a range of housing in a mix of affordable tenures, focusing primarily on social rented housing, which is a key Government priority.

Ben Macpherson: I warmly welcome the action that the Scottish Government has already taken. Does the minister agree that, as Edinburgh's population expands—as it is predicted to in the coming years—the city will require a greater share of housing association grant subsidies in order to provide an adequate supply of social housing in our growing capital city?

Kevin Stewart: I am pleased that the City of Edinburgh Council is developing a long-term and ambitious new-build affordable homes programme

for the next decade. By the end of the parliamentary session, Edinburgh will receive around £16 million more than its allocation this year—a 55 per cent increase in its resources—to meet the city's housing needs, including its social housing needs. This morning, I was very pleased to see a Dunedin Canmore development in Craigmillar that is being built by CCG (Scotland), which will add another 111 homes for Edinburgh. With the affordable homes programme, open-market shared equity and a number of other Government schemes, including the national housing trust, I hope that we will continue to see growth in housing in Edinburgh.

Rural Schools

7. Joan McAlpine (South Scotland) (SNP): To ask the Scottish Government what its position is on the importance of rural schools. (S5O-01281)

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): The Scottish Government recognises that rural schools play a hugely important part in ensuring a vibrant and sustainable local community and economy in towns and villages across rural Scotland. That is why in 2014 this Government made amendments to the Schools (Consultation) (Scotland) Act 2010 to make the consultation process for school closure proposals more transparent and rigorous and strengthen the requirements relating to rural schools.

Joan McAlpine: Dumfries and Galloway Council has made proposals to close Ae, Kirkbean and Garlieston primary schools. In each case, the proposals for closure have been met with fierce resistance from parents and the local community, who see huge educational benefits from their children being in a small classroom setting, as well as community benefits from the use of the schools for other activities. Does the cabinet secretary agree with me that the council must listen to those communities and take into account the devastation that would be felt should the schools close in relation to both the education of the children and the sustainability of the villages?

John Swinney: The local authority is obliged to follow the terms of the Schools (Consultation) (Scotland) Act 2010, which requires it to undertake a statutory consultation in line with the act should it decide to pursue that approach. That includes, among other things, complying with the special arrangements that apply to rural schools and ensuring that parents and all those affected by the proposal have an opportunity to make their views known. I expect the local authority to meet its obligations under the 2010 act.

I am sure that Joan McAlpine and other members will appreciate that, given the statutory role that I have in the process, I am unable to

comment further on specific aspects of any proposals, in case that prejudices or is seen to prejudice any subsequent decision that I may have to take under the terms of the 2010 act.

The Presiding Officer (Ken Macintosh): Before we turn to First Minister's questions, members will wish to join me in welcoming to the gallery Her Excellency Tamar Beruchashvili, the ambassador of Georgia to the United Kingdom. [Applause.]

First Minister's Question Time

12:01

Named Person Scheme

1. Ruth Davidson (Edinburgh Central) (Con): Yesterday, legal experts warned the Parliament that, when teachers become named persons, they will need to have lawyers "on speed dial". With that in mind, does the First Minister have full confidence in the changes that she is making to the named person legislation?

The First Minister (Nicola Sturgeon): Yes, I do. As Ruth Davidson is aware—and, indeed, as the whole Parliament is aware—the bill that is currently before Parliament to make amendments to previous legislation in light of the Supreme Court judgment, the Children and Young People (Information Sharing) (Scotland) Bill, is currently at stage 1. Indeed, the comments that Ruth Davidson refers to were made, I understand, in stage 1 evidence to the Education and Skills Committee. The bill is designed to address concerns that were raised by the Supreme Court, while allowing the principles of the named person to proceed. It should be remembered that the Supreme Court found that the named person service was "unquestionably legitimate and benign".

We will, of course, continue to listen to all the views that are expressed in Parliament as the bill proceeds. Where a case is made for amendments at later stages of the process, that will be fully considered, as Parliament would expect.

Ruth Davidson: It is clear that some of the people who are going to have to implement the measures do not share the confidence of the First Minister. As we know, and as the First Minister has rightly said, the Government has had to change its plans, because its first attempt was struck down by the Supreme Court. The trouble is that we are now learning that there are significant problems with the proposed remedy, which is going to put professionals in an impossible position, pushing teachers and health workers into a legal minefield, with a need to weigh up complex legal arguments about whether sharing information is proportionate or not. As the Faculty of Advocates made clear yesterday, those workers could end up

"damned if you do, damned if you don't".

Does the First Minister really think that it is fair to put already overburdened teachers and health workers in that position?

The First Minister: As every member is aware, a range of different views will be expressed during

stage 1 consideration of any bill. As is our responsibility, Government listens carefully to those views and considers them as the bill proceeds through Parliament. That is the normal way in which draft legislation is taken forward.

It is important to say a number of things on the matter. The bill provides clarity and consistency by introducing a new requirement for named person service providers to consider whether sharing information could

“promote, support or safeguard the wellbeing of the child or young person.”

This part is particularly important: the bill also provides for a binding code of practice, which will ensure that appropriate safeguards are in place to protect the sharing of information. Of course, Parliament will be fully consulted on the code of practice, as on the eventual legislation.

I appreciate that Ruth Davidson is referring to comments that were made during stage 1 consideration. We listened carefully to all those comments. It is worth also looking at some of the comments that were made earlier when the Education and Skills Committee made a call for evidence. The General Medical Council in Scotland said:

“We warmly welcome the proposed move away from creating a mandatory duty to share information”.

The Royal College of General Practitioners Scotland said:

“We welcome the amended wording of the Bill”.

The Nursing and Midwifery Council said:

“We can currently see no conflict between the draft legislation proposed and our own regulatory approaches”.

The Law Society of Scotland said:

“The move from a duty to share to a power to share information”

is helpful. Those are just some of the comments that were made.

We can all quote, backwards and forwards, comments about the bill, but the Scottish Parliament has an established legislative process and the role of the committee at stage 1 is to listen to those comments. Then, the committee will publish a stage 1 report and the Government will consider that fully and whether any amendments are justified at a later stage of the bill. That is the normal process. It is the one that will be followed here and I encourage all members to take part in it.

Ruth Davidson: I hear the First Minister’s points, and I have the submissions to the committee here. However, even those who are in favour of the scheme are warning about how it will be done. The Royal College of Nursing, which

supports the principle of the scheme, has made it clear that it does not support it going ahead without the right resources being in place and worries that the whole plan could be reduced to “a tick-box exercise”.

We have a scheme that has already been barred by the Supreme Court and now we have a replacement plan that even supporters think is deeply flawed. Again I have to ask, does the First Minister think that it looks like being a success?

The First Minister: First, I will correct what Ruth Davidson said about the Supreme Court judgment, which was specifically about the information-sharing provisions and did not say that the whole scheme was illegal. In fact, a moment ago, I quoted the Supreme Court’s comments about the named person scheme overall.

Secondly, Ruth Davidson mentioned resources. Obviously those are extremely important and an additional £1.2 million is being provided to support training and development relating to the changes to information sharing—that is just one example of the resource issue.

I come back to my central point—and I suppose that I want to make it to any stakeholders who might be listening as well as to Ruth Davidson and the chamber: the reason why we have a legislative process that involves in-depth stage 1 consideration by a committee is to allow stakeholders to put forward their points of view and to argue for any changes that they think are necessary. At the end of that part of the process, the Government will give those arguments due consideration. That is the proper process and every member in the chamber has now been through the legislative process on at least one or more bills.

Changes are made to bills regularly and that is the process we require to go through. I encourage everybody to continue to contribute to the process. At the end of it, we intend to have rectified the issues highlighted by the Supreme Court and to have in place a system that has, as its central purpose—and let none of us ever lose sight of it—the greater protection of vulnerable children, which is surely one of the most important responsibilities of us all.

Ruth Davidson: I am not sure how reassured stakeholders will be by that answer. It has been clear to Conservatives for years that the named person scheme, as designed, simply will not work. However, the Scottish Government is still ploughing ahead with it.

After five years of debating the issue back and forwards, here is where we are at: a second attempt at legislation that even its supporters say is flawed; that legal experts say is confused; and

that teachers and health workers warn will be an enormous burden for them.

I ask the First Minister, in all good faith, can we not just start again with a blank sheet of paper? Everyone in the chamber wants to protect vulnerable children, but we need to do it within the law.

The First Minister: I am glad that, eventually and after all her questions, Ruth Davidson managed to mention vulnerable children, because they are at the centre of all this.

I will try to deal with this respectfully. We have a difference of opinion between the Scottish National Party and the Conservatives. The Conservatives disagree with the named person scheme in principle. I do not go along with that but I respect their right to do so. However, the Supreme Court did not uphold the view of the Scottish Conservatives that the named persons scheme was illegal; it pointed to what it saw as problems and flaws with the information-sharing provisions. The bill is about rectifying those flaws.

We are at the start of a legislative process in which stakeholders make their views known and we consider them. That is the process that we should engage in.

Of course we can continue to debate the rights and wrongs of the scheme. But Ruth Davidson should not try to give the impression that the Supreme Court said that the whole scheme was illegal, because it did not do that. I think that she knows that.

We will proceed to make sure that all of the provisions are, as Ruth Davidson says, clearly within the law. As we do that, we will consider all the views that are raised.

We will also go forward with the central purpose firmly in mind: that this is about the greater protection of vulnerable children. That is the most important part of the whole debate.

Child Poverty

2. Alex Rowley (Mid Scotland and Fife) (Lab): Today, 40,000 more children are in poverty in Scotland than were in poverty a year ago. The Scottish Government is introducing legislation to set targets to reduce child poverty. What actions will it take? What will the First Minister do to tackle the unacceptable levels of child poverty?

The First Minister (Nicola Sturgeon): Alex Rowley asks me—fairly—about actions that we are taking, so I will set out some of them. First, we have the Child Poverty (Scotland) Bill, which, if it is passed by the Parliament, will make us the only Administration in the whole United Kingdom to have binding statutory targets on child poverty.

We have just established the poverty and inequality commission, which will build on the work done by the independent poverty adviser to make sure that the Government is advised and challenged on the actions that we need to take to tackle child poverty.

We have also outlined steps to introduce a new best start grant, by using one of the Parliament's new powers, to direct additional support to families on low incomes with children in order to give practical help. Just this week, we announced additional support for young carers—a segment of the population of children who can be living in poverty. Those examples are in addition to extending entitlement to free school meals and our plans to double the provision of free childcare, which will be of huge assistance to families overall and particularly to families who are in poverty.

Those are some of the things that we are doing, and we will continue to discuss with the commission and with members across the chamber what additional action we can take.

Alex Rowley: I welcomed the setting up of the commission and I hope that it will be an independent and statutory body. I also welcomed the bill. However, the truth is that, although we can have all the targets that we like, without additional resources, we are unlikely to see them as more than wishful thinking.

The plain fact is that the First Minister plans to spend almost 20 times more on a tax cut for frequent flyers than she does on tackling child poverty. The Scottish National Party's plans to have an air departure tax would cost £180 million every single year; the First Minister's programme for government proposes only £10 million a year to tackle child poverty. That is simply not good enough. If the First Minister is serious about tackling the unacceptable levels of child poverty in our country, will she drop the tax cut to the airlines and use the Parliament's tax powers to tackle child poverty?

The First Minister: We will bring forward our budget proposals later this year, when Parliament will have the opportunity to scrutinise them. I have made it clear, and the Cabinet Secretary for Finance and the Constitution made it clear again in Parliament yesterday, that as part of that, we think that it is time for a grown-up, adult debate about how we progressively and fairly use our tax powers to guard against further Tory austerity, to protect public services and to help to lift people, including children, out of poverty.

I say in all seriousness that Alex Rowley's characterisation of our spending plans is a misrepresentation. In the programme for government, I announced that we would set up an additional fund to target innovative approaches to

tackling child poverty. Alex Rowley did not mention the hundreds of millions of pounds that we spend on mitigating the effect of welfare cuts, extending childcare provision and making sure that the poorest children have access to free school meals. There is also the money that we will make available for the new best start grant, as well as the £3 billion that we are investing to increase the supply of affordable housing, which is hugely important to those who live in poverty.

Those are the many actions that we are taking, and they are backed by resources. The poverty and inequality commission's role will be to make suggestions and to challenge us to go further, where we can. We look forward to taking part in those debates inside and outside the Parliament.

Alex Rowley: The issue is serious. The levels of child poverty in Scotland are unacceptable, and I say to the First Minister with all sincerity that, if every child in Scotland is to get a fair and equal chance to succeed, she will have to address the crisis that is engulfing so many of our public services.

It is the poorest who are coming off worst because of the lack of suitable housing; the unacceptable class sizes and lack of resources for teaching and learning; the many shortfalls in our national health service; and the failure to fund local services in every community up and down Scotland. Every single time the Scottish National Party has to make a tax decision, it sides with the millionaires rather than with the millions. *[Interruption.]*

The Presiding Officer (Ken Macintosh): Order, please.

Alex Rowley: It is another party for the few, not the many. Will the First Minister finally accept that, to help the poorest in this country, she has to be prepared to look at taxing the richest in this country?

The First Minister: It was really unfair of Alex Rowley to personalise the debate by bringing Anas Sarwar into it. The problem, as Anas Sarwar clearly illustrates, is that there is a massive gulf—a gulf as wide as the Clyde—between what Labour says and what it does. We have a Labour leadership candidate who lectures others about doing the right thing on pay, yet his own family firm will not pay the living wage voluntarily. Labour should get its own house in order.

To go back to Alex Rowley, he mentioned a number of policy areas, which I will take one by one. On housing, the Government is building social housing at a faster rate than any other part of the UK, and we are investing £3 billion in delivering 50,000 extra affordable homes.

On education, £120 million extra is going into the hands of headteachers to help to close the attainment gap, and we are funding free school meals and extended childcare. Moreover, an extra £3 billion is going to the national health service under this Government.

Finally, last year, we put forward a budget that increased the resources that are available to local services, but the only councils across the country that decided not to take the opportunity of bringing in more revenue through the council tax were—guess what?—Labour councils. Again, Labour really needs to close the gulf between what it says and lectures others on and what it actually does.

The Presiding Officer: We will try to refrain from personal attacks in the chamber. It is only fair.

We have a number of constituency supplementaries, and we will try to squeeze them in. A lot of members want to get in.

Community Buy-outs

Alison Johnstone (Lothian) (Green): One of Scotland's first major urban community buy-out applications—for the sick kids hospital site in Edinburgh—has been gazumped, because the national health service sold the site last week to a developer. The community found out then that it was unsuccessful, although it notified ministers of its interest way back in April. Given that ministers knew of the community interest, why was the NHS allowed to sell off the site?

If the Scottish Government is serious about urban community empowerment, what more will it do to actively support communities in their applications? The process is hugely bureaucratic and complicated, and more support is required for community applications.

The First Minister (Nicola Sturgeon): I understand the strength of local feeling about such issues, but it is important to stress that, at all stages in the process, NHS Lothian complied with the requirements of the law. At all stages in the community right-to-buy process, the community land team processed the applications in line with the legislation. The community land team in the Scottish Government was not aware when processing the applications that the site had already been sold by NHS Lothian.

However, it is also important to say that NHS Lothian will reinvest the proceeds from the sale of the sick kids hospital in healthcare services, which will benefit people across Lothian. I understand that the health board is likely to use the proceeds to upgrade oncology services at the Western general hospital, which will benefit people not just in Lothian but across the wider area.

I understand the strength of feeling on the issues, which is why we passed the legislation to support the community right to buy. It is important that all applications are taken forward in line with the legal provisions.

Vale of Leven Hospital (General Practitioner Out-of-hours Service)

Jackie Baillie (Dumbarton) (Lab): There are 100 people, complete with placards and a piper, in the gallery today who have come to Parliament to protest about proposals to cut their GP out-of-hours service at the Vale of Leven hospital. The service has been closed many times, most recently on Sunday, when local patients were turned away and had to travel to Paisley for the nearest service. That is simply unacceptable, and local clinicians have said that removing that basic service from the Vale of Leven hospital represents an unacceptable clinical risk for patients. The chair of NHS Greater Glasgow and Clyde board said:

“We need to stick to the agreed lines which confirm that we are committed to a service, without saying what that will be and where it will be delivered from.”

That is hardly a ringing endorsement of the service. Will the First Minister reject the weasel words of the chair and give an assurance to my constituents that the full GP out-of-hours service will remain at the Vale of Leven? Yes or no?

The First Minister (Nicola Sturgeon): First, I take the opportunity to welcome the campaigners to the gallery. I am not sure how the Presiding Officer will respond if they start to play the bagpipes in the gallery, but I am sure that they will play them outside. The Cabinet Secretary for Health and Sport is going out to meet the campaigners later this afternoon.

I understand that there was a meeting between the chair and chief executive of the board of NHS Greater Glasgow and Clyde and the hospitalwatch campaign on 31 August. The chair of hospitalwatch, Jim Moohan, said after that meeting:

“We discussed a number of issues and found the meeting to be constructive with a spirit and intention to acknowledge the community’s fears with the aim that the model for the future secures their trust and confidence going forward.”

That is how I would expect those discussions to be taken forward. I would say again, though, that it was this Government that took the action that ended the decade of damaging uncertainty under the previous Labour Administration when it approved the “Vision for the Vale of Leven Hospital” document. We have been consistently clear that we back the Vale of Leven hospital, and the health board has been consistently clear on that, too.

To illustrate that backing, let me give a few statistics. Vale of Leven day cases have increased by 7 per cent in the past year, there are more than 300 outpatient clinics every month across 20 or more specialties and emergency attendances have increased at the Vale’s minor injuries unit by nearly 10 per cent. Those are the actions that show our commitment to the Vale. Of course, Jackie Baillie was a minister in the previous Administration that closed the Vale of Leven hospital accident and emergency department.

Jackie Baillie: On a point of order, Presiding Officer.

The Presiding Officer: Ms Baillie, there are no points of order during First Minister’s questions. If you still wish to make a point of order, you may make it at the end of First Minister’s questions.

Free Personal Care (North Ayrshire)

Jamie Greene (West Scotland) (Con): I am currently assisting a number of constituents in North Ayrshire who are on a lengthy waiting list for funding approval for social care packages and residential care placements. Due to budgetary constraints and pressures on the local health and social care partnership, there is a lack of funding and provision of care is extremely limited. Will the First Minister confirm whether free personal care is still a legal entitlement in Scotland? Which other councils are, to her knowledge, failing to deliver it?

The First Minister (Nicola Sturgeon): I understand that Government officials have already met the health and social care partnership in North Ayrshire. The Cabinet Secretary for Health and Sport is also going to meet the partnership and would be happy to correspond with Jamie Greene after that.

It is the obligation of all the health and social care partnerships throughout the country to deliver the social care services that people have a right to depend on. It is worth pointing out that the overall expenditure on adult social care services per head of population has increased in recent years by 13 per cent in real terms, after inflation.

We will continue to take decisions to support social care services. A couple of weeks ago, we announced that we will introduce Frank’s law so that people throughout the country who rely on such services get them in a timely fashion.

Climate Change (Government Actions)

3. **Patrick Harvie (Glasgow) (Green):** When the Paris climate change agreement was reached, the Scottish Government said that its new bill on climate change would reflect the increased scale of ambition that the agreement requires, yet its proposals for that bill represent a slower pace of emissions cuts than Scotland has been achieving

for the past 10 years. Why is the Government consulting on a slowdown of climate action when an acceleration and increased ambition are urgently needed?

The First Minister (Nicola Sturgeon): I do not think that anybody would say—actually, that would undoubtedly not be true, because there will be many who would say it. I do not think that anybody could fairly say that the Government has not been and is not continuing to be a world leader when it comes to tackling climate change.

Some of my answer will be similar to the answers that I gave to Ruth Davidson. We are consulting, and we will listen to the views that are expressed in that consultation before we make final decisions. A large number of people have taken the opportunity to contact the Scottish Government, asking us to go further in our commitments, and we will give proper consideration to that.

Across a range of areas, we are making progress in tackling climate change. The programme for government that I outlined two weeks ago sets out where we will make further and even faster progress. That is, no doubt, why some environmental campaigners described that programme for government as

“the greenest programme for government in the history of” devolution.

Patrick Harvie: There has been significant action in the past, but that is worth celebrating only if it is used as an inspiration to go further and faster, and not when it used as an excuse to slow down. Other countries in Europe, including Norway and Sweden, have already set net zero goals for carbon emissions. Our contribution to climate change would be significantly reduced if we were to do the same.

Scotland will reach net zero emissions by 2040 even if we continue to reduce emissions at the rate at which we have been reducing them for the past 10 years. Is that not the goal that we should set ourselves, if the First Minister is serious about making faster progress?

The First Minister: We are consulting on the targets, which is the right and proper thing to do, and our final decisions will be based on the views that are expressed in that consultation. Many environmental campaigners and people who want to encourage us to go further faster have made known their views, and I very much welcome that.

I reassure not just Patrick Harvie but everybody that there is no intention on the part of the Government to slow down when it comes to meeting our climate change obligations. Anybody who listened to my statement or who has read the programme for government will know that. We

have a moral responsibility to lead on tackling climate change, and that is what we will continue to do. Whether it is in our commitments to renewable energy, our commitments to and achievements in decarbonising electricity, or our new commitments, such as to electric vehicles, for example, we are serious about it and will continue to ensure that the action that we take is genuinely world leading.

Income Tax (Education Funding)

4. Willie Rennie (North East Fife) (LD): Yesterday, the mask of Ruth Davidson’s Conservative Party slipped. The Conservatives said that taxing is “pickpocketing”—a phrase that comes straight from Norman Tebbit’s handbook. Pickpockets do not invest in schools and hospitals to educate children and save people’s lives; responsible Governments do. That is why Parliament rejected that right-wing agenda yesterday. Now that Parliament has endorsed the principle of raising tax, will the First Minister reconsider her opposition to my plan to put a modest penny on income tax for education?

The First Minister (Nicola Sturgeon): I have to say, to be absolutely fair and accurate, that Ruth Davidson’s mask slipped long before yesterday. Yesterday simply put that beyond any doubt.

Willie Rennie has raised an important point—one that I have raised previously in the chamber. Each and every day, the Conservatives call for additional spending. We heard calls for Frank’s law, which the Government is delighted to be taking forward. However, we also get calls for more spending while they want us to cut taxes for the richest people in our society—at the same time as the United Kingdom Tory Government has been cutting Scotland’s budget, over the decade, to the tune of £3 billion in real terms. The Tories’ hypocrisy on these issues knows no bounds.

On Willie Rennie’s substantive issue—I am glad that he has raised it—we will, as Governments do, bring forward our tax proposals when we publish our draft budget. We have said that we will encourage an open and grown-up debate—that will clearly exclude some people in this chamber—on how we will properly, progressively and fairly use our tax powers. I have made it fairly clear that it is time to have that debate, given the years of austerity that we have had, the continued austerity that we face and the economic implications of Brexit. I hope, as certainly seemed to be the case from his contribution yesterday in the chamber, that Willie Rennie and his party will be part of that grown-up debate. Let us have that debate over the next few weeks, and then let us come forward—as the Government will—with proposals on tax that Parliament can scrutinise and decide on. That is the right way to do things.

Willie Rennie: The First Minister says that education is her number 1 priority, but we have heard that thousands may leave teaching, we know that Scottish education has slipped down the international rankings and we have seen 150,000 places cut from colleges.

Liberal Democrats are committed to expanding nursery education and we know that investing in skills and education is important for economic growth. The First Minister always complains that Westminster has cut her budget, so the case for investment in education is tremendously strong. If she cannot agree that education is the number 1 investment priority, what will her priority be?

The First Minister: Willie Rennie should perhaps listen to what I am saying. First, we must have a debate, as a Parliament, about whether we want to use tax powers more extensively than we have in the past. We should then have a debate, as a Parliament, about how we want to invest those resources. There is no doubt that the debate—there is also no doubt that austerity has led us to have the debate—is about protecting public services, including education and the health service, and making sure that our public sector workers are properly and fairly rewarded.

On education, I obviously take issue with much of what Willie Rennie said in his preamble. We are not just extending but are doubling childcare for our youngest children. This year, we are investing £120 million more in our schools, we have maintained full-time equivalent places in our colleges and we are protecting the right of young people to go to university without having to pay tuition fees. Those policies underline the Government's commitment to education.

Over the next few weeks, let us try to do something as a Parliament—let us have that proper grown-up debate. We all have our manifesto commitments, but I am frequently told by Willie Rennie and others that the Government needs others' support to get a budget through Parliament, so I go into the discussions with an open mind and with the interests of our public services and workers, of businesses and of the economy firmly at heart. Let us have that debate; let us come to a grown-up decision as a Parliament.

Catalonia Referendum

Ivan McKee (Glasgow Provan) (SNP): The First Minister will have seen the shocking scenes in Catalonia, where armed police have raided offices and seized ballot papers in an attempt to stop the Catalan people voting on their future. What is Scottish Government's view of those appalling events?

The First Minister (Nicola Sturgeon): Most people would agree that the situation in Catalonia is of concern. I hope that there will be dialogue between the Catalan Government and the Spanish Government to try to resolve the situation. That must be preferable to the sight of police officers seizing ballot papers and entering newspaper offices. It is, of course, entirely legitimate for Spain to oppose independence for Catalonia, but it is a concern if any state seeks to deny people's right to democratically express their will. The right of self-determination is an important international principle, and I very much hope that it will be respected in Catalonia and everywhere else.

The Edinburgh agreement is a shining example of two Governments with diametrically opposed views on independence nevertheless coming together to agree a process that allowed the people to decide. It offers a template that could be used by others elsewhere in the world.

Broadband Roll-out

Rhoda Grant (Highlands and Islands) (Lab): The press reports that the United Kingdom Government has stripped the Scottish Government of responsibility for the roll-out of broadband due to its failure to deliver. What implications does that have for the roll-out of the R100 programme?

The First Minister (Nicola Sturgeon): It has no implications because it is complete and utter nonsense to suggest that that is the case. We are making good progress with the superfast broadband programme just now, which is about getting superfast broadband to 95 per cent of premises across Scotland. Our additional commitment—let us be very clear about this—goes way beyond the commitment of the UK Government. Our additional commitment is to get superfast broadband—not 10 megabits per second, as the UK Government is proposing, but superfast broadband—to 100 per cent of premises across the country.

If the UK Government was a bit clearer about how it intends to deliver its commitment, that would certainly be helpful to us in progressing to deliver our commitment. However, that commitment is there; it is a commitment that we are absolutely determined to deliver and we are making good progress towards it. Later this year, we are due to go out to procurement for the next stage of that work.

Devolution Post-Brexit

5. Bruce Crawford (Stirling) (SNP): To ask the First Minister what the Scottish Government's response is to the reported comments of the Secretary of State for Scotland that the United Kingdom Government does not plan to devolve all

powers returning from the European Union following Brexit. (S5F-01556)

The First Minister (Nicola Sturgeon): David Mundell's comments confirm what not just the Scottish Government but the Welsh Government have been saying for months, which is that, far from the powers "bonanza" that the secretary of state has promised, the UK Government seems intent on undermining the founding principles of devolution. The UK Government should not be allowed to use Brexit as cover to take powers in areas that are clearly devolved, such as agriculture, fisheries, justice and the environment. We have made it clear that we are not opposed in principle to UK-wide arrangements where they are necessary and appropriate, but those arrangements must be by agreement, not by imposition.

Bruce Crawford: Does the First Minister agree with the comments from stakeholders such as Friends of the Earth Scotland that

"Any plan to move control of these areas to Westminster after Brexit is alarming"?

What clarification has the UK Government provided over the 111 devolved policy areas that could be controlled by the UK Government if the EU withdrawal bill is not amended? I was somewhat gobsmacked to see at number 78 on the list "Onshore hydrocarbons licensing"—in other words, fracking—which was one of the core powers recommended for further devolution by the Smith commission. Is that acceptable?

The First Minister: No, it is not acceptable. First, I share the concern expressed that Friends of the Earth Scotland has expressed. Devolution has allowed for distinctive and ambitious Scottish approaches to environmental standards, to climate change—which we have just been discussing—and to food quality, fisheries, farming support, and many other areas. Any threat to that is completely unacceptable.

The list of 111 areas that are brought into play by the withdrawal bill was drawn up not by the Scottish Government but by the UK Government. There are many areas in the list that I think illustrate to people why the Scottish Government is so exercised by this. Although it might suit the Conservatives to suggest that it is somehow just the Scottish National Party that is expressing concern over this, we have the Welsh Labour Government saying exactly the same thing and we have a range of constitutional and legal experts saying that this represents the power grab that we have described.

On Tuesday of this week, the Scottish and Welsh Governments put forward a set of amendments that would prevent that power grab. I hope that the UK Government responds positively

to those amendments so that we can get the bill into a state where the Scottish Government can recommend legislative consent. However, let me repeat—if the bill stays in the state that it is in just now, there is no way that I or this Government will recommend to the Parliament that it approves the bill.

Glasgow to Edinburgh via Falkirk Rail Service (Electrification)

6. Annie Wells (Glasgow) (Con): To ask the First Minister what the Scottish Government's response is to reports that the electrification of the Glasgow to Edinburgh via Falkirk rail service is subject to further delay. (S5F-01544)

The First Minister (Nicola Sturgeon): The delay is regrettable. It is the result of two issues: the first is that Network Rail is behind schedule on the energisation of the route, which commenced on 2 September and is scheduled to conclude in October. That will allow the introduction of electric trains, using existing rolling stock, from December this year. The second issue is a slippage by Hitachi in the rolling-stock manufacturing programme. The Minister for Transport and the Islands has written to the Rural Economy and Connectivity Committee to update it on the issues, and I am due to meet Hitachi on 4 October to discuss the matter further.

Annie Wells: The project is delayed by at least a year, and we still do not have a completion date. Last year, Phil Verster, from ScotRail, admitted management failure in the planning and delivery of the new line. We are told that there is a new delay because ScotRail could not test the new trains. Commuter patience is wearing thin. Can the First Minister give a personal guarantee that there will be no further delays after December?

The First Minister: Of course, Network Rail is not accountable directly to this Parliament. Frankly, that is one of the problems. Perhaps we could find some consensus across the Parliament on making the change to make Network Rail directly accountable to this Government and this Parliament in future.

Let me focus on the issues that affect passengers because, as members can probably tell, I am deeply unhappy about the further delay. I talked about Network Rail's delay in the energisation of the line, and I am sure that all members agree that it is vital that the line is dealt with properly and trains are properly tested. However, a large part of the latest delay is down to the slippage in the manufacturing programme of Hitachi. I want to discuss that fully with Hitachi in our meeting early next month, and I will be happy to report back to the Parliament after that meeting.

The Scottish Government will do everything in our power to ensure that there are no further delays and that passengers get the full benefits of the improved service as quickly as possible.

Linda Fabiani (East Kilbride) (SNP): The First Minister might be aware that another effect of the delay is that a shortage of diesel carriages is affecting rail lines other than the Edinburgh to Glasgow line. For example, on the East Kilbride line—a main commuter line—there are consistently too few carriages, so carriages are overcrowded.

I am told that when the electrification of the Edinburgh to Glasgow line is complete, the problem will be solved. Will the First Minister, in discussions about the delay, please bear in mind the effect on other commuter rail lines and ensure that such concerns are always brought to the attention of the people who make the decision about the number of carriages on lines?

The First Minister: Linda Fabiani is absolutely correct in her understanding and I assure her that the impact on other lines will feature in all the discussions that we have on the issue. The provision of additional coaches on other services, including the East Kilbride service, depends on the introduction of new rolling stock elsewhere in the ScotRail business. ScotRail is working to understand and manage the impact of phased introduction of the new electric trains on the Edinburgh to Glasgow route in the coming months.

As a final point, it is important to stress that £475 million is being invested in the ScotRail fleet during this franchise, which will deliver 180 more carriages in the next two years—a 50 per cent increase since 2007.

Parents of Premature Babies (Financial Support)

7. Mark Griffin (Central Scotland) (Lab): To ask the First Minister what financial support the Scottish Government offers to parents of premature babies whose child is in hospital. (S5F-01542)

The First Minister (Nicola Sturgeon): I expect that I speak for the whole chamber when I say that I am delighted that Mark Griffin and his wife have now been able to take their baby daughter home from hospital. I am sure that we all wish him, his wife and their little baby the very best. [*Applause.*]

Health boards offer a range of support for parents who need additional support while their babies are in care, but the support that is available varies from board to board. Following a review of maternity and neonatal services, we are working with the neonatal managed clinical networks to take forward a review of the support that is available, to ensure that consistent support is in

place. I assure Mark Griffin that we will fully consider his proposal for a low-income-family fund as part of that work.

Mark Griffin: I thank the First Minister for that answer and thank members across the chamber for the support that my wife and I have had.

In March, my wife and I were told that our unborn daughter would die due to very premature labour. Six months on, baby Rosa, who was not given a chance, is now doing well at home. The months that we spent with Rosa in hospital were the most stressful time that we have ever gone through, and we are not alone in that. However, other families do not have an MSP's salary to cover the costs associated with a hospital stay—the transport, accommodation, food and childcare that, on average, cost £200 a week. Mothers we spoke to, who were already struggling to cope with the stress of having a very premature and sick baby and who had to leave their baby in hospital every night, were also worrying about how they would pay for a taxi to get to hospital the next day. Sometimes they just could not do so. Those mothers had to be there to provide the life-saving breast milk that their premature baby needed because their stomach would not tolerate formula.

Will the First Minister, as a matter of urgency, look at how we can give financial support to low-income parents of premature babies in hospital so that the costs of visiting do not prevent one more mum from being with their baby?

The First Minister: The short but perhaps most helpful answer to Mark Griffin's question is yes, we will do that work and we are happy to work with him. I am hugely sympathetic to the very powerful case that he has just set out.

The review of maternity and neonatal services that I mentioned recognised that point and recommended that a review be carried out of

“the approach to expenses for families of babies in neonatal care ... to develop a nationally agreed policy.”

That is one of the key parts of the plan.

A range of support is available to families, but it is not as consistent or necessarily as reliable as it needs to be. There needs to be a situation in which it does not matter what part of the country a family is in and in which, if parents are in the position that Mark Griffin outlined, there is the basic support necessary to allow them to care for their child.

We will take forward that work. Given Mark Griffin's personal experience, it would be very useful, for obvious reasons, to have his input into that. I will ask the Cabinet Secretary for Health and Sport to make contact with him to further that discussion.

Jackie Baillie (Dumbarton) (Lab): On a point of order, Presiding Officer. I am afraid that the First Minister is not very good at history. She credited me with being a minister at the time of the cuts to the Vale of Leven hospital. That is simply not true. I wrote to Shona Robison on 29 June about exactly that point, and she has failed to reply. I invite the First Minister to retract a statement that she knows deliberately promotes a falsehood. Rather than using information as a smokescreen, the First Minister would better respect my constituents by answering the question about the future of out-of-hours services at the Vale of Leven hospital, which she patently failed to do.

The Presiding Officer: I thank Ms Baillie for waiting until the end of First Minister's question time for her point of order. She has made a helpful clarification of her ministerial status—or lack of it—at the time, which I am sure the Government will reflect on.

National Eye Health Week 2017 (Diabetic Retinopathy)

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a members' business debate on motion S5M-07369, in the name of Stuart McMillan, on national eye health week 2017 and the threat to vision posed by diabetic retinopathy. The debate will be concluded without any question being put.

Motion debated,

That the Parliament congratulates Diabetes Scotland and RNIB Scotland on their campaign to mark National Eye Health Week 2017 by highlighting the threat to vision posed by diabetic retinopathy for people with all types of diabetes; considers that increasing rates of diabetes in the Greenock and Inverclyde constituency and across Scotland pose long-term risks to eye health among the population and recognises the costs that this will have for wider society; welcomes the emphasis given to eye screening in NHS Scotland care plans for people with diabetes, and believes that everyone with diabetes should recognise the importance of attending regular eye screening to detect any early symptoms of retinopathy, given that treatment can save vision.

12:50

Stuart McMillan (Greenock and Inverclyde) (SNP): I thank members for signing the motion, and I thank those who will take part in this afternoon's debate. I am aware that some members of RNIB Scotland will be in the public gallery. I thank you, Presiding Officer, for presiding over the debate.

As the convener of the cross-party group on visual impairment, I welcome the opportunity that national eye health week provides to remind members and people across Scotland of the importance of looking after our eye health. Since 2006, everyone in Scotland has been entitled to a free eye health check every two years. As well as picking up on treatable eye conditions such as diabetic retinopathy and cataracts, the checks can spot the early signs of heart disease and brain tumours. Free eye checks are therefore an opportunity that is too good to miss. They can prevent sight loss in Scots, and they have done so. Quick treatment of eye conditions that are picked up by the tests can slow sight deterioration and sometimes prevent it altogether.

The checks are particularly important for diabetics, who are entitled to a free yearly eye check, which can pick up the early signs of diabetic retinopathy—the leading cause of sight loss in working-age adults in Scotland. It is caused by consistently high blood sugar levels damaging blood vessels in the back of the eyes. By the time that the damage has affected a diabetic's vision, the retinopathy is already at an advanced stage. Eye health checks are vital to picking up the early

signs of retinopathy so that it can be treated before it becomes so advanced that it affects vision. The free yearly eye checks can be sight saving and sight preserving for the 291,000 people in Scotland who are living with diabetes.

That is one reason why I am glad that the motion was chosen for debate. It is important to raise awareness of the free eye health checks among the general population and the diabetic community, and I hope that the debate will go some way towards doing that.

I commend the work of Diabetes Scotland and RNIB Scotland, whose joint campaign video this week highlights the effects that diabetic retinopathy can have on a person's vision and, more important, promotes the free eye health checks. In the past 15 months, 42,000 diabetics missed their eye screening and so missed out on a vital opportunity to check that their eyes are healthy and that they do not need vision-saving treatment. I hope that the video will encourage more people to attend their annual eye screening and have their eye health checked. I recommend that members check out the video for themselves to get an idea of what it would be like if their vision was impaired.

The Government is committed to raising awareness of the importance of eye health checks and has set a self-imposed target of running localised campaigns, particularly among communities where take-up is lowest, to ensure that everyone, from my constituency of Greenock and Inverclyde to the Grampians, knows about their entitlement and can take advantage of it.

The community eye care review that Shona Robison commissioned last year has done great work in evaluating community eye care services across Scotland and providing a list of recommendations for the Government to raise the quality of eye care to an even higher standard and take it to everyone in Scotland. The cross-party group on visual impairment was pleased to hear from representatives of the review, who explained their findings and recommendations, and we would be keen to hear further updates on the issue from the Government.

I would appreciate it if the cabinet secretary updated the Parliament on progress so far on the objective of promoting the importance of eye health checks, as cited in the community eye care review recommendations, and if she updated us on what plans the Government has to continue pursuing the objective during year 2 of the current parliamentary session.

Since eye health checks were made free in 2006, uptake has risen by 29 per cent. That is a great achievement, but there is still scope to do more. Uptake is still low in the worst-off

communities and in ethnic minority communities where sight loss is genetically more prevalent.

One in 10 people over the age of 65 from black and minority ethnic communities will experience serious sight loss. People from black and Asian ethnic groups have a higher risk of developing eye conditions such as diabetic retinopathy and glaucoma—the causes of such conditions are genetically more prevalent in those groups—and are more likely to go blind after diagnosis.

It is particularly important for higher-risk groups to take advantage of free eye health checks, but recent studies, such as “Improving access to optometry services for people at risk of preventable sight loss” which was conducted in 2014, have shown that those groups are less likely to get their eyes checked. We need to find out why that is the case and address the causes. The Government has a responsibility to focus on raising awareness of free eye health checks among such groups and there is precedent for that.

In 2015, the Welsh Government made eye health checks free for people from BME communities, in recognition of the need to raise awareness among those groups in particular. In Scotland, we have the universal free eye health check, but it remains the case that such groups are less likely to take up their entitlement and that they need special Government attention. As a country, we must do more to support hard-to-reach communities and those from diverse backgrounds. We cannot rest on our laurels; we must focus on preventing avoidable sight loss.

There are good examples of work with diverse communities. RNIB Scotland's diversity in sight team does important work in that area and it is attending the Muslim Council of Scotland meeting this Saturday to talk to people from BME communities about the higher risk that they have of developing eye conditions and the importance of taking up eye health checks.

I urge the Government to target campaigns at such hard-to-reach groups, as recommended by the community eye care review, and to monitor the results of the campaigns to ensure continuous improvement.

Sight is the sense that people most fear losing. As a Government, we can and must aid the prevention of sight loss. Raising awareness of free eye health checks generally goes some way to helping to prevent sight loss, but we must also ensure that the Government has a special focus on groups such as diabetics and people from BME communities who are at a particularly high risk of developing eye conditions.

I look forward to the cabinet secretary's update on the progress that has been made on the

recommendations of the community eye care review in relation to localised campaigns and on the plans that are in place to build on that progress.

I hope that today's debate will help to raise awareness in the general population and specifically in the diabetic community of the importance of getting eye health checks. I look forward to hearing fellow members' contributions.

12:57

Miles Briggs (Lothian) (Con): I congratulate Stuart McMillan on securing today's important debate during this year's national eye health week. I acknowledge the good work that he has done over many years in raising eye health issues in the Parliament. I also thank the organisations that have provided briefings for the debate. I commend Diabetes Scotland and RNIB Scotland for the joint action that they are taking to raise awareness of diabetic retinopathy.

Last night, I caught one of the campaign adverts on Channel 4. It was incredibly hard hitting to see the impact of different versions of sight loss. For those of us who have not experienced sight loss, such campaigns present an opportunity to see the impact that it has on people's lives.

It is right to focus on the most common cause of vision loss among people with diabetes and on the leading cause of vision impairment and blindness among all working-age adults. Given that more than 290,000 Scots are living with diabetes and given that that number is predicted to continue to grow in the years ahead, we must all agree that tackling diabetic retinopathy and reducing its impact must be a key health priority, as well as addressing factors such as diet, obesity and physical activity levels, which are linked to the increasing prevalence of type 2 diabetes in Scotland.

Early diagnosis of diabetic retinopathy can lead to treatment that can prevent or reduce sight loss, so encouraging every person over 12 who has diabetes of either kind to take up their annual screening appointment is vital in addressing the issue. The condition often has no symptoms until it is well advanced, so the importance of annual screening cannot be overstated. As has been said, it is hugely concerning that 42,000 people with diabetes in Scotland have no record of having attended a retinopathy screening appointment over the past 15 months. It is clear that more action is needed to increase screening uptake rates. I urge friends and family members of people with diabetes to encourage them to attend the screening and remind them of the importance of the annual check.

We should also continue to get the message across that the screening for diabetic retinopathy is different from the eye test that we get from an optician. I welcome the work that has been done to look at innovative ways in which the Scottish Government can improve the uptake of screening and the work that has been done in relation to certain communities and on enhancing the information that is provided.

In addition, we must emphasise that anyone with diabetes who believes that they have not been invited to attend screening or who believes that they have missed an invitation in a particular year should not hesitate to speak to their general practitioner or local diabetes healthcare team about that.

I welcome the powerful online and cinema commercial that is based on the message "How do you see Scotland?", which is being shown at the moment. I commend Brian Cox for his support of the ad and for talking publicly about his experiences with diabetes, which is incredibly important. I know that members of the Parliament have done so, too, which can only help to address some of the issues. The campaign has generated significant media coverage in recent days and I hope that it will have helped to raise awareness of this important health issue.

I very much welcome this debate in national eye health week 2017 and I am pleased to join Stuart McMillan and other members in welcoming the combined work of Diabetes Scotland and RNIB Scotland. I wish the campaign every success and I hope that we will see an increase in the number of people with diabetes who take part in the screening programme each year, with a corresponding reduction in preventable sight loss or visual impairment caused by diabetic retinopathy, which can have such a devastating impact on someone's life and wellbeing.

13:01

David Stewart (Highlands and Islands) (Lab): I, too, congratulate Stuart McMillan on securing the debate.

As co-convenor of the cross-party group in the Scottish Parliament on diabetes, I will tell members about the hidden epidemic in Scotland. Some 291,000 people in Scotland have been diagnosed with diabetes; 49,000 people have the condition but are undiagnosed; and 620,000 people are at high risk of developing type 2 diabetes. That means that nearly 1 million people in Scotland are directly affected by diabetes either because they have it or because they are at risk of developing it. It means that scores of parliamentary staff have diabetes without knowing it, along with perhaps an MSP or two, a dozen

MSP assistants and a clutch of the people in the gallery.

It is a true Scottish epidemic. Diabetes is the main cause of blindness for those of working age. That is why I congratulate Diabetes Scotland and RNIB Scotland on their campaign marking national eye health week 2017, which, as we have heard, highlights the threat to vision that is posed by diabetic retinopathy. While I am on my feet, I congratulate Jane-Claire Judson, the chief executive of Diabetes Scotland, on the work that she has done, because she is leaving the organisation in the next few weeks for a new post.

Two and a half times more people have diabetes than have all cancers combined. It is a true Scottish epidemic of health inequality; children in areas of deprivation are more at risk of obesity, which is a severe risk factor for type 2 diabetes.

What is diabetic retinopathy screening and why is it so important? As we heard, 42,000 people with diabetes in Scotland have no record of having attended diabetic retinopathy screening in the past 15 months. As part of essential diabetes care, everyone aged over 12 who is living with diabetes should attend annual retinopathy screening. That is not the same as the normal eye examination that we get at the optician. Regular screening is vital to pick up early signs. I repeat the point that diabetic retinopathy often has no symptoms until it is well advanced, so the 42,000 Scots with diabetes with no record of having attended recent screening are putting their sight at risk.

The how do you see Scotland? campaign will help raise awareness of the issue and, I hope, encourage more people to attend their screening appointments. However, as with many aspects of health delivery in Scotland, there is a postcode lottery. Non-attendance at retinopathy screening is only 8 per cent in Dumfries and Galloway but nearly 20 per cent in the NHS Highland area and nearly 21 per cent in Lanarkshire and greater Glasgow and Clyde.

Diabetes is a ticking time bomb and the fastest growing health crisis of our time. More people have that serious health condition than dementia and cancer combined. As the Cabinet Secretary for Health and Sport will know, NHS Scotland spends more than £1 billion annually on diabetes. However, by providing the knowledge, skills and tools to support people to live well with their diabetes, we can reduce diabetic complications. That will improve quality of life for people who live with the disease. It will lead to long-term cost savings as fewer people will require treatment, admissions to hospital and surgery. Everyone, irrespective where they live in Scotland, has the right to the treatment, support and technology that will help them to live well.

A few years ago, I was proud to address the first-ever global forum of parliamentary champions for diabetes in Melbourne. It was an unusual audience with nearly 100 national champions from as far afield as Russia, Nigeria and Canada. We signed the Melbourne declaration, which committed Parliaments across the globe to ensure that their political agenda had a higher emphasis on preventative work, early diagnoses and access to adequate care.

I said in my speech in Melbourne that I was proud to come from a nation with a strong track record in innovation and discovery. Scots such as Fleming, Watt and Bell led the way in discovery. International collaboration is the way forward. In 1922, Professor John Macleod from Aberdeen, working with two outstanding scientists—Banting and Best—discovered insulin. Before that date, type 1 diabetes was a death sentence in Scotland.

We have a great opportunity to raise the bar in healthcare. I again congratulate Stuart McMillan on his timely motion, which allows us to focus on the threats that diabetic retinopathy poses and to raise awareness of the importance of regular eye screening across every health board area in Scotland.

13:07

Emma Harper (South Scotland) (SNP): I remind members that I am a registered nurse and co-convener of the cross-party group in the Scottish Parliament on diabetes.

I congratulate my colleague Stuart McMillan MSP on securing the debate as part of national eye health week. Diabetes UK funded a programme in 1986 to take retinal photography screening out to people with diabetes. The Scottish diabetic retinopathy screening programme was started in 2003 and collected together what had been carried out before. According to the latest statistics from the Scottish diabetes survey, there are almost 260,000 people with type 2 diabetes living in Scotland. Everyone over the age of 12 with type 1 or type 2 diabetes should be screened but 42,076 people were not screened last year.

Screening, which is required annually, takes less than 10 minutes. That is great news. My sister Marina Forbes is a clinical ophthalmic nurse specialist and she informs me that people with diabetes who take up the offer of screening now have the same potential of maintaining the same eye health as those without diabetes. She also informs me that 30 per cent of visits to her clinics are made by people with diabetes. Many may have had type 2 diabetes for 10 years prior to diagnosis. The goal of the screening programme is to recognise problems and use the data from

subsequent retinal photographs to track whether there is deterioration in the vascular structures and the macula. Early detection leads to early treatment, promotes visual health and keeps folk independent and able to remain in their own homes longer.

Diabetic retinopathy, of which there are various types, is the leading cause of preventable sight loss in working-age adults in Scotland. Background retinopathy is the earliest visible change to the retina, when the tiny wee blood vessels become blocked and are at risk of microaneurysm or haemorrhage. Maculopathy occurs in the most important area of the retina—the macula, which provides our central detailed vision. Proliferative—members should try to get these words out—retinopathy occurs when retinal hypoxia, which is low oxygen supply, allows new immature blood vessels to develop. Those immature blood vessels leak fluid, which damages vision.

Various treatments are available depending on the severity of the condition. Laser treatment, or photocoagulation, was commonly used prior to the advent of anti-vascular endothelial growth factor injections into the vitreous of the eye. Anti-vascular endothelial growth factor, or anti-VEGF, halts the production of extra protein and, in turn, the growth of new blood vessels.

Laser treatment revolutionised retinopathy treatment in the past; it was the only effective treatment. However, anti-VEGF treatment has superseded that—it is a great method of treatment. Together with effective screening and good blood glucose and blood pressure control, it can successfully maintain vision.

It is good news for NHS Dumfries and Galloway that the number of people who attend screening there is really high. I thank my colleague Dave Stewart for mentioning that.

The overtly symptomatic damage that is happening in people's eyes could also be happening to the tiny wee vessels of their feet, heart and kidneys. The microvascular damage in the eyes can alert health professionals and direct further action so that the other vessels and organs can be monitored and protected, too.

Again, I congratulate Stuart McMillan on securing the debate, and Diabetes Scotland and RNIB Scotland on their campaign to mark national eye health week. It is important that everyone recognises the benefits of attending the regular eye screening services that are available to them, because it can save their vision.

I am one of those type 1 diabetics who are at risk, but I had my retinae photographed a couple of weeks ago as part of my eye screening

programme and my eyes—my retinae—are doing fine.

The Deputy Presiding Officer: I think the official report will appreciate a copy of your speech with those spellings, Miss Harper.

13:11

Alexander Burnett (Aberdeenshire West) (Con): I join members in congratulating Stuart McMillan on securing this important debate on national eye health week. I also join members in commending Diabetes UK and RNIB Scotland for joining forces in the how do you see Scotland? campaign to raise awareness of diabetic retinopathy and the importance of screening. It is great to see those two charities working together to tackle the condition, which is caused by complications of diabetes, typically through high blood sugar levels damaging the back of the eye.

Constituents around Scotland who are watching our debate today might have some questions and, having read the briefings, I trust that I am now better equipped to answer them. I will rhetorically answer three questions so that our constituents can be better informed, too.

To those who ask whether they are at risk, I say that NHS Scotland advises that everyone with diabetes who is 12 years old or over goes for eye screening once a year. The how do you see Scotland? campaign has found that 15 per cent of those who are eligible for that screening have not attended in the previous 15 months. I urge those people to get an appointment, so that they have the opportunity to tackle the condition early.

To those who ask how they can reduce their risk of diabetic retinopathy, I say that they should attend their screening appointments, which are different from eye tests at the opticians as pictures are taken of the back of the eye to assess whether there is any damage to the blood vessels. Further, NHS Scotland advises those people to control their blood sugar, blood pressure and cholesterol levels and to take their diabetes medication as prescribed. I am sure that the majority of those with diabetes are all too aware of the importance of that, but we must raise awareness to remind those who are at risk.

On the final question of whether diabetic retinopathy can be treated, the sad answer is that there is no cure. However, there are treatment options. There are three different stages of diabetic retinopathy—background, maculopathy and proliferative retinopathy—and there are different treatment options for each, ranging from regular monitoring of blood vessels to laser treatment. We are told that, at all stages, it is crucial that people manage their diabetes. Controlling their diabetes can prevent such

conditions developing at all, but, in the more advanced stages of affected vision, taking control can prevent the condition from getting worse.

I am aware of the great work that RNIB does for people across Scotland. One of my former members of staff has benefited from its work. Earlier this year, they ran the London marathon to raise funds for it. I give my personal thanks to both RNIB Scotland and Diabetes UK for the constant support that they provide to patients, families, communities and elected officials in informing us of important health issues that can affect us in so many ways.

13:15

Colin Smyth (South Scotland) (Lab): I echo others' comments by thanking Stuart McMillan, who is a fellow member of the cross-party group on visual impairment, for lodging his motion and providing members with the opportunity to congratulate and thank Diabetes Scotland and the RNIB for their campaign to mark national eye health week by highlighting the threat to vision that is posed by diabetic retinopathy.

Some members will have seen the excellent campaign film by Diabetes Scotland and the RNIB, which has been shown in cinemas and online. It is a powerful film, and it hits home about the importance of getting one's eyes checked in order to avoid sight loss, where possible.

As World Health Assembly figures show, sight loss is avoidable in 50 per cent of cases, especially when sight problems are detected early. We cannot underestimate the massive impact that loss of vision has on a person's life. It can drastically affect their confidence, self-esteem and mental health. We all have roles to play in doing what we can to promote early detection of sight problems.

It is more than a decade since the introduction of free eye health checks by my Labour colleague Lewis Macdonald, who was the responsible minister at the time. The move brought about a step change in the eye health care pathway in Scotland and, since then, the number of eye examinations has increased significantly.

We cannot be complacent, however; we know that the number of people with sight loss is set to double by 2030. That is why, like Stuart McMillan, I welcome the findings of the community eye care review. The review sets out important recommendations on how best to achieve higher uptake of eye health checks, and it highlights how to do more with less to provide a good-quality service to all areas of Scotland by creating a national list of optometrists and dispensing opticians in order to improve service planning and reduce duplication, and by making some eye

services that are usually provided in hospitals—for example, follow-up cataract surgery appointments—available more locally.

As we have heard in the debate, and as has been highlighted by Diabetes Scotland and the RNIB's campaign, one of the factors that are contributing to the rise in sight loss is the increase in the number of people who are being diagnosed with diabetes. As members know, a key part of controlling diabetes is monitoring of blood sugar levels, which guides what a person eats and, often, how much insulin they take. At the moment, people with type 1 diabetes typically self-monitor their blood glucose level by using a finger prick, often about a dozen times a day and often during the night.

As I found out when I went on the recent visit to Kirkcudbright by members of the Public Petitions Committee, including Angus MacDonald—who was in the chamber earlier—stabbing your finger with a needle is not exactly a pleasant experience. I had to do it only once on that visit, but some children as young as three have to do it a dozen or more times a day, every day.

During that visit I had the pleasure of meeting local mums Seonaid Anderson and Emily Ross, whose daughters Maisie and Robyn have type 1 diabetes. They highlighted the alternative to the painful and distressing process of finger pricking—namely, continuous glucose monitoring, for which a small sensor is placed under the skin to check glucose levels. That allows for more frequent readings of glucose levels and for fine tuning treatment, and it reduces the need for painful finger pricking. However, it is not currently available on prescription. I urge the Government to consider seriously the case that is being made by mums like Seonaid and Emily and, more important, by their daughters Maisie and Robyn and many others across Scotland, and to make continuous glucose monitoring available on prescription.

The Government has a duty to support the best possible care for people with diabetes, and to raise awareness of the risk that consistently high blood sugar poses to their vision. That includes the importance of attending annual eye checks. That fits perfectly with the Scottish Government's 2020 vision strategy, which emphasises prevention and anticipation in health and social care.

In order to anticipate which parts of the population are likely to have a bigger increase in sight loss, we need to know how many people currently have sight loss and the rate at which sight loss is rising. I therefore ask the cabinet secretary to tell us when figures on the number of blind and partially sighted people who are registered per local authority will be published. In

the past, those figures were reported annually. A return to that frequency of reporting would be invaluable.

Once again, I congratulate Stuart McMillan on his motion. I hope that today's debate will result in increased focus on how we can best promote prevention of sight loss, including by improved management of diabetes and by carrying out the recommendations that are set out in the community eye care review.

13:20

The Cabinet Secretary for Health and Sport (Shona Robison): I also congratulate Stuart McMillan on securing this important debate, and I join Miles Briggs in paying tribute to Brian Cox and his support for the how do you see Scotland? campaign, which is a powerful campaign, indeed.

I welcome Diabetes Scotland and the RNIB's campaign to raise awareness of diabetic retinopathy and encourage attendance at screening appointments. This is an important initiative during eye health week; such campaigns are crucial for highlighting the on-going importance of attending regular eye screening appointments, as well as all other diabetes health checks.

It is regrettable that diabetic retinopathy remains the leading cause of preventable sight loss among people of working age in Scotland. The posters and film in the campaign clearly show how damaging and devastating retinopathy is. Far too many people have an eye test only when they experience a problem with their eyes or their vision, which might be too late. That is tragic and avoidable when one considers that current screening techniques are capable of detecting referable retinopathy at a stage at which, with proper treatment, the probability of preserving vision is high.

At the end of 2016, there were 291,981 people in Scotland diagnosed with diabetes of all types, which represents 5.4 per cent of the population. We know that on top of the life-changing effect of diabetes, the indirect costs that are associated with poor management are very high. Diabetes is an important issue to tackle at any time but, when we have financial pressures such as we have now on the national health service, it becomes even more pressing to ensure that we are doing everything that we can to address the avoidable complications of diabetes. That is why the Scottish Government considers driving continuous improvement in retinopathy screening practice to be an important priority.

Scotland has a world-renowned diabetic retinopathy screening programme, and I thank the diabetic retinopathy screening collaborative, which oversees the performance of the programme. In

the past 15 months, 84.1 per cent of eligible people had their eyes screened by the DRS service. In 2016, 222,893 people had their eyes screened, which was more than ever. We must not be complacent, however, and we should seek to have even more eligible patients being screened for early signs of diabetic retinopathy.

David Stewart: Will the cabinet secretary have a look at the issues around the postcode lottery in screening? I made the point earlier about 8 per cent of patients in Dumfries and Galloway, but in the Highland Council area, 22 per cent of people do not turn up for retinopathy screening. It is a real issue across health boards.

Shona Robison: I was going to come on to talk about that, and I will do so. David Stewart also mentioned the health inequalities dimension. The Scottish diabetes group, which oversees, co-ordinates and reviews implementation of the improvement plan, is working to establish an inequality group to deliver the priority of equality of access. I will be happy to keep the member informed about that. It is about driving improvement and dealing with issues around differences in attendance levels, especially where there is a health inequalities dimension.

NHS Scotland has recently invested in a replacement information technology system for the screening programme, which was successfully implemented across Scotland early in 2017. The new system is now being used across all health boards to screen an average of 1,000 people with diabetes per working day. That system maintains and supports our commitment to people who have diabetes by providing the best possible care now and for the years ahead.

Members might be aware that Health Improvement Scotland revised DRS standards in 2016 to support staff and ensure that the highest standards of screening are achieved. The standards also detail what people, patients and their representatives, and the public can expect of the services. Two of the new standards relate to protocols for referral and treatment.

Ophthalmologists play a crucial part in delivering high-quality eye care for people who have diabetes. In the spring, I welcomed the publication of the national ophthalmology workstream, which demonstrates the benefits of close working between local clinicians, managers and the Scottish Government.

The report identifies solutions to improve the flow of patients through hospital ophthalmology services. That will be done by adopting new methods of working, using modern technology and making use of the entire workforce, such as by upskilling the non-medical workforce, including nurses, to deliver anti-VEGF—vascular endothelial

growth factor—injections and by optometrists reviewing lower-risk patients, to ensure that all patients get the timely hospital eye care that they need.

Retinopathy screening is one of the nine healthcare checks that people with diabetes should have. Only a few months ago, we ran a poster campaign in community pharmacies to encourage people to make sure that they get all their healthcare checks in order to better manage their condition and to help them to live a longer and healthier life.

We also need to ensure that people who are living with diabetes have the tools and skills to manage their diabetes well in order to prevent and reduce risk of developing complications that can have a significant impact on the quality of their life. That includes access to appropriate technology and support, treatment, and lifestyle management. “My diabetes my way”, for example, is an award-winning resource that enables people to see and check their clinical results and health information. It provides a wide range of advice and is demonstrating its value in helping people who use it to improve their blood glucose control.

We recently allocated additional funding to support not only the increase in the provision of insulin pumps for adults but—importantly, as Colin Smyth mentioned—to support continuous glucose monitoring for those who have the greatest clinical need and who will benefit most from that important technology.

A newly formed expert group is leading work on the prevention framework, which focuses on supporting NHS boards to help people to reduce the risk of complications, and on identifying people who are at high risk of type 2 diabetes and taking action to reduce their risk of developing the condition, including through lifestyle changes.

It is recognised that many long-term conditions, including type 2 diabetes, are related to lifestyle factors such as obesity, lack of exercise, smoking, excessive alcohol intake and poor diet, and to the health inequalities dimension that I mentioned earlier. In our programme for government, we have already set out that we will consult this year on a range of actions to deliver a new approach to diet and healthy weight management.

There are no simple solutions for addressing diabetes, but Governments, patients and wider society all have roles to play, as do members of Parliament. Together we can build on the real and tangible progress that has already been made towards preventing the complications of all types of diabetes and towards improving the quality of life of the tens of thousands of people in Scotland who live with the condition.

13:27

Meeting suspended.

14:30

On resuming—

Urgent Question

Combustible Cladding (Glasgow)

Pauline McNeill (Glasgow) (Lab): To ask the Scottish Government what action it took when Glasgow City Council informed it that 57 privately owned buildings have combustible cladding in their construction.

The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance): All 32 local authorities were asked on 20 June 2017 to provide information on the use of aluminium composite material—ACM—on private high-rise domestic buildings. By 9 August, 30 out of the 32 local authorities reported that no ACM cladding had been identified on private high-rise domestic buildings in their areas.

Due to their size, City of Edinburgh Council and Glasgow City Council needed more time to complete that intensive work. The Scottish Government offered support to assist in that exercise and City of Edinburgh Council accepted that offer. At a meeting of the ministerial working group on building and fire safety on 8 September, the group was updated that City of Edinburgh Council reported that no private high-rise domestic buildings with ACM cladding had been identified.

We also heard at that meeting that Glasgow City Council notified Scottish Government standards officials late on 5 September that 56 privately owned buildings might have some form of ACM cladding. The ministerial working group was not assured of the quality of information provided in the return from Glasgow City Council and agreed to seek further clarification and specifics on the matter. That is especially important as, depending on the type of ACM cladding, the extent of its use and how it has been installed as part of a cladding system, there may be no cause for concern.

The Scottish Government therefore wrote to Glasgow City Council on Tuesday 14 September to establish further details of the extent and type of ACM cladding that might be present and offered support and assistance in gathering together that work. We clarified that request yesterday and again offered the council support in obtaining the information.

As the member will know, that offer has now been accepted and we will work with Glasgow City Council to fully investigate and scrutinise the information that it has collected so that it can provide reassurance to occupants of private high-rise domestic buildings that their buildings are

safe. Any further actions that are identified will be taken forward. The council is aiming to provide that information by the end of next week.

Pauline McNeill: People across the United Kingdom, including in Scotland, watched the horror of Grenfell unfold. The tower's combustible cladding was a major factor in the spread of the blaze. Now it has come to light that 57 private buildings in Glasgow containing numerous households have been constructed using the same combustible cladding.

Shockingly, when that became known by Glasgow City Council officials, they told ministers, but residents were not informed. If it were not for the scrutiny of this Parliament's Local Government and Communities Committee, we would be none the wiser, and credit is due to the committee for that.

Why did the housing minister not tell Glasgow City Council to inform residents immediately in the interests of transparency? Does the cabinet secretary agree that failure to notify and reassure residents of their safety before this was made public, which it now is, was a monumental error and illustrates an unacceptable level of complacency? Has the cabinet secretary now fully briefed the Scottish Fire and Rescue Service, which was also kept in the dark? Given that ministers knew on 8 September, can she demonstrate to Parliament that they have acted on this important matter with a sense of urgency?

Angela Constance: I am grateful to Ms McNeill for her scrutiny and for her request for information.

That this Government moved quickly to establish a ministerial working group to ensure that we could provide the public with as much reassurance as possible about the safety of buildings in Scotland, following the tragic events at Grenfell, speaks volumes.

On the detailed questions about what we knew and when, it is important to clarify that, although Ms McNeill has assumed that we are talking about households, the information that the ministerial working group was given spoke of properties, and some of the gaps in the information related to that—it is all very well to talk about 56 properties, but a crucial question is how many of those are domestic properties.

It is also important to recognise that the Scottish Fire and Rescue Service sits on the ministerial working group and, like ministers and the Scottish Government, was aware of the incompleteness of the information that Glasgow had supplied.

I assure Ms McNeill that I expect my officials to work closely—and I know that they work closely—with all local government officials, including Glasgow officials. Let me be clear that before and

after we requested follow-up information on 14 September, the housing minister has been actively engaged with officials in pressing for relevant information.

It is important to recognise the responsibilities of Glasgow City Council. In a letter today, Susan Aitken has made clear that the information that was presented to the Government was not “a complete picture”, which is the reason why Glasgow City Council did not make the information public.

I am pleased that Glasgow City Council has now accepted the Scottish Government’s offer of help in what is a detailed and onerous task. The council is seeking to provide the clarity that we require by the end of next week. I am also pleased that the leader of Glasgow City Council said that she has

“instructed officers to liaise immediately with the ... Scottish Fire and Rescue Service”.

I hope that I have covered all Ms McNeill’s questions. If I have omitted anything, I will of course duly follow it up with her.

Pauline McNeill: The cabinet secretary has told the Parliament that the information that Glasgow City Council provided was incomplete. Surely the council could be under no illusion about the urgency of the matter. What did the Scottish ministers do when it became clear that they did not have information that should have been available to them? How can the cabinet secretary have faith in Glasgow City Council as it takes the matter forward?

I am sure that the cabinet secretary agrees that public reassurance is paramount. Can she demonstrate that the Government is in command of the situation and will do everything to restore the faith of residents? Can she say clearly that residents—I believe that there are residents who are affected—have now been contacted? Can she guarantee that the buildings are safe? If not, why not? When will she meet the Scottish Fire and Rescue Service to ensure that all the buildings are checked as soon as possible?

Angela Constance: Let me respond in the spirit of Ms McNeill’s question. We do not for a minute abdicate our responsibilities as a Government. We recognise that, if we ask for information, we have a duty to scrutinise the information that we receive, so that we can have confidence in it and it can be used appropriately to identify action or to reassure residents and tenants.

Information is power, and the Government having knowledge places a responsibility on us, but that does not for a minute absolve any local authority, including Glasgow City Council, of its responsibilities. The leader of Glasgow City Council has said today that the council will provide

the information that the Government requires, for public reassurance.

It is important to recognise that the gaps in the information so far do not enable a complete picture to be presented to either the owners of the buildings, who will have responsibilities, or, indeed, the residents of the buildings. It is also important to recognise that we take our responsibilities seriously and that, when the chief building standards officer said that he was not satisfied with the overall detail of information from Glasgow City Council, we followed that up after our discussion at the ministerial working group in correspondence to the council on 14 September. As I have said, the housing minister regularly meets her officials, who need to work with officials in local government.

I will give brief examples of the gaps in the information that was presented to us. Until those gaps are filled, we will not have the best information to inform the residents rightly. As I indicated earlier, we were not clear about the number of households involved and we did not have clear information about some of the buildings. It was not clear whether the material was aluminium composite material, where the material was, whether it was used extensively, and whether plans had been retrieved to find it. All of that information is important to be able to reassure the public.

I am clear that, as a Government, we have responsibilities, but Glasgow City Council has responsibilities, too. It has a lead responsibility on building standards as per the legislation, and it has enforcement duties. I am pleased by the correspondence that the leader of Glasgow City Council has sent to the Local Government and Communities Committee outlining the action that it will now take to work with the Government and inform residents as soon as the information is available. We have to give residents accurate information that is based on an accurate assessment of the situation.

The Presiding Officer (Ken Macintosh): A number of members want to ask supplementary questions. Members should try to keep their questions succinct and we will try to get through them.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Everyone who resides in an impacted property—that means tenants, not just owners—has a right to know as soon possible. I hope that the cabinet secretary agrees with that and agrees that there should be an absolute duty on local authorities to inform residents and the fire service.

Does the cabinet secretary agree that the fragmented nature of records across local

government—particularly in Glasgow—is as unacceptable as it is antiquated? Does she agree that there is an overwhelming and essential need for a reliable and robust national database so that, if there is ever a need in the future to interrogate high-rise safety, we never find ourselves in the sorry mess that we are in?

Angela Constance: Let me be clear to Mr Doris and Ms McNeill that residents indeed have the right to know, but they have the right to know accurate information that accurately portrays whether there is a problem and how, if there is a problem, it will be addressed. That information needs to be made available to residents and building owners as soon as is practically possible, and Glasgow City Council has given commitments on that.

Mr Doris's point about the fragmented nature of records is interesting. We recognise that it has been an onerous task for Glasgow City Council and the City of Edinburgh Council to work through records to establish matters and answer questions such as whether there is aluminium composite material in domestic private high-rises. Therefore, we as a Government have offered proactively to help with that. The national database issue is certainly interesting, and the ministerial working group will look at it further.

Graham Simpson (Central Scotland) (Con): Yesterday, the Local Government and Communities Committee heard with disbelief the news that 57 properties in Glasgow have ACM cladding and that residents in the affected properties have not been told. For once, I am not laying the blame at Kevin Stewart's door; I think that it is the responsibility of Glasgow City Council. It has a responsibility to the citizens of Glasgow. If it has the information, it should share that information straight away.

The ministerial working group made repeated offers of help in emails to the council, but they were refused. Does the cabinet secretary agree that, frankly, that is unacceptable, and that Glasgow City Council should immediately inform the residents in the affected blocks and immediately contact the Scottish Fire and Rescue Service?

Angela Constance: Mr Simpson reflects the fact that the ministerial working group was certainly left with more questions than answers, which was similar to the Local Government and Communities Committee's experience yesterday. I point him to the fact that, although aspects of the experience are less than desirable, the Government recognised the onerous task that we were placing on local government, following the tragic events at Grenfell, by asking—rightly—for assurances and detailed information. We recognised that the task was onerous and we

proactively offered to help. It took until the third offer before Glasgow City Council accepted that help.

I am pleased that the political intervention from the council's leader has led to the council accepting help from the Scottish Government in carrying out its responsibilities. In the council leader's letter today to Bob Doris, who is the convener of the Local Government and Communities Committee, she has also said that she has instructed her officers to engage

"immediately with the local Scottish Fire and Rescue Service".

There will be valuable lessons to learn from all this. I repeat that, although residents indeed have the right to know, we must have the right information to give them; otherwise, we might give them false information or cause them undue alarm. We must have clarity for residents as soon as possible.

The Presiding Officer: There are four more questions, cabinet secretary.

Patrick Harvie (Glasgow) (Green): I very much agree with the sense of urgency that was conveyed in Pauline McNeill's question. What process will be used to ensure that all residents, including private rented sector tenants, are given the information that they need, particularly when there has been high turnover of new student tenancies in Glasgow? Will the cabinet secretary clarify whether a private landlord would be acting within the law by letting out a property in a building that proved to be unsafe on the basis of its cladding?

Angela Constance: Mr Harvie points to the fact that private landlords and property owners have responsibilities under building safety and fire regulations. He asks for reassurance that residents will receive the information that they are entitled to and about the way in which that information will be shared once it is available. Mr Stewart or I will discuss that directly with Glasgow City Council. We may even need to rely on a door-to-door exercise, rather than a desktop or correspondence exercise.

We will take the member's point very much on board. When the information becomes available, we will want to reassure tenants and advise of any action that is required. We want to ensure that every resident who is entitled to the information receives it.

Mike Rumbles (North East Scotland) (LD): The cabinet secretary will know that, given the access issues, carrying out remedial work on high-rise properties can be a significant burden. Should significant work be required, what assistance will the Scottish Government and Glasgow City

Council be able to provide to residents through finance and the co-ordination of the necessary remedial work?

Angela Constance: That point is fair and important. However—first things first—we need to find out the facts and what issues there are, if any. We then need to establish what action has to be taken, who pays for that and how. I am alive to that issue.

Johann Lamont (Glasgow) (Lab): I want to clarify the process. The cabinet secretary said that the Government became aware of inadequate information on 5 September but did not write to the council until 14 September. Given the urgency of the matter, might it have been more appropriate to pick up the phone?

Is the cabinet secretary suggesting that the council leader did not know that there was a problem until yesterday, when the Local Government and Communities Committee addressed the matter, given that she is now reassuring the cabinet secretary that she will take action? Further, is the cabinet secretary aware that Glasgow City Council is only now reconstituting its scrutiny committee? Does she agree that that delay was unacceptable, bearing in mind the interests of transparency and giving confidence to the people of Glasgow about such matters? Will she urge the council's leadership to co-operate with a more open and transparent approach to the council's business, so that the issue that yesterday appeared to come as a surprise to the council leader will not arise again, given the gravity of the safety issues concerned?

Angela Constance: Scrutiny and transparency are always good—the Government has led by example through the ministerial working group on fire safety and building standards. I am sure that all our colleagues at Glasgow City Council will have heard the remarks that Ms Lamont and others have made. Those issues are mainly for the council.

As I confirmed, the Government received information from Glasgow City Council late on 5 September. We discussed that information in great detail at the ministerial working group that met on the afternoon of Friday 8 September. Correspondence was sent to the council on 14 September. Ms Lamont will appreciate that, for clarity, it is important to put such matters in writing, to ensure that there is a record. I assure her that my officials and the chief building standards officer are never, ever afraid of picking up the phone to any local authority officer, including those in Glasgow.

James Kelly (Glasgow) (Lab): The handling of the issue by the Scottish Government and Glasgow City Council has been far from

satisfactory and leaves both parties accused of a cover-up. In the interests of transparency, will the cabinet secretary commit to publishing full details of all discussions in all government forums, between all government officials, in relation to the issue?

Angela Constance: I reject Mr Kelly's analysis. The ministerial working group has a web page on which we publish minutes. Yesterday, Mr Stewart wrote to the Local Government and Communities Committee and included correspondence that we sent to Glasgow City Council. I reject the member's claims.

Members are free to ask questions and make requests for information from the Government. We are willing to be open. However, I emphasise that we must get the right information to residents as soon as possible. We have a responsibility to get accurate information.

James Kelly: Publish the information.

Angela Constance: We do publish the information. I urge Mr Kelly to have a wee look at it.

The Presiding Officer: I thank members and ministers for their time. I am conscious that there is a lot of interest in the subject, not least from Mr Doris, the convener of the Local Government and Communities Committee. However, I believe that the matter will come before that committee, and I urge members to take their interest there. We have given the matter some time this afternoon.

Nuisance Calls

The Presiding Officer (Ken Macintosh): The next item of business is a members' business debate on motion S5M-07631, in the name of James Dornan, on congratulating the Which? campaign to call time on nuisance calls in Scotland. The debate will be concluded without any question being put.

Motion moved,

That the Parliament congratulates Which? on its continuing campaign against nuisance calls; considers that, while these calls are primarily just a source of annoyance for many, they can also cause a great deal of anxiety for some of the most vulnerable people in society, including in Glasgow Cathcart, resulting in a loss of savings, security and dignity; notes calls on Ofcom to seriously consider adopting the Canadian licensing system where all telecommunication providers must supply a call blocking system if they wish to operate in Canada and, if it is unwilling to adopt this regulatory framework, to explain its reasons to the Parliament; further notes calls on the UK Government to bring forward what is considered overdue legislation to make company directors legally accountable for their firms making such phone calls, and congratulates the Scottish Government on allocating £50,000 into the nuisance call fund, which it considers will help to offer protection to the most vulnerable in Scotland's communities.

14:53

James Dornan (Glasgow Cathcart) (SNP): I start by congratulating Which? on its continuing campaign to end the scourge of nuisance calls. Over the past two years, my office—much like those of other members, I suspect—has received a disturbing number of complaints from constituents regarding the volume, timing and intimidating nature of such calls. I, too, have been plagued with nuisance calls: I had not realised that my memory was getting so bad and that I kept forgetting all the accidents that I had been involved in.

The calls are a nuisance for me, but for many of our most vulnerable citizens, such calls have led to scams that have deprived them of their savings, security and dignity. It is a vile practice and it is completely unacceptable. I can give a number of examples of the results of such calls. One woman from Scotland was done out of £6,000 for solar panels; once she had handed over the money, she never heard from the people again. There are a number of other cases in which people have been distressed or otherwise severely affected financially and psychologically.

Which? has highlighted that 81 per cent of Scots have received a nuisance call in the past month, and 41 per cent of respondents cited feeling intimidated. It also reported that 79 per cent of people support greater accountability for the

actions of the companies that are responsible for the calls.

As a Glasgow MSP, I am delighted that I have been able to raise the issue because, unfortunately, Glasgow holds the title for having the most nuisance calls—some 52 per cent of calls in Glasgow are nuisance calls, which needs to be dealt with seriously.

I am delighted that Keith Brown, the Cabinet Secretary for Economy, Jobs and Fair Work, has announced a £50,000 fund to install call-blocking technology for those who are most at risk from nuisance calls, which is an important step forward. I think that the whole Parliament would agree that we abhor the practice—I have no doubt that we all do—and that we would all welcome the Scottish Government's funding to introduce new measures. However, I forgot about Mike Rumbles: it appears that his tactic these days is to wait for a Scottish Government announcement, claim that it was his idea and then criticise the Scottish Government for not doing enough. My mum used to tell me that if I could not say anything nice, I should not say anything at all. I give that advice to Mr Rumbles.

The Which? campaign and its taskforce highlighted a number of issues that are a shared responsibility across businesses, the industry, regulatory bodies and, of course, Government. It is clear that businesses should improve their direct-marketing practices and ensure that compliance with laws surrounding consumer consent to direct marketing are treated as a board-level issue under corporate risk and consumer trust. Active consideration should be given to joining accreditation schemes. Boards should also commit to implementing the Information Commissioner's Office's guidance on collecting and buying data; ensure that opt outs are adhered to; respect a six-month time limit on third-party consent; and recognise that third-party consent is insufficient to override telephone preference service registration. Businesses must therefore ensure that all telephone numbers that are purchased are screened in advance. Finally, businesses should also record standard information as proof of consent.

Industry bodies have their role to perform, too. Codes of conduct should place an onus on members of industry bodies to follow good practice and guidance on purchasing, recording and sharing personal consent. Any member that is found to be in breach of such practice should be accountable and face sanctions.

The Competition and Markets Authority should identify systemic harm to consumer protection and work closely with the ICO and fellow regulators to gain an understanding of the problems and identify future action. The ICO has an opportunity to build on existing marketing guidance to develop a

model for firms to provide consumers with information on opting in and out, third-party consent and controlling and revoking consent. That new model should be produced in tandem with other stakeholders including chambers of commerce, the Federation of Small Businesses and voluntary sector organisations including the Scottish Council for Voluntary Organisations and Glasgow Council for the Voluntary Sector.

In my view, Ofcom should assess what level consumer awareness of the TPS has reached, for land line and mobile phone users, consider whether there is a need for increased awareness and be at the forefront of any future campaigns. Of course, all those bodies and organisations should closely collaborate in order to dovetail their efforts to reduce the problems that stem from nuisance calls.

Of course, there is a role for Governments across the UK to play in the future in helping to bring to an end the abuses of the current system. First, directors or board-level executives should be made legally accountable for abuses in their firm's telecommunications marketing operations. At the moment, the company is fined for transgressions; however, companies can be dissolved then reformed under new names with the same directors and the same addresses, selling the same product—a practice that is known as phoenixing. Directors and other responsible named individuals within firms might be more mindful if fines were imposed on their personal finances instead of on a firm that can be closed the next day.

Governments should participate in cross-sector business awareness campaigns with the ICO, Ofcom and others in order to encourage the adoption of accreditation schemes. The Department for Digital, Culture, Media and Sport should review the nuisance calls action plan to assess recommendations and consider new recommendations. Governments should adopt an anti-nuisance-call policy in executing their procurement process for call centres.

Finally, I draw to Parliament's attention Canada's national do not call list, which is designed to reduce the number of unwanted telemarketing calls. All telemarketers must register, free of charge, with the national DNCL. Consumers must register to have their mobile and home phone numbers included. Their details are added within 24 hours of registration and companies have 31 days to update their calling lists. Registration is permanent, but consumers can have their details removed on request. Regular telemarketers include companies that make calls to sell or promote a product or service or to request donations. A subscription must be purchased for the area codes that are intended for

use, and numbers must be downloaded from the national DNCL, then deleted from active calling lists that firms must maintain, and never called. If a consumer asks not to be contacted, their name and number must be added to the internal do-not-call list within 14 days. Those numbers must never be called. The DNCL downloads that are used must be no older than 31 days. A firm must identify itself and ensure that its number is on display. Firms can call between 9 am and 9:30 pm on weekdays and only between 10 am and 6 pm on weekends. The guidance must be complied with at all times.

I am sure that we all have constituents who have been irritated, or suffered worse, from nuisance calls. Which? has clearly demonstrated the public feeling on the matter and has provided positive and realistic recommendations for business, industry bodies, regulators and Governments to implement and show leadership on. I call on everyone, especially the Westminster Government, whose locus the matter mainly is, to play their part in ending the scourge.

The Presiding Officer: Normally, members' business debates are at the end of the day when there is plenty of time, but today we are quite restricted, so I ask members to keep their speeches to four minutes or less.

15:01

Graeme Dey (Angus South) (SNP): I wholeheartedly congratulate my friend and colleague James Dornan on securing the debate, even though I have a depressing feeling of déjà vu in contributing to it. It is the third such debate in which I have taken part—the previous occasions being in 2012 and then almost two years ago to the day.

Let us acknowledge that we are making progress on nuisance calls. However, the fact that we still have cause to consider the issue in Parliament shows that there is a considerable way left to go. It is a hugely important issue that is deserving of all possible action by government at all levels.

Back at the beginning of 2016, I hosted an event for Which? to inform members about its nuisance calls campaign. Ahead of that, I was interviewed on "Good Morning Scotland". Trailing the interview, BBC Scotland ran a package in which members of the public took great delight in recalling how they had dealt with such calls. Some had hurled abuse or wound up the callers, and others blew whistles down the phone.

I have never found the matter remotely amusing. It is all very well and good for those of us who can to wind up nuisance callers or deal with them abruptly, but many people do not feel able to

put the phone down, let alone to send the callers packing—that is, if there is anyone on the other end. For them, such calls are an absolute intrusion—perhaps even worse, if the person is in any way vulnerable. It is, to be frank, unacceptable that such folk reach the stage of being unwilling to answer their phones.

One contribution from the previous debates that we have had on the subject has stuck with me. It was made by Liam McArthur, who revealed that he had an elderly constituent who had been persuaded over the phone to purchase an internet security package even though she did not own a computer. For me, that sums up the risk that is associated with nuisance calling, and illustrates exactly why, as I noted earlier, government at all levels must take every possible action to deal with it.

I welcome the Scottish Government's recently published action plan. Powers over the matter largely remain at Westminster, but there has been limited devolution, so it is important that we seize the opportunity that it provides. Of course, the Scottish Government was innocently caught up in the issue a couple of years ago when rogue companies were cold calling, claiming to be doing so on behalf of the Scottish Government, to inform people that they had to replace their central heating boilers. A number of constituents got in touch with me and my staff had to reassure them that the Scottish Government was demanding no such thing.

People should be confident that a call that purports to be from, or on behalf of the Scottish Government, is legitimate. Therefore, I welcome the measures that have been announced in the action plan in relation to that, as I welcome the provision of call-blocking technology for vulnerable people and awareness raising about protection options.

I also note the call for a simpler reporting system. James Dornan referred to the situation in Canada. I will not rehearse the detail: suffice it to say that, although introducing such measures here might not reduce people's annoyance about calls, it would certainly afford people an opportunity to determine whether the source of a call is a number that they recognise, or to get the details to report the call, if they so wish.

The problem is not going away. If anything, it is growing in scale and annoyance value. Which? data from September last year shows that 39 per cent of calls that people received were nuisance calls. As the Scottish Government notes, the research also shows that it is more of an issue in Scotland.

The voluntary steps that the Scottish Government can encourage businesses to take

are welcome and serve to highlight the firms that do not act in that way. Unfortunately, there will always be companies that do not want to comply with what many of us see as minimal best practice, so there needs to be a will across the Government to drive those cowboys out of business.

The Which? campaign is called calling time on nuisance calls and texts. I sincerely hope that in this parliamentary session we will manage to persuade Westminster to act more decisively on the issue than it has until now, so that we can call time on nuisance calls.

15:05

Maurice Corry (West Scotland) (Con): I thank James Dornan for bringing the important and widespread issue of nuisance calls to the chamber.

As members know, Which? has conducted a great campaign to raise awareness of the issue, which affects many people throughout the country. According to its figures, nine out of 10 Scots received some form of nuisance call in the month prior to the launch of its petition. Indeed, the majority of members will also have been on the receiving end of such calls.

Whether calls are regarding personal payment insurance—PPI—or the possibility of having been in a car accident that was not one's fault, they are not always without their merits. For example, some of my constituents have received PPI compensation to which they were entitled that was highlighted as a result of receiving a relevant phone call. Of course, there is a point at which the calls become a nuisance, but there are far more sinister phone calls that have varying effects on different groups within our society. It is the most vulnerable of those groups whom we need to ensure that we protect.

Last year, more than 1.8 million cases of financial fraud were reported in the UK, resulting in a total loss of £768 million, and a large percentage of those cases were as a result of unsolicited calls. Recently, in my region, or, more specifically, in West Dunbartonshire, there was a sophisticated telephone scam that involved constituents being contacted regarding a contaminated water supply by an organisation that claimed to be Scottish Water. People were informed that they should visit a specified website for more information, but its purpose was to obtain their personal information. Many other members will have heard similar stories from their constituents.

One point that is raised in the Which? petition is the importance of protecting the most vulnerable groups in our society and ensuring that they are aware of ways to prevent nuisance calls. For

example, BT now provides CallGuardian on its phones, which enables the home owner to save phone numbers and to block unwanted calls. It is important that the people who would benefit from the device are made aware of its benefits and availability.

Given the scale of the problem in Scotland, and the fact that the number of nuisance calls is ever on the rise, we must be more robust in our approach to preventing them. When the Scottish Government is looking at the matter, it could perhaps consider creating more awareness of and bringing attention to what constitutes a breach of the law in order to help businesses to stay within the regulations, as well as considering cracking down on businesses that break the law on nuisance phone calls and holding the relevant business executives personally to account when it occurs.

It is vital that, as a Parliament, we do not create policies that encourage, directly or indirectly, an increase in unwanted telephone calls. Instead, we must protect vulnerable groups and not add to the number of general nuisance calls that the vast majority of us experience in our lifetime.

It appears that genuine issues such as PPI that affect a large number of individuals could be dealt with in less direct and intrusive ways—for example, through television or radio campaigns that provide awareness to the public without causing nuisance or, as calls do in some cases, alarm to people. We should protect people and their right to privacy and peace in their own homes, and we should do everything we can to prevent nuisance calls in the future.

The Presiding Officer: That was admirable timekeeping, Mr Corry.

15:08

James Kelly (Glasgow) (Lab): I congratulate James Dornan on securing today's debate. It is a very important issue on which Mr Dornan has a consistent campaigning record. Every member will not only have personal experience of the issue, but will have been approached by constituents expressing concern and anxiety about it. From that point of view, we should congratulate Which? on the work that it has consistently done to raise awareness and to prompt action from Governments and businesses. The scale of the problem is such that 81 per cent of people have received a nuisance call in the past month.

It is not just about the numbers, however. As Graeme Dey said in his speech—I remember his excellent speech on the issue in the debate that I led two years ago—this is about the impact of the problem on vulnerable people—in particular, pensioners. Not everyone can just dismiss a

phone call that comes down the line; some pensioners have difficulty in putting the phone down and sometimes, they believe that the calls are genuine.

It is really despicable that many companies are up to scams and are out to elicit people's bank details so that they can participate in fraudulent activities and take money off people through unjust means. That is the nub of the issue—that is what causes real concern and alarm.

As for how nuisance calls should be combated, a number of things can be done. First, there is information awareness, and Which? has been active on that. I recently had a meeting with a local CAB, Rutherglen and Cambuslang Citizens Advice Bureau. Sharon Hampson and the team there have been very effective in getting the Which? packs out over the course of the campaign. Such initiatives make people aware of the activities of nuisance callers and help to combat them.

On a practical level it is, as a number of members have highlighted, important to support the introduction of call-blocking technology, which can cut off a lot of calls at source and ensure that they do not get through to people.

There has to be more responsibility on the part of companies. Some that participate in telephone activities do so legitimately, but there must be an onus on the companies concerned to ensure that their activities do not interfere with people's personal freedoms. From that point of view, the Which? campaign proposes that companies have a director who is responsible for telephone calls. Their having someone like that at director level would ensure that they took on more responsibility.

Action across all Governments is essential. From that point of view, I welcome the Scottish Government's action plan.

James Dornan has led an excellent debate on a subject that affects many people. There is an onus on us all—MSPs, Governments, companies and information campaigns—to provide leadership in order to combat nuisance calls.

15:12

Bruce Crawford (Stirling) (SNP): Like others, I thank James Dornan for bringing this very important matter to the chamber.

Nuisance callers, sometimes on an hourly basis, continue to harass and abuse a great many people in my constituency, and I know that it is the same across the country. I will use my time today to focus on the effect of nuisance callers on vulnerable older people and those who might be suffering from dementia or a similar debilitating illness who are at home alone.

I am aware of a harrowing case in my constituency, involving an older person who reached out for advice after being contacted by someone claiming to be from HM Revenue and Customs. It was a particularly aggressive form of fraudulent nuisance call, which attempted to persuade my constituent to pay tax that the caller claimed she was liable for. The caller suggested that she should do so by purchasing iTunes vouchers and then passing on the relevant codes, and they threatened her with court action if she did not comply. Thankfully, although she was highly distressed by the situation, my constituent questioned the validity of the caller's claims and eventually contacted Police Scotland to report the incident. Others will not have had such a fortunate end story.

That particular case demonstrates just one of the more sinister attempts to victimise vulnerable older people. It is clear how such methods cause alarm and distress among those who are on the receiving end of them. The problem is huge. According to research conducted by Age UK, telephone scams affect more than 10 per cent of people aged over 65, meaning that more than 100,000 older people in Scotland have been targeted. Of those who have been contacted, 12 per cent have responded to scams but, in the over-75 age group, that figure rose to 16 per cent. It is therefore clear that the older and more vulnerable the person is, the more profitable they are seen to be by these predatory companies and individuals who would seek to exploit them.

The figures demonstrate the sickening reality in our society of vulnerable people being used—perhaps the more appropriate term is “abused”—and losing what are, for them, vast sums of money to opportunistic and vile sharks who relentlessly deploy scare tactics against them. Almost two thirds of people who have been scammed did not report it. Many stated that they were too embarrassed to even tell their close family or their friends.

One thing should ring out loud and clear from this debate today: no one should ever be afraid or embarrassed when it comes to nuisance calls. These sleekit—to use a descriptive Scots word—callers are good at what they do and can be very persuasive, but that does not mean that they cannot be stopped. People should report cases to the police, speak to their friends and families and let those around them know that people are being targeted in this way.

I welcome the Scottish Government's investment in call-blocking technology for the most vulnerable people; it will bring some peace of mind to many older people. However, there is still a lot of work to do to stamp out this activity by raising awareness, and I hope that the debate that James

Dornan has brought to the chamber today achieves just that, because that is probably the biggest thing that we can do, although the motion also draws our attention to further action that can be taken to improve matters. I thank James Dornan for bringing the debate to the chamber today.

15:16

Jamie Halcro Johnston (Highlands and Islands) (Con): I refer members to my entry in the register of interests in relation to the business of J Halcro Johnston and Sons, which I will refer to in my speech. I also congratulate James Dornan on bringing the debate.

I welcome the opportunity to debate an important issue for my constituents in the Highlands and Islands; one which is causing increasing frustration and, in many cases, alarm. Other members have spoken of the extent of the problem of nuisance calls in Scotland, but in addition to the wide level of irritation that surveys show, Which? research showed that 40 per cent of people surveyed were also intimidated by the calls, and Ofcom's research showed that around one in 10 people found the calls distressing. Those cases are naturally of most serious concern.

For many of us, these calls are a nuisance, but I ask members to consider the following scenario, which is likely to be played out across the Highlands and Islands. An older person lives in a remote location. They live alone. It is the middle of the night and the phone rings. They have no idea who it is but they answer. There is no one at the other end of the line. They do not know if it is just another nuisance call. They do not know if it is a family member or a friend in need of urgent help. They do not know if it is something more sinister. Therefore, let us be very clear that nuisance calls are not just a nuisance; for many, particularly the elderly and vulnerable, they can feel like an intrusion into their home.

Some people are being forced to make themselves almost uncontactable by friends and relatives simply to get peace from persistent callers or the volume of calls from separate organisations. I would like to touch on the experience of some in the Highlands and Islands, including a personal experience.

Our farming business and our domestic numbers constantly receive nuisance calls. We get calls from overseas call centres that almost immediately hang up the minute they are questioned. There are calls that ring but there is no one on the other end when they are answered. Recently, and most frustratingly, we have had calls from companies that claim—with justification

in some cases—to be partnered or working with the very providers that have a role in providing services and which should be working to combat nuisance calls.

Only a few weeks ago at our farm, we received a call from an organisation claiming that our BT contract was coming to an end, needed to be renewed and a deal was available. That was done and new sign-up confirmations were sent by email from BT. However, when I rang BT, it clarified that our contract still had well over a year to run. It also admitted that the company that had contacted us was authorised by BT to sign up customers on its behalf. Therefore, we had been contacted by an organisation that appears to have a relationship with BT but which is cold-calling BT customers and, perhaps, customers from other providers to sell them services that they simply do not need, and BT has done nothing to question the new and unnecessary contract, despite its being on the record.

I am sure that we have all heard of utilities providers providing details to partner organisations that they then use for what are essentially cold-call sales. That certainly seems to be what happened in my example and I will be writing to BT to highlight our case and to ascertain what protections apply to data-sharing arrangements. However, it is not just the utilities. In 2014, Highland trading standards even reported scam calls from organisations representing themselves as being able to prevent nuisance calls.

Not necessarily to keep James Dornan happy—although I hope that it will—I welcome the action taken by the Scottish Government in relation to nuisance calls, including the increase in the provision of call-blocking technology as part of the UK-wide work that has taken place following the March 2015 budget.

Which? has been working closely with the UK regulators to signpost nuisance calls and tackle them under the current legislation. That has paid off, with a £350,000 fine issued to a PPI sales company in September for an incredible 146 million unsolicited calls.

There is also an important role for service providers to play, whether that is in identifying and cutting off the offending companies at source or in providing better systems or equipment that prevent the calls from reaching the home or business that is being targeted. Combating these calls requires Government, regulators, businesses and public bodies to work together.

I want to conclude with another example of the real impact that these calls can have—

The Deputy Presiding Officer (Christine Grahame): You do not have time for another example. You must conclude, please.

Jamie Halcro Johnston: These calls are not nuisance calls, and they are certainly not victimless.

The Deputy Presiding Officer: Thank you. I wanted to make space for Liam McArthur.

15:22

Liam McArthur (Orkney Islands) (LD): I thank James Dornan for bringing this debate and assure him that I will take him off the mailing list for Mike Rumbles's press releases in future.

I join others in thanking Which? for its tireless campaigning on this issue. As Graeme Dey said, there has been progress and Which? deserves much of the credit for it. As everyone has pointed out, however, there is a considerable amount still to do.

The calls are not simply a nuisance. A number of colleagues have highlighted the scams and the financial loss, particularly for some of our most vulnerable people in the communities that we represent. Graeme Dey quite rightly drew attention to the most egregious example, which I outlined in a previous debate.

These calls are also distressing and isolating. I was sent an email earlier this week from a constituent who works in the care sector. She said:

"I work with the elderly in their homes and many will have several calls a day claiming to be government boiler schemes, etc. They try to get to the phone too fast and put themselves at risk physically."

She goes on to highlight the particular problems for dementia sufferers and how distressing they can find it.

Boiler schemes do appear to be the source of many of the problems at the moment. I welcome the Scottish Government's action programme and the commitment from the cabinet secretary's colleague, Kevin Stewart, who confirmed that the Scottish Government do not use this method of calling for any of their schemes. In the correspondence that I have had with the UK Government, it has not been able to offer a similar commitment. That is an area in which further work needs to be done.

I thank James Dornan again for bringing the debate and allowing Parliament once more to send a strong and unambiguous message about this Parliament's attitude to nuisance calls and our commitment to eradicate them. I also thank Which? again for its tireless efforts.

The Deputy Presiding Officer: I call on Keith Brown to close for the Government. Cabinet secretary, you have seven—or rather, six—minutes or thereabouts.

15:23

The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown): I, too, congratulate James Dornan on securing this debate and commend the work of my colleague Patricia Gibson MP in the House of Commons for the work that she has done, which has led to some of the developments in the penalties that are now being proposed.

I chaired the nuisance calls commission and very recently published an action plan highlighting what the Scottish Government will do to reduce the impact of these calls, given the powers that we have.

As the motion says, Which? has been pretty relentless in bringing attention to this issue, and quite rightly—I mean relentless in the most positive sense. We have worked very closely with Which? and I am grateful for its work, not only to help consumers to protect themselves, but also to highlight the particular scale of the problem in Scotland.

With research showing that three Scottish cities were receiving the highest percentages of nuisance calls in the UK, as has been mentioned, it is clear that we must do what we can in the Scottish Government, although regulation lies with the UK Government.

We know that the rise of what are called nuisance calls harms individuals. For most, such calls are, as Graeme Dey said, a recurring annoyance, interrupting dinner or family time and sometimes unforgivably—I am sure that James Dornan can relate to this—arriving just as Champions' League coverage starts. However, for some people whose circumstances make them particularly vulnerable, the consequences can be much worse. They can be a source of anxiety, distress or even financial hardship. We all know the stories, some of which we have heard today, about people being conned out of savings or being frightened every time they answer the phone. They do not want to just stop using their phone, because they want to be available to family members, but they fear the worst every time the phone rings, only—as Liam McArthur mentioned—to be offered a boiler deal that they are not interested in having.

The example that Bruce Crawford highlighted is one that I, too, have experienced. It seems so random and odd for someone to pretend to be from HM Revenue and Customs and to ask a person to purchase iTunes vouchers, but it is actually a very common situation. A constituent of mine—an older woman—was told to go to Tesco immediately to buy vouchers and not to tell anyone else about the call, but she was stopped from leaving her home by someone else whom

she took into her confidence. Having to pay tax that she was not liable for would have had a substantial impact on that woman, but the concern and anxiety that were caused were unforgivable, too. These things can be much more than nuisance calls.

The seriousness of the issue was certainly brought home to those who sat on the nuisance calls commission. In that light, I think that Mike Rumbles's press release is puerile, miserable and ill informed and does not treat the issue as seriously as it should be treated. A councillor in Angus, I think, has also used the issue to have a go at the Scottish Government without having informed themselves about the powers that we have or do not have.

It is very important to realise where the power lies in relation to some of the regulatory aspects of this matter. We can do some things; indeed, that is why we launched a fund to supply call-blocking technology to some of our most vulnerable citizens. Trading Standards Scotland has worked very closely with third sector organisations to ensure that those call blockers go where they are most needed and almost all units have been allocated. Some local authorities have done a great deal of work on this, especially in those areas with intensities in the number of vulnerable people, and we are pleased with the take-up. However, that is yet another indicator of the number of people who are affected by these calls.

That leads me on to the suggestion that Ofcom follow the Canadian model that James Dornan also mentioned of requiring telecoms providers to provide technological solutions. Only a solution that blocks calls on a dramatic scale can really change the pattern of nuisance calls, and telecoms providers are best placed to make that happen. However, as Ofcom explained to our commission, Canada is further behind the UK system, which explains why its regulator has imposed such a duty. As a result, Ofcom's position remains that imposing the same duty here would have little tangible impact.

Some positive steps are being taken. BT—despite what has been quite rightly said—and Vodafone offer their customers free services that put them in control of who can contact them. Nonetheless, even those who subscribe to the telephone preference system are not immune to receiving these calls, and we would like telecom providers to do more to follow the lead of BT and Vodafone. I have also written to the UK Government to urge further action if the market does not provide solutions. I believe that the Government should act; indeed, in the same letter, I urged swift action on both director accountability, which is being taken forward, and a ban on cold calling specifically with regard to pensions. The

potential harm to those who are most at risk is too great for this to be delayed much longer.

That I had to write the letter in the first place highlights that we are very constrained in the actions that we can take. There has been some criticism that the commission did not achieve or go far enough, but I do not accept that. To anyone here who has a suggestion for action that the Scottish Government can take and which we have not yet considered and proposed with regard to awareness raising of call-blocking technology, I say that they had their chance to write in and tell us about it and they did not do so. However, even now I am willing to accept further suggestions if they can help to reduce this plague on people's lives.

That said, I want to end on a more positive note and highlight the progress that the commission has made, even with its limited powers. I have mentioned the call-blocking fund, but the action plan sets out a number of other steps, including a commitment to building a wider scams strategy so that vulnerable people are protected from all kinds of unscrupulous practices; amending the business pledge to include support and protection for vulnerable customers; and ensuring that Scottish Government schemes, such as home energy efficiency initiatives, are developed in a way that minimises the opportunities for rogue companies to hijack them and use them to prey on vulnerable people.

The launch of the action plan marked the beginning of a consumer awareness week on nuisance calls that we worked on with Which?, and James Dornan and one or two other members appeared at Glasgow central station to lend their support to the campaign. Moreover, as James Kelly pointed out, Citizens Advice Scotland, which, among many others, was involved in the commission, has been instrumental in leading work to raise awareness, so that consumers can better protect themselves and their loved ones. That collaborative working underpins the actions in the plan and is the only way to solve this problem.

I encourage all my colleagues in Parliament to join me in continuing to press for more UK Government action where necessary and to find our own solutions where possible.

The Deputy Presiding Officer: That concludes the debate.

Edinburgh Bakers' Widows' Fund Bill: Preliminary Stage

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-07584, in the name of Tom Arthur, on the Edinburgh Bakers' Widows' Fund Bill.

15:29

Tom Arthur (Renfrewshire South) (SNP): I am pleased to open the preliminary stage debate on the Edinburgh Bakers' Widows' Fund Bill. I thank the other members of the Edinburgh Bakers' Widows' Fund Bill Committee—Alison Harris and Mary Fee—for their work in getting the bill to this stage.

The Edinburgh Bakers' Widows' Fund Bill was introduced on 20 March 2017 and has been promoted by the trustees of the widows' scheme of the Incorporation of Bakers of the City of Edinburgh. The overall objective of the bill is, in essence, to transfer the property and assets of the widows' scheme of the Incorporation of Bakers of the City of Edinburgh to a new charitable trust. The bill is the first private bill to be debated in the chamber this session. It is not a controversial bill and no objections to it were received.

The first thing that struck me about the bill was its title. I must admit to having been unfamiliar with the fund. The committee gained some insight into the history of the rules governing trading corporations in Edinburgh and how they now affect trade some 200 years later. The Incorporation of Bakers of the City of Edinburgh was originally one of the trade corporations set up in medieval times to regulate trade. In 1803, a scheme was formed to provide a fund for bakers' widows and an act was passed in 1813—the Edinburgh Bakers' Widows' Fund Act 1813—authorising the scheme. The fund was established to provide financial support to the widows of contributing members. The last contribution to the fund was made back in 1981 and the last annuity paid under the scheme was in 1997. Since then, there have been no qualifying beneficiaries.

During the promoter's evidence to the committee, Lady Elizabeth Drummond explained that the question of introducing a private bill was raised a number of years ago. She said:

"We had this widows' fund for which the number of trustees was getting smaller—people were dying and nobody was around to look after it ... we saw that it would not be attractive or viable because of the very baroque entry requirements under the Edinburgh Bakers' Widows' Fund Act 1813 ... you had to be male and under 45 ... and ... the benefits that might accrue to anyone were so vague and difficult to understand that it would not be an attractive vehicle for people to put their moneys into."—[Official

Report, Edinburgh Bakers' Widows' Fund Bill Committee, 14 June 2017; c 3,4.]

Consequently, the trustees were left with a fund of considerable value. However, it was simply not viable to promote the fund as, for example, an investment vehicle or annuity provider in competition with large pension providers as, according to Lady Elizabeth Drummond, the trustees

“would be trying to set up something in competition with, say, Standard Life”.—[*Official Report, Edinburgh Bakers' Widows' Fund Bill Committee, 14 June 2017; c 6.*]

In 2013, the trustees decided that the scheme should not continue to operate in its current form and formally closed it to new members. Currently, there are two wives of contributing members who could qualify in the future for annuities if they were widowed. The promoter has advised that the wives have agreed to accept a payment in lieu of potential future annuities to which they might have been entitled as widows in terms of the 1813 act.

In place of the fund, the trustees propose to set up a new charitable trust that would make use of the money that has been invested by supporting education and training and being promoted through the baking community. In response to the committee's queries about the purpose of the original fund being in line with that of the new charity, the promoter explained:

“We felt that that was the best way to go to make a genuinely good use of the assets in line with the spirit of the Incorporation of Bakers of the City of Edinburgh, so that we could get practical modern usage out of the money ... by ... promoting baking in the city of Edinburgh. That was one way to use the money, and creating a charitable vehicle was the way to encase it in a fully responsible mechanism that fits today's purposes.”—[*Official Report, Edinburgh Bakers' Widows' Fund Bill Committee, 14 June 2017; c 8,9.*]

The purposes of the new trust are the advancement of education by supporting education and training opportunities in baking; and the advancement of the arts, heritage, culture or science by providing public information and promoting an appreciation of local baking and the history of the baking trade, particularly in Edinburgh. The new trust—the Incorporation of Bakers of Edinburgh Charitable Trust—has been approved by the Office of the Scottish Charity Regulator.

On the basis of the evidence received, the committee is satisfied that the 1813 act has clearly become outdated and restrictive and that the trustees are correct in seeking a practical way of allowing the money in the fund to be redirected to a new set of objectives.

I move,

That the Parliament agrees to the general principles of the Edinburgh Bakers' Widows' Fund Bill and that the bill should proceed as a private bill.

15:34

Alison Harris (Central Scotland) (Con): First, I thank the committee convener, Tom Arthur, for moving the motion. As he said, this is the first private bill to be debated in the Parliament this session and, as such, I thought that members might be interested to have some brief information about private bills more generally and why they are necessary.

A private bill, which is introduced by an outside promoter, is about making specific changes to the law affecting the promoter rather than changing the public and general law. In practice, many private bills are about updating bits of private legislation that were passed a long time ago and which have, therefore, become increasingly outdated. In today's case, the act dates back to 1813.

With private bills, there is always a right for the people or organisations who consider that a bill would adversely affect their interests to formally object to the bill. However, in the case of the Edinburgh Bakers' Widows' Fund Bill, no such objections were received. Nevertheless, the Parliament has an obligation to scrutinise the bill and satisfy itself that the changes to the law that the promoter is seeking are reasonable and appropriate.

I had no real awareness of private bills before being nominated for membership of the committee, and I have had an interesting insight into this little-known aspect of the Parliament's work. As with public bills, most of the detailed scrutiny of a private bill is undertaken by a committee. However, there are some important differences between the two types of committee, including the fact that a private bill committee is always an ad hoc committee that is set up to scrutinise a particular bill. Any MSPs who have a close connection to the area affected by the bill are prevented from serving on the committee.

The first stage of the private bill process, which is roughly equivalent to stage 1 of a public bill, is known as the preliminary stage. There are three aspects to the committee's task at the preliminary stage. First, it takes evidence and reaches a view on whether the general principles of the bill should be approved. Secondly, it reaches a view on whether the bill should proceed as a private bill. Thirdly, it gives preliminary consideration to any objections. If the Parliament approves the general principles of the bill and agrees that it should proceed as a private bill, the bill goes on to the consideration stage, which is roughly equivalent to stage 2 of a public bill, before going on to the final

stage, at which the Parliament debates whether the bill should be passed.

The Edinburgh Bakers' Widows' Fund Bill has now reached the conclusion of the preliminary stage and the committee is pleased to support the promoter in its quest to set up a charitable scheme that will not only make good use of the moneys contained in the fund but should offer other benefits to the wider community in the future, as we heard in Tom Arthur's speech.

15:37

Mary Fee (West Scotland) (Lab): Before I move to the main focus of my speech, I thank the clerks to the committee for the help and support that they have given not only to me but to my colleagues on the committee, Tom Arthur and Alison Harris.

The convener outlined the bill's objectives—in effect, the general principles—and, in closing the debate, I will focus on the second part of the committee's role at the preliminary stage: satisfying itself that the bill should proceed as a private bill. One of the aspects of that role is for the committee to satisfy itself of the adequacy of the accompanying documents to allow proper scrutiny of the bill. The promoter's statement sets out how the promoter has notified and made information available to those who are likely to be affected. As with any public bill, the explanatory notes aim to summarise objectively what each provision does. Finally, the promoter's memorandum must set out the bill's objectives, whether alternative ways of meeting those objectives were considered and, if so, why the approach that is being taken in the private bill was adopted and what consultation was undertaken.

I will not go into the detail of the committee's consideration of the explanatory notes and the promoter's statement; suffice it to say that the committee was satisfied that the documents met the necessary requirements. However, I will say a bit more about the promoter's memorandum. The convener, Tom Arthur, has outlined the bill's objectives, and the committee was content that the memorandum sets those out in adequate detail. As for alternative ways of meeting the bill's objectives, the trustees considered a number of options for transferring the assets and liabilities of the fund to a non-statutory charitable body and settled on a deed of trust that would be regulated by the Office of the Scottish Charity Regulator.

Having agreed a structure, the trustees then considered various mechanisms to effect the transfer to the new trust, including application to the Court of Session to have the terms of the trust varied. In that context, the committee noted that the new charity would have a significant change of

purpose—from providing financial support for widows to supporting education on and training in baking.

The committee was aware that the law recognises that arrangements for administration trusts such as the widows' fund can become outdated over time and that it is possible for the courts to approve additional administrative powers, for example. However, in general, the courts will agree only to change the purposes of a trust to something closely aligned to its original purpose. The promoter considered that none of the alternative remedies would enable the trust's purpose to be changed and concluded that the most appropriate method of amending the fund's objectives was to promote a private bill.

The committee was content that the promoter had carried out adequate consultation with members of the incorporation, with the two wives of contributing members of the fund and with OSCR.

In conclusion, the committee was satisfied that the accompanying documents were fit for purpose and that, overall, the bill should proceed as a private bill.

Contract (Third Party Rights) (Scotland) Bill: Stage 3

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-07774, in the name of Annabelle Ewing, on the Contract (Third Party Rights) (Scotland) Bill at stage 3.

Before the debate begins, I point out that the Presiding Officer is required under standing orders to decide whether, in his view, any provision in the bill relates to a protected subject matter—that is, whether it modifies the electoral system and franchise for Scottish parliamentary elections. If it does, the motion to pass the bill requires support from a supermajority of members. That is a two thirds majority of all members, or 86 members.

In this bill's case, the Presiding Officer has decided that no provision in the Contract (Third Party Rights) (Scotland) Bill relates to a protected subject matter. Therefore, the bill does not require a supermajority to be passed at stage 3. I am sure that we are all relieved to hear that.

15:42

The Minister for Community Safety and Legal Affairs (Annabelle Ewing): I refer members to my entry in the register of members' interests, where they will find that I am a member of the Law Society of Scotland. I hold a practising certificate, but I am not currently practising.

It gives me great pleasure to open this stage 3 debate on the Contract (Third Party Rights) (Scotland) Bill and to invite members to agree to pass the bill this afternoon. I thank the Delegated Powers and Law Reform Committee members for their hard work and careful scrutiny of this narrow and specialist bill—they have been a great credit to the Parliament. I thank MSPs across the chamber for their comments on the bill during its passage through the Parliament, as well as the organisations and individuals who provided oral and written evidence to the committee. I am also very grateful to the Delegated Powers and Law Reform Committee clerks for their support.

I pay special thanks to the Faculty of Advocates. Its members have given their time and expertise generously as we have developed the legislative proposals on arbitration. I also thank all the witnesses who have supported the process and highlighted helpful improvements to the bill. Last, but not least, I thank the Scottish Law Commission. As always, the commission's advice and views have been invaluable.

As I indicated during the stage 1 debate, the bill has its origins in the Scottish Law Commission's "Review of Contract Law Report on Third Party

Rights", which was published in July 2016. This is the third bill to be considered as part of the SLC bill procedure. I take the opportunity to state that the process in place to scrutinise such bills continues to work very effectively; it is clear that we can continue to have confidence in that process.

I have mentioned the bill's specialist nature, but it became clear through the scrutiny process that its provisions have the potential to impact on any one of us who may find ourselves the third party to a contract, so ensuring that the bill fulfils the policy aims of making the law fairer, clearer and more consistent is important.

As we have heard, these are the first significant developments to the law in this area in nearly 100 years.

The Contract (Third Party Rights) (Scotland) Bill has been widely welcomed by the legal profession and other professions, such as members of the Royal Incorporation of Architects in Scotland, recognising as they did the potential usefulness of the provisions for construction law.

The concept of third-party rights in Scots law is termed *jus quaesitum tertio*. I know that colleagues have become expert in the term as we have gone through the various debates on the bill, but *jus quaesitum tertio* dates back to the 17th century and the term is still used today. It has the literal meaning of "right acquired by a third party".

For a third-party right to be in existence, the current law requires that the contracting parties intended to benefit the third party and that the right must be constituted irrevocably. However, this common-law doctrine is rarely used in Scotland and has been the subject of some criticism on the basis that it is inflexible and does not meet modern standards. The law has also been criticised as being unclear, with Lord Reed of the United Kingdom Supreme Court remarking that there is a need for commercial parties to have

"clearer rules in relation to third party rights under contract".

The absence of confidence in the law as it stands among Scots law practitioners means that English law is sometimes chosen in place of Scots law to govern transactions that are otherwise Scottish in nature. The current uncertainty over third-party rights and the lack of flexibility therefore damage the reputation of Scots law by limiting its use.

The law as it stands is simply not working well for most people, if at all. We are aware that workarounds such as resorting to English law or the use of collateral warranties have been adopted to compensate for the law not being fit for purpose, but those workarounds can bring their own difficulties and issues.

A clear, positive and readily accessible statement of the law in a short statute will improve the standing and value of Scots law domestically—and internationally, given the multijurisdictional nature of many of the transactions in which contracts are created. The bill therefore abolishes the existing common-law rule and establishes a statutory basis for the operation of third-party rights in Scotland.

Most importantly, the bill addresses the issue of irrevocability. For a third-party right to be in existence, the current law requires that the right must be irrevocable, so when the contract is formed—assuming that the criteria for the creation of *jus quaesitum tertio* are met—the contracting parties are unable to withdraw or change the third-party right. This is at odds with the freedom of the contracting parties themselves to modify, cancel or otherwise amend the terms of the contract.

Much of what is contained in the bill is intended to be the default position. It remains open to the contracting parties to define exactly what they intend to happen. Overall, I believe that the bill strikes the right balance by providing an effective legal framework for third-party rights that does not cut across party autonomy. I am pleased that this is a view that was shared by a number of witnesses. As the Scottish Law Commission points out in its business regulatory impact assessment,

“the Bill is general in its application and not confined to any particular sector or group. A wide range of sectors will potentially be able to make use of it.”

Voting for the Contract (Third Party Rights) (Scotland) Bill today will ensure that an important area of the law is subject to long-overdue reform. It is an area that could impact on any of us at any time should we find ourselves as third parties to a contract. For that reason, it is important that the law meets expectations and is fit for purpose, and I believe that these reforms will achieve that aim.

I move,

That the Parliament agrees that the Contract (Third Party Rights) (Scotland) Bill be passed.

15:48

Graham Simpson (Central Scotland) (Con):

Before I start, I want to pay tribute to the work of my colleague, John Scott, who was convener of the current DPLR Committee at the start of this session and a member of its predecessor committee. He can take a considerable amount of credit for the smooth and constructive, yet careful and rigorous, way that the bill has been scrutinised. I thank him and the committee.

I have had a lot of catching up to do on contract law and third-party rights. It was not something that we talked about much in my previous job as a *Scottish Sun* journalist, nor is it the big talking

point on the number 31 bus in East Kilbride, but it is an important bill.

As I said, this has been a constructive process. As John Scott said in the stage 1 debate, this is the third Scottish Law Commission bill to be scrutinised by the Parliament. The Scottish Law Commission bill process itself is relatively new and was created to improve the implementation rate of Scottish Law Commission reports. To put it simply, the process is there to update, simplify and improve the law in Scotland. As parliamentarians, lawmakers and representatives of the people, we welcome that.

The bill follows the Scottish Law Commission's report, “Review of Contract Law: Report on Third Party Rights”, which was published in July 2016. I thank the commission and in particular Professor Hector MacQueen for their constructive and helpful engagement with the Parliament at all points in the process.

The bill proposes changes to the law in Scotland that allows parties to a contract to create rights for third parties. The main aim of the bill is to make the law clearer and more usable in that area.

Some may find the bill quite dry, technical and ever-so-slightly dull; I might even have fallen into that trap, but that would be to miss the point. This is a bill that provides clarity in law, not just for politicians, Queen's Counsels and judges, but for ordinary men and women in everyday situations in all our constituencies.

The bill means that if a family holiday goes wrong, family members who did not book the break themselves but still suffered the holiday from hell will be able to enforce their rights under statute. It means that, under statute, an informal carer will be able to enter into a contract to get building work done on behalf of a client who suffers from dementia and lacks the capacity to make that contract. And it means that a subcontractor who is running a small business and struggling to pay their bills will have the statutory right to claim payment from the contractor who signed the original contract. For real people, in everyday situations, the bill will ensure fairness and equity.

As I said, in what was a constructive process, the Scottish Law Commission engaged with the Parliament from the start and will doubtless do so again. I also thank the Scottish Government—in particular, the minister, Annabelle Ewing—for listening to the DPLR Committee and responding to the will of the Parliament.

The Government's stage 2 amendments responded to the concerns of witnesses such as the Faculty of Advocates, the Law Society of Scotland and others, and to the recommendations in the committee's stage 1 report. The

amendments cleared up any semblance of doubt over the enforcement of the right in relation to arbitration, and they removed the potential for unintended consequences of the application of existing third-party rights under the common law of *jus quaesitum tertio*—or something like that—after the provisions of the bill are commenced.

The amendments ensured that what will emerge following the parliamentary process will be even clearer than the bill that was introduced. I thank the minister and her officials for their constructive, democratic and thoughtful approach.

On 5 September, the First Minister announced that in this year's programme for government there will be a prescription bill, which the DPLR Committee expects to scrutinise. I look forward to scrutinising that bill and to engaging constructively with the Scottish Law Commission. Indeed, I look forward to holding the Scottish Government to account as we work together to improve Scots law and ensure that it remains relevant and competitive alongside other legal systems.

Perhaps most important, I look forward to hearing and championing the views of those who are affected by the legislation, from advocate to artist, solicitor to student and professor to punter.

United States Supreme Court judge Louis Brandeis said:

"If we desire respect for the law, we must first make the law respectable."

The work of the Scottish Law Commission in seeking to update and improve Scots law to make it relevant and competitive is to be commended, and I thank the commission for its work on the bill. I support the motion in the name of the minister, that the Contract (Third Party Rights) (Scotland) Bill be passed.

The Deputy Presiding Officer: Thank you, Mr Simpson. You are surrounded by advocates and I do not think that they are finding this the least bit dry.

15:54

Claire Baker (Mid Scotland and Fife) (Lab): This afternoon, we conclude the passage of the Contract (Third Party Rights) (Scotland) Bill. For those of us who contributed to the stage 1 debate, I imagine that much of today's debate will be fairly familiar. This is not the most debated, controversial or wide-ranging piece of legislation that we have considered, but that does not diminish its value.

I thank the Scottish Law Commission for its work on the bill. The commission plays a significant role in ensuring that our laws are relevant, accessible and consistent. For over 50 years, it has worked to recommend laws to

improve, simplify and update the law of Scotland. In the past 20 years, the Scottish Parliament has provided greater opportunities for taking forward its work, and high-profile—even contentious—pieces of legislation have originated from it. They include the Abolition of Feudal Tenure etc (Scotland) Act 2000, which took considerably longer to pass than the bill that we are considering, and the legislation on the protection of the rights and interests of adults who are incapable of managing their own affairs. However, the Contract (Third Party Rights) (Scotland) Bill has passed with a degree of consensus. I note that such was the consensus that, at stage 2, MSPs were entirely content with the minister's amendments.

I thank the committee members for their work on the bill and all the witnesses who gave evidence to the committee. The expansion of the role of the Subordinate Legislation Committee to include law reform is proving to be effective. We owe a debt of gratitude to the many witnesses who give us their time and expertise to support the legislative process and the work of the Parliament. Indeed, the witnesses provided effective reasoning to the committee, which highlighted those issues in the stage 1 report. Their input has been invaluable.

The discussion at stage 1 persuaded the minister to lodge a number of amendments at stage 2, including amendments to provide greater clarity to section 9 and its relationship with section 1, following discussions with the Faculty of Advocates. In speaking to the amendments, the minister said that a number of the points that the faculty raised

"go beyond third-party rights into possible wider changes to the law of arbitration"

and that she did not

"consider the bill to be the right vehicle for addressing all the points that were raised by the Faculty of Advocates."—*[Official Report, Delegated Powers and Law Reform Committee, 27 June 2017; c 2.]*

Will the minister in closing reflect on the merits of those points from the Faculty of Advocates and on whether the Government intends to pursue a different route to addressing them?

The minister also recognised the Law Society of Scotland's argument that section 10 is superfluous, and she lodged amendments to address that, as well as amending sections 12 and 13.

The amendments that were agreed indicated that there was a desire to deliver a bill that is clear, efficient and readily understood.

The bill that we intend to pass, which originated from the important work of the Scottish Law Commission, has received considerable scrutiny

from the Parliament, and there has been valuable insight and improvement from suggestions that other interested parties made. It will provide a new statutory framework with clearer rules on third-party rights and greater clarity in Scots law. However, there is recognition that the act is unlikely to be widely adopted at any time soon and that practitioners will continue to use the established workarounds or English law. Although there is substantive evidence that supports the introduction of the bill, its use is likely to be limited, with a preference for the familiar and a tendency towards caution to be anticipated. However, in time, if the benefits of the act are clear, that may encourage legal practitioners and their clients to use it, particularly in the pursuit of flexibility. It provides an additional tool to be used alongside existing alternatives.

What role does the Scottish Government see for itself and its partners in promoting the potential benefits of the legislation? Raising awareness of it and the opportunities that it presents could increase the application of the law, which would lead to increased confidence and familiarity. I hope that the Government will consider the merits of taking that work forward once we have concluded this afternoon's business.

15:58

Rona Mackay (Strathkelvin and Bearsden) (SNP): Anything that demystifies the legal process so that it is better understood by the layperson and improves access to justice can only be good. That is why I am happy to support the Contract (Third Party Rights) (Scotland) Bill at stage 3. The bill will replace the current law, which is causing a great deal of uncertainty and confusion.

The Delegated Powers and Law Reform Committee, which was the lead committee, took evidence from a wide variety of stakeholders, who welcomed the reform. I suppose that it could come under the category of being a commonsense improvement. The Royal Incorporation of Architects in Scotland said that it will clear up

“areas of ambiguity and doubt”,

and the Law Society of Scotland stated:

“The law on this issue is outdated compared to the approach of other modern legal systems”.

The general aim of the bill is to provide a new statutory framework with clearer and more usable rules on third-party rights. The proposed changes are based on recommendations that were made by the Scottish Law Commission, which found that the existing law is no longer fit for purpose—or, to put it another way, it is long past its sell-by date.

Under the current law, it is not clear whether third parties have a right to claim damages for

breach of a third-party right so, as I understand it, the bill strengthens the rights of the third party. Examples of where such rights might apply are insurance contracts, company contracts, construction contracts and, of course, pensions, where an employer's pension scheme might allow a third party to be nominated as the beneficiary if an employee dies while in employment.

Time limits for bringing claims under the current law are also very unclear. The general rule is that, in most cases, a claim can no longer be made five years after the day on which loss, injury or damage first occurred. However, the Prescription and Limitation (Scotland) Act 1973 does not even mention third-party rights. Under Scots law, third-party rights have to be irrevocable, but there is uncertainty as to what that actually means, and the SLC believes that the need for irrevocability is one of the main problems with the current law. Put simply, the rule of irrevocability is too inflexible and is one of the main problems with the current law. That rule in itself would be cause for a new statutory framework.

The bill also includes rules under which third-party rights to arbitrate could be created. In England, Wales and some other countries, the law enables third-party disputes in certain circumstances to be dealt with by arbitration. However, Scottish arbitration legislation under the Arbitration (Scotland) Act 2010 does not deal expressly with third-party rights, and the bill will correct that.

I end with the good news that the bill is not expected to result in any new costs; indeed, there is an argument that it could provide savings to businesses and the legal profession.

I stated at the outset that I applaud anything that brings clarification to legal matters and enhances access to justice. For that reason, I am happy to recommend the Contract (Third Party Rights) (Scotland) Bill to the Parliament.

16:01

Alison Harris (Central Scotland) (Con): I am delighted to see further progress in the passage of the bill and I welcome the opportunity to take part in the stage 3 debate. I have been involved in the scrutiny of the bill in my role as a member of the Delegated Powers and Law Reform Committee. I have enjoyed the process and, over the months, my initial view that the measure was worthy of support has never wavered. Since I spoke in the stage 1 debate back in May, amendments have been made that make the bill even more fit for purpose. They included the tightening of the language that is used to ensure that the provisions are readily understood and other measures that were unanimously agreed to by the committee.

The committee heard compelling evidence from bodies such as the Scottish Law Commission that the existing law really needs to be updated. That was brought home when, during discussion on the bill, reference was made to case law going back to *Wood v Moncur* in 1591. Case law in the centuries since then has only added to difficulties with interpretation, flexibility and clarity, to such an extent that the Law Society of Scotland has said that many lawyers are not comfortable with giving advice in an area of the law that is so unclear.

As regards modern day commercial activity, the current law clearly is not working. Many groups choose to enter into contracts under the more flexible terms that are set out under the revised law in England and Wales. Since 1999, the law there has been in sharp contrast to the irrevocable nature of the law here in Scotland. The need for irrevocability in the current law is one of its main problems and has led to significant barriers to the use of third-party rights, as it restricts the freedom of the contracting parties.

I hope that another of the pleasing effects of the bill will be a return of parties, happy once more to use the law of Scotland in settling disputes and seeking remedy. Reform will not only remove concerns that limit the usage of Scots law in commercial transactions but keep Scots law fit for purpose for modern usage. The bill will bring much-needed clarity to the law and it will remove many of the barriers and address many of the concerns that the Scottish Law Commission and others have told us about. The bill will not only assist business but be of great benefit to individuals, whether they are booking a family holiday or are a third-party beneficiary of a life insurance policy.

Further, the bill clarifies that a third party could be entitled to any remedy to which a contracting party would be entitled, and it removes any doubt as to whether third parties have the right to claim damages. It will bring our law more into line not only with the law of our neighbours in England and Wales but with that of friends across the Commonwealth, in places such as Singapore, New Zealand and several Australian states, which in recent years have moved away from positions similar to the current law in Scotland.

In conclusion, I thank all my colleagues on the Delegated Powers and Law Reform Committee, the former convener John Scott, the current convener Graham Simpson, ministers, parliamentary staff and all those from outside the Parliament who have assisted us in our role.

The bill gives us the opportunities that I have mentioned; it gives us clarity and flexibility, and it restores confidence that Scots law on this topic is among the most up to date in the world. It will be of great benefit to both businesses and individuals.

I am delighted to continue my support for the bill this afternoon.

16:05

Monica Lennon (Central Scotland) (Lab): As another member of the Delegated Powers and Law Reform Committee, it is a pleasure to follow Alison Harris. As you have heard, Presiding Officer, over the past several months, the committee has been the lead committee on the bill. It is fair to say that we have become fairly well acquainted with the arguments for why the change in the law is necessary.

As I previously set out during the stage 1 debate on the bill, the evidence of those from whom we have received submissions—including the Law Society of Scotland, the Scottish Law Commission and the Faculty of Advocates—is clear that the current common-law arrangements are not sufficient and that clarification is required. As other colleagues have said, the fact that there is so much agreement on the content of the bill is welcome. The largely uncontroversial nature of the bill also undoubtedly means that members will be repeating many of the same points throughout this short debate.

When reading the *Official Report* of the stage 1 debate, I was struck by Murdo Fraser's comments—I do not think that he is in the chamber—in which he rhymed off all the challenges that we face as MSPs and said that, despite his own legal background, he had found it quite challenging to construct a lengthy speech on the bill. I am not sure whether that was because of the bill's dry and technical nature or because we all agree so much on its merits. I associate myself with that sentiment of consensus.

I thank the witnesses who gave expert evidence to the committee over several committee meetings. I also thank the clerks for their support throughout the process. I echo Graham Simpson's remarks in his tribute to John Scott, whom we already miss from the committee. However, I am sure that Graham Simpson will be an able replacement. We are already learning about our new convener and the fact that he spends time on the number 31 bus in East Kilbride—you might be interested to hear that, Presiding Officer.

Witnesses have told us that codifying and updating the law on third-party rights will provide clarity, flexibility and revocable rights, which will promote the use of Scots Law. That was an important point for everyone on the committee.

Ross Anderson from the Faculty of Advocates suggested that the bill might benefit people who might not have access to expensive legal advice. He made an important point when he said:

“One of the great advantages of the bill is that it sets out, in modern language, what the law actually is.” —[*Official Report, Delegated Powers and Law Reform Committee, 21 March 2017; c 8.*]

I pay tribute to the Scottish Law Commission for being a leader on the issue and for proposing the changes to Parliament.

Although the changes appear to be largely technical and not, on the face of it, to be of mainstream and pressing importance, the issue of third-party rights is important and the change will make a difference to many people, as the minister pointed out in her opening speech. As Rona Mackay noted, the change to the law could benefit many people, from those involved in insurance contracts to those involved in construction contracts and pensions.

I want to pick up one point that arose in the evidence to the committee in respect of future enforcement of the law. It has been said that the bill will promote the use of Scots law, but although there has been widespread support for the bill, witnesses have suggested that they do not expect the bill's provisions to be adopted straight away.

I hope that we will see the bill used and adopted in Scotland. I also hope that the Scottish Law Commission and the Law Society of Scotland, among others, can play their part in raising awareness of the changes among their members to ensure that those who need the provisions of the bill will be able to make good use of them.

I am no legal expert, but the evidence that the committee heard clearly highlighted that the codifying of third-party contract rights will be important to improving the use and reputation of Scots law.

I welcome the amended bill.

16:09

Stuart McMillan (Greenock and Inverclyde) (SNP): I put on record my thanks to the former convener of the DPLR Committee, John Scott, for his chairing of the committee, particularly as the bill progressed through it. John was a fine convener and I am sure that Graham Simpson will be, too—I wish him well in his new role. It can be a challenge to take part in scrutinising a bill at the end of its progress, but Graham Simpson made an excellent contribution today, for which I thank him.

The bill is not contentious, as we can gather from the speeches that we have heard from around the chamber. It provides the opportunity to codify and modernise the common law on third-party rights. As was stated during the passage of the bill, the current law has caused some concern and confusion, but this bill, which was proposed by

the Scottish Law Commission, will rectify that, which stakeholders have welcomed.

This is the third such bill from the SLC and the first in this parliamentary session. I was a member of the DPLR Committee in the previous session, when we scrutinised a similar bill, the Legal Writings (Counterparts and Delivery) (Scotland) Bill. At that time, I thought that the DPLR Committee was a useful avenue for Parliament to use to deal with law reform, and I am genuinely delighted that the committee now has the power and responsibility to look at law reform and to assist with that wider issue in Scotland.

The DPLR Committee has been supportive of the bill, as those who provided evidence suggested. Paragraphs 27 to 40 of the committee's report touch on the speed of law reform and the introduction of the bill. The evidence shows that there was not much concern about that.

I return to a point that I made in committee and during the stage 1 debate. The minister stated in the stage 1 debate that, when she next met Lord Pentland, she would raise with him the issue of “bundling”. The SLC proposals relate to smaller, focused legislative improvements, but I asked the minister whether she and the Scottish Government, along with the SLC, would consider whether further SLC bills could incorporate more than one area of law reform. I am pleased that the minister provided a commitment to explore that issue in the future. Law reform does not take place regularly or in a vacuum and, as the bill and the area that it covers highlight, if it is possible to improve and update the law through having more SLC bills that cover multiple areas bundled together, we could make even more headway with law reform. However, we are not alone. Similar legislation was first mooted in Westminster in 1937, with a bill being presented to the UK Parliament in 1999.

Paragraphs 51 to 61 of our report highlight that, under the bill, the codification of the law of third-party rights provides certainty for users of Scots law. Law firms will be able to use the legislation, instead of using expensive collateral warranties or law from other jurisdictions. During the stage 1 debate, Murdo Fraser referred to collateral warranties, which were also touched on as we went through the evidence. Collateral warranties can be expensive and there was a hint that some organisations might still prefer to use them, because of the revenue that they can generate. The bill will help us deal with that and it will help Scots law. It will ensure that cases that do not use English law can use Scots law.

Witnesses were clear that there will not be a rush to use the new legislation, because training will certainly be required once the bill has been

enacted. Nonetheless, it will, in time, be used for a greater number of contracts, and that can only be of economic benefit to Scotland.

Although the bill is short—it has only 15 sections—it was clearly well written, as only seven amendments were lodged, which were agreed to unanimously at stage 2.

I echo others' comments by thanking the SLC, the Scottish Government, everyone in the DPLR team and witnesses for their efforts in bringing the bill to a successful conclusion.

16:14

Mary Fee (West Scotland) (Lab): I once again thank the Scottish Law Commission for undertaking the work that has resulted in the Contracts (Third Party Rights) (Scotland) Bill, which we are debating at stage 3. In ensuring that our legal system is fair, balanced and just, we must listen to the people who work daily in their legal fields. The Parliament took that approach with the bill.

I also thank the Delegated Powers and Law Reform Committee for its informative stage 1 report, which gave us an insight into why we need to make this small but crucial legal change. Speeches from around the chamber today have been supportive of the principle behind the bill and the need to make the change. In the short time that I have, it is difficult for me to reflect on all of them, but I am grateful for the consensual and constructive way in which colleagues have approached the debate, which was reflected in their speeches.

The bill has support from across the legal profession and has been backed by a range of stakeholders. Its general principles allow us to ensure legal certainty and flexibility in advancing third-party rights. Replacing the existing common law with a statutory version will end reliance on the ad hoc development of case law. That legal certainty should also allow parties who enter into a contract to use Scots law, not laws from other jurisdictions.

The policy memorandum informs us that the bill will promote the use of Scots law. However, witnesses who spoke to the Delegated Powers and Law Reform Committee raised a note of concern that the legal profession might not adopt the bill's provisions following its ascent to an act. Witnesses indicated that legal practitioners and clients might continue to use familiar practices such as collateral warranties and English law. We will have to be mindful of that in the coming years to ensure that the bill's ambitions are achieved. Scrutiny will be of key importance as the bill moves forward. Third-party rights must become

more flexible, more adaptable and easier to understand and apply.

Another aim of the bill is to make it easier for contracting parties to create and remove third-party rights. The Law Society of Scotland and the Faculty of Advocates welcome the abolition of irrevocability. The abolition of the rule will also ensure that protections and balances are required for third parties that enter into contracts.

Scottish Labour will support the bill because we want a legal system that guarantees certainty while providing flexibility and fairness for all parties. In addition, when things go wrong, we need the right to proper arbitration. The bill can deliver those outcomes and is an important step forward. We are happy to support it and the motion in the minister's name at decision time.

16:18

Gordon Lindhurst (Lothian) (Con): I echo the thanks of my colleague Graham Simpson to our colleague John Scott, who was the convener of the DPLR Committee when the bill was introduced to Parliament, for his sterling work on the bill and in that committee. He did not shy away from dealing with issues of detail in their occasional horror.

No doubt we are all agreed that simplification and clarification of the law is a good thing. As I commented in my speech in the stage 1 debate on the bill, the case of *Carmichael v Carmichael's executrix* is a good illustration of the human importance of what we do in making law—law that can be for the good or the ill, even if it appears to deal with mundane and technical issues.

I will not repeat for the sake of speaking the areas already mentioned by others in which the bill will clarify and improve the law of Scotland, such as the current inflexibility of the irrevocability rule and the enforceability of third-party rights in relation to damages. Is this adieu to *jus quaesitum tertio*, as we lawyers pronounce it—no disrespect to my colleague Graham Simpson? Lord Stair spoke of that third-party right in I.10.5 of the second edition of his "Institutions of the Law of Scotland", which was published in 1693, as *quadrating to our customs*.

I hasten to add, by reference to my entry in the register of interests, as a practising advocate, that Stair is no longer the daily resort of a Scottish court practitioner, nor is the case that Lord Stair referred to. That was *Auchmoutie v Laird of Mayne*, which was decided on 25 November 1609 and recorded in "Morison's Dictionary of Decisions" at page 12126. We would not expect it to be, as it related to an action of "spuilzie of teinds" and—a very ancient term—the "circumduction of the term", which was no longer

applied in the “modern form of procedure”, according to the seventh edition of “Bell’s dictionary and digest of the law of Scotland”, which was published in 1890. There is a serious point to make. Unless an act, even an act of this Parliament, is entirely clear, the courts can be thrown back on historic terms and case law.

I made certain comments in the previous debate, including on section 10(1) of the bill as introduced, which related to renunciation by the third party. However, that provision does not appear to have remained in the bill.

The policy memorandum to the bill stated:

“The principal policy aim of the Bill is to replace the current common law”.

The financial memorandum referred to the abolition of the *jus quaesitum tertio* rule, but reference was made in the explanatory notes to the importance of having a clear method of rejecting the third-party right if desired, hence section 10(1) of the bill as introduced.

In her letter to the DPLR Committee dated 24 May 2017, the minister said that the Scottish Government had come to the view that section 10(1) was superfluous. She wrote:

“It is simply a statement of what is already a matter of general principle.”

Presumably, that is a general principle of the common law, which, at least, raises a question mark over the operation of the act. Question marks lead back to Stair, Auchmoutie, Bell and the Laird of Mayne.

I ask the minister whether, notwithstanding section 12, the bill that we pass into law today merely modifies the *jus quaesitum tertio* rule, completely abolishes the rule, or codifies the rule to make it purely statutory in the act-to-be—in other words, in the bill that we will vote on today. If there is no clear answer to that question, it could be goodbye, hello to *jus quaesitum tertio*.

The Deputy Presiding Officer (Linda Fabiani): It is very difficult for a Presiding Officer who has to know whether words are appropriate.

16:22

Annabelle Ewing: What can I say? On the Government side of the chamber, we verge to the view that it will be goodbye *jus quaesitum tertio*, but I will be happy to write in detail on the detailed point that Gordon Lindhurst raised.

I thank all members who have spoken in the debate for their contributions and their interest in this piece of legislation, which has demonstrated the importance of the bill and of modernising our law on third-party rights. As we have seen, we have been wending our way from jurisprudence

that dates back to the 16th century through that from various centuries in between to bring us up to speed in the 21st century. In itself, that demonstrates the need for a fresh look at the matter.

I welcome Graham Simpson to his new role as convener of the Delegated Powers and Law Reform Committee. He recognised that, although this is perhaps not the most exciting of bills that the Parliament has had the opportunity to scrutinise, it is nonetheless important as it sets forth important rights for our constituents, which is what we should always come back to when we are debating matters in this chamber.

I welcome the support that has been expressed from the outset for the reforms, and I am grateful for the time that members have taken to engage with what is quite a discrete and specialist area of contract law and for the constructive way in which they have approached the scrutiny of the bill. I very much welcome the careful consideration that has been given.

The bill has, undoubtedly, benefited from a willingness among stakeholders to participate fully in the development of the legislation. There has been little, if any, disagreement about the need for the reforms, and the process has been more about ensuring that the provisions meet the aims of the reforms.

I again thank the committee for its supportive and helpful stage 1 report, which enabled us to focus clearly on a few issues that might have benefited from further consideration. We took on board the committee’s views and we spoke further with key stakeholders. We were therefore able at stage 2 to lodge a few amendments, which have ensured that the bill is clear and usable and that a small gap in its application was plugged. We are confident that the amendments that we made to the bill at stage 2 have further improved it. That was a very useful process, and all credit goes to the hard-working, diligent members of what is now Mr Simpson’s committee.

I am of the firm view that any opportunity to enter into an informed discussion with stakeholders about various issues enhances policy considerations. In response to the specific question raised by Claire Baker, I would say that we indeed addressed some of the issues that were raised by the Faculty of Advocates, in particular regarding arbitration. My door is always open to members of the faculty should they wish to pursue any of the issues further.

The ability to create third-party rights is important. There are many reasons for third-party rights to be created and, as we have heard, those apply as much to individuals as to businesses. They provide vital entitlements and protections for

individuals and businesses. Contracting parties to a contract and those who are provided with third-party rights in a contract should all benefit from the law being clearer, up to date and more flexible, for we all deserve a legal framework that is fit for purpose. The bill will deliver that.

In the few minutes that I have left, I will deal with a couple of themes that have recurred during the passage of the bill; indeed, they have been referred to this afternoon. I hope that we are about to pass the bill, and a key issue is, of course, what happens next. How do we encourage recourse to the legislation? Reform of this kind often turns out to have a momentum of its own.

Professor MacQueen has spoken personally about the bill at various contract law conferences, and I am sure that that method of spreading the word will continue. During the passage of the bill, Jonathan Gaskell and Craig Connal also spoke about the role of the profession and practitioners in raising the profile of the eventual legislation.

I am confident that there are strong advocates for the bill among the profession. Numerous positive articles have already been written and published about the legislation, and all of that will continue. David Wedderburn of the Royal Incorporation of Architects in Scotland spoke about getting in at the ground level. He indicated that the Royal Incorporation of Architects would be issuing practice notes to members alerting them to when the bill becomes an act.

All those actions will help to ensure that the relevant people are aware of the change in the law and what it could mean for them. Once people start to use the provisions in the bill, that, too, should instil confidence that the law is now fit for purpose. The Scottish Government stands ready to do what we can to help the process along.

I am optimistic that, given the clear benefits of the bill in saving time and money, people will no longer need to look to workarounds such as applying the law of England, which is more costly for contracts here in Scotland, or using collateral warranties—I am optimistic that those workarounds will no longer be necessary, so we can save time and money. I am therefore optimistic that that will be a great incentive to members of the legal profession in properly advising their clients.

An analogy with the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015—again, a Delegated Powers and Law Reform Committee bill—is perhaps apposite here. Prior to that legislation being passed by the Parliament, the inability of documents to be executed in counterpart meant that Scots law was less attractive in the commercial world. However, we have received some qualitative anecdotal

feedback that supports the view that the 2015 act has had a positive impact in that regard. It has generated efficiencies. For some, it has made the decision to use Scots law easier. We see no reason why the Contract (Third Party Rights) (Scotland) Bill would not have a similar effect in improving and encouraging the use of Scots law to create third-party rights.

In response to a point made by Stuart McMillan—I know that he raised it in the committee—on having discussions with Lord Pentland about the approach to the reform process, I am to meet with Lord Pentland, I believe, in the next few weeks, and I will of course be happy to raise that point directly with him.

I believe that the Contract (Third Party Rights) (Scotland) Bill is a worthy one for the Parliament's consideration. It will bring much-needed reform, and it will help individuals and businesses. It will make the law of Scotland more modern, bringing us from where we have been earlier today—the 16th century—right up to the 21st century. Once again, I thank members across the chamber for their stated support during this stage 3 debate, and I invite them to pass the bill tonight.

Decision Time

16:30

The Presiding Officer (Ken Macintosh): There are two questions today. The first question is, that motion S5M-07584, in the name of Tom Arthur, on the Edinburgh Bakers' Widows' Fund Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Edinburgh Bakers' Widows' Fund Bill and that the bill should proceed as a private bill.

The Presiding Officer: The next question is on a bill at stage 3, so we will hold a division even if the decision is unanimous.

The question is, that motion S5M-07774, in the name of Annabelle Ewing, on the Contract (Third Party Rights) (Scotland) Bill at stage 3, be agreed to.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and

Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Russell, Michael (Argyll and Bute) (SNP)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 109, Against 0, Abstentions 0.

Meeting closed at 16:32.

Motion agreed to,

That the Parliament agrees that the Contract (Third Party Rights) (Scotland) Bill be passed.

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

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