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Thursday 30 November 2017

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Scottish Parliament

Thursday 30 November 2017

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

General Question Time

Childcare (Access to Childminders)

1. Alexander Stewart (Mid Scotland and Fife) (Con): To ask the Scottish Government what action it is taking to improve the accessibility of childminders for all families. (S5O-01513)

The Minister for Childcare and Early Years (Maree Todd): We recognise the valuable contribution that childminders can and do make to the provision of high-quality early learning and childcare that is accessible and affordable for all families. We fund the Scottish Childminding Association and enable it to promote childminding services through its work with local authorities. "A Blueprint for 2020: The Expansion of Early Learning and Childcare in Scotland 2017-18 Action Plan" makes it clear that we expect childminders and community childminders to play a significant role in the expansion to 1,140 hours of funded early learning and childcare. To help to achieve that, we have worked with the Care Inspectorate to develop a resource to support childminders to enhance the quality of care that they provide through formal and informal learning opportunities.

Alexander Stewart: Earlier this week, the chief executive of the Scottish Childminding Association highlighted how childminders are being excluded from local authority plans to deliver funded childcare. The most recent figures from the Care Inspectorate have indicated that only 23 per cent of local authority nurseries can provide care for two-year-olds, whereas 92 per cent of childminders can provide such care. What action is the Scottish Government taking to recognise the vital role that childminders play and to ensure that they are closely integrated into and are able to deal with the expansion of funded childcare hours?

Maree Todd: We know that childminders provide high-quality early learning and childcare. Childminders and community childminders have an important role to play in delivering the expanded entitlement. Through our review of the local authority ELC expansion plans, and in response to the latest figures produced by the Scottish Childminding Association on the use of childminders in providing funded ELC, we have committed to working with local authorities, the

SCMA and individual childminders to identify any barriers to commissioning childminding services. We will work together to address and to remove those barriers, building on learning from the national programme of 1,140 hours. Of the 14 Scottish Government trials, 10 involved childminders.

Kenneth Gibson (Cunninghame North) (SNP): Local authorities rely on partners in the private and voluntary sectors to deliver pre-school education and have a duty to fund them from the general revenue grant. Does the minister share the concerns expressed by some childminders and private and voluntary nurseries that some local authorities, such as North Ayrshire Council, refuse to fund those sectors to the same degree as they fund council-run nurseries and, by doing so, might be at risk of creating unfair advantage for their own nurseries while diminishing parental choice locally?

Maree Todd: We have been very clear that our approach to the transformation of early learning and childcare is provider neutral. We will create a new funding-follows-the-child model for introduction in 2020. The new model will prioritise the settings that are best placed to deliver quality outcomes for children, regardless of which sector provides the service.

While offering parents a greater choice of settings, delivering the funded entitlement, together with our living wage commitment for childcare workers, will support financially sustainable early learning and childcare provision across all sectors.

To support providers, we will introduce a new 100 per cent business rates relief for day nurseries from April 2018.

Daniel Johnson (Edinburgh Southern) (Lab): The number of childminders has fallen sharply, by 400, since December 2015. We also know that the number of people graduating from childcare courses fell last year. Given that the expansion of free childcare provision will need more staff at all levels, will the minister guarantee that there will be more childminders and childcare graduates by this time next year?

Maree Todd: Yes. We are absolutely committed to increasing the number of qualified childminders. We have increased the number of college places for childminding and we will be delivering on the promises that we have made on ELC.

Rent Pressure Zones

2. Ben Macpherson (Edinburgh Northern and Leith) (SNP): To ask the Scottish Government when the power in the Private Housing (Tenancies) (Scotland) Act 2016 to designate rent pressure zones will come into force. (S5O-01514)

The Minister for Local Government and Housing (Kevin Stewart): The Private Housing (Tenancies) (Scotland) Act 2016 will come into force on 1 December 2017. From tomorrow, local authorities will be able to make an application to the Scottish ministers for an area to be designated as a rent pressure zone.

Ben Macpherson: Given that rents in Edinburgh have risen significantly in recent years, does the minister agree that the potential designation of rent pressure zones in Edinburgh merits serious consideration? To that end, will he say what guidance is in place to help City of Edinburgh Council and other local authorities to take forward applications to designate certain areas as rent pressure zones?

Kevin Stewart: The rent pressure zone provisions are a valuable discretionary tool for councils. Councils themselves must decide whether it is appropriate to submit an application, based on their knowledge of the local area.

On 16 November, we published “Private Housing (Tenancies) (Scotland) Act 2016: Rent Pressure Zones”, which sets out the requirements that local authorities must meet for an application to be valid.

Graham Simpson (Central Scotland) (Con): Have any councils shown early interest in setting up rent pressure zones? If so, which ones, on what grounds and in which areas?

Kevin Stewart: As I said in my first answer, the provisions come into force only tomorrow. I have read some media reports—as other members probably have—about certain local authorities looking at the possibility of rent pressure zones for their areas, but I will wait until applications come in. Then, the Government will look at the applications very closely indeed.

Pauline McNeill (Glasgow) (Lab): I welcome the minister’s announcement. Will the guidance give local authorities an indication of the scope of the evidence that will be required to make an application to designate an area as a rent pressure zone?

Kevin Stewart: The document that I mentioned, which sets out the rent pressure zone requirements for local authorities, goes into some depth. I expect local authorities to pore over it and to act accordingly in their submissions.

Asylum Accommodation and Support Services Contract

3. **Patrick Harvie (Glasgow) (Green):** To ask the Scottish Government what level of input it had to the design of the asylum accommodation and support services contract, which was issued for

tender by the United Kingdom Government on 21 November 2017. (S5O-01515)

The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance): I wrote to the Minister of State for Immigration on 2 March 2017 to set out the Scottish Government’s detailed priorities for the next asylum accommodation contract. I also raised the issue during my meeting with the immigration minister on 12 July.

Since autumn 2016, Scottish Government officials have taken part in a number of engagement events with members of the Home Office’s asylum accommodation and support transformation project team.

I have to say that I have not been satisfied with the operation of the current contract. I made it clear that I wanted to be involved in the development of the next contract, to ensure that it meets the needs of asylum seekers in Scotland. It is, therefore, extremely disappointing that the Home Office has gone ahead and published a contract notice without discussion and without a clear commitment to integration support. I have written to the immigration minister this week to express my deep concern about the process.

Patrick Harvie: No one should be satisfied with the current level of provision of asylum accommodation and support services. Among many others, the UK’s Home Affairs Committee has condemned the level of provision that is offered by multinational corporations on a for-profit basis under the current contract.

The new contract will set the terms under which services are provided for the next 10 years. It is one of the biggest contracts that the UK Government lets—some £4 billion, £0.5 billion of which will be spent in Scotland over the decade. It is important that we get this right and do not repeat the mistakes of the past. Has the Scottish Government indicated to the UK Government a desire to put together a public sector-led bid to take on lot 5, which covers Scotland? If not, will it do so?

Angela Constance: I am grateful to Mr Harvie for his question. I have written to the UK Government on at least three occasions to express our concerns about the current contract, and in my meetings with two immigration ministers I have raised the desirability of having a public sector-led contract. Despite receiving a verbal assurance that the Home Office was open to a range of ideas, I am disappointed, as Mr Harvie is, that the Home Office and the immigration minister, in particular, have not responded to the detailed points made by the Home Affairs Committee—indeed, they have ignored many of those points—

not least about the need to recognise the devolved Administrations as partners.

As far as the work that the Scottish Government will lead is concerned, we will continue to work with our stakeholders in the third sector. We continue to have discussions with the devolved Administration in Wales, and the Convention of Scottish Local Authorities and Glasgow City Council are important partners. The crucial issue here is that any third sector or public sector organisation must satisfy itself that it can provide a quality service to vulnerable people within the budget that the Home Office has set. That is the critical point.

For the avoidance of doubt, the Scottish Government has always made it clear that the provision of asylum accommodation and support should be led by the third sector or the public sector and not by those who have profit as a motive.

Flood Risk Management (South of Scotland)

4. Emma Harper (South Scotland) (SNP): To ask the Scottish Government whether it will provide an update on the action it is taking to manage flood risk in the south of Scotland. (S5O-01516)

The Minister for Transport and the Islands (Humza Yousaf): Local authorities, Scottish Water, the Forestry Commission Scotland and the Scottish Environment Protection Agency are taking forward actions to manage flood risk in the south of Scotland, as set out in the relevant flood risk management strategies and local plans.

Emma Harper: Can the minister reassure constituents in South Scotland that local authorities have the necessary powers and resources to regularly reflect on and, if necessary, to update flood defence plans in response to feedback from communities regarding measures that are currently in place?

Humza Yousaf: I can give that reassurance. The Flood Risk Management (Scotland) Act 2009 sets out a six-year cycle for delivering flood risk management strategies and local plans, which are implemented by councils and other responsible authorities. The first set of strategies and local action plans were published in 2015 and 2016. The focus of action is on areas where the risk of flooding and the benefits of investment are greatest.

Planning for the second cycle is under way, and new evidence and information on lessons learned will be taken into account when new strategies and local plans are developed. As the 2009 act sets out, there will be consultation to enable communities to provide specific feedback on flood protection measures that affect them.

Fibre Broadband (New-build Estates)

5. Clare Haughey (Rutherglen) (SNP): To ask the Scottish Government what it is doing to ensure that new-build housing estates are able to access fast fibre broadband internet connections. (S5O-01517)

The Cabinet Secretary for Rural Economy and Connectivity (Fergus Ewing): Despite telecoms delivery being a reserved matter, the Scottish Government has taken steps to assist with the roll-out of broadband during housing construction.

From 1 January this year, amendments to the Building (Scotland) Regulations 2004 set a standard for in-building physical infrastructure for high-speed electronic communications networks, which enables easier installation of fibre at any time on or after completion. That standard applies to new homes and other buildings.

In new-build developments where there is commercial demand for superfast broadband, we would expect that to be delivered commercially, without the need for public funding.

Clare Haughey: I have been contacted by numerous constituents in the Newton Farm area of my constituency about the fact that they can access only poor broadband speeds in their homes. Most of the area is new-build housing, and the estate continues to expand. Developers have not provided the infrastructure to allow residents to access reasonable broadband speeds, and it appears that no onus is imposed on developers by local authorities at the planning stage to ensure that the infrastructure is adequate to deal with demand in relation to internet speeds.

What is the Scottish Government doing to ensure that local authorities take connectivity needs into account when they approve housing developments?

Fergus Ewing: The planning system cannot require delivery of infrastructure by third parties—that is not what it is for—but it encourages developers to get infrastructure providers to agree to build in coverage and capacity in new developments. As I have said, the building standards that became applicable this year require physical infrastructure—which usually takes the form of ducts or cable trays—to be in place in new single-occupancy and multiple-occupancy buildings so that they are ready to receive fibre or cables for broadband.

Last week, I raised that matter with the chief executive of BT Openreach and the top officer of BT in Scotland, and urged them to go further than their current pledge, which is to enable connection to fibre broadband for developments of 30 or more houses, and to consider developments of under 30

houses. They told me that they are giving sympathetic consideration to that request.

The Scottish Government is, therefore, pressing very hard for further progress, in addition to there being the higher level of regulation that we introduced at the beginning of this year, which was designed to help Clare Haughey's constituents and constituents around the whole country.

Maurice Golden (West Scotland) (Con): Does the cabinet secretary accept that Scotland is behind every single English local authority, the Welsh Government and Northern Ireland in its approach to phase 2 of the superfast broadband roll-out?

Fergus Ewing: We have veered off building regulations and planning, but I will reply directly to the question. The claim that has been persistently made by United Kingdom ministers and Tory MPs this week—that Scotland is three years behind the rest of the UK—is entirely false. More than 800,000 homes and businesses across Scotland now have access to fibre broadband as a result of the digital Scotland superfast broadband programme. That programme represents investment of more than £400 million. Independent commentators and regulators, including Ofcom, have recognised that Scotland is ahead of the rest of the UK in the speed of equipping people with access to broadband. Indeed, when I met Matt Hancock on Monday, he agreed that our approach is the correct one and said that he will co-operate with us. We will wait and see whether that co-operation materialises, but he undertook to co-operate with the Scottish Government as our plans go forward for the final stage of broadband connection.

It should be borne in mind that we have an undertaking to connect everybody and to enable them to access superfast broadband. Down south, the UK Government is apparently not going to make any such commitment.

Rail Fares (Dumfries and Galloway)

6. **Colin Smyth (South Scotland) (Lab):** To ask the Scottish Government what discussions it has had with ScotRail regarding reported ticket price anomalies on the Nith valley line and west coast main line. (S5O-01518)

The Minister for Transport and the Islands (Humza Yousaf): Transport Scotland meets ScotRail, as I do, on a regular basis to discuss franchise matters, including rail fares. No reports have been received yet concerning ticket price anomalies on the Nith valley line and the west coast main line. However, where fare anomalies are identified, ScotRail will be asked to take appropriate action as required, and as specified in the franchise agreement.

Colin Smyth: I thank the minister for that answer, although it is a bit surprising given that, when I was a councillor, I raised the issue with his predecessor.

Is the minister aware of the extent to which passengers in Dumfries and Galloway are being ripped off when it comes to rail fares? I will give two quick examples. A passenger who travels the 50-mile trip to Glasgow from Kirkconnel on the Nith valley line will pay £13.50 for a single ticket, which is 27p per mile. However, if they drive a few miles north outwith Dumfries and Galloway and catch the train at New Cumnock, they will pay £8.40, which is just 19p per mile for the 43-mile trip. Passengers on 28 commuter routes across Scotland benefit from ScotRail's flexipass ticket, which allows discounts for regular users, but those discounts are not available anywhere in Dumfries and Galloway, including on the region's busiest commuter routes from Lockerbie station to Edinburgh and Glasgow.

How can the Government say that it is committed to tackling the economic challenges that are faced by Dumfries and Galloway, which is among the lowest-waged regions in Scotland, when those anomalies make it more expensive for passengers from the region to use our railways to get to work?

Humza Yousaf: I will, of course, have a look at the specific anomaly that Colin Smyth suggests exists. As I said, there is a mechanism in the franchise agreement for ScotRail to rectify that.

I absolutely agree that passengers and commuters need fair and affordable access to rail, which is why the Scottish Government has taken action on fare rises. They are capped in Scotland and are therefore lower than fares in the rest of the United Kingdom. We will continue to take that action and to drive up performance.

To be constructive and helpful, I will take away the information on the fares anomaly that Colin Smyth suggests exists and see whether ScotRail can rectify it.

Legal Matters (Public Interest)

7. **Adam Tomkins (Glasgow) (Con):** To ask the Scottish Government how the Lord Advocate decides whether a matter is in the public interest. (S5O-01519)

The Lord Advocate (James Wolffe): This question concerns—

The Presiding Officer (Ken Macintosh): I am sorry, Lord Advocate—you need to put in your card.

The Lord Advocate: I apologise for my lack of practice.

The Presiding Officer: That is quite understandable.

The Lord Advocate: I am grateful to Mr Tomkins for the rare opportunity to use my card and to answer a question.

The question concerns my function as head of the system of prosecution. Assessment of whether it is in the public interest to take prosecutorial action in an individual case, or to amend prosecution policy, depend very much on the particular facts and circumstances of a particular case or policy proposal. The assessment involves careful consideration of all the relevant public interests. In an individual case, that may include, for example, the nature and gravity of the offence, the impact of the offence on the victim and other witnesses, and the age, background and personal circumstances of the accused. The factors that will require to be taken into account and the weight to be given to each factor will depend on the circumstances of each case. In an individual case, consideration of the public interest arises only if there is sufficient evidence.

A non-exhaustive list of factors that may, depending on the circumstances, be relevant when assessing the public interest in the context of a prosecutorial decision is included in the publicly available "Prosecution Code".

Adam Tomkins: Earlier this month, it was announced that the Lord Advocate will not suspend the operation of our drugs laws to enable a fix room to operate in Glasgow. I warmly welcome that decision, but can the Lord Advocate explain to Parliament his reasoning as to why that conclusion is in the public interest?

The Lord Advocate: I should make it clear that the proposals for a safe drug-consumption facility principally pursue public health objectives, so it is a matter for health officials to assess the public interest in implementing such proposals and to determine how they would operate in practice. I have not been asked to assess whether the proposals are in the public interest in any general sense.

A request was made to me by the Glasgow city health and social care partnership to consider amending prosecution policy to facilitate the operation of a safe drug-consumption facility. I responded to the partnership on 9 November. I advised it that, even were I minded to do that, the granting of immunity from relevant statutory or common-law offences would not enable the operation of such a facility, and I identified that there would be difficulties of principle and practicality in responding positively to the particular request that was made to me. No change has been made to prosecution policy as a result of the request, and no immunity from

prosecution has been granted in respect of any offence.

First Minister's Question Time

12:02

Queensferry Crossing

1. Ruth Davidson (Edinburgh Central) (Con):

This morning, the Minister for Transport and the Islands was asked to give clarity on what the Government knew about the partial closure of the Queensferry crossing and when it knew that. He failed to do so, so can the First Minister clear that one up for the thousands of people who rely on the crossing?

The First Minister (Nicola Sturgeon): I am more than happy to do so, as the transport minister did on the radio this morning. However, before I come on to the issue of ministerial and public knowledge, which I will do in a minute, let me address the central issue. I think that most people listening to this would understand and accept that it is entirely normal for snagging work to be required on a large infrastructure project, and of course the Queensferry crossing is one of the largest infrastructure projects ever carried out in Scotland. The particular piece of work involved will be done over five days, starting tonight. The bridge will not be closed during those five days; instead, southbound traffic will use the existing Forth road bridge, which demonstrates the increased resilience that comes from having two bridges in place.

Further snagging works will be required over the coming months, which as I said is entirely normal on an infrastructure project. However, let me make it very clear that the work that will start tonight is the only identified snagging work that will require peak-time lane closures. Any future lane closures that cannot be avoided will take place at night, not during the day or during peak hours. Of course, under the contract, all snagging works are carried out at no additional cost to the Scottish Government.

I turn to the issue of ministerial and public knowledge of the matter. When the solution to this particular work had been agreed, ministers were told. That happened on Tuesday of last week. As soon as there was confirmation from the Met Office about the weather window that is required to carry out the work, which was received on Monday of this week, Parliament and the wider public were informed. In other words, there was no delay and everything happened completely timeously.

Some Opposition MSPs that I heard commenting yesterday appeared to give the impression that the concept of snagging works being required had never before been shared with

anybody. However, on 28 June, David Climie, who is the project director, appeared before the relevant parliamentary committee and said the following about what would happen after the bridge opened to traffic:

“There will be a phased handover of between three and six months. It will happen gradually, as the remaining snagging and other work is completed.”—[*Official Report, Rural Economy and Connectivity Committee, 28 June 2017; c 7.*]

Some MSPs who were commenting yesterday as if they had no idea about this work were present at that committee session.

All snagging works that are carried out will be done in a way to minimise inconvenience to the travelling public. That is the priority of Transport Scotland, that is the priority of those responsible for the bridge and that is the priority of this Government.

Ruth Davidson: I thank the First Minister for that long and instructively defensive answer. Lost in there was the fact that Transport Scotland knew that the road over the bridge was faulty when it was opened last August. That is what its officials said in Parliament yesterday, yet the transport minister said this morning that he knew nothing about the partial closure until last week. Is the First Minister happy that nobody in Government apparently knew anything about a major fault in what she has just called

“one of the largest infrastructure projects”

in Scottish history?

The First Minister: This really is quite desperate stuff, but it is of importance to the travelling public, which is why I am giving long and detailed answers to correct some of the misinformation that Ruth Davidson and others seem to want to convey.

In August, Transport Scotland and those responsible for the bridge did not know what work they required to do to fix this particular stretch of road, which they realised had not been laid with correct tolerances, so they had to do further investigative work. They had to look in detail at what would be required to fix that particular defect, and when they had done that, they informed ministers, as they would have been expected to. They informed ministers last week, as the transport minister made clear and as I am making clear today.

The further bit of information that they had to get clarity on was when they would get a weather window to allow them to carry out that work. They got that information from the Met Office on Monday of this week, which enabled them to say that the work could start tonight at 10 o'clock, and they then advised Parliament and the wider public.

That is the entirely the correct way for the issue to be have been taken forward.

Finally, I remind Ruth Davidson that the bridge will not be closed. Those coming southbound will use the existing Forth road bridge. We will continue, in partnership with Transport Scotland, to make sure that any—*[Interruption.]* The Conservatives want to put misinformation around, but they do not want to actually listen to the answers. Not one of them is listening to the detailed answers that are being given right now, which speaks volumes. We will continue to make sure that any snagging works, which are entirely normal on a major infrastructure project, are carried out with minimal inconvenience to the travelling public. That is our priority, that is my priority and that is the way we will continue to work.

Ruth Davidson: What jars here is that the Government pushed through the opening of the bridge in the summer and claimed it as a symbol of Scottish National Party competence, but now that there is a problem, it is a case of, "Don't look at us; we're just the Scottish Government."

In September, it was job done and pats on the back all round, but on Monday, we were told that another five days of work would be needed. Yesterday, those five days became another 10 months of possible disruption. Does the First Minister not see that it is the dripping out of that kind of information rather than simply levelling with people that is damaging the public's trust?

The First Minister: Ruth Davidson says that the Scottish Government is somehow trying to pass the buck. I am standing up here giving detailed answers that she and her colleagues are not interested in hearing.

Ruth Davidson accuses us of pushing through the official opening of the bridge. That comes from the same party that, if memory serves me correctly, was complaining bitterly when we announced a 10-week delay to the opening of the bridge. The bridge opened at a time when it was right for the bridge to open because the travelling public could start to use it.

Let us take this back to the personal sphere. Anybody who has ever moved into a new house knows that snagging is required on construction projects. There is snagging work to be done. The project director told Parliament in June that there would be a period of three to six months of snagging work. That is being carried out. *[Interruption.]*

The Presiding Officer (Ken Macintosh): Order.

The First Minister: People who are watching this will take a lot from the fact that members

across the chamber are not interested in listening to the facts. However, I will carry on with the facts.

The final point I want to make in response to Ruth Davidson is about how she said that five days has turned into 10 months. That is completely and utterly inaccurate. As I said in my opening answer, which she would have heard if she had been listening, of course further snagging works will be required. However, this is the only piece of work that will require daytime and peak-time lane closures. If other work requires lane closures, they will be closed at night.

This is an important subject to the travelling public, but it is also important for everybody to keep a sense of perspective on it.

Ruth Davidson: The First Minister has to learn that if she wants to take the plaudits, she also has to accept responsibility for the failures.

The First Minister is right in saying that motorists have been pretty patient until now, but they deserve some straight talking in the coming months. Can the First Minister be clear on what happens now? She has just said that there will be no further peak-time closures. Can she actually tell motorists what other closures and partial closures they are going to face in the coming 10 months? How many will there be, how long will they last, and what level are we talking about? Finally, will she ensure that her ministers get on top of works that are needed to keep our country moving?

The First Minister: If Ruth Davidson had listened to any of my previous answers, she would have got the information that she has just asked me for. If further lane closures are required as the further snagging work is identified, they will not take place during the day and during peak hours; they will take place during the night. The bridge operators will inform the public in advance if those lane closures are required. That is the normal way of doing things in a construction project of this nature.

The other point to make about the repair that will start tonight is that it is essential to allow the bridge to move to a 70mph speed limit, which will happen before the end of December.

This is a massive construction project. It was made clear at the outset that snagging would be required. It was made clear at the outset that the speed limits would be increased on a phased basis. That is what is happening. That will continue to be taken forward properly. Any further work that requires to be done, at no cost to the Scottish Government, will be done in a way that minimises any inconvenience to the travelling public. That is the right way to proceed.

In the future, if Ruth Davidson wants to listen to the detailed information that she is being given,

she might not have to ask the same questions over and over again.

Local Government Funding

2. Richard Leonard (Central Scotland) (Lab): Last week, I met representatives from the Convention of Scottish Local Authorities, who told me that, just to stand still, local authorities need an additional £545 million in the Scottish budget in two weeks' time. Will they get it?

The First Minister (Nicola Sturgeon): I am glad that Richard Leonard met COSLA representatives last week. The finance secretary met them this week to discuss budget issues. We will set out our budget on 14 December and will set out our spending plans at that time. However, as can be seen from previous budgets, we are in a very difficult and challenging financial climate with our budget being cut by Governments at Westminster. In fact, next year, our revenue budget for day-to-day spending will be cut by more than £200 million in real terms. Within that challenging financial climate, we have treated local government fairly and will continue to do so. In this financial year, taking account of core funding, health and social care integration funding and, of course, council tax reforms, there was just under £400 million extra available in spending power for local authorities.

With the cuts imposed by Westminster and with our need, for example, to ensure significant increases in the health budget so that it can deal with rising demand, I am not pretending that it is going to be easy for local government or for our budget generally. Nevertheless, we will continue to do what we always have done and treat local government fairly.

Richard Leonard: It is a straightforward question that demands a straightforward answer. Scotland's councils need more than £0.5 billion simply to maintain current services such as teaching our children in schools, providing care services to our elderly and keeping public libraries open. The First Minister talks about councils using council tax powers, but she knows full well that increasing the council tax alone last year would not have closed the austerity gap that she imposed on Scottish local services. [*Interruption.*]

The Presiding Officer: Order.

Richard Leonard: She knows full well that we cannot trust the Tories and that the money will need to come from her Government through progressive taxation. Earlier this week, it was revealed that local councils are being forced to draw upon emergency reserves just to keep day-to-day spending going on essential front-line services. Again, will the First Minister deliver the funding that local government requires to provide

the services that the people of Scotland need—yes or no?

The First Minister: The Scottish Government will bring forward our budget on 14 December. In that budget, we will put forward the settlement for local government as we put forward our spending decisions for other parts of the public sector. That is how Governments the world over decide and present their spending plans.

I thought that Richard Leonard's question was illuminating, because he was probably trying to get his defences in early although not particularly effectively. Richard Leonard's core argument is that local government does not have enough money. I would be the first to agree that this is a very challenging period for local government. That is partly why we reformed council tax to allow councils to raise additional revenue. All councils opted to take advantage of that in the current financial year with the exception of eight councils across the country. Each and every one of the councils that chose not to increase council tax revenues is a Labour-led council. Right now, there could be millions of pounds more going towards local services had Labour councils taken advantage of every opportunity that they had to raise more revenue. Until Richard Leonard can answer the question why they did not do that, there is always going to be a pretty big flaw in his coming here and presenting such questions to me.

Richard Leonard: The answer is simple. Even if every council the length and breadth of Scotland had raised the council tax by a full 3p, that would have raised only £70 million, whereas the SNP Government cuts were £170 million last year. The reality is that the SNP Government has taken Tory austerity and doubled it for local councils across Scotland.

How can the First Minister possibly promise to close the educational attainment gap between the richest and poorest children in Scotland if she slashes the budget for education and schools? How does she expect our elderly to live in dignity in retirement when she cuts into the budgets for social care? How on earth can we stop people sleeping rough in shop doorways in freezing temperatures when housing budgets are being cut to the bone?

In the end, austerity is a political choice and not an economic one, so what does the First Minister choose: Tory cuts, sharpened and so deepened by her Government, or re-empowered local communities and properly resourced local services? Will she stand up for communities and for the people of Scotland?

The First Minister: Let me try to work my way through what I must say was a bit of an incoherent

rant in order to answer those questions that I could identify.

In the context of this Government's budget being cut by the Tories, we have given £120 million directly to headteachers to tackle the attainment gap. Labour voted against that, incidentally. We are investing record sums of money in delivering 50,000 affordable homes across our country. We have a rate of house building in Scotland that outstrips that seen anywhere else in the United Kingdom. On homelessness, just this week we announced additional funds, directed by an expert group, to tackle the problem of rough sleeping not in the future but this very winter.

I return to the central point. Richard Leonard's argument appears to be that, because he thinks that councils should have got more money, it was right for Labour councils to turn their back on the money that they could have had. That is a ridiculous, incoherent argument that says that Labour prefers politicking over delivering for people across our country. At the start of this financial year, eight Labour councils turned their backs on more than £20 million of funding that, right now, could be being spent on education, social care and other council services. On that issue, Labour really does not have a leg to stand on, because its own councils did not take the opportunity to maximise the resources that they had to spend. This Government will continue to make sure that maximum possible resources go to local government and local services as we work hard to protect people against the Tory austerity that is being imposed on this Parliament.

Munro (Highland) Ltd

John Finnie (Highlands and Islands) (Green): Munro (Highland) Ltd construction in Easter Ross processed recyclables for Highland Council. At 2 minutes past 10 on Friday 17 November, Highland Council sent a letter by email advising the company that its contract, which was due to expire the following day, would not be extended. The contract was awarded to a French multinational, SUEZ, which has said that the Transfer of Undertakings (Protection of Employment) Regulations do not apply to the employees. I am now told that, due to their indeterminate employment status, the 31 workers are unable to claim benefits. Henceforth, recyclable waste from the Highlands will go to Newcastle. I ask the First Minister to have her officials urgently look at the various aspects of the case and see what assistance the Scottish Government can provide to the workers and their families.

The First Minister (Nicola Sturgeon): I thank John Finnie for raising the issue. I am not aware of the details of the issue but will, of course, ask my

officials to look into it and see whether there is any assistance that the Scottish Government can offer. From what John Finnie said, it sounds as though it is very much a matter for Highland Council. However, the issue is of concern to the workers whom he talks about. I will reply to John Finnie in writing when I have had an opportunity to look at the detail and decide whether there is any action that it is appropriate for the Scottish Government to take.

Bank Branch Closures

Kenneth Gibson (Cunninghame North) (SNP): The Royal Bank of Scotland, which is 73 per cent owned by the United Kingdom taxpayers, has announced that it will close two branches in my constituency, in Kilbirnie and in Saltcoats. That follows a wave of closures in recent months by the Bank of Scotland, Clydesdale Bank and TSB. The scale of bank closures is now so great that it is making life difficult for many older and vulnerable people.

Banking is, of course, a reserved matter. Is the First Minister aware of the UK Government taking any action to ensure that high street banking does not disappear completely from Scotland's small and medium-sized towns?

The First Minister (Nicola Sturgeon): I share Kenny Gibson's concerns. I think that many people are concerned about the scale of bank branch closures across Scotland, and those concerns will be shared by communities and small businesses that rely on access to local banking services.

I recognise that this is a worrying time for branch staff who are directly affected by closures, but I also appreciate that banks have commercial decisions to make and that people are carrying out their banking today in a way that is different from how they carried it out in the past. Nevertheless, I think that we all appreciate—I am certainly acutely aware of it—that banking services must consider the needs of everybody across society and that there is a continued need for face-to-face provision in banking.

The Scottish Government will continue to engage closely with banks as they implement changes. We regularly engage with senior representatives from all major companies in the financial services industry. The regulation of banking is ultimately a matter for the UK Government, but I am not aware of any particular action that the UK Government is taking on this issue. It is for the UK Government to act in terms of more regulation, but we will continue to engage in terms of the economic and social impact.

Queensferry Crossing

3. Willie Rennie (North East Fife) (LD): People who depend on the bridge over the Forth have been commendably patient, but this is now the third Christmas of disruption. People are fed up with ministers' boasts, self-congratulation and excuses. Who spends more than £1 billion on a new bridge then closes it weeks later? Who blames commuters for queues on the bridge? Who knew that it could get windy in Scotland? The First Minister told us that the new crossing was the culmination of a momentous journey, but now we discover that that journey involves a bypass over the old bridge. With work predicted to last until September next year, the completion of this crossing will be two years late. People deserve openness, at last, from this Government. Can the First Minister explain what this work is that will last until September? Can she list in detail the work that needs done?

The Presiding Officer: I ask members to keep the volume down.

The First Minister (Nicola Sturgeon): There were so many inaccuracies in Willie Rennie's question that it is hard to know where to start. He talked about the third Christmas of disruption. This is work that will start tonight and be completed by next Wednesday morning—I think that next Wednesday morning is within the first week of December. As I said earlier, that is the only identified snagging work that will require lane closures during daytime or peak-time hours. Therefore, Willie Rennie's characterisation of the situation is completely and utterly inaccurate.

Secondly, Willie Rennie said—I think that the *Official Report* will bear this out—that the bridge will be closed. Again, that is simply not true. The bridge will not be closed. For a period of five days, southbound traffic will go over the existing Forth road bridge. It is important that, when raising important issues, members of this Parliament do not mischaracterise the situation.

Thirdly, Willie Rennie talked about wind. The wind protection on the Queensferry crossing is significantly better than the wind protection on the Forth road bridge, which is why this bridge will be more resilient in future to wind than has been the case before.

I want to, again, bring a sense of perspective to the issue. I do not want there to be any inconvenience caused to any person who requires to travel across the Queensferry crossing, but I think that most reasonable-minded people know that on a project of this scale and complexity, snagging works will require to be carried out once the bridge is in operation. Their expectation of the transport authorities and of the Government is that we will ensure that those works happen in a way

that minimises that inconvenience, and that is exactly what this Government will continue to do.

Willie Rennie: I do not think that people will appreciate the First Minister's pedantry over whether the bridge is closed or not. [*Interruption.*]

The Presiding Officer: Order.

Willie Rennie: This is the third small business Saturday that has been hit. For three years in a row, small businesses are paying the price for this Government's incompetence. I think it is reasonable to ask those questions. The Government's priority was not to disrupt the ceremony with troublesome facts, and the problem is now piled on the backs of commuters and businesses. The question has to be pressed.

The Minister for Transport and the Islands did not even know about the closure until last week, but yesterday a committee of this Parliament was told that a decision to close the bridge was made back in August. The minister normally brags about filling a pothole, but is absent from decisions about the most important mile-and-a-half in this country. This is a question about the quality of the governance and decision-making that tries to string it out for three months and then closes the bridge on the busiest day for business. Why has the First Minister not been able to explain why the transport minister was absent?

The First Minister: First, what Willie Rennie wants to call pedantry, I call accuracy and honesty.

Secondly, as the transport minister set out, and I have set out again, it was not known in August what would require to be done in order to fix that particular stretch of road. There had to be investigations, and a design for the repair had to be prepared. When that had happened, and when it was known that that would require a lane closure and the diversion of south-bound traffic to the existing Forth road bridge, ministers were informed. We were informed last week, and when it was known when the weather would allow the repair to be carried out, Parliament and the public were informed of that. That is exactly how such things should happen.

What we have, as I have said repeatedly today, is a bridge that is one of the biggest construction projects in the history of this country that requires some snagging works to be done. I know that politics comes into play when we debate such things in this Parliament. I am not complaining about that—we are all guilty of it—but I think that most people who use the bridge and travel across it will understand that once such a bridge is in operation there will require to be pieces of work done to deal with any snagging defects that arise. That is what is happening. I regret that it is happening, because I do not want to see any

inconvenience to the travelling public, but it is important to put those things right, not least so that the 70mph speed limit can be introduced and so that people can continue to use the bridge in the way intended. Let us focus on that and, with the greatest of respect to Willie Rennie, let us stop mischaracterising what is happening.

The Presiding Officer: We have a couple of supplementaries. The first is from Mark Ruskell.

Animal Sentience

Mark Ruskell (Mid Scotland and Fife) (Green): I declare an interest as a member of the British Veterinary Association. Scotland is a nation of animal lovers and there is huge public concern that, in the Brexit bonfire, we have lost article 13 of the Lisbon Treaty—the principle of animal sentience. Does the First Minister believe that article 13 represents both the recognition of sentience and the requirement that all policies from Government respect the welfare of all animals and, if so, will the Government ensure that that principle is written into Scots law before we are dragged out of the European Union?

The First Minister (Nicola Sturgeon): I absolutely agree with the thrust of Mark Ruskell's question; I certainly recognise the concept of animal sentience. I am sure that he is aware that that is already written into Scots law, although I share his concerns that that is one of the many implications of Brexit that may involve unintended consequences. We will continue to make appropriate representations to the United Kingdom Government and to take whatever action is required in this Parliament to continue to ensure the protections that come from EU law, which are put in jeopardy by the wrong-headed Brexit process.

World AIDS Day

Gail Ross (Caithness, Sutherland and Ross) (SNP): I remind members that I am the parliamentary liaison officer to the First Minister.

What is the Scottish Government doing to mark world AIDS day tomorrow, with a particular focus on reducing the stigma of HIV?

The First Minister (Nicola Sturgeon): It is incumbent on us all to play our part in reducing the stigma that is associated with HIV. Tomorrow is world AIDS day and one of the simplest things that we can do is wear the red ribbon that signifies world AIDS day, which many of us are doing.

A lot of awareness is being built around the fact that HIV is no longer the death sentence that it once was. People who are diagnosed with HIV and get effective treatment go on to live long, happy and healthy lives, which is why it is

important to raise awareness about testing. I took a test yesterday to demonstrate how quick and easy it is to do and I encourage all members to look at doing likewise in their constituencies. There is still unwarranted stigma associated with HIV and we all have a responsibility to help to reduce it and, ultimately, to eliminate it.

Superfast Broadband

4. Fulton MacGregor (Coatbridge and Chryston) (SNP): To ask the First Minister whether the Scottish Government will provide an update on its plans to deliver access to superfast broadband to 100 per cent of premises by 2021. (S5F-01773)

The First Minister (Nicola Sturgeon): Yes, I will, and with a great deal of pleasure. We are committed to delivering 100 per cent access to superfast broadband for all Scottish homes and businesses by 2021. That commitment is unmatched anywhere else in the United Kingdom and stands in contrast to the UK Government's lack of ambition, which will consign those in most rural areas in the rest of the UK to the slow lane for internet speed. It has become abundantly clear that we cannot wait for the UK Government to deliver for Scotland, which is why the Scottish Government has chosen to act. Procurement for the reaching 100 per cent programme will commence shortly.

Fulton MacGregor: What difference has the Scottish approach to rolling out fibre broadband made to my constituents in Coatbridge and Chryston, and how is the UK Government supporting the 100 per cent ambition, given that it is a reserved matter?

The First Minister: As a result of the £428 million invested through the digital Scottish superfast broadband programme, 97 per cent of homes and businesses in North Lanarkshire, which includes Fulton MacGregor's constituency, now have access to not only fibre broadband but broadband at superfast speeds. Through the Scottish Government, Highlands and Islands Enterprise and Scottish councils, we have invested more money in the digital superfast programme than the UK Government, and that is allowing us to meet our commitment of 95 per cent fibre access by the end of this year.

We now move on to the reaching 100 per cent programme. To be clear, that is a commitment to deliver superfast broadband with speeds of 30 megabits per second to 100 per cent of residential and commercial premises in Scotland by the end of this parliamentary session, which is backed by significant public funding and delivered by the Scottish Government. There is no similar commitment anywhere else in the UK.

We will set out further details of that in the budget; it will involve hundreds of millions of pounds of investment by the Scottish Government. So far, the UK Government has said that it will commit £20 million to that programme. If I were a member of the Scottish Tories, I would not be boasting about that; I would be deeply embarrassed. It is because the UK Government has failed to act—on something that is technically a reserved responsibility—that the Scottish Government has got on with doing the job.

Peter Chapman (North East Scotland) (Con):

I am afraid that the First Minister has completely missed the point that the UK Government made. The fact is that the Scottish Government was given funding for phase 2 of the broadband programme in 2014 but, three years on, it has not even started procurement. That has put Scotland behind every English local authority, the Northern Ireland Executive and Wales. Therefore, my constituents will welcome the UK Government funding for the next generation of broadband going directly to local authorities. Surely the First Minister welcomes that too.

The First Minister: We are getting to the nub of the issue because that question completely misunderstands the approach that the Scottish Government has taken to procurement. In England—[*Interruption.*] The Tories might want to hear this—[*Interruption.*]

The Presiding Officer: Let us hear the answer, please.

The First Minister: In England, because the initial procurements were small-scale, local authority procurements, additional phases were required. In Scotland, we put in place the digital Scotland superfast programme. That was on a bigger scale than anything that happened anywhere in England. It now enables us not to go to a phase 2 of the initial programme but to go straight to the reaching 100 per cent programme.

With the agreement of the UK Government, its measly £20 million is being put towards that. However, that commitment will cost hundreds of millions of pounds to deliver so, as I said, if I were the Scottish Tories, I would not boast about a measly £20 million; I would be embarrassed by it. The UK Government might want to take responsibility for delivering a 100 per cent superfast broadband coverage in Scotland. Actually, it already has that responsibility so, if it wants to discharge it, it should be our guest, step forward and do it. However, it should be warned that it will cost an awful lot more than £20 million. If the UK Government does not want to discharge its responsibility, it should stop misleading people and let the Scottish Government get on with doing its job for it.

Rhoda Grant (Highlands and Islands) (Lab):

Does the First Minister agree that it is totally unacceptable that Orkney has a connectivity rate of 65 per cent—a lot lower than the 95 per cent that she was talking about—or does she agree with the arrogant assertion by her Cabinet Secretary for the Rural Economy and Connectivity that Orkney would have zero coverage without the Scottish Government's intervention? Is it not time that both our Governments stopped this destructive war of words, got together with local authorities and delivered 100 per cent coverage?

The First Minister: The member raises a reasonable point. The fact of the matter is that, because of our island and remote communities in Scotland, we are delivering broadband in one of the most challenging geographies in Europe. That has to be recognised and remembered.

The member points to the figure in Orkney, where 65 per cent have access to fibre broadband. Of course, the reaching 100 per cent programme is about getting superfast broadband to 100 per cent of premises throughout Scotland, but the key point is that, without the digital Scotland superfast broadband programme, backed by investment from the Scottish Government, the figure in Orkney would not be 65 per cent; if it had been left to the commercial market, it would be 0 per cent. Therefore, the intervention of the Scottish Government—as well as councils and Highlands and Islands Enterprise—has taken a figure that would have been 0 per cent in Orkney if left to the market to the 65 per cent that it is today.

The independent Ofcom published a report saying that Scotland had made faster progress in delivering broadband over the past year than any other part of the UK. We will get on with doing the job of meeting the commitment that we have for the end of this year and then getting on with delivering superfast broadband to 100 per cent of premises throughout Scotland. Again, that commitment is unmatched by any other Government anywhere else in the UK.

Queensferry Crossing

5. Liz Smith (Mid Scotland and Fife) (Con):

To ask the First Minister what maintenance procedures are in place for the Queensferry crossing. (S5F-01764)

The First Minister (Nicola Sturgeon):

Maintenance of the Queensferry crossing will be the responsibility of the trunk road operating company Amey. The contractor for the bridge, the Forth Crossing Bridge Constructors consortium, retains responsibility for construction defects, or snagging, that may arise following the completion of the project. The works that begin tonight are

snagging works and are therefore the contractor's responsibility.

Liz Smith: We know that there are also defects in the wind shear protection on the Queensferry crossing. Will the First Minister confirm to the Parliament whether those are faults of workmanship or design and whether the press comments earlier this week, which reported that there was a safety issue because some parts had fallen into the River Forth, are accurate?

The First Minister: There are no safety concerns over the Queensferry crossing wind barriers—I know that everybody in the chamber would want to be very clear in communicating that message to the public. Site inspections found that three panels were incorrectly fitted. They have been repaired by the contractor. Adjustment of the wind shear panels is on-going as part of the contractor's finishing works and will be completed by the end of the year. Routine inspections are carried out on all bridge elements and there are no safety concerns about the wind barrier or indeed any other elements of the bridge.

Living Wage (Amazon)

6. **Jackie Baillie (Dumbarton) (Lab):** To ask the First Minister what discussions the Scottish Government has had with Amazon regarding the living wage. (S5F-01777)

The First Minister (Nicola Sturgeon): Amazon has brought many jobs to Scotland, but we must ensure that those jobs are of good quality and provide pay rates in keeping with our ambition, which is to see the real living wage replace the national minimum wage. The Scottish Government has held several meetings with senior Amazon officials to discuss the fair work agenda, including the benefits of paying the real living wage, and that dialogue will continue. In Scotland, we now have proportionately more than five times as many accredited living wage employers as there are in the rest of the United Kingdom, which is testament to our commitment to making Scotland a living wage nation.

Jackie Baillie: In March 2016, when she was Cabinet Secretary for Fair Work, Skills and Training, Roseanna Cunningham urged Amazon to sign up to the real living wage, but it did not. In December 2016, the current Cabinet Secretary for Economy, Jobs and Fair Work, Keith Brown, met Amazon and called on it to adopt the living wage. Amazon said that it would consider it. One year on, it is still not paying the real living wage and we have also seen reports of unacceptable working conditions. Companies such as Amazon receive substantial sums of public money. Will the First Minister consider linking future payments of regional selective assistance to payment of the living wage?

The First Minister: We will continue to give consideration to that point. We have said all along that we will continue to encourage companies to pay the living wage and to sign up to the business pledge, but of course we will keep under review whether giving support should be linked to such policies.

I have heard Labour politicians—including Jackie Baillie, I think—talk before about the money that Amazon has had in grants for employment. That is indeed true; it is important, though, to point out that no financial assistance has been given to Amazon since 2015. The whole amount that Amazon has received was between 2005 and 2015. When I checked the figures, I found that almost half the total amount was awarded to Amazon in the years 2005 to 2007, when Labour was in charge of these things.

We will continue to support employment creation; we will continue to encourage inward investors into Scotland, because that is good for our economy and good for jobs, but we will also continue to press the case for fair working practices, including the living wage.

Jackie Baillie: The First Minister might need to be reminded that the living wage was introduced in 2007, when her Government was in office.

The Presiding Officer: I am not sure that that is a question.

The First Minister: Can I respond?

The Presiding Officer: It was more of a statement than a question, but I will allow the First Minister a chance to respond if she wishes to.

The First Minister: That is why, as I said in my original answer, we proportionately have more than five times as many accredited living wage employers as there are in any other part of the UK—in fact, we have a higher percentage of people in employment who are paid the real living wage than any other UK nation. There is work still to do, but the Scottish Government and indeed those who pursue these policies on our behalf deserve a lot of credit for the progress that has been made.

The Presiding Officer: That concludes First Minister's questions.

Mike Rumbles (North East Scotland) (LD): On a point of order, Presiding Officer. I believe that the First Minister has inadvertently misled Parliament over when the problem causing the partial closure of the Queensferry crossing was first known. Yesterday, in evidence to the Rural Economy and Connectivity Committee, Ms Rennie—a civil servant who is head of major transport infrastructure projects—said that she knew about the problem back in August, before the bridge was opened. There is a legitimate

question as to why the transport minister was unaware of that if his head of major transport infrastructure projects was.

The First Minister said that it is important to have all the facts about the matter on the public record. I agree with her entirely. Presiding Officer, can you ensure that the *Official Report* of yesterday's committee proceedings is published immediately, so that the First Minister and everyone else can read it for themselves?

The Presiding Officer: That is not a point of order. The *Official Report* will be published in due course.

Ferry Services (Gourock to Kilcreggan)

The Deputy Presiding Officer (Linda Fabiani): The next item of business is a members' business debate on motion S5M-08659, in the name of Jackie Baillie, on the Gourock to Kilcreggan ferry service. The debate will be concluded without any question being put.

Motion moved,

That the Parliament understands that the Gourock-Kilcreggan ferry service has been affected by unprecedented levels of disruption since the contract with the current operator, Clydelink, was renewed by Strathclyde Partnership for Transport (SPT); believes that services have been suspended, often for days at a time, due to technical faults with the vessel or following failed Maritime and Coastguard Agency spot inspections; understands that, on several occasions, capacity has been reduced to a maximum of 12 passengers due to a lack of appropriately qualified staff; believes that the unreliability has become particularly acute since June 2017, with the ferry being suspended for several days each month, causing severe disruption for travellers and businesses in both the Dumbarton and Greenock and Inverclyde constituencies; understands that SPT has agreed to retender the contract to secure a more reliable operator until responsibility for the route is transferred to Transport Scotland, and notes the calls on the Scottish Government to make progress with the transfer.

12:52

Jackie Baillie (Dumbarton) (Lab): I welcome the opportunity to discuss the future of the Gourock to Kilcreggan ferry service. I thank the members of the Scottish Parliament who backed my motion; I am pleased to have secured support from every party that is represented in the west of Scotland. At the outset, I pay tribute to the passengers who use the ferry and who have campaigned over many years for an improved service. They have been stoic in the face of constant adversity. However, enough is enough. Some of them have travelled to the Parliament today to watch the debate from the public gallery, while others are watching at home. I am relieved that they managed to get here on time, given the constant disruption to their ferry service.

Kilcreggan has always relied on the River Clyde for its transport links. In the Victorian era, wealthy Glasgow merchants built grand summer houses along the shoreline of the Rosneath peninsula. Back then, the Clyde steamers took them directly to Glasgow's Broomielaw. Today, local residents cannot even depend on a reliable service to Gourock. It is fair to say that this year has seen the most severe disruption on record.

The Kilcreggan ferry is operated by Clydelink and the contract was renewed by Strathclyde partnership for transport earlier this year.

However, the Kilcreggan ferry is now the nautical equivalent of Fawley Towers, with Clydelink making Basil Fawley look competent. Barely a fortnight goes by without a problem resulting in crossings being cancelled or the service being suspended completely for days at a time.

In June, the service was suspended for seven days after Maritime and Coastguard Agency inspectors found serious defects on board the MV Island Princess. There were problems with lifejackets, a fire pump and fire extinguishers and there was a crew member with no evidence of basic safety training. Next came July, when the service was suspended again for 10 days due to more failed MCA inspections.

In August, there were staff shortages because staff had holidays. There was no planning for replacements so the service was suspended again. Later in the month, the ferry was off again because of paperwork being incomplete and unsatisfactory. In September, the service was suspended twice. On the first occasion, it was suspended for a whole week; on the second, it was suspended for one day. The same pattern has been repeated throughout October and November.

What began as a summer of chaos for ferry passengers has extended into autumn and winter. The ferry service has been off more than it has been on every month since the contract was renewed. To top it all, last Friday a fight broke out between a crew member and the skipper. Both have been arrested. You just could not make this stuff up.

Because there is no back-up vessel, every time that the ferry service is off, passengers need to make a 52-mile journey by replacement bus service instead of the usual 13-minute ferry crossing. This is a lifeline service, particularly for the communities on my side of the river. Passengers use the ferry to get to work, college or university and to access health services, which are based predominantly in hospitals south of the Clyde. The impact of the disruption on their daily lives cannot be overestimated. I have spoken to constituents who have missed job opportunities because they could not get to an interview. People have been disciplined—through no fault of their own—because of their timekeeping; others have given up on the ferry completely and moved out of the area. Local businesses on the peninsula have lost out on revenue from tourists, cyclists and day-trippers on the days that the service was cancelled. If reliability does not improve, visitors might not return next season.

I will tell members a little fact that we have gleaned from a freedom of information request. Clydelink, the ferry operator, owes more than £30,000 in unpaid pier fees to Argyll and Bute

Council. Frankly, that is a disgrace. Such is the frustration of my local community that the peninsula choir has become the most likely contender for Christmas number 1 with the new song it has recorded criticising the slow and bureaucratic response from officialdom. Hundreds of people have signed my petition calling on Strathclyde partnership for transport and the Scottish Government to take the service out of the hands of Clydelink immediately.

I have lost count of the number of times that I have had very productive meetings with the Minister for Transport and the Islands to discuss this issue, so I was delighted when, before the Scottish Parliament elections, the Scottish Government agreed in principle to transfer the service. Last October, Humza Yousaf confirmed that Transport Scotland and SPT had reached an agreement in principle. That is great news. However, the transfer has been held back by the delays to the Scottish Government's review of European Union state aid rules on ferry procurement. Transport Scotland has confirmed that SPT has provided all the information that it needs, so the only thing that we are waiting for is the conclusion of the review.

Why do we need to wait? In June, the Scottish Government assumed direct responsibility for the ferry service between Oban and the small island of Kerrera. The route was immediately incorporated into the CalMac Ferries contract, and the community will get a newly built vessel thanks to the Government's intervention. The review was not an issue there; it does not need to be an issue here. If there is a will, there is a way that the transport minister can do this.

SPT has issued a new tender notice for the service from next June. I welcome that, because the poor service is, frankly, appalling. I also welcome the action that has been taken by Councillor Martin Bartos and the SPT senior management team. However, this cannot go on. We must have a reliable operator, and we must have one now.

The impact on my constituents and those from across the river is huge. We have been patient, but my community is not patient anymore. We have put up with this for seven months; we are not prepared to put up with it any longer. Para Handy would be better than this shambles. I urge the Scottish Government and SPT to get beyond the reassurances—we have had all those—and please take action now. *[Applause.]*

The Deputy Presiding Officer: I say to those in the public gallery that it is not appropriate to show appreciation, or otherwise. Thank you.

12:59

Stuart McMillan (Greenock and Inverclyde) (SNP): I congratulate Jackie Baillie on securing this important members' business debate.

The Gourock to Kilcreggan ferry service has, unfortunately, been a continuing and massive inconvenience for its users in my constituency and north of the river. Jackie Baillie set out many of the problems that have beset the service, so I will not go over most of that ground: suffice it to say that it is clear that SPT has failed with the service from the outset and that its incompetence in managing the service is there for all to see. I have not always advocated for Transport Scotland to take on the service, but over the past 12 months my opinion has changed.

Prior to the current service provider operating the run, the service seemed to operate with little fuss. Retendering had to take place and the current provider won the tender, appearing to offer a £1 million saving to the public purse. That financial saving will no doubt have been nullified, as the service has lurched from one cancellation to another, which has had an effect on local businesses north and south of the Clyde.

Only two individual constituents have raised the issue with me, but the Greenock West and Cardwell Bay community council has raised it regularly. Like Jackie Baillie, I have written regularly to SPT, Transport Scotland and transport ministers—previous and current—to try to make progress on the saga. Over time, I have come to a simple conclusion: SPT should not be in charge of the Gourock to Kilcreggan ferry service. It has mismanaged the service, let users down and proven once and for all that it cares little for the Clyde coast.

In my correspondence with SPT of 11 August, my opening sentence was:

“The Gourock-Kilcreggan ferry route contract was renewed in April of this year—and frankly, the performance has been nothing short of appalling.”

In its reply, which came within a week, SPT said:

“The contract specification to which Clydelink are operating does not require a back-up vessel or for them to supply a replacement bus service.”

That seems in contrast with comments in the press release that SPT issued in January 2012, when the contract was awarded. In its press release, SPT said:

“Using a new-build 60-seat vessel, Clydelink will provide a Monday-Saturday service between Gourock and Kilcreggan.”

The vessel that is used is the MV Island Princess, which is not a new-build vessel for that route. Is there the potential that the press release

that SPT issued was not accurate, or was SPT just sleeping on the job? Irrespective of the chicanery from SPT on the issue, which goes back to the signing of the contract, the situation has not improved and has left a sour taste in the mouths of people on both sides of the Clyde.

I have a meeting with the Minister for Transport and the Islands on 12 December, and I look forward to discussing the issue with him directly and trying to find a way forward.

The issues with the route are not new. It is not just about the past year. The issues have persisted for years, due to many faults. However, it is clear that SPT is not the correct organisation to be in charge of a service that affects both sides of the Clyde.

When the contract was awarded, way back in 2012, a different group of individuals ran SPT. I hope that the new group of councillors on SPT can force through a change of mindset in the organisation and get it to take responsibility for problems of its own making.

The people who use the Gourock to Kilcreggan ferry service deserve a working and reliable service. If that means that Transport Scotland must become the agency that delivers the service, so be it. Such an approach really is in stark contrast to the agenda about delivering services at local level that so many members support. If and when Transport Scotland takes responsibility for the route, I am sure that the Scottish Government will be accused of centralisation. However, irrespective of who controls the route, my constituents and people north of the river deserve a service that works when it says that it will work and which complies with the contract that has been signed.

13:03

Jamie Greene (West Scotland) (Con): I am pleased to participate in the debate, because I raised the issue with the First Minister in the Parliament a few weeks ago. It is telling that no one is making political points in the debate and that the support for Jackie Baillie's motion comes from parties across the chamber. I am pleased that Mr McMillan, who represents Inverclyde, has spoken in the debate.

This is really about people. The service simply cannot be allowed to continue in its current state. The status quo is completely untenable and is unacceptable to people on both sides of the Clyde. Passenger numbers on the service have plummeted. In 2009-10, around 71,000 people used the service regularly but, by last year, that number had dropped to around 53,000, which is no great surprise, given its unreliability. Passenger

numbers have fallen by around 30 per cent, possibly as a result of the service's unreliability.

Despite the fall in passenger numbers, the service is similar in size to that on many other routes. Some of those services are operated by Caledonian MacBrayne, and they carry a comparable number of passengers—on an annual basis—more reliably, so one must ask why the Gourock to Kilcreggan service has been allowed to descend into such disarray.

Instead of looking back, I want to look forward to what we could do about the situation. The contract with Clydelink costs the taxpayer around £320,000 a year. That represents an increase of around £80,000 compared with the previous contract. There is also the matter of the subsidy that Clydelink receives, which increased by around 55 per cent in the new contract.

The company claims to provide

“Frequent reliable ferry services from Gourock & Kilcreggan”,

but anyone who lives in Gourock or Kilcreggan knows that that statement is simply not true. On several occasions, there have been staffing issues that have limited the number of passengers who have been able to use the service, for safety reasons. Staffing shortages mean that less-qualified shipmates often captain the service, with the result that only 12 passengers can be carried. At peak times, the service should carry around 50 people, which is the maximum capacity of the vessel. It is simply unacceptable for the vessel to carry only a quarter of the people that it could carry.

Technical faults have caused the majority of the delays and cancellations. To my knowledge, high winds have disrupted the ferry only twice since June. The situation will only get worse as winter kicks in and the weather deteriorates.

Jackie Baillie's motion notes that the disruption has become “particularly acute since June”. To put that into context, there have been more than 50 days of disruption since June. However, the problem did not start in June; it is a long-standing issue that has affected people on both sides of the Clyde for quite a long time. The problem is that, when the service is cancelled, the only alternative is to go by road, which is a journey of more than 100 miles. That is simply unacceptable to the many different types of people who use the service, who include students who commute to Greenock to attend college, as well as people who use the service to get to work. I have heard stories from constituents who have got the ferry to work only to discover that they could not get the ferry home, so they had to get the bus or call for someone to come and pick them up. The drive takes hours, and it is the last thing that people

want at the end of a long day at work. The issue is also affecting tourism and people's ability to get to Inverclyde royal hospital. The ramifications are considerable.

Before the debate, I was unsure about what the best solution was; I did not know whether SPT should maintain the existing contract or seek to renew it. I think that the general feeling in the chamber is that Transport Scotland should look to take on the contract. In my meeting with the minister, he promised to review the cost of the service and to look at the ramifications of taking it into his department. Perhaps he can update us on any progress that he has made in his thoughts on those matters.

Whether SPT continues to be responsible for the contract or whether it becomes Transport Scotland's responsibility, and whether the existing operator or a new operator provides the service, people just want to have a reliable service that is on time and is there when they want it. That is the outcome that all members want.

13:08

Neil Bibby (West Scotland) (Lab): I thank Jackie Baillie for securing the debate and for ensuring that the concerns and, indeed, the frustrations of those who rely on the Gourock to Kilcreggan service are put on the record in the Scottish Parliament.

Jackie Baillie rightly spoke about the importance of the ferry to the community in Kilcreggan and the surrounding areas. The short crossing to Gourock makes hospitals, shops and public services accessible to people who would struggle to reach the same destinations timeously and economically if they travelled by land. For many people, the ferry is a lifeline service that makes living on the Rosneath peninsula viable. Without it, fragile communities would be even more exposed to depopulation and the risk of exclusion and isolation.

Disruption to the service brings disruption to the lives of people in those communities, but it is not just passengers who are based on the Kilcreggan side of the crossing who depend on the ferry; people who depart from the Gourock side do, too. I am thinking, in particular, of the workers at the naval base on the Clyde. For them, the alternative to a 13-minute journey by ferry is, as we have heard, a 90-minute journey by land, which is a massive increase in their total commuting time. However, with frequent cancellations, staffing issues, mechanical faults, safety defects and fundamental questions about the current operator's ability to deliver a safe, consistent and reliable service, commuters have to take that hour-and-a-half journey more and more. The situation is

unacceptable. Clydelink is contracted to provide that service. It is not optional; it is a contractual requirement.

The extension to the contract that was agreed by SPT earlier this year was reportedly worth £320,000. That is £320,000 of taxpayers' money. Clydelink has been unable to demonstrate that it is capable of honouring that contract and meeting the agreed terms of service; therefore, the contract should be cancelled and a new operator should be found.

As Jackie Baillie mentioned, the chair of SPT, Martin Bartos, has confirmed that, in his opinion, the situation in which travellers presently find themselves, in being dependent on such an unreliable service, is "unacceptable". He has also advised that SPT has arranged for checks of both the Island Princess vessel and its crew, and he has specifically said that "any deficiencies" will be reported.

Nevertheless, action is needed on the contract itself. I note SPT's announcement that it will tender early after what was reported in the *Greenock Telegraph* as "increasing frustration" with Clydelink. Moves to replace Clydelink with a more dependable operator are welcome.

As other members have said, the Kilcreggan ferry is, largely for historic reasons, in an anomalous position in that it is still being provided by SPT. Surely, now is the time for the Scottish Government to make good on its promise to assume responsibility for the service and for SPT and the Scottish Government to transfer responsibility for the Kilcreggan route to Transport Scotland. There should be no more delays and no more prevarication; let us just get it done. That is what the passengers want, including the hundreds of passengers who signed Jackie Baillie's petition on the subject, some of whom have joined us today, and that is what the communities want, including Cardwell bay and Greenock west community council, in my region, which has specifically called on the Scottish Government to

"resolve this once and for all".

I see no reason why the Scottish Government should be dragging its heels. The misery for passengers has gone on for too long. Enough is enough. It is time for the Scottish Government to intervene, and I urge it to do so.

13:12

Maurice Corry (West Scotland) (Con): I thank Jackie Baillie for bringing the debate to the chamber—it is an important one for our community—and I welcome residents from the peninsula and from Inverclyde. It is great to see

them here. That shows the minister the support that we have in trying to sort out the problem.

The Kilcreggan ferry is a long-established link between the north and south sides of the Clyde. Sadly, the number of passengers has dropped to around 50,000 a year from 80,000 when the service ran really well. The primary reason for that drop in travellers is the unreliability of the service, which has forced commuters to find alternative, much longer and costlier routes to work, as other members have said.

Many members will have experienced delays on trains, buses and other modes of public transport, so they will appreciate the frustration and inconvenience that such delays cause even on the odd occasion. However, when delays become regular and constant, they become unacceptable and a daily nuisance that costs people unnecessary time, money and stress.

There were also problems last year, when it was suggested that Transport Scotland should assume responsibility for the service. At the time, I made it clear that offering a short-term contract would only continue the problems that were being experienced with the service and that a 16-month contract was not long enough to attract new investment. I stress again that the service needs a long-term and well-funded contract to ensure that it is managed efficiently.

There appears to be unanimous agreement on the transfer of the contract from SPT to Transport Scotland, but the service between Kilcreggan and Gourock must be kept as a single service and not bundled into another contract, which could take the focus away from that important service.

Colleagues across party lines on both sides of the Clyde have campaigned for the end of the contract and a new one. I understand that cancelling the contract would leave no service running, which would be even worse than the current situation. However, SPT could issue a new tender with a transfer clause if Transport Scotland were to agree to take over the service. My team and I have been proactively working on the issue to find a solution and have highlighted local businesses that are willing and keen to put together a tender. I urge SPT to issue a tender and to get the process under way so that the issue can be resolved as quickly as possible for the benefit of commuters who are having to travel for over an hour instead of making a 10-minute journey.

Jackie Baillie: Does the member welcome the fact that the tender is out and the tender period is about to close, meaning, hopefully, that we will have a new operator?

Maurice Corry: Of course I do. I welcome that and I am glad that it has happened.

The route is important for the workforce and the important employer at Coulport and Faslane. At peak times, the ferry is terribly important in getting people from Inverclyde across and back.

The large increases in travelling time and inconvenience deter day trippers from visiting the Rosneath peninsula, which impacts heavily on local businesses. Kilcreggan village has several good local businesses that are suffering massively as a result. For example, I know of an individual who travels from Gourrock to Kilcreggan to visit the award-winning butcher on behalf of several families and who, while the order is being prepared, enjoys a few pints in the local pub. Groups of cyclists and walkers are unable to make the trip or choose other destinations because of the risk of not being able to return.

As Jackie Baillie said, only last week, a song was released to raise awareness of the issue. It was performed by the local peninsula choir on Kilcreggan pier, and I am delighted to see some of those who have worked studiously on that in the public gallery today. That community project was co-ordinated by my team to highlight the issues and to bring to the attention of the Scottish Government the frustration that is being caused not just in Kilcreggan and Cove but in Gourrock, Greenock and Inverclyde.

The song has received attention from as far away as Australia and California, where a choir wished the group good luck in sorting out our service and applauded the local community for raising issues in such a creative and unique way. Well done to the choir for that. I hope that the minister has seen the video of the song and has noted the support for the service and its importance to the local community.

With those points in mind, I once again appeal to the minister to bring the service under the control of Transport Scotland to ensure its reliable, safe and efficient operation in the future. As the final line of the song says:

"We need our wee ferry, and we need it now!"

13:17

The Minister for Transport and the Islands (Humza Yousaf): I thank Jackie Baillie for bringing the motion to Parliament for debate. We have had excellent contributions from across the chamber, and there were a number of common threads that I will comment on. I will try to answer the questions that members have asked but, of course, members can intervene if they think that I have omitted anything.

I will get right to the nub of the issue. I am acutely aware of the recent periods of significant disruption to the Gourrock to Kilcreggan ferry

service, which Jackie Baillie described, and I understand the frustrations of passengers who rely on that important link. In my role as Minister for Transport and the Islands, I hear from service users from across Scotland whenever a ferry service is disrupted, whether due to weather-related reasons, technical issues or other unforeseen circumstances.

In relation to the service, I have met Jackie Baillie and members of the Kilcreggan community council, and I will soon meet Stuart McMillan. I have exchanged a number of letters on the issue, and I am aware that officials recently met members of community councils on both sides of the crossing and heard at first hand how the disruption has affected them.

I welcome ferry service users to the gallery. The users of the service are quite entitled to make a song and dance about the disruption to the service. I have viewed the performance of "Oor Kilcreggan Ferry", and I congratulate all those who were involved. It is a novel way of making the point, but it is born of very real anger and frustration. As Neil Bibby said, disruption affects workers who travel to and from Faslane and Coulport. As Stuart McMillan said, it also affects commuters who travel to Gourrock, some of whom make onward connections to Glasgow. It also affects locals who use the service and businesses on both sides of the crossing.

It is clear that we are all in agreement that the current service offering is simply not acceptable for anyone. However, it is also clear, as has been said correctly by every member, that SPT has responsibility for that service. I have met the SPT chairman, Councillor Martin Bartos, and I have had a number of discussions with him, over the phone and face to face, during which I have expressed my concern.

I have been asked by many members to address the issue of transfer of responsibility. The "Scottish Ferry Services—Ferries Plan (2013-2022)" states that the

"Government is willing to take responsibility for any 'lifeline' ferry service"

subject to the principles that are set out in the plan, so we will work with local authorities and regional transport partnerships to discuss the possibility of the Government taking over responsibility for the services.

I appreciate that that may seem like bureaucracy from the point of view of the constituents of Jackie Baillie and Stuart McMillan, but the issue of the true cost of the ferry service still needs to be discussed. Jackie Baillie rightly highlighted that the Maritime and Coastguard Agency noted more than 30 defects, some of which were serious, in the vessel that was being

used for the service. The Government and Transport Scotland have to know the true cost in order to take on that service, including the cost of replacing the vessel.

Jackie Baillie: I am grateful to the minister for taking an intervention. Will he confirm that SPT has provided Transport Scotland with all the information that it requested in order for him to make that decision?

Humza Yousaf: Recently, I received more information from SPT, and I promised Councillor Martin Bartos that I would examine it closely. I want to talk about a way forward, but we have legitimate concerns and we have questions about the true cost, to which we need answers.

Another issue that was correctly raised is the retendering of the service. I was recently advised by SPT of its plans to retender the service. The tender closes on 4 December, or thereabouts. What is important about the tender is that SPT has emphasised quality over price, which is welcome. I will wait for the tender process to close before re-engaging in my conversations with Councillor Martin Bartos to see what his feelings are about the expressions of interest.

Jackie Baillie mentioned the information that was provided recently, and I will continue my conversation about the transfer of responsibility. Every member is right to say that the service that is provided by the operator is simply not acceptable. If SPT wishes to explore whether the operator has lived up to its legal obligations, I will be more than happy to provide the resources and expertise of Transport Scotland and our other experts in the field to work with the partnership to see whether that can be explored in more detail. I agree with Jackie Baillie that we cannot have months of continued disruption as we wait for the retendering of the service for a route that may not come into operation until next summer, so if that will be helpful to SPT, I will do it, but I want to wait until the tender closes before I re-engage in conversations with the head of the partnership.

Jamie Greene: I thank the minister for taking my intervention. Is he saying that it is his understanding that the service cannot be classified as a lifeline service? Is he also saying, possibly indirectly, that if it is identified that the cost is more than the current £300,000 and he deems that to be too much, Transport Scotland will not take on liability for the service? I am a little confused as to what the plan of action is.

Humza Yousaf: I was not disagreeing about the nature of the service: lifeline services are clearly defined in our ferries plan, so that is not a bone of contention. I am saying—reasonably, I hope—that in order for us to take responsibility for the service we need to know its true cost, because the budget

will be announced in a couple of weeks. That true cost will not include just the contract cost per annum. There is clearly an issue with the vessel, so we need to drill down into the cost of replacing the vessel and, perhaps, of providing a back-up vessel. We need to know the true value of taking over the entirety of the contract. That was done in previous examples that Jackie Baillie mentioned. We need to have that cost: SPT has provided more information, which I promise to look at. If it is helpful, once the tender has closed, I will have further conversations with Councillor Martin Bartos, and I will endeavour to update every member who has spoken in the debate.

As Jackie Baillie mentioned, we still have, in principle, an agreement to take over lifeline services, so I do not shy away from that. That is based on the criteria that are set out in the ferries plan.

It is important for us to see the feedback from the tendering exercise. I would welcome members' thoughts on that and I will certainly give my thoughts to SPT. I guarantee that, on the closure of the retendering process, I will engage with the chair of SPT who has—I must remind members—responsibility for the service. I hope that, with the steps that SPT has taken and with continuation of the conversation, we will provide users with an improved service that they can rely on.

13:25

Meeting suspended.

14:30

On resuming—

Gender Representation on Public Boards (Scotland) Bill: Stage 1

The Presiding Officer (Ken Macintosh): The next item of business is a debate on motion S5M-09257, in the name of Angela Constance, on stage 1 of the Gender Representation on Public Boards (Scotland) Bill. I call Angela Constance to speak to and move the motion.

The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance): I am delighted to open the stage 1 debate on the Gender Representation on Public Boards (Scotland) Bill. I thank all those who submitted evidence to the Equalities and Human Rights Committee, and I thank members of the committee for their thoughtful consideration of the bill and their constructive challenge to the Scottish Government to make it stronger. I welcome the fact that the committee supports the general principles of the bill and that, alongside many stakeholders, it has been so positive about the need for the legislation. I am disappointed that Conservative members do not currently support this piece of equalities legislation, but I remain hopeful that they will be persuaded by the arguments in favour of the bill and will join the rest of the Parliament in supporting it.

At its heart, the bill is about equality for women, who represent 51.5 per cent of the population, yet hold only 45 per cent of regulated ministerial public appointments. The bill is about this Parliament using its powers to deliver a fairer and more equal Scotland. Women's voices need to be heard and they need to be part of the decisions that are made in Scotland's boardrooms. Scotland's public bodies, colleges and universities are responsible for significant sums of public money, and they oversee and deliver public services that touch all aspects of people's lives. I believe that boards that reflect Scotland's communities will make better decisions for Scotland's communities, and there is ample evidence to support the argument that more diversity leads to better-quality conversations, which lead to better decisions and, ultimately, better performance.

Elaine Smith (Central Scotland) (Lab): Does the cabinet secretary agree that, although the debate and the proposed legislation are about boards, the message that they send can go much wider than that, as what she just said is also true for political parties, councils, senior management jobs and so on?

Angela Constance: I agree with the sentiment that Ms Smith expresses. I will touch on some of

those issues but, with our current powers, we have legislative competence and ability only in relation to public sector boards. Nonetheless, on the point that Ms Smith makes, we are grasping the opportunity to send a strong message—the right message—to other parts of civic Scotland.

In essence, I believe that gender diversity is the right thing to do and, crucially, the smart thing to do—that is bolstered by the evidence that I referred to.

Two days ago, I addressed the chamber on the issue of violence against women and girls to mark the start of 16 days of activism to end gender-based violence. I said that we also need to tackle the underlying attitudes that can perpetuate sexual violence and harassment by men—issues that everyone across society must tackle. To tackle them meaningfully, we have to become a more equal society. We must acknowledge and redress the inequality of power between men and women, and where we can take action on that, we must do so. The bill will play a part in tackling that inequality in our society by addressing the clear gender imbalance on Scotland's public boards.

This Government has made a major effort to shift the number of women on public boards over the past few years, and I thank all those who have helped us to change the percentage of women holding regulated ministerial appointments from 35 per cent in 2007 to more than 45 per cent today.

Mike Rumbles (North East Scotland) (LD): If the bill is passed as drafted, will it limit the proportion of women on a board to 50 per cent?

Angela Constance: The clear answer to that is no. It sets an objective for 50 per cent of non-executive members of public boards to be women. It will not limit the appointment of women. Members should bear in mind that everybody is appointed on merit so, in theory, a board could have more than 50 per cent women if it so wished.

We have made significant progress over a relatively short period. We should all be proud of that. Women are better represented on Scotland's public boards now than they have ever been. However, that makes it all the more important that we have legislation that underpins all the work that has got us to this point.

There is a quotation by the writer Zadie Smith that I use a lot because it is one of my favourites. She said:

“progress is never permanent, will always be threatened, must be redoubled, restated, and reimaged if it is to survive.”

We have only to look as far as the chamber to understand what she was getting at: there are fewer women in the Scottish Parliament today than there were in 1999.

Despite Westminster's efforts to champion women on private sector boards, starting with the Davies review in 2010, the percentage of women on private sector boards remains low: 27.7 per cent for FTSE 100 boards and 22.8 per cent for FTSE 250 boards as of October this year, according to the Hampton-Alexander review. I still remember an article from *The Guardian* a few years ago, which said that, at that time, there were more men called John on the boards of FTSE 100 companies than there were women. In fact, there were also more men called David and more men with knighthoods than there were women.

We cannot be complacent and I, for one, do not want to see that, five, 10 or 20 years down the line, we have stalled or, even worse, regressed. When we think about progress, we cannot just think about getting over the line; we have to think about how we sustain, embed and build on it.

The bill sets a gender representation objective for public boards that 50 per cent of their non-executive members be women. Where there are two or more equally qualified candidates at least one of whom is a woman, the bill requires that a woman be appointed if that will result in the board achieving, or making progress towards achieving, the gender representation objective, unless appointing another candidate

"is justified on the basis of a characteristic or situation particular to that candidate".

That could mean another protected characteristic under the Equality Act 2010—someone's socioeconomic background or their being a carer or a parent, for example.

The bill also requires steps to be taken to encourage women to apply to become non-executive members of public boards. That is really important. We cannot focus only on the final decision. We need to get women into the process in the first place, and the evidence suggests that, when they get into the process, they perform well.

Jamie Greene (West Scotland) (Con): I ask for clarification on a technical point. Does the bill state that, in a tiebreak, where there is a male candidate and a female candidate, preference would be given to the female candidate unless there was another protected characteristic that the board felt it should take into account, in which case it could offer the position to the male candidate?

Angela Constance: It is important that we do not get into setting one characteristic against another in the way that Mr Greene perhaps articulated. There is guidance from the Equality and Human Rights Commission on what is meant by "equally qualified" and how to respond to that situation. To be clear, the bill requires that women be appointed in a tiebreak situation.

To be honest, it will not happen often that we get two candidates who are equal in every way. However, where that happens, if women are underrepresented on a board, a woman could be appointed unless the appointment of another candidate is justified on the basis of another protected characteristic, whether that is someone's ethnicity, disability or socioeconomic background or the fact that they are a carer. A lot of that will be laid out as clearly as possible in our guidance but I think that what will happen in such a situation, which will of course be very rare, is clear.

Elaine Smith: I thank the cabinet secretary for taking a further intervention. Does she agree that we should also bear it in mind that women are diverse and could have various other protected characteristics?

Angela Constance: Indeed. Women make up 51.5 per cent of the population and are not homogenous. I can come back to other issues in my closing speech if further clarity is required around the tiebreak situation.

The committee has made a number of constructive suggestions to strengthen the bill. As I set out in my response to the committee's stage 1 report, should the general principles of the bill be agreed to this afternoon, the Scottish Government will lodge amendments at stage 2 in response to the committee's recommendations.

We will publish new statutory guidance to support the implementation of the bill, in consultation with public authorities and other relevant parties, including the Commissioner for Ethical Standards in Public Life in Scotland. We will ensure that the guidance provides clarity in the areas highlighted by the committee.

On the recommendation of both the Equalities and Human Rights Committee and the Delegated Powers and Law Reform Committee, we will lodge an amendment at stage 2 so that regulations under section 8 of the bill will be subject to the affirmative procedure.

I also absolutely agree with the committee's position that the requirement to report is central to the bill's effectiveness. Section 7 makes provision for Scottish ministers to introduce regulations requiring the publication of reports on the operation of the legislation and we will work with the committee ahead of stage 2 to lodge an appropriate amendment.

I was very interested in the committee's suggestion of introducing an aggregate gender representation objective for chair positions. I absolutely understand the committee's argument for doing so—the percentage of women in chair positions lags significantly behind the position in relation to non-executive members generally.

Although I appreciate the reasoning behind the suggestion, for the reasons that the committee itself acknowledges, creating an aggregate chair objective across all the public boards to which the bill extends would not be workable in practice. However, I commit to ensuring that we keep a close eye on that area.

The Scottish Government public appointments team is already taking action. We have established a future chairs mentoring project, which pairs experienced chairs with serving board members. The project targets groups who are currently underrepresented at chair level—they include, but are not limited to, women. We are also looking at our overall package of support for current board members to ensure that we support them to grow their skills and confidence. Just this autumn, we appointed two new female chairs—to the Scottish Fire and Rescue Service and the Scottish Police Authority.

I agree whole-heartedly with the committee's position on the inclusion of trans women in the bill, and I reassure members that the Scottish Government is actively looking at how we can ensure that the bill is as inclusive as it can be. I will of course provide the committee with an update as soon as I am able to do so.

The committee raised the question of how the bill will impact on groups of people who share other protected characteristics—Mr Greene raised that question, too, and it is an important one. In order for boards to truly reflect Scotland's communities, we need to take action to improve the representation of ethnic minorities, disabled people and younger people.

Although the bill relates to women, I believe that it can be a catalyst that drives us forward towards greater diversity beyond gender, in relation to groups of people who share other protected characteristics—diversity in the widest sense. It will do so because the bill puts a spotlight on current processes, challenging everyone involved in public appointments—including ministers—to ask themselves whether existing approaches are truly maximising our ability to attract the most diverse, talented people to Scotland's public boards. How we word person specifications and where we advertise appointments are very practical considerations but we know that they make a big difference.

I want the bill to be as strong and successful as it can be. Given that ambition, I look forward to hearing members' views this afternoon.

I urge members to support the general principles of the bill.

I move,

That the Parliament agrees to the general principles of the Gender Representation on Public Boards (Scotland) Bill.

14:45

Alex Cole-Hamilton (Edinburgh Western) (LD): It is a privilege on behalf of the Equalities and Human Rights Committee to open the debate on our stage 1 report on the Gender Representation on Public Boards (Scotland) Bill. I offer the apologies of our convener, Christina McKelvie, who cannot be here for personal reasons.

I thank all those who provided evidence to the committee to assist us in our deliberations. As always, the opportunity to discuss issues with experts was vital to our understanding, and we hope to have reflected those opinions fairly and accurately in our report. I pay tribute to my fellow committee members for their close scrutiny of the measures that are contained in the bill. Although it is regrettable that we were not all able to agree the general principles of the bill, all committee members contributed thoughtfully to our consideration of the issues, which I am sure will be given a full airing today.

I also thank the cabinet secretary, who expressed her will to work with the committee as the bill progresses through Parliament and whose response to our stage 1 report was positive and considered. I welcome that approach, and I am sure that, at stage 2, members from across the chamber will offer constructive improvements to the bill that have not already been committed to by the Government.

Bill Thomson, the Commissioner for Ethical Standards in Public Life in Scotland, summarised the legislation best when he described it as trying

"to ensure that there is no backsliding and we do not lose the gains that have been made."—[*Official Report, Equalities and Human Rights Committee*, 28 September 2017; c 11.]

In a nutshell, that is why a majority of our committee supports the bill.

The percentage of non-executive board members who are women has risen from 35 per cent in 2013 to 45.8 per cent in September 2017, but that has been the result of dedicated, targeted and prioritised work on the part of the Scottish Government and related bodies. We believe that enshrining a target in law, alongside appropriate monitoring and reporting mechanisms, is the necessary change to ensure that public boards reflect the population that they serve without either being prescriptive or falling foul of positive discrimination.

I would like to tackle some of the myths that have surrounded the bill. The bill does not establish quotas or ask public bodies to appoint on any basis other than merit. Positive action is not the same as positive discrimination. Positive action will ensure that we are able to aggressively tackle the problem of the underrepresentation of women on our public boards. The evidence speaks for itself: positive action works, positive action does not preclude appointing on merit and diverse boards beget better outcomes.

In addition to the 21 written submissions that we received, the committee held four separate evidence sessions with six different panels. We heard from equality groups representing different protected characteristics, some of the public bodies that will be covered by the legislation, trade unions and legal experts as well as the cabinet secretary. The overwhelming message was that now is the time and the bill is a step on the right path if we are to lock in the gains that we have made.

Having said that, there are some areas in which we feel that improvements could be made. The bill sets what it describes as the gender representation objective, which is that, by 31 December 2022, 50 per cent of non-executive members of public boards will be women. It aims to achieve that objective through positive action measures. It is crucial that we distinguish positive action, which involves offering targeted assistance to disadvantaged or underrepresented groups, from positive discrimination, whereby an individual is chosen solely on the basis of their protected characteristic. The bill does not introduce positive discrimination, which is illegal.

When considering the objective, some witnesses asked—as my colleague Mike Rumbles just did—whether the 50 per cent target is an exact target or a minimum percentage to reach. Colleagues will notice that issue to be a theme throughout my speech, because the committee considered that the target could be a source of confusion, although we expected that the matter could be clarified in guidance. It is therefore welcome that the Scottish Government has confirmed in its response to our report that—as the cabinet secretary has just confirmed—the figure of 50 per cent is not an exact target or cap and does not preclude a public board from having more than 50 per cent female representation. It is also welcome that the Government has confirmed that that would mean that the tiebreaker provision would not apply when a board had already met the 50 per cent target and that the issue will be clearly reflected in guidance.

Although we are close to meeting the gender representation objective as drafted, colleagues may be shocked but not surprised to learn that

only 25 per cent of board chairs are women. Board chairs are important in setting the culture, the strategy, the tone and the direction of their organisations, and there is little point in rearranging the deck chairs if the captain of the ship is steering towards an iceberg. Since session 5 started, we have seen examples of how the boardroom can be a cold house for women members, and it is vital that we take action to address that situation, too.

Our suggestion is to set an aggregate target for board chairs that matches the ambition for board members. Although we appreciate the Government's view that that may be difficult to apply practically, we hope that the Scottish Government will take on board our suggestion in the spirit in which it is intended and find a mechanism through which to take it forward at stage 2.

I have mentioned the bill's tiebreaker provision. Some committee witnesses argued that, were there a need to apply the tiebreaker provision that is included in section 4 in the recruitment process, a white woman may be appointed over a disabled man or a man from the black and minority ethnic community in order to meet the target, thereby resulting in the board being less diverse than it could have been. Although section 4(4) includes an exception for a tiebreaker to go in favour of a candidate who is not a woman on the basis of a characteristic or situation particular to them, some witnesses felt that the wording is unclear. We therefore welcome the manner in which the Scottish Government has clarified section 4 in its response to our report and its commitment to provide a clear explanation in supporting guidance. I am sure that that is helpful reassurance to the committee and to the wider public sector landscape.

One of the few areas of potential disagreement concerns how protected characteristics other than gender could be legislated for. The bill seems to be something of a missed opportunity to cover all protected characteristics in some way. Perhaps the Scottish Government will reflect on whether those who are disabled, from an ethnic minority community or young require similar legislation to lock in board diversity if that is not done through amendment to the bill at stage 2.

In addition to those wider concerns, groups representing one particular protected characteristic have raised specific issues with the definitions in the bill. My colleague Mary Fee was diligent in questioning every set of witnesses on whether the language that is used to define women in the bill is inclusive of trans women, and the common message was that the wording could be improved. The Scottish trans alliance made a compelling argument for change, even helpfully

suggesting how the language could be changed so that the objective would cover those living in the female gender, with trans men and non-binary trans people included in the proportion outside the objective. That small but sensible change would help to avoid the tragic irony of a bill that was designed to improve diversity using non-inclusive language. In both oral evidence and the Government's response to the committee, the cabinet secretary committed to looking at the language that is used in the bill to ensure that it is inclusive of trans individuals, and we look forward to seeing those changes proposed by the Government at stage 2.

Throughout our scrutiny of the bill, my colleagues and I have asked witnesses how we can ensure that the bill could be enforced through monitoring and reporting. It became clear to us very early on that financial sanctions would be counterproductive, given that any financial penalty would take money away only from public bodies or the services that they provide. Many witnesses made the valid point that public naming and shaming of recalcitrant bodies would, in many cases, be just as powerful and that the carrot is often better than the stick. Given that about 60 per cent of appointments are made by ministers, the case for financially punishing non-compliant boards becomes even less coherent.

However, as most of the appointments that are made to public boards are, in the final analysis, made by Scottish ministers, the committee was strongly of the view that Parliament should have a role in monitoring the progress that is being made through such reports. We therefore recommended to the Government that there should be a reporting duty in the bill, and I am pleased to see that the cabinet secretary has confirmed that an amendment to that effect will be lodged at stage 2.

Gail Ross (Caithness, Sutherland and Ross) (SNP): Does Alex Cole-Hamilton agree that the reporting process could help to support boards that are not reaching their 50:50 goal?

Alex Cole-Hamilton: I absolutely agree. We can also disseminate best practice through the reporting process, so that people can see the steps that appointing persons are taking to encourage women to come forward for board membership. We hope that the proposed amendment on reporting will reflect the role of Parliament in holding the Government to account and that parliamentarians will have the opportunity to press the Government, should progress be found wanting.

Schedule 1 lists all the public authorities that will fall under the auspices of the legislation. The public sector landscape in Scotland is complex, so it was welcome that the Scottish Government was able to provide us with definitions of the types of

body that are included in the bill and detail why certain bodies were or were not covered.

Only two potential areas of contention arose in that regard: integration joint boards and higher education institutions. In evidence, Universities Scotland argued against the inclusion of HEIs on the basis that they are not public bodies but autonomous, not-for-profit charitable institutions. However, the cabinet secretary pointed out that universities are considered to be public authorities under equality legislation and said that not to include them in the bill, which covers only non-executive board members, would be inconsistent. Indeed, University and College Union Scotland made the point that universities receive £1.5 billion of Scottish Government money. Given that the argument was made on the principle of inclusion rather than the merits of the bill itself, we agree with the Scottish Government that HEIs should be included in schedule 1.

The bill as drafted provides for any new bodies to be added to the schedule by regulation, which would be subject to the negative procedure. We are pleased that the Government has accepted the view of the Equalities and Human Rights Committee and the DPLR committee that the affirmative procedure should be used.

All members will recognise the importance of closing loopholes in bills that might be used to avoid obligations. The committee considered that it is important that the Scottish Government defines the appointing person for each authority in order to leave no wriggle room if there is a lack of progress. The Government's argument, however, is that such an approach would require amendment to the legislation every time that a body sought to change its governance or make-up, which is a reasonable point. We hope that such detail can be provided in guidance, which is not subject to a legislative process.

The need for guidance was a consistent thread during our stage 1 consideration. In our view, guidance is vital to the success of the bill. As I have mentioned, the Scottish Government has agreed to clarify in guidance the 50 per cent target, the tiebreaker situation and the appointing person for each authority.

Our major concern about the guidance is twofold. First, we think that the guidance should be statutory. Secondly, we think that the guidance should flow from the pre-existing guidance on public appointments, to ensure that there is minimal confusion about the process for public bodies and appointing persons. We are sure that the Government's promised consultation on the guidance will highlight the need for it to provide examples of best practice and set out, for example, steps that boards can take to ensure that their working practices do not deter potential

candidates or lead to new board members having to leave at an early juncture. We are delighted that the Government has agreed that the guidance should be statutory and that amendments to that effect will be lodged at stage 2.

I reiterate the Equalities and Human Rights Committee's majority support for the general principles of the bill at stage 1. We look forward to continuing our scrutiny of the bill at the next stage of the process, when we will consider the aforementioned proposed Government amendments and any amendments that have been lodged by members of the Parliament.

14:59

Annie Wells (Glasgow) (Con): The aims of the Gender Representation on Public Boards (Scotland) Bill are altruistic, but for me the bill boils down to one issue, which is whether gender quotas are the real marker of progress for women.

From my early days as a member of the Scottish Parliament, I have spoken openly in the chamber, in panel debates and on the television about my views on gender quotas, and I have been consistent in my approach. Yes, I want equality for women—of course I do. I want to see 50:50 representation of women and men in all spheres, whether in politics or the FTSE 350 companies, or among the non-executive board members whom we are discussing today. However, I do not want statutory quotas to be the means of bringing that about, which is why I cannot support the Government's motion.

I recognise that support for the bill, which has the legislative objective of seeking to ensure that 50 per cent of non-executive public board members are women by the end of 2022, is unanimous among the other parties.

Alex Cole-Hamilton: I have listened to the first minute of Annie Wells's speech, which suggests that the bill is all about quotas, when it is not—it is about merit. During an evidence session on the bill on 28 September, Annie Wells said:

"As far as I can see, merit sits at the heart of the bill."—*[Official Report, Equalities and Human Rights Committee, 28 September 2017; c 12-13.]*

I agree with Annie Wells on that. Why does not she?

Annie Wells: I did say that, because I believe that merit is key to everything. I have said that on many occasions in debates and on panel discussions, and I have been put down for using the word "merit". Although I said that merit is at the heart of the bill, if Alex Cole-Hamilton listens to the rest of my speech, he will find out why I cannot support the bill at stage 1.

Despite developments in gender equality across the United Kingdom, women remain underrepresented on boards and more widely across the decision-making bodies in our society. Although women constitute more than half the population, they account for just 32 per cent of members in the House of Commons and 35 per cent of members in the Scottish Parliament. In the FTSE 100 companies, women make up just 7 per cent of chairs, and in the FTSE 350 companies, they make up 16 per cent of corporate executive committees. Of course we want vast improvement to be made, because those figures are truly uncomfortable to read and they mark just how far we still need to go to achieve equality for women.

Although I whole-heartedly believe that more needs to be done, there are a number of questions that we need to answer. Do we believe that quotas will truly address the cultural and societal barriers that prevent women from applying for board positions in the first place? Will they identify and rectify the obstacles that prevent women from reaching top board positions, or will they serve as a misleading marker of progress?

The bill is already limited in scope in that it relates only to certain public sector bodies and to colleges and higher education institutions in Scotland; it does not extend to private companies or charities. At the time of the bill's introduction, the percentage of non-executive female board members stood at 42 per cent, but that figure is now 45.8 per cent. Further to that, the Scottish ministers are already responsible for around 60 per cent of appointments to the boards that come within the scope of the bill.

As a member of the Equalities and Human Rights Committee, I have been present at the many evidence sessions that have taken place to discuss the issues and practicalities of the bill. The bill is loaded with ambiguities and although I recognise that, as this is a stage 1 debate, all that is sought is broad agreement on its general principles, it is important to acknowledge the issues now.

The main principle of the bill is that it aims to achieve 50:50 representation by using positive action measures. It is stated that, where there are two candidates—a man and a woman—who are equally qualified, preference must be given to the woman, but it is difficult to understand how that will work in practice. How will those who are responsible for appointing board members interpret what is meant by "equal measure"? How will guidance ever be clear enough not to allow for loopholes?

As the Law Society of Scotland points out, without clear guidance, the bill runs the risk of encouraging positive discrimination to meet targets, which would run contrary to European

Union legislation. In addition, there is an issue with non-compliance, which has been raised consistently since the bill's conception. Compliance will not be mandatory. Although authorities will have to report on the operation of the bill as enacted, there will be no sanctions or penalties. As the committee pointed out in its report,

"a Bill without the appropriate teeth risks the appearance of legislation for legislation's sake."

I reiterate that.

Throughout the committee's consideration of the bill, questions have rightly been raised about the fact that the bill's sole focus is on gender. As a result, it has become unclear exactly what the bill seeks to achieve. Although I want public boards to be more reflective of our population, that aspect of the bill has brought with it more questions and has added another layer of confusion. How will the exception, whereby positions can be given to someone who is not a woman when that can be justified on the basis of

"a characteristic or situation particular to that candidate",

work in practice?

How will that significant addition, which was not present at the bill's conception, work within the framework of a gender-focused bill?

I return to my earlier point about underlying barriers for women in the workplace. I repeat my concern that the bill may distract us from the bigger task at hand. Women face barriers to getting on public boards that are similar to those that they face in employment generally.

Gail Ross: On the contrary, does Annie Wells not agree that encouraging women to go on public boards would have a knock-on effect on the other situations that she suggests or on private businesses, as they would be role models as powerful women on boards?

Annie Wells: We should absolutely encourage women, but I do not think that targets do that. We should encourage women in all walks of life to step forward, but targets are not the way to go.

The barriers that are often cited are a lack of flexible working, a lack of affordable and quality childcare, and occupational segregation. As Colleges Scotland has pointed out, there is a whole raft of barriers to women being recruited as non-executive board members. Most significantly, there is a limited pool of interested candidates.

We should be pushing the wider moral and legal imperatives to achieve equality between men and women and showing why there is a clear business case for increasing diversity and encouraging women to seek those positions. Statistics show us that there is a 53 per cent higher return on equity

for companies with a higher percentage of female board members, and it is widely accepted that diversity is good for the workforce in general.

I have seen at first hand the work of companies such as the FDM Group in Glasgow to get more women into their ranks at both graduate and executive level. They recognise the value that women bring to business. As a FTSE 250 company that specialises in information technology, gender equality is a huge part of the FDM Group's ethos. Fifty per cent of its management team is female, it has a median gender pay gap of 0 per cent, and this year it launched its getting back to business programme, which is aimed at bridging the gap between women taking a career break and re-entering the workforce at the level at which they left.

The FDM Group was among the first companies to provide a report on their gender pay gap in response to a UK Government initiative that requires companies with more than 250 employees to report on their gender pay gap. By publishing those figures, the initiative aims to shine a light on sectors that do not do so.

That is not the only root-and-branch initiative that the UK Government has pushed ahead with. As I indicated earlier, we are still a long way from equal representation of women, but I want to highlight initiatives that have been shown to have had an impact without the use of quotas.

Between 2011 and 2015, the number of women on FTSE 100 boards more than doubled to 26 per cent in less than five years and, in 2016, as part of the Hampton-Alexander review, the UK Government set a voluntary target for FTSE 350 companies to increase female board representation to 33 per cent by 2020.

Of course I acknowledge that we still have a long way to go, but those are the kinds of initiatives that we need to promote. We need positive action, but that should not be fixated on quotas for women; instead, there should be bold measures surrounding childcare, educational reform and inspiring young woman through role models, as we can do in the Parliament.

I will remain a champion of promoting progress for women, but I will never see the way forward as being the introduction of statutory quotas in everyday public life. That is why I cannot support the motion.

15:08

Monica Lennon (Central Scotland) (Lab): I am pleased to open for the Scottish Labour Party in this stage 1 debate and to set out our support for the principles that underpin the important

Gender Representation on Public Boards (Scotland) Bill.

I am pleased that the Scottish Government has introduced the bill and I pay tribute to the many amazing campaigners who are champions of improving women's representation and rights and have led the charge behind getting the bill to the stage that it is at. I pay tribute to Women 50:50, Engender, Close the Gap, the Scottish Women's Convention and many more organisations. The fight to increase women's representation in public life and to convince others of why that is required is a long, hard and sometimes lonely journey, so we all owe a debt of gratitude to the committed and tenacious women and men who have argued the case for positive action for many years and, in some cases, decades. We believe that the passage of the bill will be a positive step in confirming Scotland's commitment to gender equality.

Scotland's public boards make many decisions that affect the running of our services and all of our daily lives, so it is only right that women should receive fair representation in the places where those decisions are made. A statutory target for women to make up 50 per cent of non-executive board membership by 2020 is necessary to ensure that the progress that has been made so far does not slip backwards. At the most basic level, those in positions of power in Scotland should reflect the society that we seek to represent. It is a simple issue of fairness and equality. If women make up more than 50 per cent of the population, as we do, we should also make up at least 50 per cent of the decision makers, but that is not the case.

It is not only on public boards that women are underrepresented. Earlier this year, Engender's "Sex and Power in Scotland 2017" report revealed that women are largely posted missing from almost every area in Scottish public life. Women make up only 35 per cent of members of the Scottish Parliament, 29 per cent of local councillors, 16 per cent of council leaders and 28 per cent of public body chief executives. To put it another way, that means that men account for 65 per cent of parliamentarians, 71 per cent of councillors, 84 per cent of council leaders and 72 per cent of public body chief executives. Looking at those figures, it is baffling to me that anyone can continue to conclude that we live in a meritocracy.

The overrepresentation of men and underrepresentation of women are rooted in structural inequality that results in women still being valued less than their male counterparts. It is the same structural inequality that allows a culture of sexual harassment and violence against women to flourish. Earlier this week, colleagues debated in the chamber the Scottish

Government's "Equally Safe—A Delivery Plan for Scotland's Strategy to Prevent Violence Against Women and Girls" and the need to end violence against women. Violence against women is the most extreme end of a continuum of behaviour that is underpinned by sexism and structural inequality. Smashing that structural inequality requires us to make changes, and increasing women's representation and voices in public life is part of that solution. The bill that we are debating will start to go some way towards addressing that.

We know that women and men often experience life differently because of cultural gender roles. Women make up the majority of unpaid carers, lone parents, low-paid workers and survivors of abuse and sexual violence. Women are also disproportionately affected by austerity. Policies and services that affect women's lives in areas such as education, healthcare, justice and housing must be informed and shaped by women.

Some, especially Conservative MSPs, question the need to legislate for gender equality at all and prefer to rely on voluntary measures. However, voluntary measures are not enough to address the gender imbalance in public life, because of the structural inequality that exists throughout society. It is positive that the proportion of non-executive women members of regulated public boards has increased to 45 per cent but, if we rely only on voluntary measures, there is always a danger that that progress can slip backwards. We believe that the bill is essential if we are to ensure that that does not happen, which is why we support its principles.

Alex Cole-Hamilton: Will the member take an intervention?

Monica Lennon: Certainly.

Alex Cole-Hamilton: I am grateful to Monica Lennon for letting me intervene on what is an excellent speech. Does she agree that the Conservative Party, in its opposition to the bill, seems to fundamentally misunderstand the difference between quotas, as Conservative members have put it and which the bill is not about, and targets, which the bill is actually about?

Monica Lennon: I thank Alex Cole-Hamilton for his work on the Equalities and Human Rights Committee. There was some confusion in Annie Wells's remarks. I know that the Conservatives do not support the bill but, at the end of her speech, Annie Wells said that she supports positive action. I think that there is a bit of confusion, although I will gladly take an intervention from Annie Wells if she wants to intervene.

Annie Wells: We all want positive action, and I stood here and said that I do. Does the member not think that we should be looking at encouraging women? We do not need legislation to encourage

them to step forward. Does she not agree that there are other fundamental issues, such as quality child care, as well?

The Deputy Presiding Officer (Linda Fabiani): I can allow you some extra time, Ms Lennon.

Monica Lennon: Thank you, Presiding Officer. If Annie Wells and her colleagues support positive action, then they should support the bill. It is not a case of one or the other. We can encourage women while promoting policies and UK or Scottish Government decisions that do not harm women's life chances. However, more women are needed around the table, and the Conservatives have not proposed anything to speed that up, though they have time to change their minds.

The argument against positive action is misguided. The Tories say that it is unfair that we are creating an artificial disadvantage in what would otherwise be a free system of competition, but that ignores the obvious. The current system offers an unfair advantage to men and the purpose of positive action is to redress that balance. Positive action and quotas enhance, rather than hinder, equality. Research and academic studies show that, far from damaging the so-called meritocracy, positive action promotes women who are qualified and, therefore, promotes the principle of merit rather than undermines it. There are more than enough qualified women with a wealth of experience and knowledge throughout the country who are capable of filling those roles. The legal duty to consider gender representation is about giving women an equal chance to access those roles. I also acknowledge that valid concerns were raised with the committee, particularly by Inclusion Scotland, such as the need to promote the representation of other protected characteristics, such as people in the trans community, ethnic minorities and disabled people.

Scottish Labour agrees that robust and diligent guidance must be forthcoming to accompany the bill to ensure that due consideration is given to the inclusion of other underrepresented groups and that the case is made for increasing women's representation in Scotland through an intersectional lens. Increasing women's representation is about improving the representation of all women, including disabled women, women of colour and working class women.

We are proud to support the bill at stage 1. We thank the Equalities and Human Rights Committee for its work. The bill is a landmark event in how Scotland approaches the issue of women's representation, and it is a positive step in the right direction towards achieving a society in which we have true equality of representation throughout public life.

The Deputy Presiding Officer: We now move to the open debate. Speeches should be for six minutes but there is a little time in hand, so I can allow leeway for interventions.

15:17

Tom Arthur (Renfrewshire South) (SNP): I am grateful for the opportunity to contribute to the debate. I was disappointed to read in the Equalities and Human Rights Committee's report that its two Conservative members, Jamie Greene and Annie Wells, do not support the general principles of the bill, though being from a party whose Scottish branch office has more MPs named David than it does female MPs, it is hardly surprising.

Jamie Greene: Will the member take an intervention?

Tom Arthur: I would like to make progress. I raise that point because I had hoped that this debate would be a moment when Parliament would speak as one, but, alas, we must once again make the case for the principle of gender balance in public and civic life and the case for action to achieve that. Given that that is the situation, I will focus my remarks on the broader context of why the bill is needed and why it should progress.

It is a fitting time to discuss balanced gender representation in civic life. Next year will mark the 90th anniversary of the Representation of the People (Equal Franchise) Act 1928, which gave the vote to all women over the age of 21. That ensured parity with the terms enjoyed by men since the Representation of the People Act 1918, which had enfranchised only women over the age of 30 who met a property qualification. Prior to that, women had been explicitly prohibited in statute from voting. In the period between those two acts of the interwar period, an increasing number of women entered politics in the UK and Scotland, including the first female MP and renowned figures at municipal level such as Mary Barbour, who was born in Kilbarchan in my constituency.

Despite those early advances, progress since has at times been painfully slow. For example, between 1918 and 2015, a total of 400 women were elected to the House of Commons, while in the 2015 United Kingdom general election alone, 459 men were elected. Women account for barely one in four members of the House of Lords. In the century since the first women were enfranchised, all but two out of 19 UK Prime Ministers have been male; out of 35 foreign secretaries, only one woman has been Britain's top diplomat; of 40 home secretaries, women account for three, which is also the number of male home secretaries in

that period who were named Sir John. No woman has ever been head of the UK home civil service, and there has only ever been one female speaker of the House of Commons.

I highlight all that because, until May of last year, the power to enact the provisions of the bill rested at Westminster. Had the people of Scotland not elected SNP Governments that are committed to bringing powers to this Parliament, there would have been no Scotland Act 2016 and we would not now have the opportunity to propose the measures in the bill, which, if enacted, will ensure that our public bodies better reflect those whom they serve.

The Tories' failure to support the bill is sadly not surprising. After years of rebuffing calls for greater devolution and demanding that the Scottish Government use its existing powers, the Conservatives now want us to sit on our hands. Just as with powers over taxation, the Tory position is to do as London says. It is no wonder that the opinion polls now show them trailing in third place. Whether it be the racists and bigots whom they deem fit to be councillors or the mindless marionettes of their front bench in this place, it is clear that the people of Scotland are seeing through the Tory charade.

The moral case for equal gender representation on public boards is unimpeachable and in itself is enough justification for the bill. However, there is also a powerful business case. Research commissioned by the Scottish Government on greater diversity for private boards highlighted benefits that include

"lower labour turnover, higher levels of commitment and motivation amongst employees, improved reputation ... better understanding of customer needs and more flexibility and creativity within the business from the increased range of perspectives, skills and capabilities."

That research speaks to the broader international evidence regarding the negative impact that an imbalance of gendered power has on a range of equalities outcomes. Engender refers to that in its "Equal Voice, Equal Power" publication, which states:

"having women around the table changes the substance and outcomes of discussions: increased numbers of women in leadership positions enriches perspectives and increases prospects for public gender-sensitive services. Representative public boards also contribute to challenging gender stereotypes and perceptions around public authority, and send an important message to young women and men within their respective fields."

The point about changing the substance and outcomes of discussions is so important because the substance and outcomes can all be improved by balanced gender representation.

Perhaps that explains why the gender-balanced Cabinet of the Scottish Government functions with

such efficacy and competency compared to Theresa May's cabinet of chaos, of which women make up barely a quarter, with just six out of 23 members, and which is dominated by the grasping, fevered male egos of Johnson, Fox and Gove.

In concluding, I reiterate my support for the general principles of the bill and I commend the Scottish Government for bringing it to the chamber. I also recognise the work of the Equalities and Human Rights Committee and the important points raised in its report. As with all bills at stage 1, this is a work in progress and I trust that the Scottish Government will continue to engage as thoroughly with stakeholders at stage 2 as it has done to date.

I encourage colleagues from across the chamber—including Conservatives, because it is not too late to repent—to back the bill this evening, and I look forward to its progression.

15:24

Alison Harris (Central Scotland) (Con): The Gender Representation on Public Boards (Scotland) Bill has at its core an aspiration that I am sure that everyone in this chamber shares: to ensure that people, regardless of gender, have an equal chance to take senior roles in important public bodies. A review for the UK Government pointed out that boards that have strong female representation perform better than those without it, and that gender-diverse boards make better decisions because a range of voices, drawing on different life experiences, can be heard. The Institute for Employment Studies points out that diversity assists

"greater innovation and creativity, and helps organisations compete in an increasingly globalised ... and ... diverse ... marketplace."

In addition, I very much agree with Engender when it highlights that

"having women around the table changes the substance and outcomes of discussions"

and sends

"an important message to young women".

As others have said, the aim of a 50:50 gender split in many areas of public life is positive and to be welcomed. Public bodies need to reflect the make-up of modern Scotland, whether that is in councillors, providing vital local services; parliamentarians, both here and at Westminster; or those who serve on public boards. Our disagreement with the bill's proposals is about the means of getting there. The Scottish Conservative Party fully recognises the need to encourage more women into public life. In 2016, we adopted in Scotland the Women2Win initiative, which was set

up to boost female representation throughout the party by identifying suitable potential candidates and giving them support and mentoring.

It is early days and, as Ruth Davidson recently acknowledged, we still have far to go. However, I believe that it is vitally important that every female Conservative candidate knows that they have got there on their own merit and not because of the need to meet a quota.

Monica Lennon: There are a number of women in this Parliament who, through their political parties, became candidates on the back of positive action. Does Alison Harris agree that they got there on merit?

Alison Harris: I am referring to true merit. We can call something positive action or whatever in order to dress it up, but when we drill down or boil it down, it ultimately means a quota. I believe that merit should refer to merit alone.

Already, without quotas, progress has been made towards gender equality, and I applaud the fact that women currently make up almost 45 per cent of public board membership. They are women who have got those positions because they were the best applicants for the roles, and they are women who rightly consider themselves to be every bit as good as men and, through the selection process, have proven that fact.

James Dornan (Glasgow Cathcart) (SNP): Will the member give way on that?

Alison Harris: No. I am going to continue.

That willingness to prove our worth comes through from an early age. I recently gave a talk at one of the local high schools in Falkirk and I asked the girls present whether they felt that they needed the help of quotas to get on in life. Not one of those students did; every young woman there was more than confident that they could compete on equal terms without the need for any special treatment and, what is more important, they expressed their desire to be chosen on merit.

James Dornan: Will the member give way?

Alison Harris: No. I am going to continue.

No tiebreaker clauses or wrangles over the interpretation of “equally qualified” or “best qualified” are needed, and certainly there should be no toothless legislation for legislation’s sake, which even the report warns against. I agree that the bill has aspiration, but it is so vague in many respects about how to meet that aspiration other than through the deeply flawed idea of quotas.

In some ways, the bill’s proposals appear to be from the “We have new powers, we must use them” school of government. Without the legislation, progress towards equality has been gathering pace. As I mentioned earlier, almost

45.8 per cent of members of public boards are women and partnership for change has seen more than 200 organisations moving towards the 50:50 target, with a number having already achieved that. We have seen progress as public bodies actively seek ways to ensure that suitably qualified women know about and are encouraged to apply for board positions. In 2015, more women than men were appointed to public bodies, and the ratio of women appointed to those making applications has steadily increased. In 2016, 43 per cent of applications for public boards were from women, a figure higher than the target set out in the diversity delivers strategy. That is good, but not good enough. No one on the Conservative benches is complacent or denying that more work needs to be done on equalising gender opportunity.

I spoke recently in the chamber about the need for more young women to be encouraged into well-paid roles in engineering and technology, to help to address the gender imbalance in those traditionally male-dominated areas. Many glass ceilings have been broken in recent times. We have had two women Prime Ministers—both Conservative—a woman First Minister and numerous female party leaders. Many leading women have proven that they can succeed in what were once considered male-dominated roles. We have much to be hopeful about; fears that that progress may stall or even be reversed display a lack of confidence in the fact that women have now proven themselves capable of meeting the challenge, whether it is in politics, in business, in our armed forces or on the boards of public bodies.

The principle that appointments should be made on the basis of merit, integrity, diversity and equality must continue to be upheld. I believe that favouring one candidate over another on the basis of gender-defined quotas threatens how that will be perceived.

Clare Adamson (Motherwell and Wishaw) (SNP): Will the member take an intervention?

Alison Harris: I am sorry—I am on my last sentence.

No matter how altruistic the aims of the bill, at its core is the assumption that women cannot succeed without quotas. People can call it what they like—positive action, for example—but, as I said to Monica Lennon, when we drill it down, it is quotas by the back door. That is why I am unable to support the bill.

15:31

Mary Fee (West Scotland) (Lab): I am grateful to the Presiding Officers for their co-operation in allowing me to conclude a meeting before attending the chamber for the debate.

As a member of the Equalities and Human Rights Committee, I am grateful for the opportunity to contribute to the debate. I thank my fellow committee members, and I thank the committee clerks, who were of great assistance in arranging evidence sessions and producing the very informative stage 1 report. I also thank all of the witnesses who gave evidence to the committee. Their constructive comments, criticisms and reflections on the Gender Representation on Public Boards (Scotland) Bill are a vital part of the legislative process, which will ensure that the legislation can be improved and strengthened.

I want to touch on two important points about the bill. First, I will touch on the general principles of the bill and the rationale behind the decision to legislate; secondly, I will pick up on the lack of a definition of “woman” in the bill.

As has been outlined by my colleagues, Scottish Labour fully supports the general principles of the bill. However, it is clear that the bill will need to be amended in response to the evidence that was given by witnesses to the Equalities and Human Rights Committee and the recommendations that are outlined in the committee’s report.

Men continue to dominate positions of power in Scottish society. Men are in the majority in our boardrooms, in our Parliament and on our public boards. The bill rightly seeks to redress that imbalance. Women make up more than 51 per cent of our population in Scotland, so it is only right and just that women take up at least 50 per cent of the seats on our public boards. We must encourage and empower women, and employ more women in senior positions, where they have the ability to act as senior decision makers.

Furthermore, I believe that it is critical that our effort to promote more women to positions of power and influence includes all women. That is why it is vital that the bill provides a definition of a woman. In its evidence to the committee, the Scottish trans alliance proposed that the bill should contain a definition of “woman” to include a person with the protected characteristic of gender reassignment who is living in the female gender. I entirely support that suggestion and I am glad that the Scottish Government has stated its willingness to consider an amendment on the issue at stage 2.

There has been a clear consensus in this afternoon’s debate—if we discount the contributions from the benches across from me—over the bill’s general principle of promoting gender parity on Scottish public boards as part of a wider framework to promote greater gender equality in Scotland.

There has also been an emerging consensus throughout the debate over the need to amend the bill, reflecting the evidence that was given to the

Equalities and Human Rights Committee, to ensure that the legislation is comprehensive and effective. Two important areas that will need further consideration are sanctions against non-compliant boards and the use of the tiebreaker.

Concerns were raised in the committee about the practical application of the tiebreaker provision and the need to ensure that no ranking of protected characteristics occurs. We cannot allow unintended consequences to damage the positive aspects of this legislation. Guidance relating to the use of the tiebreaker and training and support for individuals who use the process might be required.

No doubt the strength of the bill will be in its practical application and the success that it achieves. The committee grappled with carrot and stick approaches, and discussed which approach is the most useful and brings most benefit. A requirement for public boards to lay a report before Parliament may well be a sufficient stick, especially if part of that report requires boards to explain or rationalise the reasoning behind appointments where the tiebreaker is used and a woman is not appointed.

It is clear that the bill is well intentioned in its effort to redress the gender imbalance of representation and power on public boards in Scotland. There are clearly some issues that the Scottish Government needs to give extra consideration to and in relation to which it should propose amendments and work to strengthen the bill.

It is vitally important that the bill acts as a comprehensive, effective and robust lever to promote gender parity on public boards in Scotland. My colleagues and I are happy to support the bill.

15:37

Patrick Harvie (Glasgow) (Green): I am pleased to have the opportunity to contribute to the debate and to put on record the support of the Scottish Green Party for the general principles of the bill. I thank the committee for the work that it has done in its stage 1 scrutiny and everyone who has given evidence as part of the process.

There are, no doubt, some specific details of the bill where we can all agree that there might be some room for improvement, and I am pleased that the Scottish Government has indicated its willingness to consider some of those. For example, there have been discussions around the definitions of when exemptions to the general approach of the bill might be taken and how best to balance different equality strands and protected characteristics. There is a case for discussing how the legislation can go beyond the simple letters on the page and can give leadership to wider Scottish

society. I think that, in an intervention, Elaine Smith was the first speaker to make the point that the legislation should not only be about public boards but should give leadership in achieving the same objectives across wider society.

Further, obviously, there will be on-going discussion about specifically which bodies should be listed in schedule 1. I happen to agree with the Delegated Powers and Law Reform Committee that it is a bad idea to use negative instruments for any future changes to schedule 1 and that the use of positive instruments would be better. I tend to think that negative instruments are always a bad idea. It might be that, if I ever have the privilege of serving in government, I will suddenly be convinced that negative instruments are great and that we should use them all the time. However, from the point of view of a member of the Opposition, I will certainly argue in favour of affirmative procedure and proper scrutiny if changes are needed.

In particular, it struck me that the Scottish Parliament is not listed as a public authority in schedule 1. I understand that there are complex legal arguments about why it is not. However, over recent months in particular, we have been aware that the ways in which appointments in the Parliament take place internally do not adequately reflect the principle of gender balance to which the vast majority of us are committed. If future changes are needed—whether in relation to this legislation or in relation to other ways in which internal appointment processes in the Parliament can be improved with regard to the application of gender balance principles—we might take advantage of the opportunity that the bill provides to debate how we can advance that argument, even if amendments to the legislation itself are not specifically required. As a member of the Standards, Procedures and Public Appointments Committee, I think that we all bear a responsibility to make sure that the way in which internal appointments are carried out in the Parliament is in line with the duties that we are now applying to public boards and authorities.

Finally, on tweaks and changes to the bill, I agree with Mary Fee's comments about how we should improve the way in which trans people are recognised in the system—others have referred to that as well. That may be simpler and more straightforward than the more challenging question of how people with a non-binary gender identity are represented within the general policy approach.

That is something that the Green Party has wrestled with, discussed and not yet resolved. Monica Lennon mentioned political parties in that respect, and I have to recognise that I have the privilege of speaking about the bill as a

representative of a party that knows that good intentions alone do not result in gender balance. We have demonstrated good intentions by achieving gender-balanced candidate selection, making sure that we have gender balance at the tops of our regional lists, not just throughout them, and ensuring that our women's network contributes actively to the life of the party and the development of its policies, practices and culture.

However, elections do not always work out the way we would like. The public boards and authorities that are affected by the duties in the bill are likely to have a similar experience. Good intentions alone do not always work out the way you hope they will—they are not enough to achieve gender balance. Sometimes, we need to look at our mechanisms and ask ourselves how those can be improved. That is something that my party is committed to and that our society needs to do as well. Passing the bill will be one way to achieve that. We can all do better—my party and our society.

In the last moments of my speech, I have to respond to challenges to the general principles of the bill and to the idea that it is not needed. We have been asked to consider the prospect that Theresa May is an example of how women can succeed on merit. There may be more compelling and convincing examples out there than Theresa May. Annie Wells told us that she wants to see 50:50, but she does not like targets and quotas. Well, 50:50 is a target.

Jamie Greene: I am sorry to say that I find Mr Harvie's comments on Theresa May quite distasteful. He may not agree with her politics, but he should not put her down as a woman politician.

Patrick Harvie: I seek to put her down not as a woman politician but as a politician—full stop.

On the idea that targets and quotas must be rejected, if, as we have been told, they were the wrong way to achieve equality, the critics of the bill would have a long list of evidence showing where targets and quotas have failed to achieve that objective. They have no such evidence, because targets and quotas work—they are successful, not just in examples in this country but around the world. We should be clear that we want to continue to ensure that those approaches are successful.

There was also the idea that we should oppose the bill because it does not cover everything, but that would be to say that, because we cannot solve every problem with a bill, we should do nothing. Another idea was that appointments should be made on merit only, regardless of equality characteristics, but the idea that appointments to positions of civic authority and power in our society are distributed on merit is as

bizarre as the idea that economic power is distributed on the basis of hard work or that educational opportunities are distributed according to academic ability. They are not—they are distributed on the basis of privilege.

I need to acknowledge that I am part of that, as an able-bodied, white, middle-class and—although I might like to deny it—increasingly middle-aged man in our society. I have the ability to stand here for more than my allotted time and speak because of that privilege, so I should sit down and stop doing it, Presiding Officer.

The Deputy Presiding Officer: Gail Ross, you can have seven minutes.

15:44

Gail Ross (Caithness, Sutherland and Ross) (SNP): Thank you, Presiding Officer. Before I go any further, I want to declare that I am here as a product of an all-female selection process, and I look forward to anybody telling me that I am not here on merit.

I reiterate the deputy convener's thanks to our witnesses. The hard work, dedicated effort and length of time that go into each public appointment should not be underestimated. I pay tribute to all those who ensure that the process of selecting those who work hard to provide vital public services goes smoothly and that the right choices are made.

That is what the bill is about: how we support people who have a contribution to make to public life. The bill does nothing to change the fact that appointments will be made on merit and that the best person for the job will be selected. If anything, the bill helps to lock in the merit-based approach by widening the net for new talent to join our public boards and increasing competition for places.

In the opening speech on behalf of the committee, the deputy convener mentioned integration joint boards, or IJBs. As members will be more than aware, the governance arrangements of IJBs are complex. IJBs are not included in the bill, but we heard from Glasgow city IJB, which would like to be included in schedule 1. I think that the Government will agree with the committee that IJBs, which receive significant amounts of public money, should in principle be included, but we recognise that that might not be possible. However, we hope that the debate on the bill will encourage local authorities and health boards to consider the gender balance when appointing their members.

I also want to touch on the financial implications of the measures in the bill, which the Scottish Government estimates to range between £30,000 and £250,000. Our colleagues on the Finance and

Constitution Committee issued a call for evidence on the financial memorandum to the bill and, although that received only four responses, the response from Changing the Chemistry was helpful for our understanding of the issue. Changing the Chemistry argues that the estimated costs are not accurate as they do not take into account the cost of time for staff or the support that is provided by organisations such as Changing the Chemistry. However, at our evidence session with the cabinet secretary, she assured us that the costs have been taken into account, along with potential extra childcare costs. We were told that the progress that has already been made by many boards and the pre-existing work that has been done in this area is reflected in what the cabinet secretary described as an “ample and generous” financial memorandum. We are content that that is the case, but we welcome the Government's assurance that it will monitor those costs.

I will give members and anybody who is watching the debate a few quotations from people who gave evidence to the Equalities and Human Rights Committee. Some members questioned and, as we heard today, are still questioning the need for the bill, but we must remember that soft measures have allowed advances to be made only in some sectors. Yes, we are currently at more than 45 per cent for women on public boards as a whole, and that is an encouraging figure, but it is still not 50 per cent and some boards have no women on them at all, which is what we have to bear in mind. As a whole, the boards are not representative of public life.

Suzanne Conlin from the Scottish Women's Convention said:

“One of the reasons why we think the bill is important is that women tell us that it is.”

Lindsey Millen from Close the Gap said:

“We want to ensure that women can access the roles on public boards, because we will then be able to create a new generation of role models for young people—in particular, young women, who will be able to see that those jobs are for them.”

Talat Yaqoob from Women 50:50 said:

“Soft and gentle approaches involving training and development have been done for decades, and they have not got us to 50 per cent.”

Rory McPherson from the Law Society of Scotland said:

“after 10 years of voluntary schemes, we are yet to achieve gender diversity on public boards. Against that background, the Law Society supports the bill”.—[*Official Report, Equalities and Human Rights Committee*, 21 September 2017; c 2, 2, 17 and 19.]

Liz Scott from Highlands and Islands Enterprise said:

“It is also an important way of raising awareness, not just in public bodies but across Scottish society, about the place that women, in this case, can take on public boards.”

Stephanie Millar from the Equality Challenge Unit said:

“While recognising the huge progress that has recently been made, we believe that legislation would show a clear direction and not only provide national leadership but enable local leadership.”

Mary Senior from the University and College Union said:

“We believe that the legislation is necessary.”—[*Official Report, Equalities and Human Rights Committee*, 28 September 2017; c 15, 28-29 and 28.]

The Scottish Government is working on increasing diversity on public boards through its disability and race strategies. The public boards and corporate diversity programme continues to drive forward improvements in diversity by developing outreach activity with disabled people and minority ethnic communities.

I thank the Government for its constructive approach to the scrutiny of the bill. The clarification letter that we received ahead of our stage 1 scrutiny and the Government’s response after the publication of our stage 1 report were both helpful not only for our understanding of the bill but, I am sure, for that of the wider public sector and the public as a whole. It is vital that the Government continues to speak openly and plainly about the measures in, and intent of, the bill to dispel any misconceptions about what it is trying to achieve.

A committee’s role in the legislative process is to scrutinise the merits of a bill, suggest improvements and prevent bad law from being placed on the statute book. The majority of our committee believes that the bill will secure for future years the progress that has been made in recent years. It is a positive step towards better diversity of thought and experience on our public boards. We know that better diversity brings better decision making. That is why we support the general principles of the bill at stage 1.

15:51

Alexander Stewart (Mid Scotland and Fife) (Con): As many colleagues have indicated, no one can fault the primary goal of the proposed legislation that we are discussing. We all want public boards that better reflect the society in which we live, and ensuring that more women are appointed to them is important. I am not a member of the committee but I pay tribute to it for the work that it has done and to everyone who gave evidence during the stage 1 inquiry.

Although equal representation on public boards is obviously desirable, it is worth noting that their

gender balance is far more representative than that of other public institutions. Women currently make up 45.8 per cent of the membership of public boards but account for only 34.9 per cent of members of the Scottish Parliament, for example. That raises the question of whether quotas are the right way to tackle the root cause of gender inequality.

There are still significant barriers for women who want to enter the workplace, including the lack of affordable childcare or flexible working, and the bill does not address those issues. It goes some way, but we still require to support women by ensuring that they have the opportunity to become part of the institutions of which we wish them to become part. If they do not have affordable childcare or flexible working, that is a barrier to their getting into that position.

Angela Constance: I hear Mr Stewart saying that he is supportive of boards reflecting the composition of our society. He will, of course, be aware of the Government’s endeavours—despite not having employment powers—to support flexible working, and I am sure that he is well aware of our work to expand early years provision and childcare. Will he point to an action that we are not doing that he believes would help to achieve a better balance on boards?

Alexander Stewart: The cabinet secretary makes a valid point. We all have to engage. The Government has gone some way towards trying to tackle some of the problems, but there are others that we all need to try to tackle.

I acknowledge that the cabinet secretary is talking specifically about boards, but I maintain that there are other opportunities that we can and should take, and the Government is best placed to ensure that we engage and that flexible working happens. We still have a long way to go to ensure that that takes place. I know that the Government has great aspirations, but it does not always come up with the goods at the end of the day.

Of course, we want society to move forward with equal representation. We have to ensure that we go some way—and we already have gone some way—but other groups require support as well. We do not believe that positive discrimination through statutory quotas is the right way to achieve this and, therefore, we cannot support the bill as it stands.

If, for a moment, we put to one side the idea that quotas are an appropriate method of achieving the objective of gender balance in the workplace, there are a number of problems with how the bill has been drafted that mean that it is likely to become unworkable. We have heard about the main method in the bill—positive action—and we have talked about the tiebreaker case, which

states that if there are two equally qualified candidates, preference must be given to the woman. That raises a number of questions—

The Deputy Presiding Officer: Excuse me, Mr Stewart. The cabinet secretary has left the front bench empty. Can we make sure that the seat is filled again, please? Thank you.

Please continue, Mr Stewart.

Alexander Stewart: Although the bill has clearly been drafted to avoid being in conflict with EU legislation, the wording is quite vague and woolly in places. Whether two candidates are “equally qualified” is likely to be open to interpretation by those appointing the individuals to a board. Without a set of specific guidelines, as suggested by the Equalities and Human Rights Committee, the bill runs the risk of being in breach, and we do not want legislation to fall into that category.

In addition, the bill has consistently grown in scope from what was originally mooted. When we look at qualifications in the future, women will have to be given priority as candidates. We acknowledge that and understand it, but my colleagues Annie Wells and Alison Harris made some valid points about quotas and about rectifying the culture as we move forward from stage 1. Although well-intentioned, the additions undermine the bill’s objective regarding gender equality on public boards.

The Law Society of Scotland has rightly highlighted concerns that the voluntary nature of the bill means that it is unlikely to be effective. It acknowledges that there have been some successes with similar schemes in some EU countries but it argues that voluntary quotas are likely to be ineffective as a process. We must understand the bill and we must talk about the legislation. We do not want legislation that is confused or that can be challenged, and the Law Society has talked about the opportunities for the bill to cause that.

There is unanimity in the chamber in support of the bill’s aims, and we understand what it is trying to achieve. However, we in the Scottish Conservatives believe that statutory quotas are the wrong way to go about achieving the aims and so we will not be able to support the motion.

15:58

Elaine Smith (Central Scotland) (Lab): I thank the Equalities and Human Rights Committee for its scrutiny of the bill. The report seems to take a reasoned approach to the bill, which is designed to tackle an institutional problem of discrimination against women in public life, so it really is a pity that the report was not unanimously supported.

We should keep reminding ourselves that women make up more than 50 per cent of the population; that statistic should be reflected on our public boards, in our Parliaments, in councils and in senior appointments in the public sector. It is hardly unreasonable to expect equal representation—as a minimum—for women on all the decision-making bodies in our society. That, in turn, should send a message to the private sector and to society at large—a point that I raised with the cabinet secretary earlier, and which Patrick Harvie also raised.

This is a massively important issue because unless we have fair representation of women in public life and on our boards, we will continue to see policies and practices that discriminate against more than 50 per cent of the population. That helps to underpin a society in which inequality, sexual harassment and violence against women are still prevalent and commonplace. That point was made by Monica Lennon in her opening speech and in the debate earlier in the week on violence against women and girls. The Scottish Government is tackling that issue.

I want to pick up on a point made by Alison Harris. I grew up in the 1960s and 1970s and I had strong female role models—my mother, in particular. I did not feel myself to be particularly discriminated against as a woman at school, as a student or at teacher training college. However, my eyes were opened in the 1980s when I was in my early twenties and I started working in a council housing department. It was then that I noticed that all the main promoted posts in the authority were filled by men and all the clerical posts were filled by women.

I was the union representative and I job-shared the equal opportunities officer post, so I decided to do a bit of work on the issue. Computers were just beginning to come into workplaces and I was helped by the computer manager to run a graph—it sounds funny, but it was a new thing then—that showed that women were overrepresented in clerical and lower administrative grades, but the position changed around the middle of the administrative grades, so that among principal officers there was one woman, and that the chief officials were all men, as were most of the councillors. Although there has been some movement in the intervening 30 years, it has simply not been enough. As members from across the parties have pointed out, in some areas, such as the Parliament, we have regressed.

We cannot keep waiting for women’s equal representation and equality in the workplace to happen all by themselves because they are not going to, and the same is true for public boards.

Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con): Does Elaine Smith agree that recent events have taught us that quotas do not go far enough in addressing the issues that women face—in the Scottish Parliament, for example—such as sexism and sexual harassment?

Elaine Smith: I made that point earlier. We need women's representation to ensure that we tackle all those issues in society. Women's experiences and their contribution are necessary to ensure that we tackle such issues and to ensure that we have equitable delivery of public services, which is vital.

We will not get rid of gender discrimination in areas such as health, education and housing if we do not have women in positions of power and influence. I point to public boards in particular, because we can influence those directly.

In its "Gender Matters Roadmap", which was published recently, Engender points out the significant vertical occupational segregation that exists in public sector professions that are staffed predominantly by women but are managed predominantly by men. For example, men account for 81 per cent of national health service board chairs, yet 71 per cent of the total NHS workforce comprises women. Engender goes on to make the point that that

"highlights the need for targeted action to tackle barriers to women's leadership in public life, in line with broader strategies to address gendered occupational segregation and the gender pay gap."

Specifically on the committee report, although the committee supports the bill at stage 1, its support is qualified, and the committee intends to consider improvements at stage 2. The committee considered whether focusing on one protected characteristic of the Equality Act 2010 ahead of others would help or hinder in making public boards more diverse. I have sympathy with that issue. I would like to see boards that are much more diverse and representative of all protected characteristics as well as social class. However, as we address the serious issue of underrepresentation of women in public life, we should remember that women themselves are diverse—as I pointed out earlier in an intervention on the cabinet secretary. I personally come under the definition of having additional characteristics, including disability.

Positive steps should be taken to ensure that women are recruited from a wide range of backgrounds and with different and multiple protected characteristics, as defined by the Equality Act 2010.

Overall, it is about time that women's representation—or rather, underrepresentation—

was seriously addressed. The bill helps with that by taking a commonsense approach to fixing that injustice. That is what it should focus on.

Concerns were raised both in the committee report and by the Law Society that the bill as introduced might not have appropriate teeth. Alexander Stewart mentioned that point. The Law Society points out that the lack of progress achieved in the United Kingdom through voluntary schemes leaves it sceptical about the effectiveness of the bill in its current form. Engender said:

"Robust enforcement is essential, and without a meaningful recourse for lack of compliance there is significant probability that gender balancing measures will not be taken seriously by those charged with implementing them."

That issue needs further consideration should the bill be supported tonight at stage 1 and, if so, as it progresses.

As Annie Wells mentioned, recruiting and retaining women on boards is an issue. What underpins that and the barriers to female participation must be tackled. That means looking at the timing of meetings, childcare support and training for applicants, as well as assessing the screening and shortlisting processes to make sure that they are fit for purpose.

Women make up more than 50 per cent of the population. It is a travesty that public boards do not reflect that in their membership. I support the bill at stage 1, and I look forward to following its progress.

The Deputy Presiding Officer: We are back to six minutes for speeches, please.

16:05

James Dornan (Glasgow Cathcart) (SNP): Discrimination against the men, Presiding Officer—I am just not happy with that at all.

Recent events have highlighted the barriers that women often still face when trying to achieve the positions that their male counterparts achieve. If we accept, as we surely do, that young women achieve better at school and that women constitute more than 50 per cent of the population, how can it be acceptable for them not to be fairly represented on public boards, or in politics or any other sphere? Perhaps when they reach a certain age their brain goes to mush because of their love for Justin Bieber, or whoever is the fad of the day. That is just nonsense, is it not? There is no one in here who does not owe a huge debt of gratitude to intelligent, smart and strong women—I know that I do.

When I was a kid, my gran—my dad's mum—was the family matriarch. She was all those things

that I have described, and much, much more. As well as running a big and extended family, she had time to be involved with local campaigns and local politics. She was—this bit embarrasses me—the secretary of the local Labour branch. [*Laughter.*] I know, I know. Despite that, I later realised that I had learned a lot from her. However, I got my love of politics, my fire and my detestation of people being mistreated from my mum. She was the one who filled me full of indignation and taught me what was right. All my politics come from her, except for independence—although I eventually persuaded her of its merits.

My point is that if my gran had been my grandda, or if my mum had been my dad, I do not believe for a second that I would have been the first elected politician in my family. That is how it has always been for women. Although there is no doubt that things have changed, recent events have highlighted just how diligent we must be to ensure that everyone sees not a woman or a girl who is fit only for certain roles in life, but a person who is, based on their abilities and skill set, as capable as any other. However, how many women here can honestly say that it is a level playing field, or that they do not consider that the game is still unbalanced in favour of the male?

As a male, I am happy to be speaking in the debate, so that I can add my voice to all the others who are looking to ensure that we will soon have equality not just on the boards, but across the board. The evidence clearly shows that everyone benefits from having more gender equality on boards. Engender has been quoted a few times today. To repeat a quote used by another member, Engender said:

“increased numbers of women in leadership positions enriches perspectives and increases prospects for public gender-sensitive services. Representative public boards also contribute to challenging gender stereotypes and perceptions around public authority, and send an important message to young women and men within their respective fields.”

That is very important. This is not just about examples for women to follow, but about examples for men to see that women have to be taken seriously, because some men, with some of the cultures today, do not appear to take women seriously as they definitely should do.

As convener of the Education and Skills Committee, I was delighted to see that universities and colleges are included in the bill, because education is an opportunity that is open to all, although students and young people have needs that are dependent on their gender. As we endeavour to encourage all our young people to be the best that they can be and to study—whether at home or in other parts of the country—we are increasingly aware that young people must be supported not just in their educational issues,

but in their personal issues as they grow into rounded adults and become an integral part of our society. Gender-equal boards would help to change the culture. I have heard too many upsetting reports about women being targeted in some educational establishments but the culture of the establishment not recognising the dangers and the stress that those women have gone through.

Rachael Hamilton: Does the member agree that the objective of

“Improving opportunities and experiences for all learners, with a focus on reducing gender imbalance on course take-up”,

which is set out in “Developing the Young Workforce—Scotland’s Youth Employment Strategy”, is a good way forward?

James Dornan: Of course I do. There are lots of good ways forward, and the bill is one of them, which is why I am surprised and disappointed that the Conservatives will not support the principles of the bill at stage 1. A message that has been coming across regularly in Conservative members’ speeches is, “We know that something has to be done but let’s just do a wee bit more of what we’ve been doing and hope that it gets better.”

We cannot wait that long for things to get better. We have to do something more radical, and not conservative—with a small c. We have to take action such as we are taking through the bill. The bill might well be strengthened by amendment during the parliamentary process, but members should agree to the general principles of the bill at stage 1.

I talked about how, for women, there is still a bit of a way to go. That is not just the case in education and on boards. Let us take the Scottish Parliament. We have Nicola Sturgeon as the First Minister and two female Deputy Presiding Officers—including your own superbly intelligent and magnificent self, Presiding Officer—*[Interruption.]* I have to try to get one of the Presiding Officers on my side. After the most recent election, the leaders of the three main parties were women. I am blessed with a cohort of extremely talented female colleagues, many of them young, who will go on to great things.

However, if I am honest, that is not enough. Women have to put up with a level of scorn and disapproval that we do not have to put up with. They have to worry about how they look in a way that we do not. They have to worry about not being taken as seriously as they should be, in a way that we do not.

It is time that we accepted that this is a problem that has been created by men, who generally do not want to give up power and privilege. It is time that we took responsibility for our actions and

recognised that we will sometimes have to miss out when we think that we are the better candidate, because in the long run a fairer, more representative Parliament, and fairer and more representative boards, can only benefit the people. After all, is not that why we are all here in the first place?

16:12

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I point out to members that I was elected on 8 June fairly and squarely and on merit. All four candidates were female, and there had been no all-female selection process and no zipping.

My colleague Annie Wells made a great speech and highlighted the key reasons why the bill is not a solution to the gender imbalance on public boards or indeed in the workplace. For the reasons that Ms Wells set out, we cannot support the bill.

That is not to say that we are against equal gender representation—far from it; that is an ambition that we share. The difference is our approach to the objective. The Scottish Government seeks to impose quotas from above and force through equal gender representation. Statutory quotas are a blunt instrument and do not address the underlying issues that result in women being underrepresented in the workforce.

Mike Rumbles: I have the bill in front of me. I am not a member of the Equalities and Human Rights Committee, and I have just read the bill, but I cannot find talk of quotas anywhere in it. Will the member point out those provisions to me?

Rachael Hamilton: I have the bill in front of me, too. There has been some dispute in the debate about targets and quotas, but if the aim of the bill is to legislate for gender balance, surely a quota and 50 per cent representation are exactly the same thing. However, why do we need legislation to do that? Why do we need legislation?

Instead of taking a top-down approach, we should approach the issue from the bottom up, focusing on the root causes, which are the issues that females face as they grow up, in nursery, in school and at university. In those environments, we can address and target stereotypes and the deep structural issues in our society. In those environments, ambitions, ideals and perceptions of what one can and cannot do are formed. The problem is systemic; it is ingrained in everyday living and it needs to be challenged.

“Developing the Young Workforce—Scotland’s Youth Employment Strategy”, set about to address the issue. The strategy’s main objective is:

“Improving opportunities and experiences for all learners, with a focus on reducing gender imbalance on course take-up”.

That is an ambition that I support.

The success of voluntary measures, such as the partnership for change 50:50 by 2020 campaign, shows that they are working, so the purpose of the bill is already being addressed. With the strategy set to conclude in 2021, it seems rather odd that the Scottish Government wishes to push through legislation before seeing whether it is required.

A rather large reservation that we have about the Government’s approach is the lack of scrutiny associated with it. There are countless examples of legislation that has been forced through and has then not been the subject of post-legislative scrutiny. The same is true of strategies. Is it working or is it not? Has it worked or has it not? Nobody seems to know, because the SNP would rather not say. As with all pieces of SNP legislation that have been passed, it remains unknown whether the outcome of the bill, if passed, will be explored. Worse yet, the bill might cover up the problems at the root of the gender imbalance. Damaging stereotypes might be overlooked because the outcome of equal gender representation, which will be mandatory by law, will no longer identify a problem in any given workforce.

James Dornan: Will the member give way?

Rachael Hamilton: I would like to make some progress.

As a result, efforts to challenge the misconceptions and perceived limitations that are ingrained in girls and boys at a young age might go unchallenged.

Further problems lie in the impact of the bill on other groups. Colleges Scotland was right to say:

“it is important that a focus on gender does not become discriminatory against other protected groups or characteristics, or that the best candidate is disregarded in order to meet a legislative requirement.”

It also raised concerns about the potential risk of candidates being unfairly discriminated against, which would be in conflict with the Equality Act 2010. The tiebreaker clause is therefore cause for concern, as it means that if an organisation is presented with two candidates with the same experience and qualifications, the female must be chosen. That provision seems to be worded in a way that suggests positive discrimination.

Another problem that Colleges Scotland highlighted is the fact that public bodies can appoint only from candidates who have shown an interest in applying. As I understand it, that means that, if there is no female candidate, the candidate cannot be chosen. Can the cabinet secretary

confirm that? That point is important, because it leads us to ask why there was no female candidate. Was it because the culture that perpetuated an outdated stereotype of what can and cannot be achieved went unchallenged? Was it because, at some point, limitations were put in place? I suggest that that might well be the case.

James Dornan: Does Rachael Hamilton not think that having 50:50 representation on public boards would send out the message that behaviour in other areas of the kind to which she has referred is not acceptable? It would not cover up issues; it would shine a light on them. It would show that, if it is possible to have 50:50 representation on public boards or in Parliament or wherever, it is possible to have 50:50 representation on private boards and in the rest of society.

Rachael Hamilton: I believe that progress has been made and is continuing to be made through voluntary measures. It is the culture that underlies gender imbalance that we need to get to the bottom of, and legislation will not do that; it will mask gender imbalance.

That is why the bill is not only unnecessary but misdirects our attention. Our attention should be focused on challenging the culture, challenging stereotypes and challenging false limitations. Those are the root causes of the gender imbalance that exists. For that reason, I cannot support the bill.

16:18

Monica Lennon: It is a privilege to speak for the second time in the debate and to close on behalf of the Scottish Labour Party. It has been an interesting and lively debate, but one that has been quite frustrating at points. Everyone has spoken with passion, and we can take a lot from the discussion.

There is general consensus on the Equalities and Human Rights Committee and in Parliament that the bill is necessary and is the right thing to do. As expected, the Conservative Party does not support the bill, and we have heard mixed messages on the reasons for that.

A consistent thread has been concern about the so-called tiebreaker. The worry appears to be that giving consideration to gender representation will somehow have a detrimental impact on other protected characteristics. The most common example that has been given is that a white middle-class woman will, or could be, given preference over a man with a disability or a man from an ethnic minority, which would not contribute to increasing the overall diversity of boards.

I agree with the cabinet secretary that we must be careful not to get into territory on which we set one particular characteristic against another. Women are a diverse group—several members have made that point well. Elaine Smith said that women are different and can have multiple protected characteristics.

It is clear to me from speeches that there is widespread agreement among Labour and the SNP that the intention is that the bill will be inclusive and intersectional. I welcome the cabinet secretary's saying that the Government will work with the committee ahead of stage 2 to introduce statutory guidance that will support the implementation of the legislation.

It is deeply disappointing, but not surprising, that the Tories do not support the general principles of the bill. Unfortunately, some members continue to make the mistake of confusing the issues of quota and merit, and of perpetuating a myth. Alison Harris and I get on very well outside the chamber, but I think that she said that positive action is somehow special treatment and is not about promoting people on merit. That argument fails to acknowledge that there is not a level playing field. The arguments that have been made against positive action are deeply flawed.

Gail Ross made an excellent speech in which she declared quite proudly that she was selected by her party as a result of positive action. Quite a few of us—including me—can say the same. I was first elected as a council candidate in 2012 on an all-women shortlist. The party put forward two candidates, and at least one would be a woman as a result of the process. To become a candidate to be an MSP, Elaine Smith and I were zipped candidates on the list for Central Scotland. That meant that, from our group, two men and two women came to Parliament last May.

I defend the idea that all of us are here on merit. I do not really understand the concerns of members on the Conservative's front bench. Although we might all have different opinions on policy and ideology, there is a healthy respect among members. I do not think that Gail Ross needs me to defend her corner, but I wholeheartedly agree that she is here on merit—and good luck to anyone who wants to take her on.

I do not know whether Annie Wells, Alison Harris and Rachael Hamilton will change their minds at any time, but they seem to be wrestling with some of the arguments, so I remain optimistic that, by the end of this session, the Conservatives will have taken another look at the matter.

Another point that is worth making to Tory front-bench members is that its party lags behind on gender equality. We can see that when the Tory seats are full. Perhaps there are things that the

parties can learn from each other—especially from the Scottish Labour Party and the SNP, when it comes to selecting candidates.

On the need for positive action, I know that Talat Yaqoob has been quoted already. Talat is one of my heroes: she is the chair of the women 50:50 campaign and is an amazing campaigner on women's rights. She puts the case so well, and has said:

“There is not an equal footing in politics for men and women. The status quo favours men. If you really want to do something about equality, saying the right words and reassuring yourself that you really care isn't enough.

Change doesn't come from warm words, it comes from progressive action. Quotas are the only truly progressive action.”

Other members have pointed to evidence from all around the world that quotas are the only thing that works.

I think that I have six minutes altogether, so I will finish up. The bill's purpose is very clear: it is to increase the representation of women on public boards and to ensure that our decision-making processes are truly representative of the society that they seek to represent. There is very little to argue with in that.

I welcome the clarifications on a number of points from the cabinet secretary. I think that, with the committee's very capable scrutiny, issues will be smoothed out and amendments will be lodged that will, I hope, mean that we can all support the bill.

16:24

Jamie Greene (West Scotland) (Con): All members have greatly emphasised the importance of gender equality in our society. The cabinet secretary opened the debate by saying that she hopes that Conservative members will support the proposed equalities legislation. I start by saying that, although we do not support the mechanics of the bill, there is no doubt—certainly in my view—that we support equality, and we will support her on that.

I recently joined the Equalities and Human Rights Committee, and the bill is one of the first substantive pieces of proposed legislation that we have addressed. I have taken an active role in the evidence sessions and have listened earnestly to the witnesses, quizzed them and taken notes. It has been a learning curve for me, for sure. Despite political differences, the debate has been mostly respectful, with members making arguments with much conviction and belief. Although Conservative members ultimately dissented from the stage 1 report, I appreciate the fact that other members of the committee valued our opinions and views, and that they helped to

shape the report. Indeed, some of our constructive suggestions seem to have been taken on board by the cabinet secretary.

Alex Cole-Hamilton: Will the member take an intervention?

Jamie Greene: I would like to make progress.

We support the end goal of more diversity, but we do not support the methods in the bill. As has been discussed greatly, the first main problem with the bill is its focus on a target: the bill seeks to introduce a 50 per cent quota. I understand that there is antipathy towards labelling it as a “quota”, because that is a polarising term in the debate, but setting a mandatory target of 50 per cent is a quota by any other name. The bill does not look at the underlying issues that face women and, in our view, gender equality is not, and should not be, a numbers game. A mandatory quota will not address the underlying issues that working women face. The focus has become the target and the number rather than the person or the quality of the candidate.

Gender parity in all aspects of life is a good thing.

Alex Cole-Hamilton: Will the member take an intervention?

Monica Lennon: Will the member give way?

Jamie Greene: I will take an intervention from Monica Lennon.

Monica Lennon: Given the proportion of men to women on boards, in local authorities and, indeed, in Parliament, I am intrigued to know whether the Conservative Party's view is that everyone in those positions is there on merit.

Jamie Greene: I very much like to think that everyone in the chamber from all parties is here on merit, although we all got here by different avenues. As a matter of principle, we do not think that mandatory quotas are the way to make progress. In fact, as my colleague Alison Harris pointed out, many organisations in the public, private and third sectors are making active progress towards parity by changing their organisational culture in order to improve gender equality. We should encourage that sort of behaviour.

Patrick Harvie: Will the member give way?

Jamie Greene: I would like to make progress.

Alison Harris's speech was heartfelt and, despite some of the heckling that she received, it was an honest view from a female politician. She reiterated the point that, if the direction of travel is improving organically, the bill might be legislation for legislation's sake, and that that will be more the case if it lacks effective enforcement.

I heard the argument that the bill is required to stop future regression in Government, but perhaps I have more faith in organisational and behavioural shifts, which are far more positive than quotas. Indeed, some people could argue that setting a 50 per cent target might divert attention from true progress, because once a quota is reached, it is perceived that the job has been done, which goes no way towards addressing the underlying lack of applicants from a diverse pool of talent.

Patrick Harvie: Will the member take an intervention?

Jamie Greene: I have a lot to get through and I want to turn to some of the speeches that were made, but I will give way if Mr Harvie insists.

Patrick Harvie: Jamie Greene argues not only that quotas and targets are unnecessary but that they could be harmful. I assume that he has some evidence to demonstrate the harm that takes place when quotas and targets are used. The people who are following the debate, including the women 50:50 campaign, have clearly made the point that there is overwhelming evidence that quotas promote merit and actually increase the level of merit overall. Quotas and targets are successful.

The Deputy Presiding Officer: I can allow you the time back for that intervention, Mr Greene.

Jamie Greene: I guess that I am asking whether there is a risk that, if a board achieves the 50 per cent target, it might take its foot off the pedal, and so we might divert attention away from achieving greater diversity and a wide range of protected characteristics on boards, which is where I think we should be heading.

I would like to touch on some of the other contributions—in particular, Mary Fee’s comments on the inclusion of trans women. It is encouraging that the cabinet secretary said that that is lacking in the bill and that the Government is approaching the bill with an open mind, in that respect.

Patrick Harvie raised representation of non-binary people, while my colleague, Rachel Hamilton, spoke of her worries about the somewhat one-dimensional definition of “diversity”, which came up frequently and which many stakeholders have pointed out. The stage 1 report says that boards should

“reflect Scotland’s rich tapestry of life”,

but a rich tapestry is about lesbian, gay, bisexual, transgender and intersex people, black and minority ethnic people and disabled people. It not just about men and women. Focusing on one protected characteristic over another will not promote true diversity. Moreover, as the bill stands, it would not be effective in promoting gender equality simply by forcing recruiters or ministers to choose one gender over another. The

bill is also incredibly ambiguous and unenforceable. That is a valid criticism, regardless of whether one agrees with the principle of quotas. I acknowledge that we are just at stage 1 and that there is room for improvement.

Alex Cole-Hamilton: I am grateful to Jamie Greene for taking my intervention. I am baffled as to why he and Annie Wells are standing in opposition to the bill. In the foothills of our consideration of the legislation, they grappled with it enthusiastically only to return from a group meeting ashen-faced to say that they would oppose it. If Mr Greene is opposing it under duress, he should please just blink twice for “Yes”.

Jamie Greene: I confirm to Mr Cole-Hamilton that I am under absolutely no duress whatsoever. The reason was that Annie Wells and I had a long discussion about the bill. She has consistently opposed quotas. I have also spoken to other female colleagues, including Rachael Hamilton, Alison Harris and Ruth Davidson, about their views on the bill, which I respect.

I was a little troubled by the response to an intervention, which the cabinet secretary could perhaps address further when she sums up. When a board is faced with two candidates, one of whom is a man and one of whom is a woman, preference will be given to the woman, unless the appointing person can prove why they chose otherwise. There is much ambiguity in the bill, with phrases like “best qualified”, “equally qualified” and, in particular,

“justified on the basis of a characteristic or situation particular to that candidate”.

Those phrases are not strong enough to give adequate guidance in law, and secondary guidance will not be sufficient to give comfort to boards that they are making correct decisions.

Rachael Hamilton mentioned the lack of provision for post-legislative scrutiny and the lack of analysis of the experience of other countries that have introduced quotas. It would be worth analysing the effect that it has had on boards and on women’s ability to move within companies. Alex Cole-Hamilton pointed out that the bill does not address issues including lack of childcare and care for the elderly, inflexible working hours and workplace harassment, which discourage women from applying for board positions.

I would like, finally, to highlight the excellent speeches that were made by Monica Lennon—in particular, the way in which she has conducted the debate on behalf of her party. We may disagree on the outcome, but I am thankful for the Labour Party’s input.

Equally, I should mention Elaine Smith’s comment that the bill lacks teeth in many ways. I

acknowledge the evidence on both sides of the argument and I hope that members trust that I approach the subject with an open mind. However, I am minded to listen to the somewhat persuasive views of my Conservative female colleagues and their genuine belief that the bill is not the best way to achieve the desired outcome.

16:34

Angela Constance: Perhaps Mr Greene would be a wee bit less in the dark if he had been at committee on the day that I gave evidence or, indeed, had accepted my generous invitation—I am a busy woman—to meet to discuss the bill further. We still have not managed to arrange that date in the diary.

We have had a free and frank exchange of views. It has been a debate in the fullest meaning of the word, and there were many interventions, which was great. We had a wee bit of a tour down history lane from Tom Arthur and, to a lesser extent, Alison Harris.

Thinking of history, I recalled the Duchess of Atholl and I was surprised that none of our Conservative members mentioned her. She was the first woman member of Parliament and she was a Conservative, elected in the general election of 1923 to serve Kinross and West Perthshire. David Lloyd George encouraged her to stand, but King George V tried to discourage her because she had to carry out her domestic duties first and foremost. Her husband was, however, quite sympathetic.

The really interesting thing about the Duchess of Atholl is that she was an unlikely candidate for Scotland's first woman member of Parliament because she was opposed to women's suffrage. When listening to some of our Conservative colleagues, I was reminded that she decided to put herself forward and stand for Parliament because she thought it would help Conservative men to become accustomed to women in politics. Members will come to their own conclusions about whether the Duchess of Atholl succeeded in that quest.

There has been something a little bit quaint or old-fashioned around the edges of what our Conservative colleagues have said today, and it is certainly on the wrong side of progress. There is absolutely nothing in the bill that will prevent action on advancing women's equality in the broadest sense, whether it be through the youth employment strategy "Developing the Young Workforce"—I am proud of and attached to the work that I led on that—through the work on the science, technology, engineering and mathematics strategy, through the massive expansion in early learning and childcare or through the work that we

are doing to encourage employers the length and breadth of Scotland to adopt family-friendly, flexible working.

We accept that nothing can be taken in isolation. One bill alone will not solve the issues around women's equality in all their complexity and scale, but that does not mean that we should not act and take the bill forward. My fear is that the Conservatives are in danger of missing the moment when we have all been reminded by recent events and when the lid has been well and truly lifted to show that this country of ours is nowhere near as equal as it should be or as some of us thought it was. I make a plea to members across the chamber for us not to miss the moment.

Mike Rumbles: Does the minister agree that the Conservatives seem to be using something of a smokescreen in their constant use of the word "quota"? Quotas would mean that people could not apply for a job. Will the minister confirm that nothing in the bill says that people would be excluded from applying for posts? The bill is not about quotas; it is about reaching an objective.

Angela Constance: Yes. I agree that the bill sets a gender-representative objective. It is, indeed, positive action, but it is positive action based on merit. Mr Rumbles and other members have touched on the fact that the Conservatives, as well as being in danger of missing the moment, are in danger of missing the point.

Alex Cole-Hamilton articulated the committee's conclusions when he said that positive action and appointing on merit are not mutually exclusive. We are not allowed not to appoint on merit; it is against the law. The committee went further than that and said:

"We welcome the decision to legislate in this area, and appreciate the efforts made to ensure that the Bill encourages positive action and appointment based on merit rather than encroaching into positive discrimination."

Gail Ross was absolutely right when she said that the bill is about widening the net and finding better ways to tap into all the talent of 51.5 per cent of the population. She was also right to say that, although that will increase competition among women, it will also certainly increase the competition for the men.

I say to Jamie Greene, Annie Wells, Alison Harris and Rachael Hamilton that actions from the ground up underpin the aspirations of the bill.

As well as having a gender-representative objective, the bill contains a duty to encourage applications and to take actions to ensure that we are reaching into that talent pool of suitably qualified women and other individuals. There is a duty to report, and we are taking on board the very fair observations from the committee and other

stakeholders about how we could enhance that duty.

It is not just about the end result, because the bill encapsulates how we get there and, once we get there, how we sustain progress and do not inadvertently turn the clock back. For the record, I say that I do not know any woman in the chamber who is not here on merit. We will all have had different routes and journeys at different times, but I do not know any woman in this chamber who is not here on merit. We should not try to imply, either directly or indirectly, that there are women who are not here on merit.

When we have talked about cultural change and voluntary measures, no one has been able to point to what we are not doing already or what else we should be doing. No Opposition member has addressed that point today.

Rachael Hamilton: We have talked about Scotland's youth employment strategy. A survey for the developing the young workforce programme was recently carried out in a primary school in my constituency. The primary 1 children were asked what they would like to be when they grew up, and they said fairies and dinosaurs. However, by the time that children got to primary 7, the boys wanted to be firemen and the girls wanted to be nurses. What initiative would the cabinet secretary introduce to change the culture from a very young age and educate young people to change their attitudes in order to attain gender balance?

Angela Constance: It was only two days ago that I stood in the chamber and spoke about the importance of tackling gender stereotyping. Indeed, I made an announcement about the funding that the Scottish Government is putting into a whole-schools approach to tackle the gender stereotyping around gender-based violence. I am not going to take any lectures from anybody on the Conservative side of the chamber about the importance of tackling gender stereotyping. What the Conservatives fail to understand is that the fact that the bill is not tackling gender stereotyping cannot be an excuse for not supporting it.

The Equalities and Human Rights Committee said that it was heartened to learn of the number of initiatives that exist and the level of support from the Scottish Government's public appointments team—and, indeed, from the Commissioner for Ethical Standards in Public Life in Scotland—in seeking to make our boards more representative of society as a whole. I make no apologies for introducing a bill to the Parliament that is firmly focused on gender, given that we have a programme for government and a manifesto commitment to do that and given that women are not a minority but 51.5 per cent of the population.

As we have tried to explain repeatedly throughout the process of addressing the gender imbalance that exists on public sector boards, there are also wider benefits for people in other communities. We see that through the work that has been undertaken in the public appointments improvement programme and the new equality outcome that is about tackling the underrepresentation of disabled people and young people on public sector boards.

Jamie Greene: Will the cabinet secretary take an intervention?

Angela Constance: No. I have been more than generous with my time.

There is also outreach activity to reach into the disabled community and the black and minority ethnic community to encourage more applications for public sector appointments, and we have the disability delivery plan and the race equality framework. There is absolutely nothing in the bill that prevents further work to address the underrepresentation of disabled people, young people and ethnic minority people on our boards. I am reminded of what Ban Ki Moon said eloquently and succinctly:

“equality for women is progress for all.”

I am grateful to all members for their speeches in the debate and their scrutiny of the bill. I very much hope that Parliament will back the general principles of the Gender Representation on Public Boards (Scotland) Bill, which is an example of Parliament using its new powers to take decisive action to redress the imbalance that is the underrepresentation of women on public sector boards despite women being the majority of the population, not the minority. We want to lock in the gains that we have made thus far and maintain and build on that momentum. We want to future proof the progress that we have made, because we do not want to take backwards steps—that surely cannot be an option.

The evidence is clear that addressing the underrepresentation of women on public boards is not just the right thing to do but the smart thing to do. It will lead to better decisions and better performance in public sector boards.

Motion without Notice

16:45

The Presiding Officer (Ken Macintosh): I am minded to accept a motion without notice to bring forward decision time to now.

Motion moved,

That, under Rule 11.2.4, Decision Time be brought forward to 4.45 pm.—[Joe FitzPatrick]

Motion agreed to.

Decision Time

16:45

The Presiding Officer (Ken Macintosh): There is one question at decision time today. The question is, that motion S5M-09257, in the name of Angela Constance, on stage 1 of the Gender Representation on Public Boards (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lennon, Monica (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)

McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Rennie, Willie (North East Fife) (LD)
 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)
 Smith, Elaine (Central Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 Wightman, Andy (Lothian) (Green)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)

Corry, Maurice (West Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 71, Against 28, Abstentions 0.

Motion agreed to,

That the Parliament agrees to the general principles of the Gender Representation on Public Boards (Scotland) Bill.

Meeting closed at 16:47.

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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