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Tuesday 5 February 2019

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Scottish Parliament

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

Time for Reflection

The Presiding Officer (Ken Macintosh): Good afternoon. We will begin today's business with time for reflection, which will be led by Father Liam McMahon, parish priest at St Michael's in Glasgow.

Father Liam McMahon (St Michael's RC Church, Glasgow): Thank you, Presiding Officer, for giving me the opportunity to address members of the Parliament today.

This morning, as I drove here from my parish in Glasgow's east end, I reflected that "in here" and "out there" are two very different kingdoms. The Scottish Parliament chamber and the gifted people who inhabit it create a place of powerful possibility, which is an engine that bridges the gap between those two kingdoms.

It would be a missed opportunity to fall into one of two possible extremes: either to be so mired in the difficulties of people's lives that we fail to examine the possibilities that others bring to the chamber, or to become absorbed in the art of bureaucracy and forget that, if it fails in its purpose to change lives, it is useless. I humbly suggest that a middle way needs to be maintained and emphasise the inspiring example that parliamentarians can be to society.

What values can we agree to hold in common? I suggest one: listening with an open heart. Pope Francis has said that

"political engagement is one of the highest expressions of charity".

However, in order to learn from someone else, we must be willing to listen to them, whatever their background, belief or political outlook may be. If we condemn them in our hearts before they have opened their mouths, we both lose instantly. We all need to insist on a respect for "the other", because then that powerful possibility is instantly recovered. We need to rediscover the gift of listening with a sincerely open heart.

St Paul's description of every individual believer as a necessary part of the whole body is helpful. The foot is completely different from the ear—as each of us might be from our political opponent—yet for the body to be able to work there needs to be some fundamental unity between those parts, no matter how different they are. Collective progress must be based on fundamental respect

and acceptance that "the other" is as necessary a part of society as we are. Together we must find some way to co-ordinate our beliefs and not silence anyone who is different from us.

I encourage members to remember that, in your work, you are called to something inspirational and can truly be a light in the darkness of the struggles of people's lives. I encourage you to listen to others, especially when their politics are at odds with yours. Take your responsibility with hope and courage, but also with gentleness, as you hold the future of many in your hands.

I commend to members the gift of listening with open hearts.

Topical Question Time

14:04

McGill and Co Ltd (Redundancies)

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

To ask the Scottish Government what action it is taking to assist the Dundee-based firm McGill, which has entered administration and announced an initial 374 redundancies. (S5T-01470)

The Minister for Business, Fair Work and Skills (Jamie Hepburn): The Scottish Government is concerned that McGill and Co Ltd has gone into administration. Since being made aware of the company's cash-flow problems, Scottish Enterprise engaged closely with it and offered it assistance with a turnaround plan. However, McGill did not provide the required financial information in time for the appropriate due diligence to be undertaken.

I also spoke with McGill's managing director throughout the process and offered my full support. McGill responded to my offer to speak with any of its major debtors, and I spoke with the one that it asked me to on two occasions. Unfortunately, McGill's trading situation declined, and a positive outcome was not possible.

Our partnership action for continuing employment—PACE—team was present on 1 February when McGill informed staff that it was appointing an administrator. A PACE event to support employees will be held on 7 February in Dundee. I spoke with the administrator and Unite the union yesterday. The administrator is exploring all options for a sale of the business, and Scottish Enterprise will maintain contact with the administrator and look to introduce and assist any viable interested parties.

We will continue to offer support to those employees who have been made redundant, to support them back into employment.

Jenny Marra: That is possibly the most inadequate answer that I have ever heard in the Parliament. That is not my understanding of the situation at all. I understand on very good authority from McGill that it provided all that was asked for in a timely way.

Some 450 workers will lose their jobs, and our thoughts today are with them and their families. They know, however, that this should not have happened. McGill is a company with a £40 million order book. It is profitable, but it had a cash-flow situation. It went to the Government on 9 November, in the same week in which we heard that Michelin was closing, and asked for a loan. On 30 January, 12 weeks later, Scottish

Enterprise went back to McGill and said no to that £2 million loan to cover cash flow.

When Prestwick airport received £46 million of Scottish Government loans, with no indication of when they will be paid back, when Burntisland Fabrications can secure £35 million and Ferguson Marine Engineering can secure £45 million, why could McGill not get just £2 million to save 450 jobs, when Dundee is reeling from the Michelin and HM Revenue and Customs closures?

Who made the decision not to give McGill the loan? Why, given the scale of job losses in Dundee, did the minister not instruct Scottish Enterprise to make that loan available and save those jobs?

Jamie Hepburn: I am sorry that Ms Marra feels that the answer was inadequate. She may have thought that she had it on good authority, but my answer is entirely accurate. The issue is that McGill had no historical link with Scottish Enterprise. It is not an account managed company—the first time that it approached Scottish Enterprise or had any interaction with it was to say that it was in financial difficulty.

At that stage, Scottish Enterprise offered to support the company through funding KPMG to review the cash position and evaluate options, and it asked for a business plan. On 18 December 2018, Scottish Enterprise emphasised the need for a revised business and turnaround plan at that juncture. Unfortunately, the revised business plan did not come until some time after we were first approached and not in time for it to be given proper consideration through due diligence.

I would regret turning the issue into some form of political knockabout. At the end of her contribution, Jenny Marra said that her primary thoughts were with the workforce at this time. I hope that that would be the case for anyone in the chamber. That is exactly where my thoughts and priorities are.

Our PACE initiative has intervened quickly. We will have an event on 7 February, less than a week since the company went into administration. The task for us all now is to unite to support the workforce to get back into employment, not to engage in political knockabout on this most important issue.

Jenny Marra: This is utter complacency. PACE is for continuing in employment. Does Jamie Hepburn not realise the state of the Dundee economy? The jobs toll is running into the thousands.

Is the minister telling us that companies have to be account managed to approach Scottish Enterprise to save 450 jobs? All that McGill was told, throughout the whole process, was that it did

not fit the Government's model. The minister had 12 weeks to sort this out and to get his people in Scottish Enterprise to help McGill to save those jobs. He had 12 weeks. What kind of timescale is it when, in a commercial environment, the Government takes 12 weeks but then decides not to grant the loan? Why can millions and millions of pounds go to other parts of the country when Dundee cannot get one penny for McGill? Four hundred and fifty people are losing their jobs. The minister who failed to act should consider his position, given that utter negligence.

Jamie Hepburn: Ms Marra should have listened a little more closely to the answers that I gave. At no juncture did I say—and it is not the case—that a company has to be account managed if it is to approach Scottish Enterprise for assistance. The point is that, if a company has that prior engagement, it might be better placed to get earlier intervention if it is having financial difficulties. I am sure that Ms Marra understood that that was my point.

Ms Marra said that no investment is going to Dundee. We have just announced a £150 million city region deal, so the idea that we are not investing in Dundee does not bear scrutiny.

The immediate circumstances that are before us are that we have a company that, unfortunately, is not able to continue to trade, despite the best efforts of Scottish Enterprise and my officials and—let me tell Ms Marra right now—despite my best efforts in engaging directly with the company and some of its major debtors, both at my offer and at their request for intervention. Unfortunately, we have not been able to ensure that the company can sustain itself.

We will do everything that we can to get the workforce back into employment. That is our priority. We will do everything that we can to support the administrator in getting a buyer. I hope that everyone in Parliament welcomes that action and will collectively commit to it.

Shona Robison (Dundee City East) (SNP): I think that all members acknowledge what a difficult time it is for the people who have lost their jobs at McGill, and for their families.

Yesterday, Joe FitzPatrick and I spoke to the administrator, KPMG, and received assurances that it is actively looking for a buyer for the company. It should be possible to find a buyer, given McGill's extensive order book. Does the minister agree that that would be the best outcome for local jobs? What communication has he had with KPMG about the options?

Finally, what support can be offered to the many apprentices at McGill—I understand that there are about 75—to ensure that they can continue their apprenticeships with alternative local employers?

We need to focus on the workforce and the people who absolutely need our support at the moment. I hope that the minister can give some assurances in that regard.

Jamie Hepburn: I thank the member and her colleague Joe FitzPatrick, who are the city's constituency representatives in the Scottish Parliament, for taking the time to meet me earlier today, at their request. I will be happy to speak to any member who wants to speak to me about the issue.

I agree that our immediate priority is to support the workforce—we have the PACE event on 7 February—which, of course, includes apprentices. The adopt an apprentice scheme, which is administered by Skills Development Scotland, is a successful initiative whereby funding is provided to enable employers to take on an apprentice who has been made redundant, with a range of support for the employer and the apprentice. We will make every effort to ensure that apprentices are redeployed and can continue and complete their apprenticeships.

As I said, I spoke with the administrator yesterday. KPMG's priority on Friday was, rightly, to support the workforce—that should be everyone's priority—and we are at an early juncture in terms of the prospects going forward. Given that there is an order book, I think that we can find another buyer. We should set ourselves that task, and this Government is willing to do everything that it can to assist the administrator in that effort.

Willie Rennie (North East Fife) (LD): I will follow up Jenny Marra's point. The minister indicated that there was a lack of time for due diligence to be conducted. Why was that the case if there was a 12-week process after the business first approached the Government? For what specific reasons was the request for support rejected?

Jamie Hepburn: As I have at least attempted to set out, there was a particular request at the time of the initial contact. There was some engagement with KPMG that was, I re-emphasise, paid for by Scottish Enterprise, not by McGill. At that stage, it was clearly indicated that a full business plan had to be made, but that was not provided until some time later. At that stage, according to the company, there was not the time for due diligence to be undertaken in the timescale in which it had to operate. That is unfortunate. If there had been time, full diligence would, of course, have been provided.

I recognise that Mr Rennie probably has constituents who are affected by what has happened—as will my colleague Graeme Dey. Mr Rennie will not have had the update from me, as I

have written to the constituency representatives for the three sites and to the regional MSPs for North East Scotland, Lothian and Glasgow. I would be delighted—that is the wrong word because of the circumstances; rather, I would be very willing to provide him with an update and to send him any information that he requires in order to update his constituents accordingly.

Bill Bowman (North East Scotland) (Con): I refer to my entry in the register of interests. I was a partner in KPMG in the past, but I have no connection with it now.

The Scottish National Party Government and the SNP-run council seem to be content to sleepwalk into a Dundee jobs crisis. It appears that the minister knew about difficulties at that vital local employer and did not act effectively. That follows the inaction on Michelin Tyre plc before its bombshell news about its intention to withdraw from Dundee. Rather than form a coherent jobs-first strategy for the city armed with early notice of difficulties at major local employers, the SNP seems to be content to cry crocodile tears after the fact. How is the minister arming the construction and manufacturing sectors in Dundee to avoid a repeat of these unfortunate circumstances?

Jamie Hepburn: My point about early notification has been made before. When we are in dialogue with a particular company, it will have approached us to look for our assistance. We offer every assistance that we can. There will be many situations that members will not learn about because the assistance has been successful and has allowed the company to continue. It would be entirely wrong for us to flag concerns publicly at that early juncture, because that would breach trust and cause further problems.

On support for the Dundee economy, I reiterate that the £150 million Tay cities deal will support up to 6,000 jobs and lever over £400 million into the city-region economy over the next 10 to 15 years. That is a serious commitment to Dundee and the wider area. We also have a significant pipeline of billions of pounds' worth of investment in construction through our infrastructure investment plan, which will support the construction sector. However, with the specific circumstances with McGill, my commitment right now is to do everything that we can—and my clear effort is on that—to support the workforce, which has been badly impacted.

Scottish Crime and Drug Enforcement Agency (Mismanagement Allegations)

2. **Liam McArthur (Orkney Islands) (LD):** To ask the Scottish Government what its response is to reported allegations of mismanagement and a cover-up at the former Scottish Crime and Drug Enforcement Agency. (S5T-01479)

The Cabinet Secretary for Justice (Humza Yousaf): Police Scotland is considering the court's judgment, which was published on 31 January. Obviously, that is an operational matter for Police Scotland, but I will pay close attention to how it intends to respond and to members' concerns. It is important to establish first and foremost whether the allegations are accurate and, if they are, how the circumstances surrounding them are to be scrutinised. It is also important to mention that these matters are still under active consideration by Police Scotland.

Liam McArthur: The *Sunday Post* has published details of an episode that sounds like a scene from "Life on Mars". It involved chaotic filing; a stash of documents, from passports to credit cards and receipts; officers being sent to buy an incinerator and petrol; and documents taken to wasteland on the other side of the river to be disposed of before being burned in a car park. That all throws up serious questions. I appreciate that that happened in 2011, but has the Scottish Government asked anyone at Police Scotland for their version of events? Has the Scottish Government considered referring the matter for further investigation to the Police Investigations and Review Commissioner or to another police force in the United Kingdom?

Humza Yousaf: I spoke to the chief constable this morning. It is fair to say that he shares that shock about the alleged practice in the SCDEA. It is important that we keep referring to these as allegations, and that we recognise that the matters that are referred to happened prior to Police Scotland's establishment. Notwithstanding all that, the member is right to make the point that such practices would, of course, raise concerns.

It is important that I say that, under the current regime, the Investigatory Powers Commissioner's Office provides independent and judicially led oversight of investigatory powers. Police Scotland's most recent inspection, which took place from 17 to 21 September 2018, was led by Lord Bracadale and Lord Bonomy.

Police Scotland has the ability to appeal the judgment. It is important that we let it determine what route it intends to take. Thereafter, all the options for further scrutiny that the member has raised should be on the table.

Liam McArthur: The justice secretary said that the matter is not the responsibility of Police Scotland, but it does not sound as though it is the responsibility of anybody. Last week, two of the people who were at the top of the SCDEA announced their retirement, and it has been denied that that had anything to do with these matters. The Scottish Government has already asked Dame Elish Angiolini to look into complaint-handling investigations and misconduct issues in

relation to policing, following concerns that senior officers could retire in order to avoid being the subject of misconduct allegations. Does the cabinet secretary think that those rules need to be changed?

Humza Yousaf: I will do nothing to prejudge Dame Elish Angiolini's review. When I have appeared before the Justice Committee, I have often said to the member that it is important that Dame Elish has the independence to take the review in the direction that she wishes. If the member wants to make direct representation to her on that matter, he can.

As I said, it is important to see what Police Scotland's next moves will be. On the independent scrutiny to determine whether the allegations are accurate, I am open to listening to members' concerns and suggestions.

Liam Kerr (North East Scotland) (Con): As with a number of the scandals that have rocked Scottish policing in recent years, the alleged practices look to be the result of a failure of leadership and oversight at the top. The cabinet secretary talked about the current regime being more robust. Can he assure us that the practices that allegedly took place at the SCDEA would be impossible in the Police Scotland structure?

Humza Yousaf: As I have said, the chief constable is absolutely shocked by the allegations. I would not expect such practices to take place in Police Scotland. It is really important to distinguish the SCDEA from Police Scotland. The alleged practices took place in 2011.

On the first part of Liam Kerr's question, it is important that I reiterate that there is independent and judicially led oversight of investigatory powers. There is also the covert human intelligence sources code of practice. It is also important to say that, only a matter of months ago, the inspection team that was led by Lord Bracadale and Lord Bonomy carried out a routine investigation into Police Scotland's investigatory powers and no substantial issues were raised. Notwithstanding that, as I said to Liam McArthur, it is important that we let Police Scotland decide how it will move forward in relation to this specific case. Equally, we should—I certainly will—keep an open mind on how the allegations are scrutinised.

Daniel Johnson (Edinburgh Southern) (Lab): The *Sunday Post's* reports are worrying, because they reopen many of the questions about undercover policing. They also cast a shadow of doubt on the previous investigation into those issues. I heard what the cabinet secretary had to say, but surely there is a question about whether it is appropriate to leave the matter to Police Scotland. Surely we need an independent investigation into the alleged destruction of the

evidence, and surely an external police force is required to do that. Does the cabinet secretary accept that now we must have a full and independent review not just of these matters, but of undercover policing as a whole, because of the questions that have been raised?

Humza Yousaf: I will try to clarify matters; what I have said has perhaps been misinterpreted. I have said that Police Scotland is subject to a judgment, and it has a choice on whether to appeal it. I would not want to prejudice that court process.

I do not disagree with Liam McArthur and Daniel Johnson that, to give confidence in the scrutiny of the veracity and accuracy of the allegations, a measure of independence from Police Scotland will be needed. That can be provided through a number of routes, and Daniel Johnson has made one suggestion that should be on the table. I hope that I can clarify that nuance.

As for a public inquiry, it is worth saying that the most recent letter from the Minister of State for Policing and the Fire Service, which is from June last year, said that the Pitchford inquiry,

“under its current Terms of Reference, can receive evidence from key witnesses in relation to the tasking by English and Welsh forces of undercover officers who were also deployed outside of England and Wales.”

The serious allegations that have been made about the potential practices of English and Welsh forces in Scotland can be investigated by the Pitchford inquiry.

As I have said, Her Majesty's inspectorate of constabulary in Scotland, which is independent, produced a report on the current structure of undercover policing. There is also independent judicially led oversight of such policing. The possible extension of the Pitchford inquiry was the subject of judicial review and that case was dismissed.

The Presiding Officer (Ken Macintosh): I am sorry that that is all that we have time for—we have already gone six minutes over the allocated time. I apologise to Rona Mackay, Neil Findlay and John Finnie, who all wished to ask supplementaries.

Forestry Strategy 2019 to 2029

The Presiding Officer (Ken Macintosh): The next item of business is a statement by Fergus Ewing on the publication of “Scotland’s Forestry Strategy 2019-2029”. The cabinet secretary will take questions at the end of his statement.

14:26

The Cabinet Secretary for the Rural Economy (Fergus Ewing): As the Cabinet Secretary for the Rural Economy, I have a clear ambition for forestry. I want Scotland to have more trees and woodlands. The passage of the Forestry and Land Management (Scotland) Act 2018, with new powers and the full devolution of forestry, will help us to achieve that.

To fulfil one of the key statutory requirements of that act, I am pleased today to publish “Scotland’s Forestry Strategy 2019-2029”. The strategy signals the start of a new era for forestry in Scotland. We are building on the success of more than 100 years of effective stewardship and growth in forestry and woodlands. The United Kingdom Forestry Act 1919 laid the foundations for the thriving Scottish forest and woodland sector that we enjoy today.

Forests and woodland now cover nearly 19 per cent of our land, and Scotland plants more trees than anywhere else in the UK does. However, we want to do more, and Scotland’s forestry strategy sets out our vision for the future.

By 2070, Scotland will have more forests and woodlands, which will be sustainably managed and better integrated with other land uses. They will provide a more resilient and adaptable resource, with greater natural capital value, which will support a strong economy, a thriving environment and healthy and flourishing communities.

We developed the strategy in close consultation with others. That consultation included a reference group that comprised representatives from the forestry, land use, environment and community sectors; a 10-week-long online consultation on a draft strategy that elicited more than 400 responses; and a programme of meetings across Scotland that involved more than 250 people from more than 120 organisations. I thank everyone who gave their time, expertise, views and knowledge to the process. I hope that members can see how those who were involved helped to influence Scotland’s forestry strategy, which will help us to deliver its objectives.

At the risk of stating the obvious, I note that growing trees is a long-term business. We aim to deliver our 50-year vision through a 10-year

framework that seeks to do three key things: to increase the contribution of forests and woodlands to Scotland’s sustainable and inclusive economic growth; to improve the resilience of Scotland’s forests and woodlands and increase their contribution to a healthy and high-quality environment; and to increase the use of Scotland’s forest and woodland resources to enable more people to improve their health, wellbeing and life chances. To achieve those objectives, we have identified six priority areas for action, which provide the Government and all its agencies with a route map for identifying and resourcing activity.

To deliver our vision will require sectors, businesses, communities and professionals to continue to work together, therefore I am also announcing that we will establish a national group to advise on implementation. Our two new forestry agencies—Scottish Forestry, and Forestry and Land Scotland—will also focus on implementing the strategy, and we will develop a process for monitoring and reporting on progress, which will chart actions taken and their impact as well as measuring success.

Progress and success will, of course, require funding. The Scottish Government remains absolutely committed to providing support for tree planting and woodland maintenance and creation, but we have had no such clarity from the United Kingdom Government on future funding streams. We know that contracts that have been entered into by the end of 2020 will be honoured, so we encourage everyone who is planning to plant trees to apply for and agree grants now. However, beyond that, we need the UK Government to share our commitment to forestry and to agree in principle to provide the Scottish Government with the funds that it needs. I hope that the Parliament will support our efforts to achieve that.

Forestry is undoubtedly a hugely productive use of land. It contributes £1,000 million in gross value added to the economy; provides a home to 172 protected species; removes 12 million tonnes of CO₂ a year from the atmosphere; supports approximately 25,000 jobs; and enriches the lives of the millions of Scots and visitors who live, work and play in Scotland’s woods and forests. However, let me be clear: future development must work in harmony with other land uses. One of the key points raised in the consultation was the need to ensure that success in forestry does not come at a cost to other land uses. We have therefore ensured that the core principle of integrated land management, as specified in the land use strategy, is embedded throughout, to ensure that forestry, farming, tourism, conservation, community and recreational interests work together to help get the best from our land.

That requires appropriate leadership from Government. In my time as cabinet secretary thus far, I have taken decisive action to reinvigorate this vital sector, which is now seeing a period of great investment and optimism. Planting rates are on the upturn: last year, we had the best year for productive planting in decades. Meanwhile, we are also supporting the delivery of more than 3,000 hectares of new native woodland, thereby meeting a key biodiversity commitment. I am committed to meeting our targets for new woodland creation and to ensuring that we continue to manage our 1.4 million hectares of existing forests sustainably. This critical, renewable resource needs to be managed so that it sustains and increases the substantial environmental, social and economic benefits that it already provides, and addresses the problems that may have been caused by poor planting in previous generations.

In summary, there is great dynamism in forestry in Scotland at the moment. If our forestry strategy is to succeed, planting trees and maintaining and investing in woodlands and forests must become a shared national endeavour. I look forward to continuing to work collaboratively across all sectors to realise our vision and achieve our ambitions, and to involving the Parliament. The 2018 act requires the Government to report back to Parliament on progress that has been made on implementing the national strategy. I look forward to doing so and to reporting on how Scotland's forests and woodlands are increasing their contribution to the success of our country and its people.

Donald Cameron (Highlands and Islands) (Con): I thank the cabinet secretary for advance sight of his statement. I refer members to my entry in the register of interests that relates to forestry.

The Scottish Conservatives welcome the publication of the Scottish Government's new strategy. We broadly support its principles and ambitions and its focus on a sustainable forestry sector. We also welcome its long-term approach.

Given that the average lifetime of a commercial woodland is 30 to 40 years, it is surely right to set a 50-year timescale. We recognise the importance of the industry and note that, in 2017, planting in Scotland accounted for more than three quarters of all tree planting in the UK.

In relation to the cabinet secretary's comments on UK Government funding, I note the UK Government's commitment to protect the entire envelope of pillar 1 and pillar 2 funding until 2022, and suggest that he has the clarity that he claims he lacks. In any event, given that forestry is now fully devolved, that the Forestry Commission Scotland is wholly funded and that Forest Enterprise Scotland is partially funded by the

Scottish Government, his own portfolio budget is plainly important.

I want to ask two questions. First, given the Government's failure to meet planting targets in the past—for example, in 2017, when it failed to meet its 10,000 hectares of planting per year target—is the cabinet secretary confident that he can deliver 15,000 hectares per year from 2024-25?

Secondly, given the increasing tension that exists between agriculture and forestry, is he confident that, with the increased targets, expansion of the forestry sector can occur without detriment to the livestock farming sector in particular?

Fergus Ewing: I welcome the support of Mr Cameron and his party for the broad thrust of the strategy, and I hope that we can proceed on a cross-party and consensual basis.

Mr Cameron said that the UK Government has guaranteed the envelope of pillar 1 and pillar 2 funding until 2022, but I say to him—with due respect—that that is not the factual situation. The factual situation is that the assurance that has been provided by the UK Treasury in respect of pillar 2 funding for forestry applies to contracts that will have been entered into by 2020, but it does not extend to 2022. Indeed, that was the very request that I made when I met Mr Gove at the beginning of January. I pointed out that the fact that the assurance in relation to funding extends only to 2020 is impairing investment at the moment. As I understand it, my interpretation is shared by Confor, which wrote to Mr Gove. I would be happy to share the correspondence that I have seen thereanent.

I hope that, because Mr Cameron thinks that the funding is guaranteed until 2022, once he finds out that that is not the case, he will support my efforts to make sure that it is made the case without further delay. The current uncertainty is impairing investment right now, but it could easily be dispelled. Given that about half of the £40 million in grants from the Scottish Government comes from Europe, it is plain that if Brexit takes place, that European proportion of the funding will need to be replaced.

On our ambition, I am working hard to achieve our targets this year. Mr Cameron is right to say that we fell short last year. That was not good enough, which is why I am determined that we will do better. Through the various steps that we are taking—which I do not have time to enumerate, but which have been welcomed by the sector—I am determined that we will achieve our targets next year. I have made that very clear to my colleagues Jo O'Hara and Simon Hodgson, who is the new chief executive of FLS.

Mr Cameron also asked about the interrelationship between farming and forestry. He has a point—the issue is undoubtedly a concern to some farmers. Others, who have participated in agriforestry schemes—as more people are doing—take a different view. I am pleased to assure Mr Cameron that such matters are dealt with in the strategy on pages 23 and 41, *inter alia*. There is an emphasis on integrated land use, which is about planting the right tree in the right place at the right time. For example, it is not appropriate, by and large, that trees be planted on prime arable land. I am sure that that would be recognised by all.

The matter that Mr Cameron has raised is an important one. I am pleased that he has raised it and am happy to give him the assurances that he has sought.

Rhoda Grant (Highlands and Islands) (Lab): I, too, thank the cabinet secretary for providing advance sight of his statement. There is nothing in it to disagree with, but there is very little detail on how it will be implemented. The document is an overview rather than a strategy; it is a strategy on how to form a strategy.

The Scottish Government has missed targets on planting and on biodiversity, but the strategy shows little leadership on how we could meet targets in the future. The only thing that is new is the national group on implementation of the strategy that is being set up. Could the cabinet secretary provide some more detail on that? What will the group's remit be? Who will sit on it? Will it be permanent or transitional? How will it interact with Scottish Forestry and Forestry and Land Scotland? More important, who will turn the overview into a strategy that will make a lasting difference to forestry?

Fergus Ewing: I was heartened by the first sentence that Rhoda Grant uttered, so let us focus on the positive. In all seriousness, I say that the document is a strategy and not an action plan or a framework for action. The inner leaf of the forestry strategy sets out three objectives, which I have read out, and six priorities for action. Plainly, I have agreed that we will report to Parliament on progress that we make, as we are obliged to do under the 2018 act.

On the group whose formation I announced today, we will make an announcement in due course, but it will include all the relevant key voices in the forestry world. Its purpose will be to help to inform, shape and benefit the action plan.

I am delighted that we have made substantial progress in forestry in recent times. Last year, we had the largest amount of planting for some considerable time—decades, I believe—and I expect that we will surpass that next year. I am

confident that, provided that we get from the UK Government a fair and reasonable settlement on funding, and provided that the doubt about funding beyond 2020 is dispelled as quickly as possible so that we can remove the question mark that is hanging over the industry, as it has argued is the case, I am confident in expecting that we will meet our targets in future years.

John Finnie (Highlands and Islands) (Green): I thank the cabinet secretary for providing an advance copy of his statement. I welcome the strategy document, particularly given that we need only get as far as page 2 to find a mention of increased native woodland cover, which is positive.

I want to ask about reinvesting in the forest sector money from disposal of public forests. There are several mentions of the contribution to sustainable economic growth, but that point is not specifically covered. There is an oblique reference on page 40, which states:

“Any funds received as a result of disposing of land will be used solely for the purpose of carrying out Scottish Ministers' functions”.

Will the cabinet secretary give an indication of what that money will be used for?

Fergus Ewing: Again, I am grateful for the broad welcome for the strategy document from the Green Party, and I am pleased that the strategy specifically contains the targets to which John Finnie has alluded.

The strategy sets out a number of objectives and priorities that encapsulate a range of activities. The objective to plant trees and restock is perhaps the principal one, but alongside it we have activity relating to recreation, tourism, renewables, health and wellbeing and mental health, so it is reasonable to assume that the funding that is available to Forestry and Land Scotland and Scottish Forestry will be usable for all those purposes and not only for purchasing land. For example, it could be used for mental health programmes to build on the good work in that regard, or to expand the renewables potential of our estate.

Obviously, the funding must be used for the purposes of the bodies, as set out in statute and in the strategy, but I can certainly give a commitment that the money will not be siphoned off and used for other purposes elsewhere. We very much welcome the fact that we are able to focus on those other areas as well as on the core objective of forestry.

Mike Rumbles (North East Scotland) (LD): The Liberal Democrats support the Scottish Government's forestry strategy, which is the right way forward, and we wish the cabinet secretary well in implementing it.

On the wider issue of future financial support, will the cabinet secretary ensure that a forestry organisation is asked to take part in the new group that is being set up to advise him on the long-term future of financial support for the wider rural economy post-Brexit, because forestry is an important sector?

Fergus Ewing: Yes, I will.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): The strategy sets out a welcome 50-year vision and high-level objectives for the next 10 years. Clearly, there is a lot of work to be done, particularly between now and 2070, when I will be 124 years old. How will the cabinet secretary monitor delivery of the plan and achievement of its objectives? In particular, I am thinking about the shortfall in softwood from 2030 to 2050, which is referred to on page 20 of the strategy document.

Fergus Ewing: I doubt that I will be around to listen to the excellent speeches that Mr Stevenson will make in his 124th year. That will be my loss, as must be apparent to everybody.

To be serious, though, I note that progress will be monitored in numerous ways. First, I already receive regular reports from the senior management of Forest Enterprise and the Forestry Commission, and that will continue to be the case.

Secondly, there is, as is set out in the 2018 act, a statutory duty to report back to Parliament that it is incumbent on the Government to fulfil. As a result, there will be continued democratic scrutiny.

As for the problem of the dip in total output that is expected in the 2030s, which Mr Stevenson also raised, that is a result of insufficient planting in the past, and will be rectified best by improving our planting rates and meeting our planting and environmental targets. That is precisely what we are setting out to do.

Edward Mountain (Highlands and Islands) (Con): First, I declare an interest in a farming partnership in which the land in question has an element of timber.

I did not think that I would be asking the same question as John Finnie, but I am delighted to do so. I want to push the cabinet secretary on the issue of acquisition and disposals, as set out on page 40 of the strategy. At the moment, we are disposing of more land than we are acquiring, with the money going on daily running costs. Can the cabinet secretary confirm that there is a level or percentage at which he will stop the sale of land? For example, will he stop the sales when we own only 60 per cent of what we have today? I should say that I broadly welcome the rest of the strategy.

Fergus Ewing: I hear what Mr Mountain has said, and I would be very interested to receive

from him, preferably in writing, an analysis of the facts that lead him to reach the conclusions that he has voiced, because they are not as I would expect them to be.

We must allow the statutory bodies the freedom to act and go about their business with regard to disposals and purchases. Broadly speaking, the forest estate comprises 650,000 hectares, around 450,000 of which are made up of woodland. As a result, not all land owned in the forest estate is actually covered by trees.

Moreover, that land is used for various purposes such as recreation, and I would also point out that more than 40 community sales account for some of the sales in that respect. We do not expect to get that land back, because the whole point of such sales is to benefit communities. Land is made available for renewables, communities, recreation and many other purposes, and the strategy recognises that it is correct for us to do so.

I am very happy to come back to this issue, as I expect we will, and if Mr Mountain cares to go to the trouble of putting something in writing, setting out the facts on which he has based his conclusions, I will certainly look at it carefully and reply to him at that point.

Gail Ross (Caithness, Sutherland and Ross) (SNP): I thank the cabinet secretary for his statement and welcome the publication of the strategy. What consideration has been given to Confor's report, which recommends that a study be funded to assess the benefits of a strategic approach to significant new and continued investment in infrastructure and targeted funding for restocking and new planting in the north of Scotland?

Fergus Ewing: I welcome Confor's suggestion, particularly because it is right that there should be a focus on the northernmost part of the mainland of Scotland, which is Gail Ross's constituency. There is existing forestry in the area, but some of it is entrapped because of timber transport issues. I am very pleased that we have been able to provide very substantial support to address some of the pressures on timber transport and that that has been appreciated by the sector. It has allowed access to mature forests that would otherwise become windblown and, in some cases, potentially valueless.

The study will also recognise the potential for future planting and restocking in the north of Scotland and what will be required in that respect. I very much look forward to working with Confor and Gail Ross, who has championed this issue for her constituents, over the coming weeks and months.

Claudia Beamish (South Scotland) (Lab): During the progress of the Forestry and Land Management (Scotland) Bill, there was constructive engagement with unions by Labour MSPs on the bill's complexities. However, union engagement does not feature in the cabinet secretary's statement or the strategy. How has the cabinet secretary engaged with the unions on the national reference group? How does he intend to involve unions in the national group to advise on the implementation of the forestry strategy and the further development of the land use strategy, which underpins the way forward?

Fergus Ewing: Claudia Beamish is correct that I made a point of engaging with the workforce representatives from the variety of unions that comprise the Forestry Commission trade unions. In fact, the member will be pleased to hear that I had a lengthy meeting with the trade union representatives just last week, at which we had a very useful discussion and I undertook to continue with that engagement.

My approach as a minister has always been to have sufficiently regular engagement with the trade unions to ensure that their concerns are properly heard by the Scottish Government. That is exactly what I shall continue to do and we shall give careful thought to what additional role the trade unions may be able to play. Generally speaking, my approach is that their participation is not a liability but an advantage.

The Presiding Officer: We have five more questioners and only two and a half minutes; I ask for succinct questions and answers, please.

John Mason (Glasgow Shettleston) (SNP): We have had evidence at the Rural Economy and Connectivity Committee that there was traditionally quite a solid line between farming on the one hand and forestry on the other. Does the cabinet secretary think that the two could be more combined? For example, hill sheep farmers would sometimes benefit from having some trees on their land.

Fergus Ewing: Yes, I do. There is a substantial role for agriforestry. I am not a farmer, but I understand that agriforestry includes, for example, the creation of shelter belts that can protect against the risk of hypothermia in cold weather for livestock, which is a very serious problem on some exposed land. Agriforestry can also provide flood management options and, on an economic level, a form of diversification for farms. There is therefore a lot of scope for more being able to be done in agriforestry. I am determined to see what opportunities there are to make that as swift and smooth as it can be.

Peter Chapman (North East Scotland) (Con): I welcome the cabinet secretary's statement and

the commitment to planting more trees and improving the sustainability of forestry in Scotland. As the Forestry and Land Management (Scotland) Bill went through the committee, I pushed for an amendment to place a duty on ministers to make arrangements for research into tree health and the promotion of cross-border sustainable forest management. Despite that amendment being agreed to, there is no reference in the strategy to what research will be done to ensure that our trees remain healthy, particularly in cross-border forests. What arrangements have been made regarding tree health research?

Fergus Ewing: As we undertook to do during the debates on the Forestry and Land Management (Scotland) Bill, we have dealt with and are on course to fulfil our obligations in respect of co-operating with other parts of the UK and their Governments on forestry and tackling disease.

I draw Mr Chapman's attention to page 33 of the strategy, which deals with the importance of tackling all those matters. He is absolutely right to allude to their importance, because there are very many serious diseases that can have a significant impact on forestry and have done so in the past. That is why it is important that we have a clear, strategic overview of how we tackle those matters, which is precisely what we have.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): The excellent support that Forestry Commission Scotland staff have given as partners in the delivery of branching out courses in Forestry Commission woods—for example, at the Tyrebagger woods near Aberdeen—has highlighted the benefits of woodland spaces to people's mental health.

How has the cabinet secretary ensured that the voice, views and experience of people working in forestry and woodlands, as well as the general public who benefit from access to forests and woodlands, have influenced the development of the strategy?

Fergus Ewing: We have sought to listen to those voices and Maureen Watt is quite correct to point to them. The point about wellbeing is covered on pages 26 and 35 of the strategy. The member refers to a particular course of branching out near Aberdeen. I agree that the branching out programme has been a successful and popular mental health programme. We have included the point about mental health in the strategy. It is an element of work that is relatively new for the Forestry Commission. I have spoken to some of the staff in the Perth office who will be rolling it out. They were really enthused about how recreation in the forest has been able to provide improvement and a sense of wellbeing for those who are suffering from mental health issues.

Branching out is an example of the new ways in which we can use our forest estate to good effect, and I would like to work with others to see what more we can do to build on that successful programme.

The Presiding Officer: I apologise to Colin Smyth and Richard Lyle, who have waited patiently to ask their questions. I am afraid that we have run out of time—we have gone more than two minutes over.

Edward Mountain: On a point of order, Presiding Officer. The cabinet secretary said that, from his recollection, he was not clear that the Forestry Commission had sold more land than it had purchased. The Forestry Commission's figures, which were published earlier, show that since 1999, purchases are at £79 million and disposals are at £147 million. It is clear that that is the position and I would not want the cabinet secretary to have misled the Parliament.

The Presiding Officer: That is a point of political debate, not a point of order. The point has been noted. However, information can be exchanged in other ways.

Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill: Stage 1

The Presiding Officer (Ken Macintosh): The next item of business is a stage 1 debate on motion S5M-15699, in the name of Humza Yousaf, on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill.

14:57

The Cabinet Secretary for Justice (Humza Yousaf): I am delighted to open the debate on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill.

I thank the Justice Committee and its convener, Margaret Mitchell, for the stage 1 report and I thank the Finance and Constitution Committee and the Delegated Powers and Law Reform Committee for their consideration of the bill.

I extend my thanks to the many stakeholders and individuals who gave evidence. I was encouraged to hear so many speak to the benefits that pre-recording evidence can bring. Some rightly pointed out the challenges and areas where more can still be done to improve our criminal justice system for the most vulnerable witnesses. I am very aware of that, and it is one of the reasons why I set up the victims task force. I look forward to the debate, which I have no doubt will be positive and constructive, on these significant proposed reforms.

I am grateful for the Justice Committee's support for the general principles of the bill and in particular its endorsement of the proposed new rule requiring the evidence of child witnesses in the most serious criminal cases to be recorded in advance of the trial. The committee made a number of detailed recommendations to which the Government responded yesterday.

I will set out the principles of the bill and the positive changes that it will bring to the criminal justice system if it is passed by the Parliament. I will also address some of the key points that the committee raised. First, however, it is important to acknowledge the work of the Lord President, Lord Justice Clerk and the Scottish Courts and Tribunals Service's evidence and procedure review. The review made recommendations on how to improve the treatment of vulnerable witnesses. It also involved wider stakeholders and creates a long-term vision for how evidence can be taken. It is also having a more immediate positive impact, in particular due to the new High Court practice note on evidence by a commissioner.

The bill would not have been introduced without the leadership of my predecessor Michael Matheson on improving how evidence is taken from children and it is a vital first step towards the vision that, where possible, child witnesses should not have to give evidence at trial.

I turn to the main provisions of the bill. Evidence by commissioner is a special measure that allows for evidence to be pre-recorded and played at trial without the witness having to be present. The date and time for evidence by commissioner is scheduled in advance, avoiding uncertainty for vulnerable witnesses and minimising the distress that is caused by delays to the trial. The atmosphere is less formal than it is in full court proceedings and evidence can be recorded directly or via remote video link from another location. The early capture of the evidence enables the vulnerable witness to recall events more accurately, ends their involvement in the trial sooner and, when necessary, allows for quicker recovery.

We should not forget that evidence by commissioner can currently happen by application. However, the bill's main reform is the creation of a new rule that makes a presumption that evidence by commissioner will happen for child complainers and witnesses under 18 in the first instance. The presumption will ensure that, where those individuals are due to give evidence in the most serious of cases, that evidence will be pre-recorded, unless an exception applies.

The bill also introduces a power to extend the proposed new rule in due course to adult "deemed vulnerable witnesses" in solemn cases, which could include complainers in sexual offence, human trafficking, stalking and, potentially, domestic abuse cases. I sympathise with the view that there should be a quicker roll-out to other categories of vulnerable witness, but it is vital that this major reform is undertaken in a phased, considered and effective way, by first targeting the youngest witnesses in the most serious cases. That is why the bill proposes a framework for the phased extension of the requirement to pre-record other vulnerable witnesses. The approach was supported by many stakeholders in the evidence sessions and I am pleased that the committee agrees that a phased approach to implementation is sensible.

Liam McArthur (Orkney Islands) (LD): The cabinet secretary is right to say that the evidence was overwhelmingly in favour of a phased approach, but he will also be aware that there was compelling evidence for the inclusion of domestic abuse cases alongside the cases that he has listed. Is the cabinet secretary minded to accept that and introduce an amendment to that effect at stage 2?

Humza Yousaf: Mr McArthur has pre-empted what I was going to say later in my speech, but I am very open. I thought that the evidence was compelling and very powerful. Liam McArthur will be aware of the steps that the Government has taken in order to improve the awareness and the tackling of domestic abuse and, of course, of the provisions that will come into force in the spring. I am extremely open and I am looking at the implications for resources and so forth, which are important and cannot be ignored. I am minded to lodge an amendment in the future, but I have to do some more work in that regard. I will listen to what else members have to say on the matter.

Daniel Johnson (Edinburgh Southern) (Lab): Further to Mr McArthur's point, the cabinet secretary will be aware of the discussions around summary cases in general. Given that the vast bulk of domestic abuse cases are summary, is there a proposal to look at encouraging the use of similar techniques in those cases, given that it is possible for sheriff courts to do so?

Humza Yousaf: That is a good point and I will look at that encouragement where I can. It is correct to say that the vast majority—I think almost 94 or 95 per cent—of domestic abuse cases are dealt with by way of summary proceedings. I think that Mr Johnson will accept that if we were to extend the presumption to summary cases, that would almost be the wrong way round. It is important that we apply the presumption to the more serious cases—solemn cases—first and foremost and that we focus on the most vulnerable, namely the youngest, witnesses in our society. Notwithstanding that, Mr Johnson's point is valid.

Can I check how much time I have for my opening statement, Presiding Officer?

The Deputy Presiding Officer (Christine Grahame): You have 12 minutes, but I am happy to give you a little more time.

Humza Yousaf: Thank you.

The Deputy Presiding Officer: I said that without having my microphone on.

Humza Yousaf: That is okay, I heard you.

The Deputy Presiding Officer: I know, but the world has to hear me, cabinet secretary.

Humza Yousaf: In terms of the implementation of the legislation, legislative reform, as Daniel Johnson has just pointed out, is only a part of the work that is needed to ensure that there is much greater use of pre-recording. It is vital to ensure that there are sufficient modern facilities and pre-recording technology to enable this important reform to be implemented in practice. We heard time and again in the Justice Committee's evidence sessions that there is work to be done in

relation to the facilities and the infrastructure when it comes to pre-recorded evidence. In October last year, I announced £950,000 of funding to support the Scottish Courts and Tribunals Service with the creation of a new child and vulnerable witness-friendly hearings suite in Glasgow. The facility, which I have visited, will make significant improvements to the experience of victims and witnesses in the Glasgow area.

We have also made a further £1.1 million available to the Scottish courts service and are working with it to upgrade other venues and technology. The funding is important to get the court infrastructure ready for the increase in the number of witnesses having their evidence pre-recorded. We have shared with the Justice Committee a provisional implementation plan for the staged commencement and extension of the rule requiring pre-recording. Before the plan can be finalised, it is important to see whether any significant changes are made to the bill during the parliamentary process that could affect it. However, once the approach has been agreed, I would be happy to share further details with the committee.

I turn to issues that were raised in the stage 1 report. I was pleased that the committee supported a broad range of provisions in the bill. On the issue of cross-examination, I recognise that some legal stakeholders have concerns that the bill may enable a prior statement to be used as a witness's only evidence, even when the defence wants to cross-examine. The bill does not in any way limit or alter the right of the defence to cross-examine a vulnerable witness who has their evidence pre-recorded, and nor does it limit in any way the ability of the defence to test the evidence. However, I am keen to allay any concerns on the matter and I will consider in advance of stage 2 whether an amendment is required to clarify that point.

Liam McArthur asked about domestic abuse cases. I note the committee's recommendation that the bill should be amended to include domestic abuse in the list of offences covered by the rule. I am open to the suggestion that the list should be extended to include domestic abuse offences in solemn cases and I will be interested to hear the views of other members during the debate. A number of stakeholders—including the National Society for the Prevention of Cruelty to Children, in its briefing, and many others, including, I think, Scottish Women's Aid—suggested such an extension. I am open to that, but I think that we would all accept that it has some implications that I have to work through.

The committee welcomed the provisions in the bill that would require a ground rules hearing before the taking of evidence by commissioner.

However, the committee asked that we consider whether there should be greater scrutiny of the questions to be asked at the commission. I can understand that, sometimes, it may be of benefit for questions to be lodged in advance. However, I am not convinced that requiring that in primary legislation is the best approach. I agree with Lady Dorrian, who said in evidence that in order to maintain flexibility, the High Court practice note is the more appropriate place to set out the detail of what should be required at the ground rules hearing. Again, though, I am open-minded.

On prior statements and additional measures to support vulnerable witnesses, the committee made a range of recommendations on broader matters such as joint investigative interviews and the work of the victims task force. I will ensure that those recommendations are discussed at the next meetings of the task force and the joint investigative interviews governance and working groups. My response to the committee highlighted the significant on-going work to improve the quality of JIs, which should enable them to be used even more frequently as part of a child's pre-recorded evidence.

The committee made a number of recommendations relating to the implementation of the barnahus principles in Scotland, and I am happy to accept its invitation to discuss those matters. Many committee members travelled to Norway to see for themselves barnahus in practice. The barnahus concept is about much more than evidence and the justice process. It supports a child's recovery from the point at which they disclose abuse, as well as supporting their right to justice. Accordingly, any move to implement the barnahus model would need to look at all those issues holistically. It is also accepted by most, if not all, members of the committee that every barnahus, whichever jurisdiction it is in, should be relevant to that jurisdiction. Tweaks and appropriate nuances may therefore be needed so that, collectively, we come up with what we think is a Scottish barnahus approach and have a road map to that destination.

I strongly believe that the justice system should be compassionate, trauma-informed and able to respond effectively to the needs of victims and witnesses. There have been significant changes in recent years to the criminal justice system to recognise the interests of those groups. However, more can be done, and I am determined that more should be done, to support child and other vulnerable witnesses, and I am confident that the bill is a major step towards achieving that. I look forward to the rest of the debate and to hearing the views of members across the chamber.

I move,

That the Parliament agrees to the general principles of the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill.

The Deputy Presiding Officer: Before I move on, I ask members who have not yet pressed their request-to-speak buttons to do so now. I call Margaret Mitchell to speak on behalf of the Justice Committee. Convener, you have nine minutes.

15:10

Margaret Mitchell (Central Scotland) (Con): It is a pleasure to speak on behalf of the Justice Committee in today's stage 1 debate on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill, and I thank all those who gave evidence to the committee. The committee thanks Lady Dorrian and the Scottish Courts and Tribunals Service staff for arranging visits for members to see the current arrangements for pre-recording evidence. Our grateful thanks also go to all at the barnahus in Oslo, for the time that they spent with us during our visit to the facility in December. That first-hand experience was invaluable for scrutinising the bill and forming a longer-term view of the changes that are required to improve the experience of child witnesses. I thank the Justice Committee clerks and committee members for their hard work in producing the report.

Legislation already allows for a child or vulnerable witness's evidence to be recorded in advance of a criminal trial. However, despite an increase in pre-recording, it is still not common practice. The committee therefore supports the bill's new rule, which would generally require all of a child's evidence in the most serious cases to be pre-recorded. Removing children and vulnerable witnesses from the court environment and the traditional examination-in-chief and cross-examination has several advantages: it reduces their distress and trauma; it improves the quality of their evidence, because taking evidence earlier in the process aids their ability to recall events; and it allows them to get on with their lives.

Crucially, undue delay is avoided, the potential consequences of which Barnardo's has set out compelling evidence about. Some young people who were 14 when they had offences committed against them were 16 and a half by the time they presented in court. Barnardo's stated:

"Because of the trauma that they have experienced, they can be involved in a lot of behaviours ... not seen to be positive. What the court sees is a difficult, belligerent, drug-addicted, alcoholic young person instead of the child they were when the offences happened."—[*Official Report, Justice Committee*, 27 November 2018; c 12.]

Nevertheless, the committee fully recognises that the new rule will have major implications for

our adversarial criminal justice system. Not only will it require sufficient facilities and technology to pre-record evidence; more significantly, there will need to be a shift in legal practice and culture. The committee therefore agrees with the Scottish Government that a phased approach to implementation is sensible. Given the importance of getting this right, the committee recommends that progression between phases should be based on careful and detailed evaluation.

The committee agrees that the initial phase should focus on child witnesses in the most serious cases. However, following powerful evidence about the pressures that children can experience when giving evidence in domestic abuse cases, it urges the Scottish Government to amend the bill to include those cases in the new rule. The cabinet secretary's comments and his confirmation in today's debate that he will listen to views on that subject are very welcome.

The committee also supports the phased extension of the new rule to other serious offences and to adults who are deemed to be vulnerable witnesses, which the bill provides for through affirmative regulations. It is crucial that there be sufficient parliamentary scrutiny of the regulations, preferably before they are introduced. The committee welcomes the cabinet secretary's willingness to share information that was gathered during the evaluation of earlier phases of implementation and asks to be provided with early notification of the Government's intention to lay regulations extending the rule. Members must be able to consider whether the necessary technology and facilities are in place to cope with any extension of the rule and whether any lessons can be learned from earlier phases of implementation.

In view of those undertakings, and on balance, the committee considers that the approach outlined in the bill is appropriate to allow vulnerable witnesses to benefit from the provisions without any delay caused by primary legislation being required, although that does not preclude the possibility of the committee recommending that an extension of the rule be provided for in primary legislation if that is deemed necessary.

The committee accepted the Mental Welfare Commission for Scotland's comment that

"a bad interview done early is no better than a bad interview done in a trial."—[*Official Report, Justice Committee*, 27 November 2018; c 33.]

The committee therefore recommended that all those who are involved in questioning child and vulnerable witnesses receive appropriate trauma-informed training, and the committee seeks assurances from the cabinet secretary that sufficient resources will be in place to deliver that training.

In addition, the committee considers that there should be measures in place to protect witnesses against the risks of harassment and further victimisation throughout the process, including after they have given evidence and proceedings have concluded. That is immensely important not only to protect individuals from harm but to ensure that other potential witnesses are not deterred from giving evidence. The committee welcomes the establishment of the new victim task force to look at that issue in detail.

The committee was unanimous in its strong support for implementing the barnahus principles in Scotland. During our visit to the barnahus in Oslo, we saw that the facility, which is located away from the court, is child friendly and provides a range of support services under one roof. Crucially, the visit allowed the committee to understand the one forensic interview approach, whereby the child is interviewed by a highly trained police officer, with no direct questioning by lawyers. However, the rights of the accused are protected by allowing the defence to request a supplementary interview when that is necessary. That interview is carried out by the same police interviewer, who asks the defence's additional questions to test the child's evidence. The one forensic interview approach delivers benefits both in the quality of the evidence that is obtained and in supporting children's recovery from trauma.

The committee realises that that approach would require a significant shift in legal culture and practice, as well as substantial resources, but the committee considers that it could be used in appropriate cases. Furthermore, no less a person than the Lord Justice Clerk, Lady Dorrian, has said that she sees no reason why the barnahus system cannot be adopted in Scotland in the longer term.

In the meantime, priority should be given to developing an enhanced process for joint police and social work interviews with children, to be conducted by highly trained interviewers in child-friendly facilities, with other support services available under one roof. That would deliver significant benefits for child witnesses and would be a meaningful step towards implementing the barnahus principles.

The Justice Committee unanimously supports the general principles of the bill and its aim to increase the use of pre-recorded evidence. Nonetheless, it is evident that a barnahus model is far removed from current practice in Scotland. The committee therefore calls on the Scottish Government to work towards adapting the one forensic interview approach and recommends that urgent action be taken to adopt elements of the barnahus principles and to ensure that progress is made within the current parliamentary session to

drive forward efforts to fully implement those principles in the longer term.

15:19

Liam Kerr (North East Scotland) (Con): I am very pleased to close for the Scottish Conservatives and speak in favour of the principles—*[Interruption.]*

The Deputy Presiding Officer: I think that you are opening for the Conservatives, Mr Kerr.

Liam Kerr: I am pleased to open, as well as close—*[Laughter.]*—the debate for the Scottish Conservatives and speak in favour of the principles of the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill.

At the outset, I echo the convener's gratitude to the clerks, not only for the quality of the report, which succinctly and clearly reflects the key points and the committee's examination of the bill, but because, contrary to initial concerns, they had not shredded the draft that I left with them, which had all today's speaking notes scribbled on it—although, having begun by saying that I was closing, I might wish that they had shredded it after all.

The fundamental principle of the bill is one that, as the convener said, the committee and the Scottish Conservatives are united behind. At its core, the bill is about improving the experience and evidential reliability of children and vulnerable witnesses in the criminal justice system. It does that by increasing the use of pre-recorded evidence.

When a child witness—the bill notably and rightly excludes a child accused—is to give evidence in solemn criminal proceedings involving one of a set list of offences such as murder, culpable homicide, assault to the danger of life or human trafficking, the court must enable all their evidence to be given in advance of the hearing. In other words, in an extension to the protections that are already in place, in those cases all the child's evidence will be given in advance.

As the convener set out, that was pretty much universally agreed to be a good thing. The Scottish Courts and Tribunals Service described it as

“a critical step in improving both the experience of witnesses and the quality of justice”.

In that regard, I found compelling the evidence of Children 1st that

“Scotland's justice system—designed for adults and rooted in the Victorian era—often causes them greater trauma and harm.”

Notable, too, was the SCTS's "Evidence and Procedure Review Report", in which it was suggested that

"particularly for young and vulnerable witnesses, traditional examination and cross-examination techniques ... are a poor way of eliciting comprehensive, reliable and accurate accounts".

Some witnesses and MSPs feel that we should go further, and we may well hear about that in the debate. Certainly, the committee concluded that there would be merit in expanding the rule requiring pre-recording to child witnesses in domestic abuse cases. That makes sense, as the cabinet secretary noted. A number of submissions made that point, too. One would have thought that it stands to reason that the potential, almost special, nature of the trauma to a child in such cases, as highlighted in evidence from Scottish Women's Aid, would mandate such special measures. That is particularly the case, given that, logically and as suggested by the advocacy, support, safety, information and services together project, the new Domestic Abuse (Scotland) Act 2018 could lead to greater numbers of children being cited to give evidence. I agree with Liam McArthur that there seems to be merit in including child witnesses in such cases. I am encouraged by the cabinet secretary's response to Liam McArthur's intervention, in which he stated his willingness to consider the proposal, and I look forward to developments at stage 2.

Humza Yousaf: I have looked at the figures, and although domestic abuse cases that go to solemn proceedings make up only 4 per cent of the total, that equals about 150 High Court cases and 750 sheriff and jury cases.

I am absolutely open-minded to the suggestion, but does Liam Kerr agree that, given the number of cases involved, it is undoubtedly important for the Government and others to examine the resource implications of making that potential change?

Liam Kerr: I agree with the cabinet secretary that the resource implications are crucial. I will say something specific about that shortly, but I will track back slightly before I do so.

On the same theme, in an intervention, Daniel Johnson brought up what is potentially a key issue. In its submission, the NSPCC suggested that, as only a few cases of domestic violence go to solemn proceedings, there is a danger that, by excluding summary proceedings, we exclude child witnesses in domestic abuse cases. Like Daniel Johnson, I find that concerning.

I note that the Lord Advocate has presented a response in which he specifically addresses the point. If I do not respond to the cabinet secretary's intervention in two seconds, I ask him to reiterate

some of those concerns, which were well expressed by Daniel Johnson.

During our evidence sessions, the suggestion was made—I suspect that it will be repeated in the debate today—that we should go further, particularly in relation to adults who are deemed to be vulnerable witnesses, and that we should expand the categories of people who would be covered by the provisions on pre-recording and automatic special measures. The bill gives ministers the power to do that, but the cabinet secretary indicated that that would involve a long timeline. His approach is supported by the Crown Office and Procurator Fiscal Service, which felt that it would be appropriate to take evidence-based, deliberate decisions over time on expanding the categories.

I accept that that approach will cause understandable frustration, but I agree with the cabinet secretary that it makes sense. The bill makes a seismic change that goes to the heart of the criminal justice system. The cabinet secretary highlighted his concern that quicker expansion may overwhelm the system.

It seems vital that whatever we put in place is introduced in a managed way that takes account of what will be a cultural paradigm shift, as highlighted by the Scottish Courts and Tribunals Service in particular.

A significant cost seems to be involved: the financial memorandum estimates the annual recurring costs of the bill's provisions to be up to £3.5 million. The maximum estimated cost of extending the new rule to all adults who are deemed vulnerable witnesses is around £14 million.

The committee concluded that a phased approach is sensible—I agree with it on that point. To try to implement everything at once could be counterproductive. We might end up in a worse place than the one in which we started, with an inefficient and ineffective approach and the potential for miscarriages of justice.

On that point, I will pick up on a point that the convener made. The ability to expand the categories of protection by regulation caused me some consternation. My concern was whether, given that this is a managed but significant change to the system, expansion of categories by regulation affords sufficient opportunity for scrutiny. The Faculty of Advocates, in particular, expressed concern about that.

The committee heard a great deal of evidence on that point. The cabinet secretary noted that primary legislation could cause delay. In my view, delaying matters to get them right is never a bad thing. However, it was reassuring to hear the cabinet secretary promise to share the evaluation

evidence with the committee prior to scrutiny of any such regulations. We also received an undertaking in that regard in the Government's response yesterday.

Today, the Parliament is asked to indicate whether it supports the principles of the bill. The Justice Committee's report provides strong evidence—as, no doubt, will today's debate—that the principles of the bill are the right ones. It is clear that pre-recording evidence of children and adult vulnerable witnesses reduces the distress that such witnesses go through and can help to ensure that the most accurate evidence is obtained.

Throughout our evidence gathering, it was clear that the bill is a start and that there are other areas into which protection of vulnerable witnesses might go. I look forward to hearing representations from colleagues across the Parliament in that regard.

I am pleased to confirm that the Scottish Conservatives will support the principles of the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill at decision time.

15:27

Daniel Johnson (Edinburgh Southern) (Lab): This is a useful and important debate, in which we can come together in agreement about how we can modernise and improve our justice system, to make it more effective and more humane.

I, too, thank the Justice Committee clerks and my fellow committee members. I also thank the numerous organisations who submitted evidence, orally and in writing, to the committee—without their efforts we simply could not do our work.

In particular, I thank the Scottish Courts and Tribunals Service, because the opportunity to see facilities and hear about how evidence on commission is taken was hugely important. I also thank the Norwegian police for the time that they took to show us the barnahus model that operates in Norway.

Above all, I thank Lady Dorrian, because the bill represents a substantial amount of her work and effort. She first made the proposals in 2015; broader reforms were initiated in 2013. Her practice note, which has meant that evidence is being taken on commission, was produced in 2017. We should not underestimate the time that it has taken to get here.

The bill's provisions undoubtedly represent a useful step forward for the Scottish judicial and court system and will improve the experience of child witnesses. As a number of members have said, we must not retraumatise young people who give evidence in court. It is vital that they give

evidence; it is equally vital that we ensure that they do so in a way that does not retraumatise them.

More important, the bill is about improving the quality of evidence that is given by reducing the time that it takes to take evidence—the committee heard that it takes considerably less time when a witness provides their evidence on commission—and by reducing stress. That will improve the accuracy and quality of the evidence that is given.

For those reasons, Labour supports the bill at stage 1.

It is important that we examine the provisions and consider how the bill might be improved. Moreover, we should consider the next steps that we can take to improve our justice system. Therefore, I want to talk about how we ensure that the interests of the child are best met; the investment that is required; and the possible extension of the provisions to other types of witness and other types of hearing.

The ground rules hearing is absolutely central to the proposals on protecting the interests of the child. The prosecution and the defence will set out how they will cross-examine the witness and draw out the evidence for the court through the ground rules hearing. There will still be cross-examination—we saw that in examples of evidence taken on commission when the committee went to the High Court. The ground rules hearing will ensure that things are conducted in a way that is humane and effective in gathering evidence.

It struck me that the process will be very reliant on the training and practice of the advocates who will conduct the evidence gathering. Although the ground rules hearing is important and it is right that we do not overburden the bill with provisions or requirements, we must understand the dependency on the ground rules hearings being conducted properly and recognise that they rely on agreement. Trust is involved. We will trust the advocates to take their duties seriously and responsibly. We must review how the process is carried out to ensure that it is not abused and does not go in directions that were not foreseen. Although advocates in the main may approach matters in the way that we would hope, the intention at the point of legislating can sometimes result in practice that was not intended. Therefore, we need to keep the process under examination.

We must also ensure that there is adequate support and that a common point of contact is provided to vulnerable witnesses, particularly children. A number of third sector organisations made that point. Should we have a much more proactive and positive duty at the ground rules hearing to look at what sort of support is provided

to witnesses who are providing evidence that is taken on commission?

Much has already been made of the requirement to have a phased approach and why that is necessary, given the investment and the undertaking that the bill represents. I agree with what has been said. The Government is right to look at a phased approach. As Liam Kerr pointed out, it is critical that we get this right and that we take our time to do so. However, we must ensure that investment takes place. When I looked at the room that is used in Parliament house, I was struck by the fact that it is still essentially a conference room in a court building and that it falls far short of the child-friendly environment that we might wish for. I welcome the investment in a new evidence suite in Glasgow, but will we make such facilities available to every child who gives evidence in Scotland, wherever they may do so? We need to ensure that there is consistent access for vulnerable witnesses.

We must also focus on training, legal practice and culture. The investment cannot simply be in technology and spaces.

I want to briefly mention domestic abuse. Although I welcome the cabinet secretary's comments, if the bill is about establishing a principle on the right way to take evidence from vulnerable witnesses, why does it not provide for at least the possibility of extending the provisions to summary cases? I understand the arguments and the restrictions in respect of investment and the requirements that exist, but if the principle is right and the strategy that has already been set out in the bill is for staged implementation, should not provision for that final extension to summary cases be provided for? The Government should certainly look at ways in which the practice is encouraged in sheriff courts, because it is possible for them to take evidence in that way.

I am running out of time. I, too, am opening and closing for my party, so I will get a second chance to get in the bits of my speech that I have not managed to get in, which I am very thankful for.

The bill is a significant step forward. It takes the right approach in its proposals and how they will be implemented. However, we must always challenge, so we must seek to go further in the bill and in future steps that we can take with our court system in Scotland.

The Deputy Presiding Officer: I should clarify that Gordon Lindhurst will close for the Conservatives. He was looking a bit peeved.

15:34

John Finnie (Highlands and Islands) (Green): Like my Justice Committee colleagues, I thank

witnesses and parliamentary staff, various organisations for their briefings and our friends in Norway for their helpful advice.

As I hope that the committee report evidences, there has been detailed scrutiny of the Government's proposals. There are a couple of recurring themes. One theme, which I hope to talk about in a bit more detail later, is the tension between the adversarial system as applied at the moment and the inquisitorial system that is more in keeping with the proposals in the bill. The other is the rights of witnesses and the accused.

The Scottish Green Party will unequivocally support the bill at stage 1.

I take us back to the case for reform as outlined in the committee's report. We highlighted the Scottish Courts and Tribunals Service's "Evidence and Procedure Review Report", which is from 2015. I make no apologies for this long quote, because it is helpful. The Scottish Courts and Tribunals Service report says:

"It is now widely accepted that taking the evidence of young and vulnerable witnesses requires special care, and that subjecting them to the traditional adversarial form of examination and cross-examination is no longer acceptable."

It continues:

"recounting traumatic events is especially distressing for children, and can cause long-term damage".

Importantly, it says that that approach

"is a poor way of eliciting comprehensive, reliable and accurate accounts of their experience".

We are told that the status quo damages witnesses in the same way that it disadvantages the public interest and the interests of the accused. I do not think that any of us wants to see that situation prevail.

Children 1st's written evidence, which has been alluded to, says:

"Over and over again child victims and witnesses"

of crime

"have told us that Scotland's justice system"

is, as someone mentioned earlier,

"designed for adults and rooted in the Victorian era"

and that it

"causes them"

additional

"trauma and harm".

The submission goes on to mention the

"scientific understanding of child development".

The extent to which child development has been mentioned in our deliberations is heartening.

Understanding the needs of individuals—whomever they may be—is important, and there is growing awareness of that, not least in relation to the impact of adverse childhood experiences and trauma awareness. A lot of organisations, including Police Scotland, are very much aware of that.

The Children 1st submission also tells us:

“Developmentally children’s ability to recall memories varies with both age and their experiences of trauma.”

I join others in supporting the extension of the provision to domestic abuse cases and summary cases. Although the cabinet secretary is supportive of that, if I noted him correctly he said that the implications have to be worked through. I resolutely support that approach, and the incremental approach that the committee is in favour of. We are talking about a significant investment in time, training and facilities. It is crucial that we get this right and that, most important, we take practitioners from all sectors with us.

Daniel Johnson is correct to say that it is about getting the facilities right. I sat with Daniel and other members in the room that he spoke about—I mean Daniel Johnson. I beg your pardon, Presiding Officer. I saw the face.

The Deputy Presiding Officer: You read my lips.

John Finnie: I know that expression.

I sat with Daniel Johnson and others in the room that he spoke about. Yes, it was not particularly child friendly, but we saw the benefit of having such a facility for the child.

It is important that we get the whole criminal justice system right. The Lord Advocate has just responded to the committee’s report. His letter is pretty much like the Scottish Government’s response, and we are very pleased to have those responses, albeit that they have come at the 11th hour. He mentions the need to disclose obligations in adequate time. The ground rules hearing that has been mentioned is a fundamental part of what we are seeking, and the timing associated with that is crucial. We have had debates about whether it should be pre or post indictment. We do not want a situation in which someone is unnecessarily put through trauma only for the Crown Office and Procurator Fiscal Service to decide against taking forward a case because it is not in the public interest or because there is an insufficiency of evidence to proceed; equally, we do not want trauma to be caused by having to wait to give evidence. That is another tension and balance that needs to be worked through. That will be helped by having an expeditious process, which the Lord Advocate refers to in his response.

The Crown Office and Procurator Fiscal Service has created 41 additional posts in the High Court to tackle the most serious cases, in which such an approach is likely to be used.

The committee took evidence on joint investigative interviews, which involve Police Scotland and social work staff. Those interviews are an important part of our process, but they are a long way away from the barnahus system, which started in Iceland and applies across Nordic countries, and which we saw in Norway. That involves three years of training for police officers. We saw charts on the wall about the expectation of children’s understanding at different stages—the developmental issue is important.

The proposals are excellent, but there is a way to go, and we will work on that.

15:40

Liam McArthur (Orkney Islands) (LD): Like colleagues, I thank the clerks, the Scottish Parliament information centre and others for supporting the committee and I thank in particular all who gave oral and written evidence during our stage 1 consideration of the bill.

Like others, Scottish Liberal Democrats strongly support the bill’s principles, although they are hardly controversial. That can present challenges, as cross-party consensus can sometimes blunt robust scrutiny, but I am confident that that is not a risk in this instance, because the committee has already identified a number of areas where we will look to work with the Government to improve and strengthen the bill at stages 2 and 3.

Before I turn to those aspects, I, like others, record my gratitude to those who hosted the committee’s visit to Oslo at the end of last year. It was enormously helpful to see at first hand how the barnahus—child’s house—principles are applied in Norway. Approaches differ between the countries that apply the principles, but the visit demonstrated clearly to the committee what a genuinely child-centred and integrated approach to criminal justice looks like.

For a country such as Scotland that aspires to be the best place to grow up in, barnahus must be at least part of the yardstick against which we measure ourselves. I accept that the one forensic interview approach of barnahus would require a shift in legal culture and practice here, given our adversarial system. Nevertheless, we see the lighthouse model being trialled in London, and there was almost unanimous support from those from whom we took evidence—including, as our convener said, Lady Dorrian, to whom we owe a huge debt of gratitude—for moving more quickly towards adopting the principles.

As the NSPCC pointed out, integrating justice, healthcare and on-going therapeutic social care services under one roof—often in purpose-built, child-friendly accommodation—is the best, if not only, means of effectively reducing trauma for child victims and witnesses while maximising the chances of capturing their accounts of what happened. It is fair to say that we are still some way off that.

The Scottish Courts and Tribunals Service admitted in its 2015 review that

“Scotland is still significantly lagging behind those at the forefront in this field.”

However, the SCTS has argued—rightly—that the bill is a

“critical step in improving both the experience of witnesses and the quality of justice.”

Enabling greater use of pre-recorded evidence from children and vulnerable witnesses is the right way to go and builds on the special measures that are in place. As Lady Dorrian made clear, ways must be found to take evidence from children and other vulnerable witnesses

“in an environment and in a manner that does not harm them further, but allows their evidence to be given and tested fully and appropriately.”

Humza Yousaf: I have been listening carefully to Liam McArthur and reflecting on what he has said. Does he agree that the relative consensus in the Parliament could be an advantage in helping to shift the legal culture that has applied in Scotland not just for decades but for centuries? If we put collective effort into dealing with obstacles that we might come across, that might have value in helping to shift mindsets.

Liam McArthur: That is a valid point and I do not diminish the value of consensus. Sometimes, the perception has been that the demand for reform that has emanated from the Parliament has been met with resistance in the legal community, but the evidence that we took suggested that that community has an appetite to collaborate with us. I hope that that will bear fruit.

The balance is crucial, and the rights of the accused cannot be lost in the process. The Law Society of Scotland made valuable points about the need for early identification of cases and effective communication by the COPFS, including timely disclosure of information. Without that, the defence is unlikely to be able to test the evidence fully. That said, the Lord Advocate is right to identify ground rules hearings, which would be overseen by a judge or sheriff, as an opportunity to strike the right balance between defence and prosecution interests, as well as to ensure that the questioning of a child or vulnerable witness is carried out in an appropriate and sympathetic fashion.

The committee felt strongly that when evidence is then taken by commissioner, every effort should be made to minimise any delay that could affect a child’s recollection of events and to avoid, if at all possible, the need for such recorded interviews to be carried out more than once. While none of that is entirely new, the committee quickly recognised that what the bill proposes will have serious resource implications for aspects from training through to equipment and facilities, as was mentioned by John Finnie and Daniel Johnson. Some of those have already been recognised by the Scottish Government, and I welcome the additional investment that has gone into the Scottish Courts and Tribunals Service and the Crown Office and Procurator Fiscal Service. However, if such measures are to be applied routinely and to a consistently high standard, we should not underestimate what will be involved or the pressure that they will place on the criminal justice system.

For example, we already know that support for victims and witnesses in our courts and wider communities is stretched. That message came through during our earlier inquiry into the Crown Office and Procurator Fiscal Service. Welcome though the bill’s provisions undoubtedly are, they will inevitably compound the challenge that is faced by many of those services. That is why it makes sense for the Government to adopt a phased approach to implementation, starting with the most serious solemn cases in the High Court that involve child victims and witnesses. I can entirely understand the impatience in some quarters to see the measures rolled out for all victims and witnesses in the High Court and sheriff courts. However, the committee heard overwhelming evidence that there is a significant risk that the system would be unable to cope with that, which is an outcome that would serve no one’s interests. Therefore, I accept the case for working through each phase systematically, reviewing and learning lessons before seeking to extend the provisions.

However, I agree that the categories of cases in section 1 that are covered by the rule need to be expanded to include domestic abuse. Again, the evidence that we heard in that regard was both overwhelming and compelling. The Cabinet Secretary for Justice suggested that he had an open mind on that, which I welcome, and I encourage him to accept that case and to lodge an amendment at stage 2. As for future changes to the circumstances in which the protections and provisions would apply, again, there is sense in enabling those through regulations.

In conclusion, let me—as most other members have done already—quote Children 1st, which stated:

“a joined up approach to the care and justice needs of child victims and witnesses through a Barnahus or ‘Child’s House’ is the best way to get it right for children from the moment they tell their story, ensuring that the child and their family get the support they need to recover. This will ensure that we have a justice system that is able to do both what is best for children and best for securing evidence.”

I hope that we can go some way towards ensuring that ahead of stage 3.

The Deputy Presiding Officer: We move to the open debate and speeches of six minutes.

15:48

Rona Mackay (Strathkelvin and Bearsden) (SNP): Let me start by saying that this is a good bill and I am happy to commend its general principles to the chamber.

As the deputy convener of the Justice Committee, I thank the clerks for all their work in producing a fair, well-balanced report. As we have heard from my colleagues, the bill achieved consensus among the committee. We heard a lot of evidence from stakeholders in the legal profession, children’s organisations and the court service, whom I thank for giving evidence.

In essence, the bill will ensure that children in the most serious criminal cases—those who have been victims of or witnesses to sexual offences, murder, assault or danger to life—are spared the trauma of giving evidence in court. It will enable them to give pre-recorded evidence much closer to the time of the offence. The Lord Justice Clerk, Lady Dorrian, told the committee:

“When children, in particular, are asked to give evidence at a time that is remote from the event, not only has their memory diminished, but they are more likely to be confused by general questioning about the incident”.—[*Official Report, Justice Committee*, 18 December 2018; c 3.]

That is crucial. Being asked to recall an event that may have taken place some time ago can be extremely distressing and traumatising for a child.

In its written submission, Children 1st told us:

“Over and over again child victims and witnesses have told us that Scotland’s justice system—designed for adults and rooted in the Victorian era—often causes them greater trauma and harm. At the same time, as scientific understanding of child development—and recently our understanding and awareness of the impact of Adverse Childhood Experiences—has grown, it has become overwhelmingly evident that Scotland’s traditional approach to justice is the least effective for eliciting consistent, reliable accounts from child victims and witnesses.”

As we know, the bill applies only to witnesses in solemn cases that are heard in the High Court, but a phased extension is proposed to cases that are heard in the sheriff court, under which child witnesses of domestic abuse would be covered. Along with other members, I am extremely keen for that to happen as soon as possible, as the

majority of domestic abuse cases are heard in the sheriff court. I am pleased that the justice secretary has said that he will keep an open mind on including such a provision in the bill.

I understand the need for a phased approach that involves monitoring and evaluation of the effect of the bill on court procedure and resources. I hope that a successful evaluation can be carried out quickly and that arrangements will be put in place for the extension of what is proposed from the High Court to the lower courts. I hope, too, that the proposal will be extended to cover adult vulnerable witnesses in solemn cases, who could benefit in the same way by giving recent unpressured evidence in a less-intimidating environment.

Rape Crisis Scotland said that cases often take two years or longer to move from the police report stage to trial, only for complainers

“to get a call the night before to say the trial isn’t going ahead ... This causes considerable distress, and does not assist in complainers being able to give their best evidence.”

I understand that special measures are put in place for witnesses who have been assessed by Crown Office staff, and I urge that that practice be continued until the new rule applies.

The bill also focuses on the quality of joint investigative interviews by police and social work, which are vital, particularly when use is made of pre-recorded evidence. As with all aspects of the bill, it is vital that thorough trauma-informed training is given to all parties who are involved in taking evidence, and I am encouraged to note that a new JII training programme is expected to be finalised by March. Interviewing vulnerable witnesses takes a very special skill, and such skills are certainly necessary when JIIs are carried out or evidence is pre-recorded.

The bill does not cover the taking of pre-recorded evidence from a child accused although, from our knowledge of adverse childhood experiences, we know that such children have many issues and are often extremely vulnerable. They are children, too. However, I understand that the right of the child accused to remain silent must be respected and that the issues surrounding the recording of evidence before the trial has begun are complex. As the decision about whether a child witness should give evidence at the trial must be made in the context of the trial, it can be made only at the end of the trial. Taking evidence beforehand could prejudice their case or risk the evidence not being entirely accurate.

Nevertheless, the Lord Justice Clerk pointed out that there are special measures that can be put in place, such as enabling evidence to be given by live television link, but they are currently

underused. That is not acceptable. I urge defence counsel to consider all measures that could be used and to apply them to the child accused in all cases to minimise the trauma that is involved.

I am pleased that the justice secretary, the former justice secretary, the Lord Justice Clerk and the legal profession generally are fully supportive of the barnahus model for the giving of evidence by children. As the convener and others have said, the Justice Committee had the opportunity to visit the state barnahus in Oslo before Christmas, and we were extremely impressed with the one forensic interview system, which is operated in a child-friendly environment. Shortly after I was elected, I met Mary Glasgow and Harriet Hall of Children 1st, who explained the benefits of the barnahus to me. I was totally and utterly convinced that having such a system should be Scotland's aim. I am delighted that we are making some progress towards that and that it will become a reality in the not-too-distant future. In evidence to the committee, the justice secretary said that scoping arrangements would be put in place early in 2019, and I would welcome an update on that.

The bill represents a huge step forward in reducing the trauma that is faced by children in our justice system, and I commend its general principles to the chamber.

15:53

Maurice Corry (West Scotland) (Con): I welcome this stage 1 debate on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill and thank the members of the Justice Committee and its clerks for their helpful insight and scrutiny of the bill.

It is crucial that witnesses come forward to participate in court cases. Their evidence is what makes for robust and fair verdicts, but the quality of their participation is at risk, especially if they are deemed to be vulnerable witnesses. We can all see that Scotland's court process is far from perfect. For vulnerable witnesses and children, in particular, the system can be almost overwhelming. Unless special care is taken when they are questioned, young witnesses can feel as though they are reliving their experience all over again. Pursuing a just and fair outcome without prejudice while ensuring that the witness is not placed in a distressing situation can be a sensitive balance to get right.

We have seen the benefit of adopting in courtrooms more special measures that are designed to help vulnerable witnesses. Television live links or supporters who sit with witnesses as they give evidence have been helpful methods of improving the process for young witnesses,

especially if they are prone to feelings of anxiety and stress.

The proposal in the bill to allow, for some child witnesses, the pre-recording of evidence outwith the courtroom is rightly the next step to take. It will mean that, apart from in exceptional circumstances, those vulnerable witnesses will avoid the unnecessary trauma of being questioned in court, which will remove the mental burden that that places on child witnesses in the most serious cases. There is no doubt that the change in the law will help us to safeguard more readily the interests of children who have been the victims of human trafficking, sexual offences or abuse. At the same time, it will uphold the rights of those who are accused.

As well as the benefit for vulnerable witnesses, there will be a benefit for the quality of the proceedings and justice as a whole. By giving all the evidence in advance of the trial, witnesses will be able to recall their experiences far more readily and with greater accuracy and clarity, which will surely make for a more informed verdict. It will mean that witnesses have the best chance to participate in the process as helpfully as possible. Moreover, they will be free from what is often a lengthy wait until the trial.

We see pre-recorded evidence for such witnesses as the way forward, but it would be a mistake to stop there. The Scottish Government hopes to adopt a phased approach in implementing the new rule and expanding it to cover other vulnerable witnesses. Surely, that should start with the inclusion of child witnesses in domestic abuse cases. As we have heard, the Justice Committee has suggested that approach, and I believe that it was right to do so. The implications of domestic abuse are far reaching but, often, those who are most harmed are the children at the centre. Young people who experience such abuse are in desperate need of the same readiness to support them through the criminal process.

As the committee suggested, wider support mechanisms for vulnerable witnesses are well worth exploring. Providing the time and resources to allow special training would reduce the chances of harmful questioning of child witnesses and ensure that they are treated sensitively and fairly. Offering specialised and appropriate training would surely work well in tandem with implementing pre-recording of evidence.

It is equally important that we understand better the proposed timetable for the changes. We should not neglect the capacity that the bill has—we must ensure that it is as effective and impactful as it can be. To achieve that, it needs to be clear and structured in setting out the proposed phased

implementation. Only with clarity can we ensure that change will actually happen.

Scotland's court system desperately needs to improve. We cannot expect reliable and rock-solid evidence from children if it is taken in a traditional setting that neglects to recognise their needs. The bill offers progress in breaking down those courtroom barriers and a way to allow more accurate evidence giving in a safer environment.

The bill will provide a welcome change. It gives some assurance that vulnerable child witnesses will be involved in our court processes in the most sensitive and appropriate way. It safeguards their mental health and ensures more stable and certain evidence. I hope that, for the sake of other vulnerable witnesses and Scotland's future criminal procedure, the support for wider reform will not go unnoticed.

15:58

Fulton MacGregor (Coatbridge and Chryston) (SNP): It is a great pleasure to speak in the debate. I will not be met with much objection from colleagues across the chamber when I say that it is legislation such as that proposed in the bill that we all came into politics for. The proposed legislation will have a positive effect on people's lives and will go some way to rectifying discrepancies in our current system. For those reasons, I was privileged to be one of the members of the Justice Committee who scrutinised the bill. I join the convener, the deputy convener and others in putting on record my thanks to the clerking team for their work on the bill under immense pressure and in preparing the stage 1 report, which I encourage anyone who is watching the debate to check out.

As others have said, the bill's main policy objective is to improve how children and vulnerable witnesses participate in the criminal justice system by enabling greater use of pre-recorded evidence. Many have fought for such a change in the law for a long time, including the Moira Anderson Foundation, which is based near my constituency. The vast majority of evidence that the committee heard from stakeholders, including among many others Barnardo's and Children 1st, was supportive of the need to reform and of the introduction of a rule ensuring that, in the most serious of cases, evidence from a child is taken pre trial.

There are many areas of the bill that I could focus on in the limited time that I have, but it will probably come as no surprise to my committee colleagues that I will spend a little time looking at the use of joint investigative interviews by the police and social work. At the moment, they are used in connection with child protection measures,

and at this point, I must declare an interest as a registered social worker with the Scottish Social Services Council.

The committee heard how joint investigative interviews could be an integral part of the process and that there was more scope to use them as evidence in chief, thereby limiting damage to child victims and witnesses and preventing the need for them to give evidence at trial. However, we also heard that it was not always possible to use such interviews, and the committee found it difficult to ascertain exactly how often they were used.

I was involved in joint investigative interviews for around eight years and although there was a lot of good and innovative practice, I do not think that any of my previous colleagues will mind my saying that there is scope for change and improvement—in fact, they would expect me to say it. For example, specific JII training is very intense, but it is only a week long; after that, a worker's involvement in such interviews can be very sporadic, with perhaps only a handful or even fewer than that a year. The committee's scrutiny of the bill got me thinking about how many interviews I had been involved in and although it is obviously not possible to say exactly, I am reasonably confident in stating that the figure was no more than 30 over an eight-year period. That falls well short of the 100 to 150 hours that Mary Glasgow felt was required to gain an appropriate level of expertise.

I therefore welcomed the evidence that was given by Kate Rocks of Social Work Scotland, who told the committee about the joined-up discussions that were going on with the police to expand the training to a year and the possibility of having a smaller group of workers who would be highly skilled in carrying out the interviews. I also welcomed the cabinet secretary's response to the committee about the governance and working groups that have been set up and the fact that, as Rona Mackay pointed out, the training programme is expected to be finalised in March.

Perhaps such a move would also fit in with the principles of the barnahus model. As everyone who has spoken has said, the committee visited Oslo, and I think that it is fair to say that we were very impressed by what we saw there. That said, I think that we have already put in place many of the barnahus principles through our child-centred approach, but something relatively simple that we could do would be to have a one-stop shop for all the services that are involved to save a child from having to go to one place for an interview, another for a medical assessment and perhaps another for therapeutic support.

I think that the conclusion in the committee report, as relayed by the committee convener Margaret Mitchell, sums it up best, and bringing all

of that together might require having a specific venue in, say, each health board area, in four areas across Scotland or whatever. Such a setting would also allow the crucial issue of support to be addressed. In our evidence gathering, we heard lots of testimonies, and the suggestion was that, although it was very important to gather evidence for criminal proceedings, a perhaps more significant and important issue was the need for continued support during and after the process and to deal with any trauma that the child witness might experience.

I conclude where I started by making it clear that the bill has been introduced as a result of real people's real-life experiences. In that respect, I want to share an example that involves a constituent of mine. What I am about to say has been agreed with the child's mother to protect anonymity.

Last week, I had a parent in my office asking for help. Her child had been a key witness in a case that had resulted in the accused serving a prison sentence, but she told me that no one had sat down with the then nine-year-old or the parents to explain what was going on or how their statement would be used in the case. Because the accused pled guilty, the young person was spared the ordeal of having to testify before him in court, but they are fully aware that their evidence was a major part of securing the guilty plea. At one point, the child said, "It was scary that my mum had to leave the room and I had to speak to strangers".

The experience has led to a severe deterioration in the child's mental health, because every day they live in fear about what might happen when the individual is released from prison. The mother described having to deal with nightmares and self-harm, and she also told me about the day that she found her child attempting suicide. Thankfully, she made the shocking discovery in time. No victim should ever have to go through that, and that is why it is so important that the bill's provisions are put in place as quickly as possible.

Not all of the bill is relevant to the case that I have just highlighted, but its principles are. I know that the mother is watching today's proceedings, and I hope that this is the start of changes being made to the law that will mean so much to her and her family. It is such real-life situations that make the bill so important. Moreover, given what I have said, it would be fitting if the bill were to pass at stage 1 during children's mental health week.

This is an important bill, and I thank the Government, the current cabinet secretary, his predecessor and others for bringing it forward. I commend the general principles to the chamber and hope that members will vote for them.

16:04

Johann Lamont (Glasgow) (Lab): I was not involved in the bill's development, but I have found it very interesting to read the report and the briefings that we have secured. Like other members in the chamber, I have direct experience of constituents telling me how they have felt let down by the justice system. From the start of the Scottish Parliament, we have been trying to understand how people experience the justice system and trying to find ways to ensure that witnesses and victims feel that they get justice. I can remember very early in the Parliament a woman who had been the victim of a serious sexual assault talking about feeling that the court system had compounded her terrible experience rather than giving her a sense of justice. I think that the bill is part of understanding that experience, because those voices are still there. Fulton MacGregor's very powerful description of a young person's direct experience of the justice system gives us all pause and should act as a spur to ensure that the journey of making the justice system fair continues.

The bill is another step in wrestling with the challenge of how we ensure that the accused has a fair trial and that those who give evidence are able to do so in a way that allows that evidence to be thorough and testable. I would argue that we have made progress in creating a fairer system, because things that we were told were simply impossible as they would challenge the justice system and the protections in it are now part of the accepted court process. I expect that the bill's provisions will also be seen in that way in the future.

We need to think about how we treat victims, witnesses and complainants in the context of understanding criminal behaviour in all its many forms and the particular impact of particular crimes on victims. For example, I know from my conversations with adult survivors of child sexual abuse that their vulnerability still lives with them every day. We need a court system that understands that, too. We also need to think about the decisions at the prosecution stage on taking cases forward and whether they reflect the vulnerability of witnesses and victims; for example, if the victim is a person with a learning disability the case might not be taken forward as it might be deemed that their evidence will not be seen as credible. We need to reflect on those issues.

There is, of course, a danger and a challenge for us all in doing the relatively easy bit—obviously, I have done less work on the bill than committee members, who have done a lot of work on it—of passing legislation and feeling pleased that we have got that right. However, legislation must be placed in the context of the need for it to

be effective and to ensure that it is enforced and that the changes are resourced properly. We do not want to end up just taking resource from one place and putting it in another in order to match the legislation's demands, only to see one piece of legislation having unintended consequences for another part of the system.

We need to understand how we can prevent people from becoming vulnerable to crime in the first place and how supported they are personally. For example, for children who are victims of domestic abuse, with all that that means for them, we need to look at the availability of safe places and the responses of the school system, the housing system and the agencies round about the young person. Those supports will, in their own way, give help to a child who might find himself or herself in a courtroom, which can be the end point of what might have been a traumatic journey of conflict and violence. We cannot separate the court process from the budget and resources that must support victims under the new system.

As an example of the challenge involved in that, I raise in particular the important role of the children's hearings system in the broader justice system. The children's hearings system is symbolic of our understanding of the need to put the child at the centre of the justice system, but it is also the practical expression of how we make that support real. Despite the sterling work of the volunteers and staff who manage the hearings system, the system is under pressure from, for example, lack of social work support, the inability to have social background reports produced and the inability of panels to make certain disposals because the resource is simply not there to make them happen. The danger is that young people are being ill-served by a system that is overstretched and pressured.

The Scottish Government needs to reflect on its choices in budgeting terms as well as in policy terms. In my view, it is simply short-sighted to target local government for budget cuts, given that many of the key supports for the justice system lie with schools, community safety, support groups and social work departments, most of which sit within local government.

I support the bill, given the way in which it continues the journey towards ensuring that victims are treated fairly in the justice system and that, as a consequence, our justice system serves society better. However, I simply reflect that we should all take seriously not just the legislation; we should not see it in isolation but look at what must underpin it—not only resources to deliver the process but resources to provide broader support and protection for those who live with the trauma of abuse and crime day by day.

The points that Fulton MacGregor made in his conclusion are absolutely right—it is not just in the moment of giving evidence that a child or vulnerable witness has to be supported, but before they give evidence and afterwards as well. That is what will make the legislation real in the lives of young people and vulnerable witnesses.

16:10

Jenny Gilruth (Mid Fife and Glenrothes (SNP)): I thank the Justice Committee's clerks for all their work in pulling together a report ahead of today's stage 1 debate.

Of course, the bill should not be considered in isolation. For the Government, this is clearly part of a wider agenda that is focused on the rights of victims and witnesses. However, if we consider that the Government designated 2018 the year of young people, it is timely that we now reflect, as a Parliament, on how the justice system listens to the views of our young people when it really counts. Indeed, as John Finnie said, it is vital that we get this right.

As has already been mentioned, it is now nearly two years since the Lord Justice Clerk, Lady Dorrian, introduced the High Court practice note that was the first step towards improving how our courts take evidence from children and vulnerable witnesses. Today, the provision to take evidence by commissioner remains the main policy objective, with greater use being made of pre-recorded evidence from child witnesses in the most serious cases. That original practice note from 2017 looked to build greater consistency into application of taking evidence on commission by minimising the risk of trauma through taking practical decisions about location, for example, more sensitively.

Section 5(4) of the bill seeks to make changes to the Criminal Procedure (Scotland) Act 1995 that will allow for the possibility of pre-indictment commissions. I want to revisit why that provision is so important.

The ASSIST—advocacy, support, safety, information and services together—service is a domestic abuse advocacy and support service that is based in Glasgow. ASSIST advised the committee that children's evidence

“should be taken in advance and as near to the ‘incident’ as possible.”

Furthermore, we were told by Daljeet Dagon from Barnardo's Scotland:

“we often find that statements are taken and the police investigation concludes years before the actual process takes place. Recently, we found ourselves chapping the doors of young women who are now in their 20s but who had given statements when they were aged 14 and 15. Their situation had moved on, yet we were going back and

retraumatising them, saying, “We’ve got new evidence. Are you willing to come forward? We don’t know how long the process is going to take.”—[*Official Report, Justice Committee*, 27 November 2018; c 4.]

Perhaps this was most powerfully illustrated when Daljeet Dagon went on to give the example of a young person who gave the police 27 statements in total. By the time the trial went to court, she was deemed to be an unreliable witness.

The original 2017 practice note encouraged the use of commissions for children, and application for a commission at the earliest possible stage in High Court proceedings. The Lord Justice Clerk has therefore welcomed the new provision in the bill for the possibility for a commission to take place before serving of an indictment, as the committee heard.

One of the committee’s key recommendations is that

“section 1 of the Bill should be amended to include domestic abuse in the list of offences covered by the rule requiring pre-recording,”

in particular, because of

“the trauma that children can experience in such cases.”

As Scottish Women’s Aid has argued,

“This is a crucial issue, given the trauma that can be caused to children and young people experiencing domestic abuse”.

In addition,

“given the numbers of children likely to come under the auspices of the new offence,”

it is imperative that the offence be included. I appreciate that the cabinet secretary has previously indicated to the committee that he is willing to consider such an extension. In my view, there is an opportunity to join up legislation that has already been passed in Parliament on domestic abuse, so I am glad to have heard the cabinet secretary reiterate that point today.

The committee’s visit to Norway to see the barnahus model in action was, as has been said today, a formative experience in respect of how we might seek to improve children’s experiences of the justice system. The model is a one-stop shop where services come to the child. It struck me that the barnahus model has much in common with our own getting it right for every child approach, which is also child centred.

The bill has the potential to be truly groundbreaking if we get it right. Although I note the investment in Glasgow in a dedicated child and vulnerable witness suite, perhaps there is an opportunity for the Government to pilot the barnahus model on a small scale in the first instance, during this parliamentary session, because our experience, as Daniel Johnson

alluded to in his comments, is that it was a siphoned-off room within the court buildings, which is not what the barnahus model is about, according to our experience on our visit to Norway.

Although much can be learned from the Norwegian approach, a Scottish equivalent will have to be tailored to reflect our differing public services. I note that Healthcare Improvement Scotland and the Care Inspectorate are already involved in the development of Scotland-specific standards for barnahus. The Government’s response to the committee advises:

“This will enable us to set out a roadmap for improvements.

These Scotland-specific standards will be based on the European PROMISE Quality standards for Barnahus. It is anticipated that the scoping stage will begin in early 2019.”

I note the cabinet secretary’s commitment to meet the committee to discuss the barnahus model in more detail, but I make a request to the cabinet secretary that both Healthcare Improvement Scotland and the Care Inspectorate collaborate with education colleagues in that work, in order to avoid duplication and to acknowledge the sound grounding of education policy that already exists in the area, particularly in relation to trauma-informed schools and the wider adverse childhood experiences agenda, which Rona Mackay mentioned.

The strength of the barnahus model is, of course, that children are able to give evidence in the most comfortable environment possible, thereby avoiding retraumatisation. The taking of evidence on commission is part of the answer for Scotland, but a look again at the practicalities of location and environment, as Lady Dorrian specified in the original practice note, should be the next step in ensuring consistency of provision in that respect across the country. That should be the focus of the bill, if we are really to improve children’s and vulnerable witnesses’ experiences of the Scottish justice system.

Lady Dorrian said in 2017:

“In all aspects of the work being undertaken we should never lose sight of the underlying aim. That is to secure a justice system which allows the guilt or innocence of an accused to be determined on the basis of the best possible quality of evidence available, in a manner that does not cause undue distress or harm to any participant in the process, and which is transparently fair, efficient and effective.”

Transparency, fairness and dignity in order to protect our vulnerable witnesses and to ensure that Scotland’s children are spared the trauma of giving evidence in court are all aims that I am glad every MSP can support.

16:17

Annie Wells (Glasgow) (Con): I am very pleased to speak in this stage 1 debate. Although I am not a member of the Justice Committee, I am aware of how important the bill is to victims and witnesses of crime. Too many people find themselves being retraumatised by the court process. We all agree that that is not right. In supporting the reform, we are taking a positive step in the right direction.

However, there is still more to do; I stress that Scotland must become the gold standard for victim support. The bill aims to improve how children and vulnerable witnesses experience criminal trials by enabling greater use of pre-recorded evidence. Significantly, the bill's focus is on child witnesses in the most serious cases, unless there is a significant

“prejudice to the fairness of the hearing”,

or if the child witness is “aged 12 or over” and

“expresses a wish to give evidence”

in a way that would serve their “best interests”.

Although the current methods of pre-recording will continue to be used, the bill also aims to improve the process of taking evidence by commissioner in all cases, not only when the new rule applies. That is a welcome move. Children's groups have been clear that the justice system in its current form causes distress and trauma. The charity Children 1st likened it to what was in place during the “Victorian era”.

Not only should the introduction of pre-recording reduce the trauma that is caused to child witnesses—it should also improve the quality of justice. A review of criminal procedure by the court service concluded that, for children in particular, traditional examination and cross-examination techniques in court are more likely to produce inaccurate and unreliable accounts of their experiences. That view was supported by the Lord Justice Clerk, who stated the importance of getting evidence from children as close to the event as possible. Confusion can arise from memory loss, which increases the likelihood that the witness will agree with the questioner when they cannot remember something.

Importantly, and of reassurance to people who are concerned about potential miscarriages of justice, research has shown that pre-recording evidence does not make jurors more sympathetic, and that use of pre-recorded evidence from child witnesses has no significant effect on the outcome of the trial.

There is always a need to put checks and balances in place. We support that, too. The Faculty of Advocates made that point and stressed

the requirement for sufficient safeguards to be put in place

“to enable the rule to operate fairly”

and so that evidence can be tested on an informed basis.

The bill gives ministers the power to expand the rule to adult vulnerable witnesses in cases of rape, sexual assault and domestic abuse. It is obvious why, in such cases, a victim would not want to give evidence in the presence of the alleged perpetrator, whether in the courtroom or via a live television link. I ask members to think about whether they or a loved one would really wish to go through the heartache and pain of having to relive what happened over and over again. Sometimes, the process can take years to come to an end, so it is no surprise that victims say that the process leaves them traumatised.

I appreciate the fact that the process for applying for special measures will be simplified. I also understand that the courts system is under huge strain and that reforms need to be implemented in an effective and manageable way. Undeniably, however, it will be disappointing to women who are affected by those heinous crimes that they will have to wait until the mid-2020s to be offered the same reforms. Rape Crisis Scotland stated that the current approach to taking evidence from adult vulnerable witnesses causes significant distress and trauma, with frequent significant delays in cases coming to trial. Trials can be cancelled at the last minute, which puts more strain and pressure on the witnesses.

On potential changes to put victims at the heart of the justice system, I strongly support the introduction of the one-sheriff system for victims of rape and sexual assault, which the Scottish Conservatives have previously called for in cases of domestic abuse. As things stand, victims of those crimes can have their cases and related proceedings heard by various judges and so have to relive their stories over and over again. It is vital that we look at the one-sheriff approach, which has been trialled successfully elsewhere, and assess the impact that it would have on reducing retraumatisation. I therefore ask the cabinet secretary for his thoughts on how a one-sheriff system could be implemented for such cases.

I reiterate my support for the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill at stage 1. To give evidence as a victim or witness is difficult enough; to do so as a child or as the victim of domestic violence, rape or sexual assault is even more difficult. It is fundamentally important that we support victims of crime. The bill will play an important role in that.

That said, there is still much more to do, so we must strive to reach a point when Scotland is the gold standard for victim support.

16:22

Shona Robison (Dundee City East) (SNP): As a member of the Justice Committee, I support the general principles of the bill and welcome the consensus that has been demonstrated in the debate.

The bill forms part of a much wider and more ambitious programme of work being undertaken to improve and modernise the experience of victims and witnesses in the justice system. The bill's objective is to improve how children and vulnerable witnesses participate in the criminal justice system, with greater use of pre-recorded evidence. It would apply in solemn cases, such as those that other members have mentioned.

As has also been said, few can imagine being an already traumatised young child, who is interviewed, sometimes multiple times, or who has to relive harrowing events at a later date through the traditional judicial processes for giving evidence. The bill will help to remove any legislative obstacles that would have a detrimental effect on the greater use of pre-recorded evidence and that includes the power to make the pre-recording of evidence available to adults who are deemed to be vulnerable witnesses in solemn cases.

The bill is supported widely, including by the judiciary and many third sector organisations. I am pleased that the Scottish Government is committed to looking at how the Scandinavian barnahus principles could work in the context of Scotland's child protection, health and justice system. Unfortunately, due to a prior engagement, I was the only member of the committee not to see the barnahus model in real life in Norway, but I spoke to other committee members and they were very impressed with the model's potential.

The model was adopted because it was recognised that multiple agencies' information sharing and co-ordination were poor and it was introduced to overcome those challenges. Children were previously required to give multiple interviews to professionals from each agency, thereby damaging the reliability of the evidence that they were able to provide, and they were being traumatised by having to give testimony in court. Consequently, few suspected perpetrators were charged and convicted and victims were not adequately supported to recover from the trauma of sexual abuse.

The barnahus model offers all the services under one roof in a non-threatening and child-friendly environment. A trauma-trained interviewer

is with the victim, and on a video link are a range of professionals, including the police, child protection and the prosecutor and defence solicitors. They communicate via an earpiece with the interviewer who relays questions in a child-friendly manner that is consistent with the principles of forensic interviewing. It is vital that the interview is carried out as quickly as possible after the alleged offence; the children's charity Children 1st agrees that it is in the best interests of the child to give their complete testimony as soon as possible. It minimises the anxiety that is felt by children and allows directed support networks to work with children to improve their welfare.

Although I fully understand that some stakeholders that are involved in the consultation want quicker progress towards the barnahus model, it is crucial to get it right and to take a phased approach. The Scottish Government's proposed phased approach could initially be in the form of a pilot scheme, and it would allow the system to absorb change while minimising risk both to the system and, importantly, to individual cases. Our justice system is not identical to those in Scandinavia and we have to recognise that.

I therefore welcome the Scottish Government's commissioning of Healthcare Improvement Scotland with the Care Inspectorate to develop Scotland-specific standards for the barnahus approach—that is the right way to proceed. The specific standards would balance a child's right to recovery with their right to access justice in a child-centred way, in line with the United Nations Convention on the Rights of the Child and, of course, the getting it right for every child approach. I am sure that progress can be made towards adopting the best elements of that system here in Scotland, and I look forward to progress in the foreseeable future.

16:27

Rhoda Grant (Highlands and Islands) (Lab): I, like other speakers, welcome the bill. Anything that makes giving evidence easier for children and vulnerable witnesses has to be welcomed. The bill is geared towards children, but it must be wider, to recognise the nature of the crime and how that can make witnesses vulnerable.

I will speak about domestic abuse, as many people have done this afternoon. I welcome the cabinet secretary's comments on considering amending the bill to make sure that the process is available in cases of domestic abuse where children are giving evidence. That is the right thing to do, rather than introducing that at a later date. The trauma that is attached to domestic abuse is well understood for adults, but not for children. It has a long-lasting effect on their development, so

it is really important that, where possible, we limit the trauma as much as possible.

We can imagine a case in which a child is in court giving evidence against a parent—having that person in the same room makes the evidence giving very difficult. It is serious, but quite often the justice system does not treat domestic abuse as serious. That point was made by Daniel Johnson; most cases are summary cases. The NSPCC noted that a tiny minority of domestic abuse cases are heard in solemn court proceedings; therefore, if the first phase of reform is limited solely to solemn cases, a large number of vulnerable children who will potentially give evidence in domestic abuse cases will not benefit or be protected under this system.

It is important that the ability to pre-record evidence is extended to all domestic abuse cases, regardless of which court they are heard in. It should also be extended to all child witnesses. A court case can take one or two years to come to court and young children will forget the evidence that they have to give, whereas if their evidence were recorded at the time, when the incident was fresh in their minds, they would be much better witnesses. Children in all court cases should be protected, but particularly those involved in domestic abuse cases.

That goes for adults as well, and particularly those who are victims of domestic abuse. Domestic abuse relies on coercion and control and therefore coming face to face with their abuser in court can have a devastating effect on the victim giving evidence in the case. It is right that the bill focuses on children, who need our protection. However, it should be extended to adults in not only domestic abuse cases, but cases where witnesses are vulnerable adults, people with learning difficulties or people with poor physical or mental health. Those people should be afforded the same protections as children, because the way in which they give evidence at a later date could be compromised if they are not.

Humza Yousaf: Although we are moving towards a presumption of evidence by commission, which we will implement in phases in cases involving adults who are deemed to be vulnerable, it is important to say that as things stand, if there is an application, evidence from adults can already be taken by commission.

Rhoda Grant: I hope that the bill makes that the norm and that that is applied to adult vulnerable witnesses.

Other members talked about rape and sexual abuse cases. That is another area to which the approach should be extended. Those crimes leave victims extremely vulnerable. We have heard during parliamentary debates stories in which

victims have said that the process of going through court was worse than the damage done by the original crime. That is unacceptable. We need to protect people.

I have constituents in the Highlands who have had to go to Glasgow because rape and sexual abuse crime is tried in the High Court. That is not local and those cases can be cancelled at very short notice. In some cases, women have had to arrange childminding, cover for their jobs and somewhere to stay in Glasgow—as well as somewhere to stay for those who are giving them support, the cost of which is not always covered—and they have had to cancel it all at the last minute. If their evidence was recorded, that would not happen.

I know that I am short of time, Presiding Officer, and forgive me if I abuse my position in the debate, but I want to flag up to the Cabinet Secretary for Justice the issue of custody of children who have suffered domestic abuse. Custody is given to abusive partners. I know that it is an issue that the Scottish Government is considering and that the bill is perhaps not the right place to address it. However, I do not believe that a domestic abuser should automatically get custody of their child. Indeed, the opposite is the case: the abuser should not get custody until they can prove to the courts and to the victims of their abuse that they will not harm the child or use the custody to further promote their abuse.

The bill is welcome and overdue. It is striking that Children 1st talked about the court process being an adverse childhood experience, rather than the crime that the child had suffered. Justice should be cathartic, rather than abusive. I hope that the bill will be a step in that direction.

The Presiding Officer (Ken Macintosh): That brings us to the debate's concluding remarks.

16:34

Daniel Johnson: It has been a useful and very consensual debate. The touchstone is the trauma and length of time that the bill seeks to eliminate. The convener and deputy convener of the Justice Committee, as well as other members such as John Finnie, have brought to life the importance of reducing trauma and the amount of time between the event that is witnessed and the gathering of evidence, because reliability is key.

Many members have made the point that our courts reflect a Victorian way of doing things. The bill is an important step towards modernising our courts and our justice system.

It is important to look at the reliability of what is being proposed, and I thank Annie Wells for reminding us that the bill proposes a sound way of

taking evidence. In such consensual debates, it is easy for us to leap to conclusions, but it is important to bear witness that the evidence shows that pre-recording evidence is reliable and does not unduly sway juries one way or another.

It is also important to reflect on context, and for doing so I thank my colleague Johann Lamont. We should view the measures not in isolation but in the context of our wider services and the wider circumstances that people find themselves in.

I particularly thank my colleague Fulton MacGregor for his remarks. He provided some of the context. The example that he gave of the child and the clear trauma that providing evidence gave that individual brought to life the importance of delivering the proposals as quickly and efficiently as we can. He also provided some of the technical detail about the JIIs that I was not able to cover in my introductory remarks.

When we examine what takes place in the initial contact that a child or vulnerable person has with the authorities—the integrated approach of social work and the police, the training and the focus that is happening—we begin to see some of the next steps that we can take. Most important among the proposed measures is the proposal about how we can promote such evidence as evidence in chief in the courts, meaning that direct evidence is not required from individual witnesses.

I thank my colleagues Jenny Gilruth, Rona Mackay and Shona Robison for describing the barnahus model that we saw, which means that I do not have to. When we compare and contrast the JII with the barnahus model both generally and specifically in Norway—its single interview in an integrated facility where other forensic procedures can take place and the three-year training that the police officers in the barnahus in Norway have to undertake, which involves taking a bachelor's degree, as opposed to the one year that we are just proposing and not even delivering for the people who undertake JIIs—we can see how a JII could conform to the barnahus model. We could deliver much of what we seek from that model through a JII, and I urge the Government to look at how that can be done.

Much is made of the ability to test evidence and the need for cross-examination. In Norway, the fact that a second interview can be requested shows how we could deliver the testing of the evidence that is so important to our legal system. I urge the Government to look at that.

John Finnie: I am grateful to the member for taking an intervention. Does the member recall—as I do—that, although there is the facility in the barnahus model to request a second interview, such is the efficiency of the initial interview that a

second one is very rarely called for by the defence?

Daniel Johnson: I thank my colleague for that intervention. I was struck by that point, too. It points to the place that we could arrive at if we are so minded.

The key point—it is one that many members have made—is that we must not see the bill as an end point but must push to go further. The comments that have been made about domestic abuse cases, which have been acknowledged by the cabinet secretary, point to the fact that we must strive to go as far as we possibly can.

Although it is a good bill, its logic leads to a danger of defining vulnerability by reference to the charge or the court in which an individual gives evidence, which is clearly not right. An individual who gives evidence is not traumatised because of a particular charge or court; they are traumatised because they are having to recount the experience that they had. We must therefore expand the measures as widely as possible and make them the norm. It is self-evident that expansion to other courts and charges is the next step.

It is a good bill, but it has to be the first step on the journey, not the last.

16:40

Gordon Lindhurst (Lothian) (Con): There has been interesting discussion in the chamber today, and much agreement has been evident in the speeches that we have heard. In particular, there is agreement that the bill could improve not only the experience of the justice system but the quality of the evidence—something that is in the interests of not just witnesses and victims but justice itself.

To put it simply, it is better to take evidence closer to the time of events, while memories are still fresh. I say that from direct experience as an advocate in many, many criminal trials before our courts. Video evidence that is taken at the time can, therefore, be of more value than evidence that is taken directly from a witness many months—if not years—later, as members have said. The obvious answer to that, on one level, is that court proceedings should take place more quickly. Indeed, the Faculty of Advocates made that point during evidence taking.

Our court system has been referred to as “Victorian”. I am not sure that I recognise that as an accurate description of where we are—and I say that as someone who has dealt with child witnesses in a courtroom setting. Indeed, I have dealt with victims of sexual offences who were as young as three at the time of the commission of the offences. Changes have been made in Scotland over the past 40 years or more, such as

the introduction of the standard special measures that are available, which are described in the committee's report. For example, live television video links allow evidence to be taken from outside the courtroom.

However, there is always room for improvement—there is no doubt about that. As Liam Kerr pointed out, the bill, in effect, extends the protections that are already in place. It can be viewed as a bill that takes sensible next steps. Ensuring the participation of witnesses, especially vulnerable people, is vital to the effective pursuit of justice. Maurice Corry rightly referred to the need to bear in mind the difficult balancing act that must take place if the outcome is to be just and fair and no witness is unnecessarily to suffer distress in the process.

In trying to strike that balance, it is critical that we get it right for all the parties who are involved in criminal proceedings, because, as well as efforts to reduce the stress that vulnerable witnesses often feel and thereby improve the evidence that is available from such witnesses, there must be safeguards to prevent miscarriages of justice, as Annie Wells said. There is, of course, no single, one and only consideration when it comes to dealing with justice and crime, but an honest desire to find out the truth of what happened needs to be one of the overriding considerations. The committee received evidence of that.

The issue is particularly pertinent because the success of the bill will depend on the child's evidence being tested sufficiently and on an informed basis. That will involve full disclosure of evidence at an early stage. As the bill progresses, it is important that concerns about current trends on late disclosure be addressed. Late disclosure can result in a need to revisit evidence with a witness, which defeats the purpose of the bill.

If we are to get things right, the answers might not be entirely simple and straightforward. Changes might need to be informed by the experience that follows the bill. That is why I welcome the Cabinet Secretary for Justice's commitment to take a careful approach to the changes and to the timetable for implementation, which will include reaching out further to all children who give evidence and to adult vulnerable witnesses.

As Annie Wells pointed out, we need a more detailed timetable, with thought given to which groups of people could benefit through these measures. As the committee's report highlights, it is partly a matter of resources. In any country, starving the justice system and the courts of the resources that they need is a false economy. That applies as much to Scotland as to anywhere else. As has already been mentioned, the risk is that we overwhelm the system, meaning that procedures

such as commissions do not operate as they should and the aims of the bill—the interests of vulnerable witnesses and justice—are not met as a result. That would be counterproductive and could defeat the good intentions behind the desire to immediately include all vulnerable groups.

Like Liam Kerr, I hope that the evaluation evidence will be shared with the committee, as was promised, so that sufficient parliamentary scrutiny can be applied to any consideration of further extending the bill's provisions. That could facilitate the speedy extension of the provisions, as and when appropriate, to other witnesses.

With my colleagues, I look forward to developments and to the cabinet secretary's further careful consideration of these matters.

16:46

Humza Yousaf: The debate has been excellent: it has been very constructive, insightful and, at times, extraordinarily powerful. It is sometimes worth taking a step back. I think that, despite our various differences in a number of policy areas, every single one of us is in politics to make a difference to the most vulnerable people across Scotland, and that is what the bill very much aims to do.

I want to pick up on a point that Liam McArthur made at the beginning of the debate about the consensus on the bill, which is a good thing. Having been in front of the committee, I can say that there is no lack of scrutiny of the bill. That is also good, and I have every faith in my Opposition colleagues robustly scrutinising the bill. That consensus has not come about by accident; it has resulted from a lot of reflection and from taking people on the journey with us. It is great that we have progressively minded people in the legal institutions that we put our faith in, from the Lord Advocate to the Lord President to the Lord Justice Clerk and many others. It is great that we have consensus, but that certainly has not come about by magic by any stretch of the imagination.

I will try to pick up on many of the points that have been raised in the debate. Members from almost every political party suggested that the Government consider extending the list in the bill to include domestic abuse cases. I reiterate that I am seriously considering that as the direction of travel in which the Government will move, but I have to consider the implications. I highlight again some of the numbers. Four per cent of cases that were marked for trial on indictment in the sheriff court were domestic abuse cases; 0.9 per cent were marked for trial in the High Court. The percentages are small, of course, but we are talking about 150 High Court cases and, I think, 710 sheriff and jury cases. Not all such cases will

necessarily involve a child witness but, nonetheless, I have to take those considerations into account if there is phased implementation. Notwithstanding all of that, I am quite confident that we can get to a position at which we will, I hope, extend the list.

Daniel Johnson: Is it worth inquiring into the numbers of cases that involve children? We could therefore get an idea of the resources that might be required for implementation.

Humza Yousaf: I am doing that as part of my consideration of the issue. Despite that, that is the direction that the Government should absolutely go in and in which I will take the Government if I can.

Another issue that I think has been raised by members from every political party is the barnahus model and Scotland fully adopting the barnahus concept. It is the Scottish Government's intention to implement barnahus. It is really important for it to be recognised that we are making improvements and that we are making our way towards that approach. Clearly, in order to get there, we will have to take others, including our legal institutions, with us along the way.

When John Finnie intervened during Daniel Johnson's closing speech, he made a very good point about secondary interviews not often being taken up. However, I know that John Finnie recognises that our system is very different from an inquisitorial system. Our adversarial system is not decades but centuries old. That legal tradition is not to be scoffed at by any stretch of the imagination and it has served us well. Although it presents inherent difficulties, they are not insurmountable, and I take Lady Dorrian's point that, in the long term, we should have one forensic interview.

John Finnie: On joint investigative interviews, I am not being critical of the practitioners, but if we can enhance the quality of the system, we are likely to reduce the trauma or the requirement for a revisiting interview.

Humza Yousaf: John Finnie makes that point very well. I will come to joint investigative interviews shortly.

I will finish off my point about the barnahus model. On Rona Mackay's point, significant work is under way to explore the barnahus concept, and I am happy to update the Justice Committee on our work to develop—I hope by April—Scotland-specific standards for barnahus. I will therefore go back to the Justice Committee to give further detail on how we are getting on with that.

Liam McArthur: I am very encouraged by what the cabinet secretary is saying. Does he accept that, by making it explicit that not only the direction

of travel but the ultimate objective is to put in place the barnahus concept, those who have concerns about how that is achieved will have certainty about where we are going? We can then work on the solutions to the problems, rather than get overly vexed about the problems themselves.

Humza Yousaf: Yes. I am more than happy to say on the record that that is our destination. We want to have barnahus—or a bairn's hoose or whatever members want to call it. I again make the point that the barnahus model is different in each of the jurisdictions in which it has been adopted, depending on the legal framework. That point should not be lost.

Members have made very valid points about joint investigative interviews. I have heard from the Lord Advocate, the Solicitor General for Scotland and many in the legal professional about the quality—and, sometimes, the lack of quality—of joint investigative interviews.

Members will probably know that the "Evidence and Procedure Review Child and Vulnerable Witnesses Project Joint Investigative Interviews Work-stream Project Report" made 33 recommendations on how the current JII model could be strengthened. The recommendations are being progressed by the relevant organisations and multi-agency working groups have been established. The Scottish Government has also committed more than £300,000 to a joint project, led by Police Scotland and Social Work Scotland, which will create a revised JII model and develop an approach to investigative interviewing of children that is trauma informed and achieves best evidence through more robust planning and interview techniques.

All that said, I was struck by Jenny Gilruth's comment about our partners being wider than just those in the legal system and our need to look at education and health improvement. I will reflect on her point and see how we can include those wider sectors in some of our work.

I thank the committee and all the members who spoke in the debate for their important recognition of the fact that we must have a phased implementation approach. We all want to get to a place where everybody who is vulnerable—child or adult—has the opportunity to give evidence by commission, which they can do on application as things stand, and where the presumption is in favour of their giving evidence in a trauma-informed way, including through pre-recorded evidence by commissioner. Equally, we cannot afford to overwhelm the system—as, I think, John Finnie said. We must get it right, not rush it.

Members across the chamber are, of course, right to press the Government for further detail on

the implementation plan. Once we have that, I will, of course, share it with members.

Daniel Johnson and other members spoke about the ground rules hearing. I reiterate what I said in my opening speech. There may be benefit in lodging questions in advance, but I warn against any suggestion that such a requirement should be in primary legislation. I was struck by Lady Dorrian's stage 1 evidence that

"The flexibility that would be maintained by having those recommendations on the ground rules hearing set out in the practice note would be much more beneficial than trying to put those into primary legislation, which would be much more difficult to change."—[*Official Report, Justice Committee*, 18 December 2018; c 10.]

I am pleased that the committee is so minded, too.

I turn to other issues that were raised. Many members, including Daniel Johnson in his closing speech, made the valid point that, although we are—for right, good and understandable reasons—focusing on solemn cases because they are the most serious cases, there is no doubt that witnesses and complainers in summary cases can be vulnerable. As Rhoda Grant said, the majority of domestic abuse cases go through summary proceedings. The Government will reflect on that valid point.

Extending the approach to summary cases would have serious implications for resources and other matters, which is why we are dealing with solemn cases first, after which we will perhaps look at summary cases. However, the point about vulnerability is not lost and is well made by members across the chamber. Daniel Johnson's point about measurements of vulnerability is also something for us to reflect on.

I will reflect on a number of other points that were made. Annie Wells made a powerful speech, as did others, about taking a holistic approach to victim support. From the moment that I was appointed as the Cabinet Secretary for Justice, I have ensured that we look to strengthen the support that we give victims. Victim Support Scotland is a key player in that, as are Rape Crisis Scotland, Scottish Women's Aid and many other organisations.

The victims task force will be a key group, and the Justice Committee has already asked me to go to future meetings to update the Parliament on the task force's work, which I have agreed to do. I extend to Annie Wells and any other member who is not on that committee the opportunity to have a briefing and an update on the task force and the difference that we are making and to suggest issues that we should consider.

Annie Wells asked for my opinion on the one-sheriff system for certain cases. I noted and will reflect on what she said. I know that she is aware

that court programming, including the scheduling of judges, is very much a matter for the Lord President, whose territory I am always wary of stepping on. If she has not done so, Annie Wells might want to raise the issue directly with him.

Substantial points were made about the need for trauma-informed training. Jenny Gilruth and Shona Robison made their points about that well, as did other members across the chamber. It is important to approach that in a joined-up way. The Deputy First Minister, who is on my right, and I are often in meetings together to talk about the trauma-informed approach, the ACEs agenda and overlapping governmental responsibilities.

Developing an ACE and trauma-informed workforce, including implementing national trauma training, is a programme for government commitment. In June last year, the Deputy First Minister announced £1.35 million of investment to launch a national trauma training programme, which involves training that is consistent with the transforming psychological trauma framework. Specific lead projects have been identified to raise awareness among medical professionals and those in the criminal justice system of how to handle trauma and adverse childhood experiences. On 30 January, the Judicial Institute for Scotland announced plans to provide new refresher training for all sheriffs and judges ahead of the provisions on the new domestic abuse offence coming into force.

The Scottish Government plans to host a round table early this year that will allow NHS Education for Scotland and the Law Society of Scotland, together with many other stakeholders from the legal profession, to discuss opportunities to develop a bespoke trauma-informed training resource for solicitors that will count towards continuing professional development. We take seriously the points about the trauma-informed approach and trauma-informed training.

I end by thanking Fulton MacGregor for his very powerful account, which he received from his constituent, of the impact that going through a court process can have on a vulnerable individual, especially a child. That is the reason why we—not just the Scottish Government, but all of us in the Parliament who support the bill—are doing what we are doing.

I thank members for their detailed scrutiny of the bill, which has yielded many suggestions on which the Government will reflect. I am pleased to say that we will do so with an absolutely open mind. I have greatly enjoyed the stage 1 debate and look forward to stage 2, when we will look at the amendments, and to working with members from across the chamber to ensure that we get our criminal justice system right for the most vulnerable people in our society.

Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill: Financial Resolution

17:00

The Presiding Officer (Ken Macintosh): The next item of business is consideration of motion S5M-15277, in the name of Derek Mackay, on the financial resolution for the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—[*Humza Yousaf*]

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

Business Motion

17:01

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-15724, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, which sets out changes to this week's business.

Motion moved,

That the Parliament agrees to the following revisions to the programme of business for:

(a) Wednesday 6 February 2019—

delete

5.15 pm Decision Time

insert

5.00 pm Decision Time

(b) Thursday 7 February 2019—

delete

2.30 pm Parliamentary Bureau Motions

2.30 pm Stage 1 Debate: Management of Offenders (Scotland) Bill

insert

2.00 pm Parliamentary Bureau Motions

2.00 pm Ministerial Statement: Glasgow City Region Deal – Glasgow Airport Access Project

followed by Stage 1 Debate: Management of Offenders (Scotland) Bill.—[*Graeme Dey.*]

Motion agreed to.

Point of Order

17:01

Jenny Marra (North East Scotland) (Lab): On a point of order, Presiding Officer. I want to raise a point of order under rule 8.17 of the standing orders. In response to my question earlier today on the failure of Scottish Enterprise to provide a loan to McGill that would have saved 450 jobs, the Minister for Business, Fair Work and Skills said that McGill

“did not provide the required financial information in time for the appropriate due diligence to be undertaken”.

I understand that to be completely false.

Members: Oh!

Jenny Marra: Today, the minister said that Scottish Enterprise asked for a business plan on 18 December 2018, which was the day that KPMG issued its report. However, there was no request for anything from McGill on that day.

At a meeting on 14 January 2019, Scottish Enterprise asked McGill to provide a two-year financial model, a turnaround plan and a strategic review, which it provided four days later, on 18 January. I have a copy of that email.

The minister hides behind bureaucratic timescales because he has been negligent in his duty to save 450 jobs with a £2 million loan. Yesterday, we heard that the Scottish Government has put together a £15 million funding package to prevent the loss of 300 jobs at Texas Instruments in Inverclyde. The fact that the much lesser amount of £2 million could not be found to save 450 jobs is a disgrace and will be a source of real frustration to the workers and the people who tried to save the company.

I hope that the minister will correct the record, but I am bitterly disappointed that he did not act to save the company.

The Presiding Officer (Ken Macintosh): I thank Ms Marra for giving me a few minutes' notice of her point of order. I will make a couple of remarks in response.

First, all members have an obligation to be truthful and accurate in their contributions in the chamber. I also remind all members that they should treat each other with respect.

In the light of her comments, if Ms Marra disputes the accuracy of the minister's reply I suggest that she pursues the point through intervening on him in parliamentary questions, lodging written or oral questions or writing to him. I hope that she will consider those to be appropriate routes.

Decision Time

17:04

The Presiding Officer (Ken Macintosh): The first question is, that motion S5M-15699, in the name of Humza Yousaf, on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill at stage 1, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill.

The Presiding Officer: The final question is, that motion S5M-15277, in the name of Derek Mackay, on the financial resolution to the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill, be agreed to.

Motion agreed to,

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

World Cancer Day 2019

The Deputy Presiding Officer (Linda Fabiani): The final item of business is a members' business debate on motion S5M-15410, in the name of Emma Harper, on world cancer day 2019. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes that 4 February 2019 marks World Cancer Day; understands that one-in-two people will get cancer in their lifetime but that, over the last, 40 years survival rates have doubled, with half of people now surviving cancer thanks to the great progress that research has made; acknowledges the importance of early detection; understands the need for continued action to help prevent cancers; believes that 40% of cases could be prevented by positive action, including by not smoking and keeping a healthy bodyweight, and notes that Members can show their support for World Cancer Day through wearing its unity band.

17:06

Emma Harper (South Scotland) (SNP): I am pleased to lead the debate, noting that yesterday—4 February 2019—marked world cancer day. I thank my colleagues who supported my motion, and I am looking forward to everybody's contributions.

I would like to thank Cancer Research UK for its media support in print and social media in the past week, as well as ITV Border in my South Scotland region for its coverage of my sister's primary breast cancer treatment and recovery journey. Raising awareness was the whole purpose.

Cancer is a global subject that is possibly too big to cover in the time allocated. In my previous career as an operating room nurse, I assisted with tumour removal and tissue repair daily. One in two people gets cancer in their lifetime but, over the past 40 years, survival rates have doubled and half the people who are diagnosed now survive cancer, thanks to the great progress that has been made in cancer research.

The theme for this year's world cancer day is unity. I am wearing my unity band because we must unite to beat cancer. No single person, organisation or country is going to beat cancer alone. We must all unite and work together to make faster progress on achieving the goal of three out of four people surviving cancer by 2034.

As Cancer Research UK has outlined, four in 10 cancers could be prevented by actions such as not smoking, keeping a healthy body weight, cutting back on alcohol, eating a healthy balanced diet, keeping active and enjoying the sun safely—I say that as somebody who needs factor 50, at least, when she goes in the sun.

We need to raise awareness of the reduced uptake of cervical cancer screening in Scotland, which was debated recently in Parliament. It is extremely important that women accept their national health service invitation to attend cervical screening. In Dumfries and Galloway, research has been conducted on a simple home self-test for human papilloma virus, which is the cause of 99.7 per cent of cervical cancers. There are 6,000 women in the NHS Dumfries and Galloway area alone who have not taken up their cervical screening invitation, and I encourage them all to do so. That highlights the importance of research to make screening easier, less uncomfortable, more accessible and easier to engage with. When cancer is detected early, treatment is more successful.

I want to highlight the importance of action on smoking. As convener of the cross-party group on lung health and someone who has a sister who is a respiratory nurse consultant, I am keen to support any activity that we can implement to help people to quit smoking. I thank Cancer Research UK for the briefing that it provided ahead of the debate, according to which smoking is the biggest preventable cause of cancer and is linked to 15 cancer types. Unfortunately, smoking prevalence is still close to 40 per cent in some groups in Scotland, and it is a greater cause of health inequality than social position. It is responsible for half the difference in life expectancy between those from the most and those from the least deprived backgrounds.

Smoking cessation services are extremely important in reducing smoking prevalence. NHS stop smoking services are successful in reaching people from communities that have a lower success rate in quitting smoking. My mum was a smoker for 40 years, and she has been able to stop with help from the local NHS stop smoking service. She has achieved non-smoking status for the past 10 years, which is fantastic.

Cancer Research UK is calling on the Scottish Government to ensure local and national investment in the quit your way services so that they are maintained for the duration of Scotland's five-year tobacco control strategy, and I echo those calls. Last year, the Scottish Government published "A healthier future: Scotland's diet and healthy weight delivery plan", which was backed by £42 million of investment and has the aim of improving the health of the people of Scotland. It has a particular focus on obesity, which in Scotland is the second-biggest cause of cancer after smoking. Obesity is linked to 13 types of cancer, such as breast and bowel cancers and some of the hardest to treat ones, such as pancreatic and oesophageal cancers. Pancreatic cancer is particularly difficult to diagnose. I recognise my colleague Clare Adamson's

continued efforts to highlight pancreatic cancer, and I am sure that she will expand more on that in her speech.

It is interesting to note that only one in four Scots knows that being overweight could put them at risk of cancer, which is particularly concerning given that Scotland has among the highest levels of obesity in the UK and that we are among the heaviest nations in Europe. I was therefore pleased that the Scottish Government published “A healthier future”, which sets out 67 action points, including reducing excessive junk food consumption, improving the health of our young people and providing better and easier access to healthier food for families on a low income, all of which are extremely welcome steps. Additionally, the plan calls on the UK Government to bring about a change to broadcasting laws to restrict the promotion of certain foods on television. I ask the Scottish Government to continue to push the UK Government to do that as soon as possible.

Last week, I, along with other members, had the privilege of taking part in a photograph for the organisation Make 2nds Count, and I was pleased to meet Lisa Fleming, who is the founder of the group. Make 2nds Count is a charity in Edinburgh that was created to raise funds to support women and men with secondary breast cancer. One of the charity’s other principal aims is to raise awareness of secondary breast cancer. One woman described how she felt “discarded” and said:

“We want to count, too. We need to be part of research and funding. I wouldn’t be here today without being part of a Perjeta trial.”

All the funds that Make 2nds Count raises go to the research team at the Medical Research Council institute of genetics and molecular medicine at the University of Edinburgh.

I do not have time to mention all the organisations that carry out important work with cancer patients and their families, but I would like to recognise some of the ones in my South Scotland region. In Dumfries and Galloway alone, 1,130 people are living with cancer and we have 530 cancer deaths each year. Dumfries and Galloway has the cancer information and support centre, which is a joint venture between Macmillan Cancer Support, the Big Lottery Fund and NHS Dumfries and Galloway. It offers confidential counselling and support information on living with cancer and on treatment, complementary therapies, stress management and relaxation tips, as well as links to local support groups where people can come together to share their experiences or just have a bit of company.

We also have Ayrshire Hospice, which is based in Ayr and which helps adults in Ayrshire and Arran with life-limiting illnesses such as cancer and other neurological conditions.

I thank the many organisations that are involved and that are made up of extremely hard-working volunteers and staff who work tirelessly together to support anyone who is affected by cancer. No single person, organisation or country will beat cancer on their own. We must all work together to make faster progress towards our goal of three out of four people surviving cancer by 2034. This year’s world cancer day theme is unity—it is about uniting people, communities, researchers and Governments to raise awareness and take action. We must unite in the fight against cancer.

The Deputy Presiding Officer: I remind members who wish to speak in the debate to have a wee check whether they have pressed their request-to-speak buttons, because uptake seems to be very low.

17:14

Miles Briggs (Lothian) (Con): I thank Emma Harper for securing the debate, and I thank all the organisations that have provided briefings for it.

I found the story of Emma Harper’s sister, Buffy, lovely and uplifting. The member has outlined what happened; my point is that, as the various campaigns go forward and as we encourage our fellow Scots to buy unity bands and raise funds for clinical research, it is vital that we show the human side to this issue.

There cannot be many in the chamber who have not been touched by cancer or who do not have their own cancer story to tell. I shared mine in my maiden speech, when I talked about losing my mother to breast cancer when I was seven. World cancer day therefore presents an opportunity for all of us to recommit ourselves and our country to tackling cancer and ensuring that people who have cancer live as long and as good a life as possible.

Yesterday, as part of world cancer day, I and the public health minister visited the Edinburgh Maggie’s centre and the Edinburgh cancer research centre. I pay tribute to all the charities and volunteers across Scotland who work to support people—and their families—as they go through a cancer journey. I know that we are all wearing our unity bands, and I pay tribute to everyone who has helped to fundraise in whatever way and to support cancer charities in delivering vital care and undertaking research.

Yesterday, I also met a constituent from Livingston who was about to start a five-week treatment for bowel cancer. She highlighted a number of points that I think are key to the debate, which I said that I would raise this evening. We have fantastic cancer centres, but we often forget the challenges that are faced by those who are undergoing cancer treatment, some of which I

have been struck by in conversations that I have had. The issue is not necessarily the treatment itself, but aspects such as transport. There have been certain demographic changes in Scotland, with a number of adults not having children and a larger percentage of people living on their own, and those commencing their cancer treatment are told that they will need someone to drive them places, help them with tasks or support them at home. The message that came over loud and clear from my constituent was that, in her case, that someone did not exist.

It is therefore important that we develop a truly holistic approach to those who are living with cancer and understand what they are going through in their treatment. Although we, in Scotland, have been world leading in the development of Maggie's centres and in the work of other charities in the field, it is still an area that we should look at and where we can improve. An ask that I make of the minister relates to the cancer patient experience survey. It has provided a great opportunity for us to hear about and learn from people's experiences, and I ask that any future surveys be fully funded.

On the subject of breast cancer, I, too, was delighted to meet the remarkable ladies from Make 2nds Count last week. I have been campaigning with some of those ladies on other issues, and I find it remarkable that, given everything that they are going through, they can still campaign with such guts and strength. However, I know from those with whom I have campaigned as part of the Perjeta campaign that secondary breast cancer is still very much forgotten about and an issue that needs to be discussed as we look at how we can improve research in this area. Only 5 to 9 per cent of national breast cancer research funding goes towards secondary breast cancer, and that situation has to change.

Nevertheless, there is no question but that there is good news to tell about breast cancer. Indeed, the statistics show that the mortality rate has improved dramatically over the past few decades. In Scotland, the rate in 2017 was 32.5 per 100,000 people whereas, in 1992, the rate was 53.5 per 100,000 people. As a nation, we have made real progress.

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

Miles Briggs: Absolutely.

World cancer day presents us with an opportunity to look at what is happening not only in Scotland but globally. I recently attended a conference in Oxford, where I met some Syrian cancer specialists. They told me about the tragedy of what is happening in their country—about the

loss of all their national health services and how that has diminished their opportunity to treat patients. What they hoped for on a day-to-day basis was just to have access to electricity. How we tackle such issues globally is important. One of the facts that they gave me was the number of the people in the world with cancer who have no pain relief whatsoever.

The Deputy Presiding Officer: Can you come to a close, please?

Miles Briggs: That situation is something that we and all those who are involved in world cancer day should consider so that we can collectively address it.

The Deputy Presiding Officer: I forgot to say that the speeches should be four minutes long, but I point that out now. We have a lot of speeches to get through.

17:20

Joan McAlpine (South Scotland) (SNP): I, too, congratulate Emma Harper on securing this debate on world cancer day. I also pay tribute to Emma's sister, Buffy, for her fight against breast cancer. Anyone who knows Buffy cannot fail to be impressed by her outgoing personality and optimism. We are all really pleased by her recovery.

I wanted to speak in the debate to pay tribute to Buffy and to the hundreds of thousands of people who are affected by cancer. Cancer Research UK and Emma Harper have pointed out that survival rates for cancer have improved significantly in the past two decades, which is in no small part due to the work of Cancer Research UK. A lot of that work is going on here, in Scotland, in our world-leading universities.

I have decided to support that work this month by signing up to Cancer Research UK's sugar free February campaign, which aims to beat cancer and sugar cravings. I have a hopelessly sweet tooth, but it did not take long for me to stop missing chocolate, cakes and even white wine, which is full of sugar. Of course, we know that, as Emma Harper said, being overweight can increase the risk of getting a range of cancers, so going sugar free sends an important message. I balance that, though, by saying that I have known many fit, slim, healthy people who led impeccable lifestyles but who got cancer. Cancer can therefore be as illogical as it can be unfair, which is also why we need more research.

Through my sugar free February fundraising, I have raised £160 so far. If I can convert a few of those pounds sterling raised into pounds and stones lost, I will be a very happy woman. Here is my pitch: I know that there might be quite a few

people in the chamber—not least my political opponents—who would appreciate seeing less of me; now they can achieve that by heading for my Cancer Research UK giving page on Facebook and Twitter. I will move on from that shameless pitch.

This is a day on which to remember that many people survive cancer and that the survival rates are, as we have heard, improving all the time. However, there are still huge challenges.

I will finish by talking about my most recent experience of cancer, which illustrates an issue that we need to talk about more: cancer in older people. My father, Jim, died of an unspecified cancer aged 83. He was a very fit and healthy man who never sat down. He was also a carer who contributed to his community and his church, and, like many older people, he spent his retirement making a difference to his family and the people around him. I know that we were lucky to have him for so long. Miles Briggs talked about losing his mother when he was a child, and many people who lost loved ones much earlier will probably wish that they had had their mum or dad as long as I had my dad. However, cancer in older people can be devastating—it is not true that it always progresses more slowly in older people. That was not the case with my dad's illness, because he was dead within a few weeks of his diagnosis and he suffered greatly.

Cancer affects a lot of older people. The number of people over 75 who are diagnosed with cancer is expected to rise by 80 per cent in the next 20 years, and the majority of cancer patients at the moment are over 65. Understanding the differences in how cancer develops and behaves in older people is an urgent issue for researchers. I was therefore very pleased to see the briefing from Cancer Research UK on its 2018 report "Advancing Care, Advancing Years: Improving cancer treatment and care for an ageing population."

Older people respond in different ways to both chemotherapy and pain relief. If there is no understanding of that, we cannot treat them effectively. Despite the prevalence of cancer in the elderly, treatment studies rarely include people older than 70, which means that doctors do not have clear guidance on what works best for such patients. One geriatrician said:

"In geriatrics, we are always having to extrapolate from treatment guidelines based on younger people, but the gap is most extreme in cancer care."

As our population ages, that is no longer acceptable. Older people live worthwhile lives—like my father, they are often the lynchpins of their community as, for example, volunteers and family carers. I am pleased that progress is being made and that the issue is being recognised, and I hope

that, in the next 20 years, we see advances in cancer care for everybody who suffers from the disease, no matter what age they are.

17:25

Neil Findlay (Lothian) (Lab): I thank Emma Harper for bringing the debate to the chamber. We all have a friend or relative—a wife, partner or child—who has been affected by cancer. On the face of it, the disease does not discriminate: it impacts on people, be they black, white, young, old, male or female. However, this is a day for telling our stories because that is the way in which we understand and empathise with people who are affected.

Cancer can be a brutal, uncompromising thing. My own da was a big bear of a man who worked as a bricklayer all his life. Cancer took him 15 years ago, at the age of 64. He was reduced to a shell of his former self as the disease worked its way through his body, and I miss him every day. Like too many people in communities such as mine, his life was cut short well before his time because of this disease.

However, the experience of dealing with cancer can also be life affirming and uplifting. When my wife Fiona was diagnosed with breast cancer three years ago—she is wearing my unity band today—I feared the worst. I wondered whether my dad's experience would be repeated. However, every day I thank the NHS staff, our family, friends and colleagues, every god that exists and—most important—my wife for that not happening and for the fact that today she is back to full fitness and is well. She was lucky but she was also fantastically and skilfully looked after by Dr Barber, nurse Laura and the entire team at the St John's oncology unit and the Western General radiotherapy unit.

Although the experience of my dad and other relatives, friends, neighbours and constituents has often been grim, brutal and life ending, for others, it can be life changing for positive reasons. Following the tears and emotion of my wife's diagnosis, within a few days our house was full of cards, flowers and visitors, with people offering their help and support. However, we could not help but reflect on how fortunate we were. How many people are there in all the communities that members represent who get a cancer diagnosis—maybe a terminal diagnosis—and return to a cold, empty house with no cards or flowers and who barely see a visitor or get any offers of help and support?

Think of the feeling of being told that you have cancer and having no one to talk to about it, no one to share your fears or tears, no one to go with you to hospital, make you a cup of tea, sit with you

during chemo or take you on the 26-mile journey to the Western General every day for radiotherapy. Trying to imagine that brutal loneliness haunts me every time I think about it.

My ambition—like all of us here in the week of world cancer day—is of course that we find a cure, but it is also that we improve prevention, especially in the most deprived communities in Scotland, where the mortality rate is 60 to 70 per cent higher, which is absolutely scandalous. That is where cancer discriminates—in communities such as the one where I live. I want us to get a grip on waiting times and I want us to show that addressing a disease that will affect one in two of our population over their lifetime is really, genuinely and truly a national priority.

17:28

Alison Johnstone (Lothian) (Green): I start by declaring that I am currently enjoying my third sugar-free February and I am finding it easier this year—and it is already 5 February.

World cancer day is not the only time that we can reflect on what we can do better to reduce the incidence of cancer and to improve survival rates and the quality of cancer care, but it is an important opportunity to step back and take stock—to reflect not only on how far we have come, but on how much more we have to do. I, too, thank Emma Harper for giving members in the chamber that opportunity today and I thank her sister Buffy for her inspiration.

As the motion notes, 40 per cent of cancers are preventable and being more physically active can play an important role in reducing cancer risk. We know that physical exercise helps to tackle obesity, which is the second biggest risk factor, but evidence shows that being more active can help to reduce cancer risk through other mechanisms too, such as by improving our digestive function, which can reduce the risk of colon cancer. There is approximately a 30 per cent lower risk of colon cancer and a 20 per cent lower risk of breast cancer associated with being active every day.

Active travel, and cycling in particular, is associated with the reduced risk of cancer. A 2017 study by the University of Glasgow looked at the impact of travelling to work by bike and on foot and found that commuting by bike, even partially, was associated with a lower risk of adverse health outcomes, including several cancers. Therefore, physical activity is really important for people who are waiting for, having or recovering from treatment. For example, exercising while undergoing cancer treatment can help to prevent decline in physical function and control cancer-related fatigue. We have to do all that we can to

make sure that such activity is available for everyone. The Scottish health survey shows that 65 per cent of adults meet

“the guidelines for Moderate or Physical Vigorous Activity”,

but that the figure falls to 56 per cent in our most deprived communities.

Members have heard me talk about investment in active travel before and I will raise it in the chamber again. Many car journeys in Scotland are short, and those journeys could be undertaken on foot or by bike: 33 per cent of such journeys are between 1 and 2 miles and 11 per cent are less than a mile. Let us promote walking and cycling because, in doing so, we reduce risks of cancer.

The motion rightly draws attention to the doubling of cancer survival rates over the past 40 years but, as Neil Findlay pointed out, an individual’s chances of getting and surviving cancer are still very much influenced by their socioeconomic situation. The incidence of cancer is more common in the most deprived areas of Scotland. Incidence rates have typically been 30 to 50 per cent higher in the most deprived areas than in the least deprived areas. The Macmillan Cancer Support and NHS National Services Scotland report, “Deprivation and Cancer Survival in Scotland: Technical Report” found that mortality from cancer is highest among those who are from the 20 per cent most deprived communities and that the difference was statistically significant for eight cancers, including breast, liver and lung cancers.

As the motion notes, early detection is one of the keys to successful treatment. We are still not doing enough to ensure that Scots who are experiencing deprivation are accessing screening programmes and I would be grateful if the minister could comment on that in his closing speech.

I thank the incredible campaigners from Make 2nds Count; I think that their visit last week had an impact on each and every one of us. I thank all those who work with the 50 per cent of us who have cancer. My mum was diagnosed with myeloma—a blood cancer—in 2014. She had a stem-cell transplant and is currently having her three-monthly check with haematology. She is very grateful to two Macmillan nurses who are based in Wester Hailes healthy living centre and she has spoken of not only the health support, but the support in so many other areas, from nutrition to exercise, to entitlements, to transport, to support in getting a blue badge—absolutely everything is covered. I thank all those people who are involved in helping people who have the disease.

World cancer day is a time to reflect on the huge progress that we have made in learning about a disease that will have an impact on about 50 per

cent of Scots. I look forward to hearing more from the minister in his closing speech about how we can tackle it together.

The Deputy Presiding Officer: I know that people have a lot to say in this debate and a number of members still wish to speak. Therefore, I am happy to accept a motion without notice, under rule 8.14.3, to extend the debate by up to 30 minutes. I ask Emma Harper to move the motion.

Motion moved,

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[Emma Harper]

Motion agreed to.

17:34

Stuart McMillan (Greenock and Inverclyde) (SNP): I congratulate my friend and colleague Emma Harper on securing this important and timely debate. The motion is succinct and Emma Harper laid out further background in her opening speech.

I am not going to stand here and profess that I am an expert in the field of cancer, because I am clearly not, but cancer knocks on the door of many households indiscriminately. As the motion says, one in two people will get cancer in their lifetime. That may appear to be a high number, but I am not aware of many families who have not been affected by cancer. We all welcome the increase in survival rates, but we recognise that that has not happened by chance. That is why research is so important and why the investment to fund that research is crucial.

We received various briefing notes prior to the debate, and I thank all the organisations that work and help in the cancer field. The figures that those organisations highlight about research indicate not only how much is spent, but the journey that we still have to go on to beat cancer. Cancer Research UK spent £38 million last year and Breast Cancer Now spent just over £16 million, so it is clear that the sector is working hard. I thank everyone involved in cancer research and those who work with patients to provide them with the expert care, attention and information that they require every day.

Every year, MSPs don a bit of pink for wear it pink day to raise awareness of breast cancer and raise funds for breast cancer research. I admit that we can look a bit ridiculous, but it is for a good cause. When the photo appears, my constituents see the funny side, and all, apart from one, appreciate the fun element that highlights the serious message. In my constituency, I have dealings with Marie Curie and Macmillan Cancer Support and I appreciate everything that they do to

help make the lives of my constituents better and more comfortable.

I take a slightly cold position on cancer—I tend to approach it in a state of defiance. It might mean that I do not show enough emotion when I talk about cancer or work with others on the issue, but that is my self-defence mechanism. I need to try to remain as impersonal as possible about cancer. I know, and have known, too many people with cancer; some have managed to beat it and others have not. I admire and cherish those who have survived and continue with their lives, usually with a different perspective.

Emma Harper talked about social media and television. TV programmes play a hugely important role in portraying a message. “Cold Feet” is on STV at the moment, and one of its characters, Jenny, played by the wonderful Fay Ripley, has been diagnosed with breast cancer. I have not seen last night’s episode, but I will see it later in the week. The connection that the characters have with the audience is testimony to the excellent writing and acting. The breast cancer storyline is extremely powerful and highlights not only the importance of talking about breast cancer, early diagnosis of cancer and treatment, but the mental challenge of facing up to and dealing with cancer. That is where the media have such an important part to play, and I thank the programme makers for introducing that storyline so carefully and sensitively.

Yesterday was world cancer day, but cancer day starts for someone new every single day. I thank Emma Harper once again for securing the debate and, once again, I thank everyone working in the field for their efforts to improve research into cancer and the treatment of the disease. One day, society will defeat this awful, indiscriminate disease forever.

17:38

Mark McDonald (Aberdeen Donside) (Ind): I congratulate Emma Harper on securing this important debate. She listed the ways in which we can protect ourselves against cancer, for example by not smoking, by cutting down on alcohol, by losing weight and by taking more exercise. As a non-smoking teetotaler who has managed to lose three stone in the past year and is currently in training for two marathons, I appear to tick plenty of those boxes.

World cancer day yesterday was a very poignant day for me and my family, because 4 February 2019 marked the second anniversary of my father’s death. I want to say a bit more about the circumstances of my dad’s cancer, which I have mentioned previously in a question to the minister. Neil Findlay quite rightly said that this is

an opportunity for us to tell our stories. My father's story has a very important message attached to it, which I think it is beneficial for me to relate.

My dad worked for a large part of the year in Africa; he had a business interest in Ghana. Just prior to returning to Africa, he noticed, under his false teeth at the base of his mouth, what he thought was an ulcer. As he had false teeth, he tended not to visit the dentist and did not have regular oral health check-ups. For many people, there is often a misconception that if they do not have their own teeth, they do not need to go to the dentist. Anas Sarwar has left the chamber, but as the resident dentist in Holyrood, I am sure that he would attest to the fact that dental checks are about much more than just checking that teeth are okay—they are about wider oral health.

My dad dismissed it and went off to Africa. He was due back for the period that would span his 60th birthday, when we were going to have a big party and celebration. He arrived with a very large growth on his jaw, which he had initially dismissed as probably the result of an insect bite to which his face had reacted. After some time—and nagging from my mother—he eventually made an appointment to see the emergency dentist. From that, he was quickly referred to the maxillofacial clinic, from which he was referred for a biopsy. During this process, I began to join the dots and realise that we were probably heading towards the destination of a cancer diagnosis, but we read so much in the news about cancers being caught early and people being treated effectively and recovering. We have heard this evening some fantastic and inspiring stories about people's recovery journeys.

However, in June 2016, my father received the diagnosis of cancer and was told that it had developed to a stage at which there was no hope of recovery. Neil Findlay spoke about the effect of cancer on his father. It was exceptionally difficult to watch my father—a man who was always making jokes and making people laugh, and who had himself the most infectious laugh—slowly losing the ability to communicate, to speak and be understood, and to watch the frustration when he tried to make conversation but could not be readily understood because of the effect that oral cancer was having on him.

In 2017, the year my father passed away, oral cancer deaths in NHS Grampian rose from 21 to 28—I have made that point to the minister in the chamber. NHS Grampian officials told me that late presentation is often a key factor. I often think back and wonder, what if my dad had gone to be seen more quickly? What if he had had regular dental check-ups? What if he had taken the steps that might have identified the cancer earlier? Would he still be here with us, laughing, joking,

playing with his grandchildren and enjoying time with his family and friends? We do not know for definite, but it would certainly have increased his chances.

A key message that I want to send—and that I have tried to send since my father's passing, in particular during the recent mouth cancer awareness month—is that if people notice anything unusual, even if they think that it is nothing, they must go and get it checked. People who are qualified can tell us whether it is nothing; if it is something, it is better to know and get it dealt with. If we leave it until later, that often means leaving it until it is too late.

17:43

Clare Adamson (Motherwell and Wishaw) (SNP): I thank Emma Harper for bringing the debate to the chamber. I am feeling a tad emotional—lots of members have shared personal experiences. My dad died of cancer, so I found Mark McDonald's contribution to be particularly moving. I thank him, Neil Findlay and the others who have shared their experiences. It is a very brave thing to do.

I also thank my friend and colleague Hannah Bardell MP, who recently had her smear-test recall to hospital and experienced the worries that surround that. She has campaigned tirelessly for years for the Michelle Henderson Cervical Cancer Trust. Michelle was a young woman and friend of Hannah's from her constituency who died in her twenties from cervical cancer. Hannah has used her own recent experience to remind young women in particular how important it is to take up the offer when we are offered screenings. Among young women, the rate of taking up screening opportunities has fallen, recently. Given all the work that has been done to help people, it is very important that people take up the opportunities so that we can prevent cancers from developing.

Emma Harper mentioned that I have a particular interest in pancreatic cancer. I have that interest because of the Begley family from Lanarkshire, who shared their experience of their father's cancer with me, and through my colleague Nicola McManus, whose mum died from pancreatic cancer. I know that Nicky and her three children still feel that loss very deeply.

I was not very aware of the issues around pancreatic cancer and, as we have heard today, everyone's individual cancer journey is unique to them, although there are trends and statistics that we can talk about. I will move on to those in a moment.

At the pancreatic cancer event that was held last year, only one survivor in the room had lived for more than 10 years after diagnosis. It is a stark

reality of pancreatic cancer that the statistics have hardly changed in the past 50 years. Great work is going on to try to reverse that trend.

I was delighted to meet the young leaders from the precision-panc research team at the Beatson west of Scotland cancer centre. The precision-panc programme is funded by Cancer Research UK, which I thank for all that it has done to promote world cancer day, and for the briefing for the debate. I also thank the Scottish Government. The programme seeks to make vital breakthroughs in pancreatic cancer research.

Is pancreatic cancer unique? The five-year survival rate for pancreatic cancer in Scotland is 5.6 per cent. That rate has increased by only 2.1 percentage points in the past 20 years. In 2016, 784 people were diagnosed with pancreatic cancer in Scotland, and 719 people died of the illness. It has an incredible attrition rate. The cancer is quick—its rapidity is staggering—so we have to make some vital breakthroughs in order to change the situation. Although we celebrate every success—everything that is happening and every survival—we must recognise that in the case of pancreatic cancer there is much more to do.

I thank Pancreatic Cancer UK for the work that it is doing. It has a petition to try to get the UK and Scottish Governments to increase treatment rates for cancer. In particular, it is asking that pancreatic cancer be treated as an oncological emergency in order to ensure that people get the vital treatment that they need more quickly.

It has been a particularly good and informative debate this evening. I thank everyone who has spoken. As I said, cancer is something that touches each and every one of us in our lives.

17:47

Tom Mason (North East Scotland) (Con): It is a great privilege to speak in the debate, having spoken in the debate on the matter at the same time last year. I am grateful to Emma Harper for lodging the motion for us to debate.

The subject of today's debate is one that is close to the hearts of many members, perhaps through experiences with constituents, friends or family members. Improving outcomes for people with cancer is a goal that we share, and which crosses the normal political divides. That is why I, too, am pleased to mark world cancer day and to welcome the important progress that has been made in recent years and decades.

As the motion notes, there has been a marked change in survival rates over the past 40 years, which is in part down to advances in medical treatment and technology, as well as to the change in respect of our recognising the lifestyle

factors that lead to cancer. In many cases, the changes that are needed to prevent cancer are fairly simple—eating healthily, for example. Some changes are more challenging, such as stopping smoking, but we cannot overstate the importance of a change that can be the difference between life and death.

However, as we look at the good progress and at the work that is being done, it is important that we consider where we could do better. One of the key markers is the Scottish Government's 95 per cent target for the 62-day standard from referral to treatment. According to the latest statistics, only two health boards have managed to meet that target, with NHS Grampian, in my region, coming in at just 76.6 per cent. NHS Grampian also falls behind on the target for treatment within 31 days of the decision to treat: it is at 90.5 per cent against a target of 95 per cent.

In Scotland more generally, in the last published quarterly information the national average for treatment within 62 days of referral fell from 84.6 per cent to 81.4 per cent. Set against the 95 per cent target, the figures are simply not good enough. There comes a point when good will and good wishes do not cut it: we must see improvement, and we need to see it fast.

I feel that there is another consideration—the quality of life of cancer survivors. Let us be in no doubt that even when it is successful, cancer treatment frequently has long-term side effects that can cause substantial physical and psychological damage. Having been on the receiving end myself, I think that more attention could be paid to making sure that patients who receive treatment can live their lives as comfortably as possible, so I would welcome any work that can be done in that regard.

No one doubts that this is a vital issue that should command our full attention. Important work is being done, and it should continue, but there are areas in which improvement is needed. It is estimated that by 2027 about 40,000 cases of cancer will be discovered in Scotland every year. It is vital that we transform services in order to deliver better and more supportive care, and that we use resources wisely.

I welcome the debate and I hope that we can make the changes that we need in order to ensure that progress over the next 40 years exceeds what we have become used to in the past.

17:51

Gillian Martin (Aberdeenshire East) (SNP): I thank my friend Emma Harper for bringing this debate to the chamber and for sharing her online story of her lovely sister Buffy to raise awareness, and I thank the constituents who have been

affected by cancer who got in touch to ask me to take part in today's debate.

There are so many aspects that we could cover in a debate such as this. I want to concentrate on one of the third sector agencies in my area that works with those with a cancer diagnosis and their families—CLAN Cancer Support. A few months ago, I spent some time at CLAN in Inverurie with a few people and their families who have used its services. I thank the manager, Fiona Cormack, her team and everyone whom I met for making me so welcome.

The phrase “used their services”—as I realised when I wrote it—does not seem adequate to describe people's relationship with CLAN. When I was there, I met families who told me how CLAN had supported them in all manner of ways while their loved ones were seriously ill. I met cancer patients dealing with the trauma of their diagnosis who needed pastoral care that cannot easily be provided—and which it is sometimes not appropriate to deliver—in a healthcare setting. I met people who had lost loved ones to cancer and continued to visit the centre months and years later for emotional and practical support.

What is CLAN and what does it do? What it does not do would be easier to cover. CLAN does what it can to provide whatever a person needs—whatever they come and ask CLAN to help them with. That could be advice and support, including advice on finances; simple friendship and community; opportunities to share experiences with others with cancer diagnoses; and no shortage of listening ears. CLAN provides complementary therapies such as massage and aromatherapy, too; the sort of thing that can give a person a bit of respite from medical procedures and the stress of their condition. The centre has therapy rooms that are just outstanding. CLAN also has support groups for particular groups. There is one for children and one for teenagers who are affected by cancer.

One group whom I met at the centre was a men's group, who were just back from a walk. They meet up once a week for a walk, a cup of tea and a chat about anything—they were discussing music when I butted in. Two of them took the opportunity to give me some casework, which had nothing whatsoever to do with their health. The group is there for friendship and support. It happens to be made up of a range of people who are affected by cancer—people who are currently dealing with diagnosis and treatment, those in recovery from cancer and a couple of people whose connection to CLAN and the group was through a family member. One regular visitor was the widower of a woman who had died over a year ago, who pops in regularly for a chat with the friends that he has made there. Hospitals cannot

provide that sort of thing. That is why third sector organisations such as CLAN are needed.

CLAN also operates in the north of my constituency in Turriff, where it has to meet in the local library—CLAN Turriff does not have the fantastic facility that CLAN Inverurie has—and our paths often cross, as I hold a constituency surgery there. Although it might not have the facilities of CLAN Inverurie, it offers the same support. As in Inverurie, there are monthly coffee mornings at which people can meet and catch up.

There is no manual on how to cope with a diagnosis of cancer—either for the person who receives the diagnosis or for their family and friends. I spoke to many people at CLAN and what came up time and again was the relief that people felt when they found CLAN. They reflected on what they would have done if they had not had it to turn to for support when they needed it.

It struck me that for every person who finds out what CLAN does, there will be another person who needs the charity but has not found it yet. That is why I wanted to make CLAN the focus of my speech. I want everyone in my area to know that CLAN is there. They might be fortunate enough never to have to walk through CLAN's door, but thank goodness because it is there for the people who do.

17:55

Monica Lennon (Central Scotland) (Lab): I am grateful to Emma Harper for lodging the motion and giving us the opportunity to come together to mark world cancer day. The motion mentions the unity band; the Parliament has united this evening, because we are all touched by cancer.

We have heard a mixture of sad stories—of people who have lost loved ones—and hopeful stories, such as those of Emma Harper's sister Buffy and Alison Johnstone's mum, who I hope is doing well. My mum has had her own cancer journey recently. She is going back to work tomorrow, after having had an operation a few months ago.

People often think that politicians are out of touch and do not understand the issues, but I think that all members could have taken part in this debate without receiving a briefing. However, we are all grateful to Macmillan Cancer Support, Cancer Research UK and Breast Cancer Now for their helpful briefings. Of course, we are also grateful for the brilliant jobs that they do to support families who are affected by cancer, and for their tireless campaigning and fundraising.

Like other members, I pay tribute to and thank our wonderful NHS staff who support people and

their families through this difficult illness. In the past two years, my family has certainly had its money's worth—and probably a bit more—out of the NHS.

Cancer used to be a taboo subject, which carried a lot of stigma—families did not talk about it. I am glad that that is changing. Survival rates are improving and there have been positive campaigns to tackle the stigma, such as Breast Cancer Now's wear it pink campaign, which is a lot of fun, and the work of Jo's Cervical Cancer Trust to encourage women to go for smear tests. I was grateful to members who took part in my members' business debate last month to mark cervical cancer awareness week.

Groundbreaking cancer research would not be possible without the incredible fundraising efforts of people in our communities. I see that in my region. Just last week, I picked up the local paper, the *Hamilton Advertiser*, and read that the Hamilton Bowling Club ladies section had raised £3,000 for Cancer Research UK. Generosity like that happens day in and day out.

Members talked about the third sector and volunteering. I was pleased that Miles Briggs mentioned transport. The Lanarkshire Cancer Care Trust was invaluable to my mum, who did not want to rely on family members having to fit in with her appointments. She was able to make a donation to the volunteer group who ran what she affectionately called "the cancer bus". The other people who used the bus were experiencing the same thing and could understand what she was going through, and the driver was expert at getting through the traffic and to the right department—my mum had to go to the Beatson west of Scotland cancer centre, University hospital Hairmyres and other places. Even when someone has a family to go home to, they might not always want to open up to their family, as Neil Findlay said. For my mum, that service was really important.

On another positive point, I am pleased that recent stats show that the majority of patients in Lanarkshire have been treated within the treatment time standard. However, that is not the experience nationally, in relation to diagnosis. Perhaps when the minister makes the closing speech he will update the Parliament on that. The cross-party group on cancer has been doing good work in that regard. We all want to support the system to keep improving.

As members said, there is a lot that we can do to prevent cancer. We have to focus on that, but we must also make sure that our strategies and policies are realistic and that we make it easy for people to make lifestyle changes, by considering the barriers that people face in making healthier choices.

We have seen great progress. We know that we can do tremendous things in the Parliament—there is the smoking ban, for example. My gran, whom I loved very much and miss dearly after 16 years, was a heavy smoker. She was a barmaid and worked in smoke-filled working men's clubs and pubs, and she died of lung cancer. I remember her every day through my daughter, Isabella, who is called after her. I hope that we will see less of such things.

I thank everyone for their contributions.

18:00

The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick): I thank Emma Harper for securing this important debate. I am pleased to join her and other members in wearing a unity band.

The debate provides us with an opportunity to reflect on the preventable causes of cancer and the steps that all of us can take to reduce the impact of that terrible disease. It is fitting that we should have this debate following world cancer day, yesterday. The day is intended to target misinformation, raise awareness and tackle the stigma that is often associated with cancer. The day is important for those who are currently affected by cancer, for reducing the number of people who develop cancer in the first place, for detecting cancer at the earliest possible stages and for supporting those who have a cancer diagnosis and their families and friends.

I was pleased to mark world cancer day, yesterday, by visiting Maggie's Edinburgh. My path crossed that of Miles Briggs. Like him, I really appreciated the time that people took to speak to us around the kitchen table. Maggie's is one example of the many organisations that do fantastic work. Gillian Martin mentioned CLAN, and other members have mentioned Macmillan nurses. There are many organisations that do a lot of good work, and I thank them all.

I was also pleased to speak at the Scottish cancer prevention network conference yesterday. That is an important gathering of world experts on cancer prevention who are largely based in Scotland. We can be proud that our NHS and academic institutions are working together to highlight the issues and to help everyone in Scotland to live healthier lives. The conference highlighted projects such as the ActWELL project, which is led by Professor Annie Anderson of the University of Dundee. It encourages women across Scotland who attend breast screening programmes to reduce their risk of developing breast cancer by taking up physical activity—Alison Johnstone mentioned that—eating healthily and losing weight. It is delivered in partnership

with Breast Cancer Now volunteers, it is supported by the Scottish Government and it is making a real difference to women across Scotland, including in my constituency.

I assure all members that the Scottish Government is determined to play its part in tackling cancer. The current projections from Cancer Research UK tell us that one in two people in the UK born after 1960 will be affected by cancer. We need to reduce that figure over time and ensure that the right support is in place to help those who are affected by cancer. Significant progress has been made over the past 10 years. Overall, the cancer mortality rate has fallen by 11 per cent; however, more needs to be done to reduce the risk factors associated with cancer.

Our £100 million cancer strategy “Beating Cancer: Ambition and Action” sets out our ambitions for the future of cancer services in Scotland to improve the prevention, detection, diagnosis, treatment and aftercare of those who are affected by all forms of cancer. Research is important, of course, and Scotland is to the fore in that area. Clare Adamson mentioned the precision-panc project. The Scottish Government has committed some £4 million to the precision medicine ecosystem, including £700,000 of direct funding for the precision-panc project. That project can potentially make a real difference by ensuring that cancer treatment—particularly for pancreatic cancers, but for other cancers as well—is based on the genetics of the individual patient’s tumour. There is real potential for progress there.

It is also important that the whole journey is as positive as it can be. That is why the cancer patient survey, which Miles Briggs mentioned, is important. I am pleased to say that we concluded our cancer patient survey in December and expect to publish the results in the spring. We will use the results to identify the gaps in services and then focus on addressing them.

Gillian Martin mentioned the holistic support that is available for people with cancer. That is an important part of our cancer strategy. I hope that the cancer patient survey will help us to get that right so that people get the support that they need. Organisations such as CLAN Cancer Support are very useful in helping us to do that.

As Emma Harper said, it is estimated that four in 10 cancer cases could be prevented. That can be done largely through lifestyle changes such as not smoking, maintaining a healthy body weight, eating a healthy and balanced diet, reducing alcohol intake, protecting our skin from sunburn and keeping active.

Neil Findlay rightly made the point that we have a higher mortality rate in our most deprived communities. In each of our strategies on tackling

smoking and drinking and on promoting healthy eating, we focus on tackling that health inequality. If I have time, I will talk about some of the success that we have had in that regard and the strategies more generally.

Smoking is the first area in which we have seen success. Just one in five adults now smokes, and the number of 15-year-olds who smoke regularly has dropped by more than two thirds in the past decade. It is clear that smoking is still more prevalent in more deprived areas, but the level of smoking is reducing.

Emma Harper asked about stop-smoking services. I assure her that there is no intention to reduce those services, for which we provide about £10 million of funding annually to health boards. That is important, because we are perhaps getting to the point at which those people who have not given up smoking need more support, and most of them are in the most deprived areas.

As we have heard, obesity is the second-largest preventable cause of cancer. According to Cancer Research UK, it is linked to about 2,200 cases a year in Scotland. It is really important that we make progress in reducing diet-related health inequalities. One of the first things that I did as the public health minister was launch “A healthier future: Scotland’s diet and healthy weight delivery plan” in order to tackle the issue by focusing on prevention.

An area in which we have to work together is foods that are high in fat, salt and sugar. Our consultation on that issue has just closed. We asked about restrictions on multibuy promotions, placement at checkouts and product promotions. That is a really important area in which this Parliament can help our population and make it easier for people to make healthier choices.

A number of members asked about screening and early detection. We know that the early detection of cancer leads to a better prognosis, and our national cancer screening programmes continue to work towards identifying bowel, breast and cervical cancers at the earliest stages. However, as Alison Johnstone and Neil Findlay rightly mentioned, the uptake of screening is lower in areas of deprivation.

Time is tight, so I will talk about one screening test. Scotland was the first country in the UK to introduce a simpler bowel screening test called the faecal immunochemical test—FIT. Since its introduction in November 2017, we have seen increased levels of participation in the bowel screening programme, and statistics that were published today show that we have exceeded the 60 per cent uptake target for the first time. That is really important.

One of the most important things is that the biggest improvement has been among those who live in the most deprived areas, where uptake has increased by 10 per cent. As somebody said, we encourage those who have a bowel test kit sitting in a drawer at home or who receive one in the weeks to come to please take the time to complete it and post it in, because it could save their life.

Monica Lennon asked about diagnostics, and we continue to look at how we can improve that area. In particular, we are looking at the development of rapid diagnostic and assessment centres, which are being piloted in England. The final report on the pilot is due to be published later this year, and our Scottish cancer task force will consider the results and use them to learn where to improve our services.

In closing, I thank all the staff and volunteers who work tirelessly in our NHS and in the charity sector to deliver our strategies for cancer prevention, diagnosis and treatment and to deliver support for people with a cancer diagnosis. The unending commitment of staff and volunteers is invaluable in driving back the disease.

In final conclusion, I give huge thanks to Emma Harper for lodging the motion for this important debate and to her and many others for sharing their personal stories, which are really important in such a debate. Thank you all very much.

The Deputy Presiding Officer: That finally, finally concludes the debate.

Meeting closed at 18:11.

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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