



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Thursday 7 February 2019**

**Session 5**



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Pàrlamaid na h-Alba

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# Scottish Parliament

Thursday 7 February 2019

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

## General Question Time

### Bank Branch Closures

#### 1. **Claudia Beamish (South Scotland) (Lab):**

To ask the Scottish Government what its position is on the impact on communities of banks reportedly closing branches without consultation, such as Santander in the South Scotland region. (S5O-02869)

**The Minister for Public Finance and Digital Economy (Kate Forbes):** I am sorry to be answering this question again. I remain deeply concerned at the scale of branch closures across Scotland. Those concerns will be shared by communities, vulnerable members of our society and small businesses that rely on access to local banking services, particularly in rural areas such as that represented by Claudia Beamish. I appreciate that banks must operate on a commercial basis. However, Santander and other banks must take into account the needs of all customers. Digital should never be exclusive and the only means by which customers can engage with their banks.

**Claudia Beamish:** The minister raised a very interesting point and I agree with her, but what steps can the Scottish Government take to ensure that there is a banking presence on our high streets? That is very important. It is also important to make sure that there are measures that the Scottish Government can take to make it easier for credit unions to have a high street presence as well.

**Kate Forbes:** Although we bear it in mind that banking is a reserved area, we appreciate that the impact on communities is not reserved. Just yesterday, I had a meeting with Which?—it has done a lot of research on the matter—and with Unite the union, to look at the impact that branch closures are having on communities and on the employees. Steps that the Scottish Government has taken include regular meetings with banks to make clear our disappointment with the scale of closures and the lack of consultation with communities in many cases. We also look at alternatives. One of those alternatives is credit unions, and it is worth noting that a much higher level of the Scottish population, at 7.3 per cent, is enrolled in a credit union than elsewhere in the United Kingdom. In November, we launched a

campaign to encourage people to sign up to credit unions. We have previously funded junior saver schemes and the First Minister has written to employers to look at partnering with credit unions. We have also engaged with the Post Office.

**Jackie Baillie (Dumbarton) (Lab):** There was no consultation in advance—just a letter telling longstanding members of the Santander branch in Helensburgh that they need to travel 40 miles for their nearest bank branch. The minister said that she regularly meets some of the banks. Has she met Santander, and will she seek a meeting specifically to encourage it to reconsider the extent of the closures?

**Kate Forbes:** I will happily meet Santander. I meet the bank regularly and make clear my disappointment in those areas. I know well the impact of closures, particularly in rural communities. Scottish Government officials are currently in contact with Santander and will continue to engage with the bank. We do all that we can with the powers that we have to make clear our displeasure, but at the end of the day, when it comes to regulation, that is a reserved matter.

### St John's Hospital Parking

2. **Neil Findlay (Lothian) (Lab):** To ask the Scottish Government what action it is taking to alleviate the reported parking problems at St John's hospital. (S5O-02870)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** Scottish Government health officials met NHS Lothian yesterday. The board takes the matter seriously and has taken steps to manage availability of spaces and to provide alternatives to on-site parking, along with alternative forms of transport. The board remains committed to on-going engagement with patients, staff, visitors and neighbours to understand and address parking-related issues.

**Neil Findlay:** Hundreds of patients, staff and local residents have contacted me about the parking chaos in and around St John's hospital. I have invited NHS Lothian officials to attend a public meeting so that they can hear ideas from patients, staff and residents about how the problems can be resolved. So far, they have refused to attend such a meeting, but surely NHS Lothian has to be accountable for its actions. Will the minister instruct officials to come to a public meeting in Livingston to hear ideas from patients and those who use the area in and around the hospital on how we can resolve the problems?

**Jeane Freeman:** Sixty-six per cent of the parking spaces are available to staff. The board has reconfigured some of the spaces to increase the number that are available to patients to ensure

that they are not late for appointments, and has received positive feedback about that. The board advises me that it has received a very small number of complaints—two to four—from neighbours, which have been dealt with directly.

The board engages with staff through the local partnership forum, which is a successful way for our national health service to engage with staff across an entire health board or in a particular site and to reach shared solutions on different matters. The board continues to engage with staff through the partnership forum as it looks to plan the new elective centre, which will be based at St John's hospital.

It is not for me to instruct the board on that matter; it is for me to make clear to this board and others that I expect them to engage effectively and continuously with their local communities, neighbours, staff, patients and others.

The board has done some work to ensure that there is a corporate discount scheme for local transport and it has taken on a number of suggestions that it has received from patients and staff through the work that it has undertaken. Mr Findlay might feel that that is inadequate, but it is not for me to instruct the board as to how it undertakes such matters—criticism would come my way if I were to do that, probably from members on the Labour benches. Rather, it is for me to ensure that the board engages constructively, which I will continue to ensure that it does.

### Energy Performance Certificates

**3. Lewis Macdonald (North East Scotland) (Lab):** To ask the Scottish Government when it plans to consult on setting a target for all homes to have at least a C energy performance certificate rating. (S50-02871)

**The Minister for Local Government, Housing and Planning (Kevin Stewart):** The Scottish Government has already consulted on whether all homes should have to have at least an energy performance certificate band C rating. We consulted on that proposal last summer following the launch of our energy efficient Scotland route map and we welcome the on-going cross-party support for that ambition. An analysis of the responses that were received was published on 22 November and is available on the Scottish Government's website.

**Lewis Macdonald:** The minister will know that Paul Wheelhouse made a further commitment in November and that, in answer to a question on 31 January, said that the Government would consult in March,

"seeking views on whether Energy Efficient Scotland can be accelerated and how the risks of doing so can be

overcome."—[Written Answers, 31 January 2019; S5W-21335.]

In that context, does the minister recognise that the certificates are currently calculated on the basis of cost efficiency, which fails to take into account the cost disadvantages of rural communities that are off the gas grid? Will he consider taking the opportunity to base future ratings on kilowatts of energy used per square metre, so that they measure carbon emissions, rather than cost to consumers?

**Kevin Stewart:** As Mr Macdonald pointed out, Mr Wheelhouse gave some detail on how we will progress those issues in answer to Tom Arthur on 31 January. Mr Wheelhouse said that we will set out more detail about the suite of legislation that the Scottish Government will bring forward to deliver the energy efficiency Scotland pipeline. We will do that in the near future.

We will look at concerns right across the board, both urban and rural. As Mr Macdonald and other members are probably well aware, we spend more on energy efficiency per head of population in rural areas than in urban areas, which we will continue to do.

**Gillian Martin (Aberdeenshire East) (SNP):** On that note, what solutions is the Government considering to assist those in rural areas with limited choice in heating fuel and, often, with harder-to-heat properties?

**Kevin Stewart:** As I said to Mr Macdonald, we are committed to continuing to spend more per head on energy efficiency in remote rural areas where we know that installation and labour costs are higher. Since 2013-14, our remote and rural areas have received almost £64 million in investment through our home energy efficiency programmes for Scotland.

The funding is distributed based on an assessment of need, which means that remote areas receive more money per head of population in order to tackle fuel poverty. For example, since 2013, the maximum grant that is available to households in very remote and rural areas through the HEEPS area-based scheme has risen to £9,000. That is compared with a maximum grant of £7,500 for other places in Scotland.

We have reviewed our warmer homes Scotland programme—our national fuel poverty scheme—to see how it can better support people in rural communities. Ms Martin and others can be assured that we will continue to do that work.

**Alexander Burnett (Aberdeenshire West) (Con):** I note my entry in the register of members' interests that relates to property.

There is an increasing frustration in the housing sector about the lack of guidance from the Scottish

Government on the proposed EPC regulations that are due to come into force in 14 months' time. Details were supposed to be published early this year, but none have been forthcoming. Does the minister understand the issues that are created by the lack of details at this late stage? Can he clarify exactly when the information will be available?

**Kevin Stewart:** We are going through a rigorous process to ensure that we get all the detail absolutely right. We want to ensure that companies in Scotland—including the one that Mr Burnett owns—benefit from our energy efficiency programme, and that we do our very best for the people of Scotland. We want to grow supply chains here and ensure that we have the labour and skills to develop our energy efficiency programme properly.

**Edward Mountain (Highlands and Islands) (Con):** When?

**Kevin Stewart:** I realise that there are people who want us to move further and faster, but we will do this right.

#### **Cumbernauld Village Surgery Closure**

**4. Mark Griffin (Central Scotland) (Lab):** To ask the Scottish Government what its response is to reports of the proposed closure of the Cumbernauld village surgery. (S5O-02872)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** We are aware of the situation at the branch practice. NHS Lanarkshire has been in discussions with the practice about options for the future. The board will ensure, as it is required to do, that a primary care service continues to be made available to all patients, and that patient safety is maintained at all times. My understanding is that the practice recently closed a consultation that included two options, but no decisions have been taken yet.

**Mark Griffin:** If the proposed closure goes ahead, patients will go from having a service on their doorstep to having to take a 5-mile bus trip, which is a journey that none of us would want to undertake if we were ill. Given the previous interventions by health boards to directly run general practitioner surgeries, in the event that the surgery closes, will the cabinet secretary ask NHS Lanarkshire to step in and protect the vital service on which my constituents in Cumbernauld village depend?

**Jeane Freeman:** I completely appreciate the sentiment that Mr Griffin is expressing and the concerns of local residents who use the practice about what might happen. Through our discussions with the health board and through the health board's discussions with the practice, we will ensure that primary care continues to be available and accessible. It would be wrong of me

to leap to conclusions until I see what the practice partners want to do as a consequence of their consultation and their further discussions with the health board. However, I assure Mr Griffin that my officials and I will keep in close contact with those involved, and that we will do all that we can to ensure that a primary care service of the highest quality remains available and accessible to the patients in the area that the practice serves.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Can the cabinet secretary confirm the increase in funding to front-line health services and explain what that will mean for general practices across Scotland?

**Jeane Freeman:** As Mr Lyle will know, there is a significant increase in funding to our front-line services in the budget. We are moving very quickly towards our overall aim of more than 50 per cent of all health funding being directed towards front-line services. Significant investment is being made in primary care and primary care reform and in the general practitioner contract, which is an essential part of that reform. There is also significant additional investment, from my portfolio area to local government, for health and social care partnerships and integration services.

I am happy to give Mr Lyle the specific numbers for his area, and to provide that information to other members. It is clear that resourcing in this area is significant. We have the plans and the commitment; we now need to carry on and further the delivery of our ambitions.

#### **Mental Health Services Budget**

**5. James Dornan (Glasgow Cathcart) (SNP):** To ask the Scottish Government what financial support it has provided for mental health services in the current parliamentary session. (S5O-02873)

**The Minister for Mental Health (Clare Haughey):** In 2019-20, the Scottish Government will increase direct investment in mental health by £27 million, which will take overall funding for mental health to £1.1 billion. Mental health expenditure over the four years since 2016-17 will amount to £4 billion. As Mr Dornan is aware, mental health is a priority for this Government, as evidenced by the appointment of a specific Minister for Mental Health and significant investment in the Scottish Government's mental health strategy. I updated Parliament last year on progress on the strategy and there is a commitment to do so annually.

**James Dornan:** Would the minister agree that the proposals in the draft budget to invest an additional £250 million over the next five years to improve mental health outcomes for children and young people are a step in the right direction? Would she also agree that it is deeply

disappointing that the Liberal Democrats, who have championed mental health services over the past few years, will not support that important investment because of their constitutional obsession?

**Clare Haughey:** I agree with James Dornan. The £250 million investment will support the ambitions that were set out in the programme for government to build on the principles of early intervention and to radically change what we do to ensure that care and support are available as close as is possible to children, young people and their families. The “Better Mental Health in Scotland” delivery plan that was published in December 2018 includes a number of actions to reform children and young people’s mental health services. By April, health boards are expected to have in place improvement plans with clear milestones to be achieved over the next two years.

While the Liberal Democrats talk about the need to invest in and expand mental health services, it is worth remembering that last week they voted against a budget that will deliver significant investment in mental health care. It appears that the Liberal Democrats might talk the talk, but when they have the opportunity to support the Scottish Government in improving mental health services, they refuse to take it.

#### Local Councillors Pay

**6. John Mason (Glasgow Shettleston) (SNP):** To ask the Scottish Government what consideration it has given to increasing pay for local councillors. (S5O-02874)

**The Minister for Local Government, Housing and Planning (Kevin Stewart):** A Scottish statutory instrument to increase the level of remuneration payable to local authority councillors by 2.8 per cent with effect from 1 April this year was laid before the Parliament on 1 February.

**John Mason:** Members of Parliament are paid some £77,000, members of the Scottish Parliament get £62,000 and councillors get £17,000. That seems a bit uneven, given that—in my view, certainly—many councillors work just as hard as some MPs I know. Does the minister agree?

**Kevin Stewart:** Mr Mason has pointed out the basic salary of councillors. As he is aware, many councillors also receive special responsibility allowances above that. In 2005, the independent Scottish local authorities remuneration committee considered whether councillors’ pay should be comparable to that of MSPs, but concluded that it should not, because there are more significant differences between the two roles than there are similarities. Of course, MSPs are legislators with a national role, whereas councillors are responsible

for local services. The remuneration committee revisited the issue in 2010 and came to exactly the same conclusion. As a former councillor, I appreciate the contribution and hard work of councillors across the country, but I am not persuaded that recalling the remuneration committee at this point would lead to a different conclusion.

#### Tenant Farming Commissioner (Meetings)

**7. Joan McAlpine (South Scotland) (SNP):** To ask the Scottish Government when it last met the Tenant Farming Commissioner. (S5O-02875)

**The Cabinet Secretary for the Rural Economy (Fergus Ewing):** Scottish Government officials last met with the Tenant Farming Commissioner on Thursday 24 January at his tenant farming advisory forum.

**Joan McAlpine:** As the cabinet secretary will be aware, the conduct of some land agents has caused concern for many. What progress has been made in creating a code of conduct for individuals who provide land agent services, which the Land Reform (Scotland) Act 2016 provides for?

**Fergus Ewing:** The member raises an important issue. The Tenant Farming Commissioner’s report on the operation of land agents and tenant farming agents was published in May 2018 and I welcomed its findings. It highlighted that the majority of landlords and their tenant farmers are content with their relationship but for some individuals there are still issues. The Tenant Farming Commissioner is working with the relevant professional bodies on producing a code of practice for land agents, which will include the standards expected of an agent and how to complain if an agent fails to meet those standards.



## First Minister's Question Time

12:00

### Workplace Parking Levy

**1. Jackson Carlaw (Eastwood) (Con):** Many of us have been hearing from ordinary Scots this week who are deeply alarmed about the Scottish National Party plans to charge them for taking their own car to work. Here is what one young man had to say in an email:

"I am a young apprentice from ... South Lanarkshire ... I know £2 a day doesn't seem like much, but this off an apprenticeship wage is a lot, while many in a similar age group are paying rent, council tax, road tax and other utility bills, and some also trying to save for their futures, this is a tax that will hit the lowest and least represented of employment groups in the country."

Let me make this promise to him and thousands of others like him across Scotland: Scottish Conservatives—all of us here—will oppose a workplace parking levy.

Will the Deputy First Minister make him the same pledge?

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** It will not come as a surprise to anybody that in a Parliament where the Government does not command an overall majority we have to talk to and reach agreement with other parties about specific issues.

Of course, what we found in this budget process was that the Conservative Party was spectacularly absent from those discussions, so they have no right to come here today and complain about the agreements that we have to arrive at.

It is important that Parliament is clear about what is proposed. There is an agreement to bring forward an amendment to the Transport (Scotland) Bill that will enable local authorities to exercise a judgment as to whether they wish to apply a workplace parking levy. It will be up to local authorities to take that decision. It is an example of localism in practice, and I would have thought that the Conservatives would have welcomed that.

**Jackson Carlaw:** So, almost unbelievably, the short answer is no: Mr Swinney will not be backing these people or thousands of other workers like them. What an absolute disgrace.

At yesterday's meeting of the Finance and Constitution Committee, Derek Mackay even admitted that he had not done any economic analysis of the cost of a workplace parking levy—but we have. A £400 annual charge would be equivalent to increasing the basic rate of tax paid

by a worker on the real living wage from 20p in the pound to 30p in the pound.

When the Deputy First Minister promised not to increase the basic rate of income tax before the previous election, did he imagine that he would be voting to thump those same workers with a new levy that is equivalent to a tax hike of 10p in the pound?

**John Swinney:** It is very important that we remain focused on what is actually proposed. What is actually proposed is the awarding to local authorities of a power to apply a workplace parking levy if they judge that to be the appropriate thing to do, once they have made the appropriate assessments of such a commitment.

I cited this as an example of localism quite deliberately, because in 2017, Ruth Davidson said:

"our manifesto for the council elections was published a couple of weeks back ... it does spell out a thorough and clear vision ... At its heart is a case for localism."

The Conservatives have been four-square behind empowering local authorities.

If that is not enough, Graham Simpson, the Tories' local government spokesman, said:

"We believe that decisions should be taken as locally as possible and that powers should lie with politicians elected as locally as possible."

He also said:

"We need to empower councils and give them a renewed sense of meaning and purpose."

If that is not enough for Jackson Carlaw, in 2016, the First Minister received a letter from four Conservatives, urging her to re-empower councils to take decisions that they could think about themselves. The first author of the letter was Murdo Fraser, the second was Liz Smith and the third was Maurice Golden. Parliament will not be surprised to learn that the final one of the quartet was Jackson Carlaw. [*Interruption.*]

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

**Jackson Carlaw:** This isn't "Blue Peter", and one pathetic excuse that Mr Swinney made up earlier ain't gonna wash.

For the past 12 years, I have marvelled at Mr Swinney and the full theatrical performance that we get from him when the Scottish National Party is in real trouble—out he comes, swinging—but the fact of the matter is that, this morning, the SNP leader of the City of Edinburgh Council said that it would be a missed opportunity if employees did not have to pay the levy.

Mr Swinney may support charging low-paid workers. Happily, some of his colleagues are

made of sterner stuff. Just three months ago, speaking in Parliament, his colleague Richard Lyle made his opposition to the proposal plain. He said:

"I am not for your parking charge levy, and I speak on behalf of thousands of motorists who have been taxed enough."—[*Official Report, Environment, Climate Change and Land Reform Committee*, 13 November 2018; c 59.]

Well said, Mr Lyle. He is prepared to stand up for hard-pressed Scottish workers. Why isn't John Swinney?

**John Swinney:** As Jackson Carlaw goes purple faced, it is a bit rich for him to accuse me of theatrical performances.

The Conservatives fought the 2016 and 2017 elections on a commitment to empower local authorities. Given that they played absolutely no part in the process of setting a budget for this Parliament, they cannot come along and complain about the fact that the Scottish Government, in agreement with the Green Party, has been prepared to re-empower local authorities. That is rank hypocrisy, even from Mr Carlaw.

The Conservatives need to be reminded that, if we had listened to them on the budget and had not reached an agreement with the Greens, we would have had to contemplate taking £500 million out of the Scottish Parliament's budget, which would have punished families and public services and reduced staff numbers. The Scottish Government would not countenance that, but that is what the Tories wanted to inflict on Scotland.

**Jackson Carlaw:** Mr Swinney says that we have no credibility demanding tax cuts and higher spending. He says that the Tories have no credibility on the economy, but it was a Tory Chancellor of the Exchequer, Philip Hammond, who wrote the cheques that he is spending—the additional £148 million that Derek Mackay concealed from Parliament the week before he announced his budget. When Mr Swinney has spent it to settle the mess that he is making of teachers' pay, I hope that he will send Philip Hammond a thank-you note for bailing him out of his own problem.

It is sad to see Mr Swinney defend things in which he clearly does not believe. It is sad to see him defend a rise in the basic rate of income tax when he once said that a

"tax rise would be a punishment"

for low-income workers. It is sad to see him defend an inflation-busting rise in the council tax when, in 2016, he and the First Minister stood on a manifesto promise not to do so. It is sad, too, to see him now demand that ordinary people be charged for driving to work when once, as the champion of middle Scotland—the nat you could

trust—he claimed to be the voice of enterprise. Is it not time that he admitted that he got this wrong?

Come on, man, simply drop this unwanted and workable plan. If you will not, will it not be clear to everyone—despite the fact that you have tried to spin it otherwise today—that tens of thousands of Scottish workers are to be fleeced for hundreds of pounds a year, just because Derek Mackay, John Swinney and Nicola Sturgeon cannae say no to six dismal Green MSPs?

**John Swinney:** Well, if that was not an audition for the next pantomime in Glasgow, I have no idea what it was. After all these weeks of rehearsing while his boss is away, I would have thought that Jackson Carlaw could have come up with something slightly more considered than that.

I take it from that rant that Jackson Carlaw is not in any way supportive of resolving the teachers' pay claim that I am trying very hard to resolve. I take it from that that, through the tax cuts that he wants to apply in the budget, Jackson Carlaw wants to continue to inflict on the people of this country a cut in public spending of £500 million, which would reduce the number of nurses in our hospitals by nearly 20,000. Is that seriously what Jackson Carlaw is arguing for?

Jackson Carlaw has been found out today. He goes around the country arguing for more powers for local government. However, when we deliver them, he comes here in an act of rank hypocrisy and criticises us. The people of Scotland can see through the hypocrisy of the Tories. They can see what the Tories are about: their spots have never changed. They want to cut public spending and they would do it in a hypocritical way.

## Accident and Emergency Waiting Times

### 2. Richard Leonard (Central Scotland) (Lab):

Can the Deputy First Minister tell the chamber when the Scottish Government last met its A and E waiting times target?

### The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):

As Richard Leonard knows, performance on A and E waiting times has been a significant challenge in the health service. However, A and E units' waiting times performance in Scotland has been at the leading edge of performance in the United Kingdom for four years. There are challenges to be wrestled with and the Cabinet Secretary for Health and Sport is focused on ensuring that that is done. However, for four years, A and E units in Scotland have delivered the best performance in the United Kingdom.

**Richard Leonard:** That was a response, but not an answer, to the question that I asked. In fact, the Scottish Government's waiting time target of 95

per cent has not been met since last August. A principal reason for that lamentable record is its failure to tackle delayed discharge of patients. Members should not take just my word for it. Tim Davison, who is the chief executive of NHS Lothian, wrote just last week that

“for a hospital the size of the RIE, the number of patients remaining in hospital when they do not need to be there, is equivalent to three whole wards and is significantly impacting on our ability to manage the flow of patients through the hospital. It can impact on our ability to see and assess patients promptly; it delays access to a bed quickly within the agreed 4 hour target; it is contributing to short-notice cancellation of planned elective surgery.”

The previous Cabinet Secretary for Health and Sport promised to eradicate delayed discharge within a year. That was back in February 2015. Four years on, can the Deputy First Minister tell us when he believes his Government will keep that promise and finally ensure that nobody is left stuck in our hospitals when they do not need to be there?

**John Swinney:** I agree with Richard Leonard's last point that it is important that people are in hospital only for the length of time for which they should properly be in hospital. The Government is focused on ensuring that individuals are able to make the journey through hospital and out into the community as efficiently and as smoothly as possible. That is our objective. In the process, we are reducing the extent of delayed discharge in Scottish hospitals.

One of the things that is helping is the increased investment that Derek Mackay has made available in the budget for health and social care integration at community level. Following the draft budget for 2019-20, we are increasing our package of direct investment in health and social care integration to more than £700 million. That was central in the announcements that were made by Derek Mackay in the stage 1 debate last Thursday.

In the Government and in the health service, there is an intense focus on ensuring that we build up health and social care capacity in our communities. That is exactly what the budget is designed to do. That will assist us in reducing delayed discharges and in ensuring that individuals are able to make the smoothest possible journey through our health service by getting acute care when they require it and community care when that is appropriate and necessary.

**Richard Leonard:** John Swinney talked about health and social care integration. We have also learned this week that Edinburgh health and social care partnership is facing more than £19 million of cost pressures. How does that help?

The scale of the problem is such that, last year, the number of people who were stuck in hospital

who did not need to be there would have filled every bed in Scotland's biggest hospital—the Queen Elizabeth university hospital—every day for 326 days. It is no wonder that delayed discharge is having a significant impact on A and E waiting times and cancelled operations right across the country.

There is also a human cost. Tim Davison went on to say that delayed discharge means

“disruption and distress to patients and families ... a burden on patients and their carers/families and reduces the quality of their experience.”

Those are the words of the chief executive of Scotland's second-largest health board.

When will the Government start to listen? When will the Deputy First Minister take his responsibilities seriously? When will he snap out of complacency and start to address the continuing problem of delayed discharge in Scotland?

**John Swinney:** My response to Mr Leonard's question demonstrates that the Government takes the issue deadly seriously. What are we doing to tackle delayed discharge? We are increasing the resources that are available to social care integration in the community. In Edinburgh, in the health board to which Richard Leonard referred, we are seeing delayed discharges falling. We have put £160 million more into health and social care integration.

The Government is making those judgments in a very challenging financial environment. Why did we decide to do that? It is because we recognise that it is better for people to be supported in their home or in a community setting than it is for them to be in hospital when they do not need to be there. On that point, I completely accept the premise of Richard Leonard's question and the points that have been made by Tim Davison. It is entirely appropriate for individuals to be in hospital at particular stages, but we must support individuals throughout their journey.

That is why Derek Mackay's budget, which is currently going through Parliament, will increase the resources that are available for health and social care integration to more than £700 million. That is why we continue to support the increase in resources and why we are confident that the effect of that investment and the joint working that is being provided by health and social care integration will deliver the reduction in delayed discharges that we all want.

**The Presiding Officer:** There are several constituency supplementaries.

## O2 ABC (Demolition)

**Sandra White (Glasgow Kelvin) (SNP):** The Deputy First Minister will be aware of the application to Glasgow City Council by the owners of the O2 ABC building in my constituency for complete demolition of that iconic building. I emphasise that the application is for the building's complete demolition. I have many concerns about that. First, I am concerned about the closeness of the building to Glasgow School of Art and about the effect that demolition might have on the investigation into the fire there. I have written to the Scottish Fire and Rescue Service on that point.

Secondly, I am concerned that, although the iconic O2 ABC building was built in 1875 and so is older than the Mackintosh Glasgow School of Art building, it has not received the same publicity or been given the same importance. Does the Deputy First Minister agree that if the entire O2 ABC building cannot be saved, we must do all that we can to save the historic building's façade?

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** I realise the significance of the point that Sandra White raises about the O2 ABC venue, which is in her constituency. A building warrant application to demolish the venue was lodged with Glasgow City Council on 31 January. Each council must exercise its responsibilities individually and must, in so doing, comply with any legal requirements.

I am not familiar with the listing arrangements for the venue's façade, which Sandra White referred to, but it is clear that Historic Environment Scotland's perspective will need to be applied. I will ensure that Historic Environment Scotland is actively and appropriately engaged with the council in consideration of the matter.

## Aberdeen Western Peripheral Route

**Gillian Martin (Aberdeenshire East) (SNP):** How will the Scottish Government hold Aberdeen Roads Ltd accountable for the delays that have been incurred in opening the final section of the Aberdeen western peripheral route? The Scottish Government has given contractors every opportunity to get a grip on that £750 million project and to open the route fully to traffic.

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** Aberdeen Roads Ltd is paid only when sections of the road are opened to traffic. In that way, it is incentivised to open the road at the earliest opportunity on which it is safe to do so.

Aberdeen Roads still has work to do to provide fundamental assurances about future maintenance of the River Don crossing that will

sufficiently protect the public purse. Once that commitment has been received, there will be no further barrier to opening the remainder of the road without delay.

In recent months, Transport Scotland and the Cabinet Secretary for Transport, Infrastructure and Connectivity have worked tirelessly with Aberdeen Roads. I am pleased to say not only that more than 85 per cent of the road is open, but that the feedback from the public in north-east Scotland about that long-overdue enhancement of the roads infrastructure there has been overwhelmingly positive.

## Texas Instruments

**Stuart McMillan (Greenock and Inverclyde) (SNP):** The Deputy First Minister will be delighted by the outstanding news that the Texas Instruments plant in Greenock has been purchased by Diodes Inc in a deal that is worth a reported £65 million, which will save 300 high-value, high-skill jobs. Does he agree that that investment has been hard won? Does he congratulate everyone who has been involved in making the deal happen and commend all the staff at the plant, who have continued to deliver, despite the threat of redundancy that has hung over their heads since 2016? Does he agree that this proves again that Inverclyde is open for business?

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** I welcome the good news that the former Texas Instruments plant has been acquired by Diodes, which is an important investment that will safeguard 300 jobs at the plant. That is the accumulation of tremendous joint working by our enterprise agencies, the Government, Inverclyde Council and the workforce, which has given extraordinary commitment to ensure continuity. We look forward to working with Diodes in taking forward the commitments that have been made to the workforce.

## ScotRail

3. **Patrick Harvie (Glasgow) (Green):** It has been another bad day on Scotland's railway, with power and signal failures causing disruption in Glasgow. Sadly, that is a typical experience. Over the weekend, passengers took to social media to share their experience of delays, cancellations and overcrowding. They posted pictures of people with disabilities going without a seat and of children sitting on the floor outside a train toilet. A passenger was also reported to have had a panic attack.

That is not acceptable or safe and is not what people in Scotland deserve from their railway. What action did the Government take following

last weekend's appalling performance by ScotRail? How long will it be before we have a rail service that is run in the public interest and meets the public's needs?

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** First, the Cabinet Secretary for Transport, Infrastructure and Connectivity has made it clear to Parliament that the Government considers ScotRail's current performance to be unacceptable. For that reason, Transport Scotland issued a formal notification to ScotRail on 24 December to require it to submit a remedial plan by 18 February. The Government will hold ScotRail to that.

We expect ScotRail to set out in that plan how it will address the performance issues to ensure that we realise the benefits of the formidable investment that has been made in recent periods in new rolling stock and new infrastructure.

Parliament is familiar with some of the operational challenges around the delay in new rolling stock, which has affected the ability of the service to operate as we would have expected. Because of that delay, there have been implications for the training of staff to operate the railway safely.

Mr Harvie raises specific examples from the past weekend. ScotRail took a number of decisions to expand capacity on a number of routes because of the expectations of higher traveller numbers, particularly because of the rugby international match in Edinburgh. However, other issues were of concern in the performance of ScotRail at the weekend. Those are the issues that the Government expects ScotRail to address. The transport secretary is, at all times, in active dialogue with ScotRail, in order to improve that performance and to require ScotRail to comply with the remedial order that the Government has applied.

**Patrick Harvie:** When the plan for remediation of those persistent failures is presented to us, I am sure that the Parliament will hold both ScotRail and the Government to account.

There is a need for wider structural change. For example, many of us agree that Network Rail needs to be in Scotland's control, so that we can have a truly joined-up approach to the issues. However, we cannot wait for that; it is no excuse for not taking action now.

Three months ago, when many of the failures were already being regularly reported, the Government voted against using the break point in the ScotRail franchise next year. If the Government was not convinced then, it should be convinced now that that option must remain on the table. Surely the Deputy First Minister will not rule

out that option, given that doing so would give Abellio a free pass to continue failing. The Government must work on the assumption that, from next year, a public sector bidder may be needed.

What progress is being made on the urgently needed preparation for a public rail operator that will operate the railways in the public interest?

**John Swinney:** Some elements of Patrick Harvie's question are more straightforward than others. On his point about devolution of responsibilities around Network Rail, I agree with him. It makes eminent common sense for that to be the case, because it would allow us to take forward the co-operation that exists within the ScotRail Alliance to a much deeper level of integration. Politics aside, there is a commonsense approach in taking that forward.

On the application of a break clause, if an operator of last resort was to replace ScotRail in 2020, that could be only a temporary measure. Under the current United Kingdom legislation, the requirement to tender the franchise would remain. That would then open up the possibility, which we have now secured as a Government, to bring forward a competitive public sector bid in that context.

Development work is under way about how to advance the concept of a competitive public sector bid. That work is being taken forward by the transport secretary, in dialogue with David MacBrayne Ltd, which we have invited to take forward some of that work. If the transport secretary has not already answered questions on that subject, I am sure that he will update Parliament on all those questions in due course.

Fundamentally, the Government believes that we must have an efficient rail network that meets the needs of individuals in Scotland, that acts in the public interest and that delivers services that members of the public are looking for. Our immediate, short-term action is focused on achieving that; we are open to developing a competitive public sector bid within the context of the existing UK legislation, within which we must operate.

### **Workplace Parking Levy**

**Mike Rumbles (North East Scotland) (LD):** Will the Scottish Government civil servants give badly needed assistance to John Finnie in drafting his workplace parking levy amendment to the Transport (Scotland) Bill? From the member's public comments earlier this week, it is obvious that he does not have a clue how he wants it to operate.

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John**

**Swinney):** I understand that Mr Finnie has asked—and the Rural Economy and Connectivity Committee has agreed—to take further evidence on that issue. The Government will contribute to that process. Of course, the Government will be actively engaged in the process of drafting amendments, because we agreed to that with the Green Party.

However, I am a little bit surprised—or am I?—at Mr Rumbles's line of argument. When the provisions for a workplace parking levy were introduced by the Labour Party in the United Kingdom Transport Act 2000, which gave enabling powers to English councils to introduce workplace parking levies, those measures were supported—surprise, surprise—by Liberal Democrat members of the UK Parliament. It is just another example of saying one thing in one place and another thing in another place.

#### **Cannabis-based Treatment Delay**

**Linda Fabiani (East Kilbride) (SNP):** I wish to raise the case of the young son of a constituent. This wee lad's medical condition has been deemed appropriate for cannabis-based treatment and he has been offered Epidiolex by his medical team. That was some four weeks ago but no treatment has yet commenced and no prospect of a start date has been given to the family. Meanwhile, the child's condition continues to deteriorate.

Can the Deputy First Minister advise us on the clinical procedure once it is agreed that Epidiolex is appropriate and can he investigate that delay?

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** I will ask the health secretary this afternoon to contact NHS Lanarkshire and establish the details of the case. If there is a way in which we can address immediately the very real and legitimate issues that Linda Fabiani has raised in Parliament today, we will do so. I will ask the health secretary to update Linda Fabiani by the close of business this afternoon.

#### **Ramsar Sites (Protection)**

**Ross Greer (West Scotland) (Green):** Fifty-one of Scotland's most precious places for wildlife are protected as Ramsar sites. Recent guidance from the Scottish Government appears to downgrade the protection that is given to many of those sites, including Coul Links in the Highlands and Loch Lomond in my region. That contradicts the welcome commitment that the environment secretary made to Parliament last year.

Can the Deputy First Minister confirm that that recent guidance will be withdrawn and corrected, and that all Ramsar sites in Scotland will continue

to be given the same level of protection as designated Natura sites, as is the case in the rest of the United Kingdom?

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** Ramsar sites are protected in Scotland by either the Natura regulations or their designation as sites of special scientific interest. I think that it is clear that that affords to those sites the highest level of environmental protection.

However, if Mr Greer has specific concerns, I will ask the environment secretary to correspond with him to address any particular issues in relation to the approach to designation, which is important. The Government is absolutely committed to fulfilling the commitments and obligations that are incumbent on us in relation to Ramsar sites and to ensure that those are fulfilled in all the actions that we take.

#### **Musical Instrument Tuition**

**4. Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** To ask the Deputy First Minister what the Scottish Government's position is on whether learning to play a musical instrument should be a core subject in schools. (S5F-03043)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** Music, as one of the expressive arts, is an essential part of the broad general education under curriculum for excellence. That includes class music lessons, including when an instrument is taught on a whole-class basis. An education authority may charge fees for the provision of instrumental tuition that is discretionary over and above that.

It is for local authorities to decide how to provide instrumental music tuition depending on local circumstances, priorities and traditions. In taking those decisions, local authorities should consider the undoubted benefits that learning a musical instrument can have on wellbeing and on attainment.

**Christine Grahame:** I thank the Deputy First Minister for his answer. That said, does he share my concern that Labour-led Midlothian Council is the only council in Scotland that proposes to axe all music tuition for pupils below secondary 4 while, at the same time, paying out £10 million a year in interest payments from the education budget because of Labour's punitive private finance initiative projects, with the result that, if pupils want to play, they will have to pay privately? That is music for the few, not the many.

Does the Deputy First Minister agree with me that it is no wonder that my constituents and I will be demonstrating against those cuts outside

Midlothian Council's headquarters next Tuesday, when we will certainly not be singing, "Keep the red flag flying here"?

**John Swinney:** In my earlier answer, I stressed the importance that is attached to music, as one of the expressive arts, in the broad general education. Young people's participation in appropriate music tuition is an important part of their educational experience.

The Government has taken a number of budgetary decisions in that respect. Under the direction of my colleague Fiona Hyslop, the Cabinet Secretary for Culture, Tourism and External Affairs, we have reinforced funding for a number of key elements of the financial support that we make available for music tuition and appreciation in Scotland. There is support for the music budgets that relate to the youth music initiative, the national orchestras, expo and Creative Scotland. Fiona Hyslop has maintained those budget commitments because of the importance that we attach to music tuition.

Some local authorities do not charge for music tuition. I am absolutely certain that, after the budget process is completed in local authorities, many of them will still not charge for music tuition. I encourage Midlothian Council to reflect on that.

In its report on the subject, the Education and Skills Committee concluded:

"The Committee respects the democratic right of local authorities to take decisions about local expenditure and acknowledge the financial choices they face. However, the Committee believes in principle that music tuition should be provided free of charge in every local authority."

I encourage Midlothian Council to reflect on that conclusion, which met with agreement across the political spectrum in Parliament.

**Liz Smith (Mid Scotland and Fife) (Con):** Another of the Education and Skills Committee's findings was that

"there is a lack of clarity regarding whether instrumental music tuition necessary to provide adequate preparation for SQA examinations ... can legitimately be subject to charging."

Does the Deputy First Minister agree with that? What will the Scottish Government do about the situation?

**John Swinney:** I do not think that there is any dubiety in the guidance that is available. However, the Education and Skills Committee has expressed concern that there might be dubiety, in which circumstance I will look very carefully at the situation.

One scheme—also in Midlothian—troubles me greatly. The local authority exercises, in essence, an administrative charge on schools, but for a school to be able to exercise free choice it must

have sufficient budgetary control. That stretches the spirit of the guidance, which I think is crystal clear on the issue.

The committee has raised that issue and I will explore it. However, as I stand here today, I think that there is no dubiety about that point.

**Alex Rowley (Mid Scotland and Fife) (Lab):** In the current financial year, 17 Fife secondary schools are having to cut £2 million from their budgets. Parent councils have written to me and the Deputy First Minister about the matter.

The reality is that Fife Council and many other local authorities will have to cut their education budgets further next year. Is it not time that we had a degree of honesty about the cuts to local councils? Instead of blaming councils when we vote through cuts, is it not time that we discussed how we will solve the issue of the cuts?

**John Swinney:** Alex Rowley is in quite a difficult position on that, because his party did not exactly engage with any aspect of the budget process—least of all with any ideas that Alex Rowley himself put forward.

In the current budget settlement, Fife Council's spending power has increased by more than 5.8 per cent, so Fife Council has to take certain decisions.

I return to one of my answers to Christine Grahame's questions. A number of local authorities in Scotland do not apply any charge for music tuition. Choices are made at a local level by individual local authorities. Fife Council's spending power is increasing by 5.8 per cent. In that enhanced resource environment, it is up to Fife Council to look at how it deploys the resources that are available to it.

### **Workplace Parking Levy (Public Sector)**

**5. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the First Minister what categories of public sector workers will be exempt from the proposed workplace parking levy. (S5F-03042)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The Government has expressed a willingness to develop with the Green Party an agreed amendment to the Transport (Scotland) Bill to create a discretionary power for local authorities to introduce such a levy, but it is contingent on the exclusion of hospitals and national health service properties. Further discussion on the content of the amendment is under way at the moment and, of course, there will be further dialogue with the committee involved and with individual local authorities, should they choose to take such an approach.

**Murdo Fraser:** In earlier exchanges, the Deputy First Minister claimed that the policy is about localism, but the Scottish Government has already decreed from the centre that NHS workers will be exempt from the levy—quite rightly, in my view—but that does not apply to teachers, police officers, local government workers or other public or even private sector workers who might be lower paid. How can teachers who are currently considering the Scottish Government's pay offer take a proper view on it and what it means for their take-home pay when they do not presently know whether they might be facing an additional tax charge of £400 a year for parking at their places of work?

**John Swinney:** I find it a bit rich for Murdo Fraser, who voted against the budget and the provision of any public funding to local authorities whatever, to come here and make a claim about teachers' pay. If he had had his way, no money would be available on 1 April for our public services. That is a dereliction of duty by the Conservative Party in this Parliament.

We will take forward the agreements that we have reached with the Green Party, and they will be subject to dialogue and consultation in the Parliament. If the proposal is accepted, it will be up to individual councils to determine whether they wish to take forward such a provision. The fact that Murdo Fraser has come here with crocodile tears about teachers' pay when he is an advocate of localism demonstrates the hypocrisy of the Conservative Party.

**Andy Wightman (Lothian) (Green):** The Deputy First Minister will know that the powers to enable workplace parking levies exist in England; they were introduced by a Labour Government, and the Nottingham scheme was implemented by a Labour council. Moreover, the Liberal Democrats supported such powers during the passage of the Transport (Scotland) Bill in 2000. Does the Deputy First Minister agree that both parties appear to be more interested in partisan political point scoring than in working together to tackle pollution, reduce congestion and empower local government?

**John Swinney:** Members of the public could rightly be horrified by the way in which the Conservative, Liberal and Labour parties have abdicated their public responsibility to engage constructively on a budget process upon which public services depend. Mr Wightman and I disagree on quite a number of issues, but I respect him, because he understands that, on 1 April, public services need to be funded, taxes need to be collected and revenues must be available to support our nurses, hospitals, schools, public transport networks and police services—the whole lot. Those in the Green Party were the only people prepared to engage constructively in that process.

My message is this: Mr Wightman is right. The Labour Party, the Tories and the Liberal Democrats should be thoroughly ashamed of their appalling abdication of responsibility.

**Neil Bibby (West Scotland) (Lab):** If the workplace parking levy is about encouraging people to use public transport, will the Deputy First Minister confirm why the budget from the Scottish National Party and the Greens will cut support for bus services from £64.2 million to £57.2 million in the coming year, which is a cut of 10.9 per cent or £7 million?

**John Swinney:** The particular change that Mr Bibby has referred to relates to a loan scheme in the bus service operators grant that was not used. The grant remains an essential part of the support for local bus services and, of course, the Cabinet Secretary for Transport, Infrastructure and Connectivity is taking through Parliament a bill that aims to strengthen local bus services. That is exactly what the Government is committed to doing.

### Children's Mental Health Week

**6. Mary Fee (West Scotland) (Lab):** To ask the Deputy First Minister, in light of it being children's mental health week, what action the Scottish Government is taking to increase the provision of mental health support for young people. (S5F-03056)

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The programme for government set out a package of measures to support positive mental health and prevent ill health, backed by £0.25 billion of additional investment. That includes

"more than £60 million in additional school counselling services",

which will support 350 counsellors; around £20 million for 250 additional school nurses; and

"80 additional counsellors in Further and Higher Education".

As part of children's mental health week, we have announced today that we will produce new guidance on the healthy use of social media and screen time. The guidance, which will be designed in collaboration with young people, will seek to address some of the issues that they face around social media and mental wellbeing.

**Mary Fee:** In its report in December, the Mental Welfare Commission for Scotland raised concerns about the lack of intensive psychiatric provision for young people, noting that

"work to explore the issues"

had "stalled". Last year, the number of young people who were admitted to non-specialist wards rose to 90, and 14 young people were admitted to



adult psychiatric care units. Does the Deputy First Minister think that that is acceptable? What plans does the Government have to increase the nationwide provision of specialist mental health beds for young people, including adolescent intensive psychiatric care units?

**John Swinney:** Mary Fee raises an intensely serious issue. We have to ensure that young people who have mental health and wellbeing challenges receive support at the earliest possible opportunity in the manifestation of those conditions. For that reason, we have to use the investment that the Government is currently making to strengthen what we might all agree are preventative interventions. If we do so, we will minimise the need for acute psychiatric interventions, which is the specific issue that Mary Fee raised. The earlier we can support young people, the greater our chance of reducing the need to admit young people to in-patient psychiatric units.

We cannot see those issues in different compartments; we have to see them as part of the whole strategy, which is exactly what the Minister for Mental Health is focused on delivering. We will take into account the issues that are raised about acute psychiatric demand, but I stress to Parliament the importance that we attach to handling and resolving such issues as part of an overall preventative approach, which will be in the best interests of young people in Scotland.

**The Presiding Officer:** That concludes First Minister's question time. Before we move on to members' business, we will have a short suspension to allow members to change seats and people in the public gallery to move.

12:47

*Meeting suspended.*

12:50

*On resuming—*

## **Kilmarnock Football Club 150th Anniversary**

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a debate on motion S5M-15230, in the name of Willie Coffey, entitled, "Congratulations to Kilmarnock Football Club on its 150th anniversary".

*Motion debated,*

That the Parliament congratulates Kilmarnock FC, the oldest professional football club in Scotland, on its 150th anniversary; notes that the first recorded general meeting of the club took place on 5 January 1869 in the Temperance Hotel in Kilmarnock, notified by secretary, John Wallace; recognises the many achievements of the club, which include becoming one of the first clubs to contest an official Scottish Cup match along with Renton in 1873, winning the Championship under the manager Willie Waddell in 1965 by defeating Hearts 2-0 on the last day of the season to win the league on goal average by 0.042 goals, winning the Scottish Cup in 1920 by defeating Albion Rovers 3-2 and again in 1929 by beating Rangers 2-0 and in 1997 defeating Falkirk 1-0, winning the League Cup in 2012 by beating Celtic 1-0, winning the Ayrshire Cup 42 times, recording 189 victories out of 256 meetings with local rivals, Ayr United, regularly representing Scotland in the New York International Tournament in the 1960s, qualifying for European competitions on nine occasions, notably defeating Eintracht Frankfurt 5-4 on aggregate in the club's first European tie in 1964 after being four goals down, welcoming Real Madrid to Rugby Park as league champions in 1965, drawing 2-2, and reaching the semi-final of the Inter Cities Fairs Cup in 1966-67 against Leeds United; recognises that the club is enjoying its 26th season in a row in the top flight in Scotland; notes that the club recorded the highest points tally of 74 points in the calendar year 2018, and sends the club, staff and supporters its best wishes for the year ahead and for many years to come.

12:51

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** I thank MSPs who have signed the motion: I think that about 29 have done so. When members make their speeches, it would be lovely to hear what club in Scotland they support. That will add to the rich colour of the debate.

It is with great pleasure and a great deal of pride that I am able to speak to a motion in the Scottish Parliament in 2019 to commemorate and celebrate the 150th anniversary of our beloved Kilmarnock Football Club.

I am fortunate to have in my possession the wonderful book, "Go, Fame... The Story of Kilmarnock Football Club", which was written for the club's centenary in 1969 by the leading sports author of the day, Hugh Taylor. I hope to share one or two extracts from it today. As a native of old Killie, and having lived there all my life, I am lucky

enough to have also seen the club's 100th and 125th anniversaries. The arrival of such landmark anniversaries is really special. They bring the club and the people of the town and the wider district ever closer together. That is very much in evidence already this year.

So, how did it all begin for Kilmarnock? We know that, in the mid-1860s, there were young men in the town who played cricket and were looking for a sport with which to keep themselves amused in the winter months. There was a new sport, around which a debate about whether it should be played with hands or no hands had been raging since the 1820s. Eventually, the cricketers joined boys from Kilmarnock academy and adopted the kicking game. What was actually played around the 1860s could not have passed for either football or rugby. The intention of those early pioneers seems to have been to have a good time socially: for them, that was all that mattered.

An advertisement for the first recorded general meeting of Kilmarnock Football Club, calling on interested parties who wanted to become members to attend, appeared in the *Kilmarnock Standard* on Saturday 2 January 1869, and that historic meeting took place three days later, on Tuesday 5 January, in Robertson's temperance hotel in the town. It was notified by young 19-year-old John Wallace, who became the club's first secretary, then its president. And so, it had begun: Kilmarnock Football Club was officially born.

In those wonderful early days, because the rules were—let us say—evolving, protests about the outcome of a game were commonplace. During one game, the new Ayrshire Football Association had to remind teams that they could not pick their own referee, and nor should the referee appear as a 12th man for that team. Some might argue that little has changed since then.

As early as 1873, Kilmarnock became one of the eight founding members of the Scottish Football Association and, along with Queen's Park Football Club, Dumbarton Football Club and another 13 clubs, it put up the money for the first Scottish cup. Killie played in what is thought to have been the first-ever Scottish cup match, but sadly lost 2-0 to Renton Football Club. Interestingly, Renton claimed to be the first world club champions when, as Scottish cup winners in 1888, they challenged and beat West Bromwich Albion Football Club, which had won the English Football Association cup.

Scottish players were much sought after by their clubs' English counterparts, and the drive to professionalism—still illegal, but that was largely ignored in Scotland—was resisted by Queen's Park, which was supported in that by Kilmarnock. However, eventually, in 1894, Kilmarnock became

a professional club, and it joined the Scottish second division a year later.

That early support for retaining amateur status had cost Killie, and it took until 1899 for the club to be voted into the first division. Steady, if not spectacular, progress followed, and the club's first major trophy came in 1920 with a 3-2 win over Albion Rovers Football Club in the Scottish cup final at Hampden Park in front of 95,000 fans.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I was looking for an appropriate time to make an intervention. The mention of Albion Rovers allows me to do that. Albion Rovers also has a rich history in the game. The club was founded in 1882, and this is its 100th year playing in the professional league. Does Willie Coffey agree that clubs like Albion Rovers, which offer so much to their local communities, play an important role in Scottish life?

**The Deputy Presiding Officer:** Would anybody else like to chip in with something about their local team before Mr Coffey proceeds? [*Laughter.*]

**Willie Coffey:** I congratulate Albion Rovers and all the community-based Scottish football clubs. They are usually very well run—in many cases better run than some of their bigger counterparts.

I was about to say that, on the fateful day of the 1920 final, one of the players in the Kilmarnock squad, Sandy Higgins, lost his father. Sandy senior was one of the great early players and he was the first Kilmarnock player to play for Scotland. A similar tragedy was to hit our club many years later, in 2012, which I will come to in a moment.

A second cup final victory was celebrated just a few years later, in 1929, when Kilmarnock beat the cup holders and league champions Rangers Football Club 2-0. Interestingly, one of the Kilmarnock heroes that day was the goalkeeper, Sam Clemie, who made save after save, even saving a penalty, to keep Killie in the game. At the celebrations later that night, big Sam was asked to make a speech. He told the audience that he could not make speeches but could save penalties, to a tumultuous roar from the fans. I fondly remember being lucky enough to see Sam Clemie's medal from that day some years ago with my brother Danny and my dad.

For me as a young boy, the 1960s Kilmarnock team under manager Willie Waddell was a dream. Their first European match was against Eintracht Frankfurt EV in 1964 and, despite losing 3-0 in Germany and losing an early goal at Rugby park to make it 4-0 for the Germans, Kilmarnock went on to score five goals in what was one of the most incredible comebacks in European football. In that same season, Kilmarnock and Heart of Midlothian Football Club were fighting it out at the top of the

league, and on the last day of the season, 24 April 1965, Kilmarnock won the championship. They had to beat Hearts at Tynecastle by two goals or more to win on goal average, and they did just that.

**Bruce Crawford (Stirling) (SNP):** Would Willie Coffey remind the chamber who was in third place on that occasion?

**Willie Coffey:** It was Dunfermline Athletic Football Club, Presiding Officer. [*Laughter.*]

Kilmarnock players Davie Sneddon and Brian McIlroy scored the vital goals, and a sensational save by Bobby Ferguson in the last few minutes prevented Hearts from grabbing the title at the end, even in defeat. I remember the key moments as though they were yesterday, even though I was only six years old and my brother Danny was 10. My dad's response to my mother, who was worried about him taking us to such a big game, was "They're going. They might not see it again!" He has been right so far—until this season, that is.

Real Madrid Club de Fútbol breezed into Rugby park later in 1965 in the European cup and were lucky to escape with a 2-2 draw. Shortly after that, in 1967, Kilmarnock played the magnificent Leeds United Football Club in the semi-final of what is now the Europa league. It was a stunning period of achievement for the club. It is fair to say that an unspectacular period followed, but in 1997 glory returned with another Scottish cup victory at Ibrox on 24 May with a 1-0 win against an excellent Falkirk Football Club team.

To complete the trinity of Scottish trophies, Kilmarnock had to wait until 2012 to lift the league cup for the first time, beating Celtic Football Club 1-0 at Hampden. The joy and elation soon turned to despair when the news emerged that Kilmarnock player Liam Kelly's dad had collapsed at the game and later died, echoing the very sad similar circumstances of 1920.

Presiding Officer, this famous old football club has made a huge contribution to Scottish football and is still going strong. Some famous people support Kilmarnock FC, from Marie Osmond, whose 1970s hit, "Paper Roses", is the club anthem, to Biffy Clyro, who are regular visitors to Rugby park. We have the award-winning Kilmarnock pie—the Killie pie keeps our fans and visitors happy at Rugby park.

We also enjoy a healthy battle for supremacy with the second team in Ayrshire, Auchinleck Talbot Football Club. [*Laughter.*] We are currently enjoying an amazing period under the magnificent Stevie Clarke, with Killie ending up in 2018 with the most points it has had in the Scottish Professional Football League.

To all the talented players and managers past and present, the wonderful club officials and staff across the years and the incredible supporters of this famous old football club, I say congratulations on Killie's 150th anniversary. May it enjoy many more successful years ahead. To Killie fans the world over, let us never forget that we are Killie till we die.

13:00

**Brian Whittle (South Scotland) (Con):** I congratulate Willie Coffey on securing time to debate and celebrate 150 years of Kilmarnock Football Club.

I am more than delighted to contribute to the debate and I must declare an interest, because I was a coach at the club in the mid-1990s when Alex Totten was manager. There were some great names about at that time—for example Bobby Williamson, who went on to manage the club up to the great cup win in 1997; Gary Holt, who was pivotal in the 1997 cup win; and Monty—Ray Montgomerie—who was also there. It is great that he still has a prominent role at the club. There was also Paul Wright, who had recently entered the club and went on to score the only goal in that final. Getting to do a little bit of work with the team at that time was a privilege.

We have been discussing who we support, and my support for football clubs is fairly diluted—Kilmarnock is only one of the teams that I support. I moved to Kilmarnock—and did a bit of coaching there—from Ayr. As Willie Coffey will testify, and as I discovered, the rivalry between Rangers and Celtic is not the biggest in Scottish football. I did not know that at the time but, having moved to Kilmarnock, I was told about it by several people when walking down the street in Ayr.

I recognise and welcome how fantastically well Kilmarnock is doing this season. It is intriguing to think that, in the not-too-distant future, the local rivalry with Ayr United Football Club, which is doing well in the division below, will perhaps enhance the top tier of Scottish football. I go infrequently to football matches, but an Ayr v Killie game is one that I want to be at.

**Emma Harper (South Scotland) (SNP):** Brian Whittle mentioned Ayr United and Killie and the rivalry between them, but there is another football team in the south-west. Stranraer Football Club is in my home town, and I used to go to its matches when I was wee. The club celebrates its 150th anniversary next year. Will Brian Whittle comment on that?

**Brian Whittle:** Let us get in as many of our constituencies' football clubs as possible. I will go on to talk about the importance of football clubs in their communities.

Willie Coffey was probably also at the game that I mentioned. When Ayr and Kilmarnock play one another, Rugby park is full. Such rivalries galvanise and enhance the community.

On Emma Harper's point, football clubs are generally at the heart of the community. I extol Kilmarnock Football Club for that; it is a model that others should follow. The club has the ability to galvanise the community and the Killie trust—the Kilmarnock Supporters Society Ltd—is doing some fantastic work to pull the community into the club.

Kilmarnock FC has an all-weather pitch. A couple of summers ago, I watched my daughter play in a netball tournament on the pitch, which had been set up with six netball courts. The ability of the football club to reach out to the community and bring people in cannot be underestimated. That applies to every other club.

I have so much more to say, but I will just say that I hope that Kilmarnock Football Club will continue to have an influence in the local community, which is a model for other clubs to follow. I congratulate Kilmarnock on reaching the milestone of 150 years. I again thank Willie Coffey for securing the debate and I wish Kilmarnock Football Club every success, on and off the pitch, in the future.

13:05

**Kenneth Gibson (Cunninghame North) (SNP):** As a fellow Ayrshire MSP, I congratulate Willie Coffey on securing the debate, which celebrates the longevity and success of Kilmarnock Football Club—Scotland's oldest professional football club.

Ayrshire is the heartland of junior football; I have six junior football clubs in my constituency. Historically, Killie have been Ayrshire's top team but, after Auchinleck Talbot's performance at Beechwood park last month against Ayr United, who knows? Seeing a junior team win against professional local rivals was momentous and memorable, and it really captured the spirit of what Scottish football is about.

I am sure that Killie fans shed few tears when they watched their long-standing rivals Ayr United getting put in their place, just two weeks after Killie celebrated its 150th anniversary. That rivalry is more than 100 years old, as the first match between the two sides was held in September 1910, in the same year in which Ayr United was formed. The match finished 4-4. Of course, Willie Coffey would argue that there was a dodgy penalty decision and that a penalty should have been, but sadly was not, given in the last minute.

Kilmarnock's story has taken the club far beyond Ayrshire—from the match against Renton in October 1873, which was the first ever match in the official Scottish cup, to winning that trophy for the first time when they beat Albion Rovers at Hampden in 1920, before their subsequent successes in 1929 and 1997. Like my club, St Mirren, Kilmarnock have won the Scottish cup on three occasions. This Saturday, Killie face Rangers on home turf in the final 16 of the cup, and I certainly wish them all the best.

Kilmarnock are enjoying a 26th consecutive season in Scotland's top flight, and they are doing brilliantly, with modest resources, under Steve Clarke. Killie are one of the select band of clubs that have won all three domestic trophies, including the league title in 1965 and the league cup in 2012.

Killie have enjoyed success on the international stage. They first competed in Europe in the 1964-65 inter-cities fairs cup. As Willie Coffey told us with passion, they came from 4-0 down after their first tie to score five goals in the second tie in a magnificent performance to defeat Eintracht Frankfurt 5-1 on the night—5-4 on aggregate. A year later, they held the eventual winners of the European cup that season, Real Madrid, to a 2-2 draw at home, and they reached the fairs cup semi-final during the 1966-67 season. Indeed, if Hibernian had knocked out Leeds United earlier, there would have been three Scottish clubs in the quarter-finals of the competition that year. Killie have played nine seasons in Europe. Further afield, they have represented Scotland in the New York international tournament, and they were runners-up in the competition in 1960.

The club's home stadium, Rugby park, has a history that is almost as illustrious as that of the team itself. It was first used in 1899. During the second world war, the Army installed large oil storage tanks on the pitch, and the club was never compensated for the loss of its ground. After the war, Italian prisoners of war helped to extend the north terrace. Major redevelopment took place in 1994-95, after which Rugby park became the 17,889 capacity, all-seated stadium that we know today. In addition to holding home matches, Rugby park has been the venue for two Scottish internationals and even an Elton John concert.

The success of a club is, of course, not measured just on the pitch. Kilmarnock FC's community outreach programmes have brought enormous benefit to the local community. To name but a few of its achievements, in 2018 alone, Kilmarnock Community Sports Trust delivered 747 football hours to 719 primary children through its schools programme; supported 20 players to play walking football twice a week; hosted an eight-team central Scotland tournament at Rugby park

in September; and provided 600 meals, football training and nutritional information to 60 young people, in collaboration with the Tartan Army Children's Charity, the go fitba project and the Park hotel.

Since its inception in 2015, the trust has offered a wide variety of programmes to inspire young players to get active and involved in football. It puts community at the heart of the organisation and offers children and young people opportunities that would otherwise be closed to them. I hope that that aspect of the club's work will prove as long lasting as the football itself, as it is making a huge difference to many lives.

I read with interest Dani Garavelli's column, "Can Kilmarnock's football success revitalise the town?", in *The Scotsman* last weekend. She described how manager Steve Clarke, from Saltcoats in my constituency, has transformed the team, taking them from the bottom to near the top of the Scottish Premier League. That success has breathed new life into the club. The Moffat stand, which was closed last season due to lack of ticket sales, reopened, and morale is high. The club's upward trajectory almost runs in tandem with the fate of the town itself.

Scottish football is all about the fans and communities that support the club, and the club that bolsters the community. I am sure that, regardless of the personal allegiances of members across the chamber, they will join me in saying that Kilmarnock FC makes an invaluable contribution to the social fabric of Ayrshire and Scotland as a whole. As much as football sometimes divides us, it has the power to unite us—in victory, in defeat, in seeing the underdog win the day, and in watching heroes triumph.

I congratulate Kilmarnock FC on their success over the past 150 years and look forward to seeing them go on to reach even greater heights.

13:10

**Colin Smyth (South Scotland) (Lab):** It is a privilege to join other members in celebrating Kilmarnock Football Club's 150th anniversary and I thank Willie Coffey for securing today's debate.

We might not break into a joint chorus of "Paper Roses", but at a time of debates on Brexit and budgets and our fair share of disagreements, it is good to be taking part in a debate with such refreshing and unanimous cross-party support.

At the weekend, I was asked by a constituent what I would be speaking on in the chamber this week, and I explained the various statements and debates, including this one. He asked why I would be talking about Kilmarnock Football Club, and I

told him, "This is roughly what I'm going to say—see what you think."

Kilmarnock FC is not just any football club; it is Scotland's oldest professional club and is celebrating its 150th anniversary. Back 1873, Kilmarnock were one of the first teams to take part in association football's second oldest tournament, the Scottish cup, a tournament that they won in 1920. That was followed by a second success in 1929, when they beat Rangers 2-0 in front of more than 114,000 people at Hampden park, before completing a hat trick of Scottish cup wins in 1997. In 1965, Willie Waddle led Killie to the then top-tier first division championship. Just seven years ago, the club defied the pundits by winning the League cup against Celtic. Maybe most important of all, Kilmarnock have won the Ayrshire cup 42 times.

That is not to say that there have not been lean times. In the 1980s, I remember watching Killie play in division 2, but I have a confession to make—I was there as a Doonhamer, cheering on my local team, Queen of the South, who celebrate their centenary this year.

It is 26 years since Tommy Burns led Kilmarnock back into football's top flight, where they have stayed ever since. Now they sit proudly near the top. Under Steve Clarke's leadership, they have even flirted with the top spot recently, despite having a budget that is a fraction of the size of old firm budgets. There really is a buzz about the club today, and crowds are growing as more and more people head to Rugby park on a Saturday.

Bill Shankly once said:

"Football without fans is nothing".

It is the growing number of Killie fans who are at the very heart of Kilmarnock Football Club as they celebrate their 150th anniversary, not least through the establishment in 2003 of the Killie trust to bring supporters closer to the club. In 2017, it launched the trust in Killie initiative and supporters from around the world pledged a remarkable £100,000 to buy unallocated shares in Killie and put a supporter on the board of the club as a full and equal director.

In May last year, that new director was appointed, giving fans a voice at the club's decision-making table. That director will be familiar to members of this Parliament: Cathy Jamieson, the former MSP for Carrick, Cumnock and Doon Valley and former member of Parliament for Kilmarnock and Loudoun. She is already making a huge impact, leading the way in improving communication between the club and fans and working with the other directors, Billy Bowie and Phyllis McLeish, to develop Kilmarnock as a true community club. The Killie trust is building on the success of the trust in Killie campaign, generating

more funds for the club and looking at how those funds can be invested for the benefit of fans.

Kilmarnock FC is setting an example across football, with fans not just following but leading their club. That is fitting as Kilmarnock's supporters celebrate 150 proud years.

Presiding Officer, I began my speech by saying that a constituent asked me why I would be talking about Kilmarnock FC in Parliament, and I have just told members roughly what I said to him. You are probably wondering what his reply was. Unfortunately, he said, "I still don't understand why you are debating Kilmarnock Football Club." I made those comments to my constituent at an advice surgery in Ayr, and he confessed that he was an Ayr United fan.

I congratulate the players, directors, staff and supporters of Kilmarnock Football Club in their 150th year.

13:14

**John Finnie (Highlands and Islands) (Green):**

On behalf of the Scottish Green Party, I congratulate Kilmarnock Football Club—our nation's oldest professional club—on reaching this significant milestone and I thank Willie Coffey for bringing the motion for debate.

Willie Coffey said at the outset that he would like to hear which club members support. For the avoidance of doubt, I refer members to my entry in the register of interests and my many associations with Heart of Midlothian Football Club. That inevitably leads me to talk about something to which Willie Coffey alluded: the 1964-65 season and the goals average. I think that that system must have been devised by Stewart Stevenson, because it is quite mathematical. The figure is the number of goals scored divided by the number conceded. Kilmarnock had to win 2-0; winning 3-1 or 4-2 would not have done it. I will not go into the figures further. Some 38,000 people were there to see it, but I was not one of them.

**Kenneth Gibson:** How upsetting is the fact that if the goal average had been used in 1986, Hearts, which lost to Dundee in the last game, would have won the title that year? If goal difference had been used in 1965, they would have won the title that year. If the systems had been switched round, Hearts would now have two more league titles than they currently have.

**The Deputy Presiding Officer:** I am at a complete loss here—somebody will have to explain all this to me later.

**John Finnie:** I can help: the intervention from the member was not meant to be of a therapeutic nature—let me put it that way. If I had issues

before about such matters, I will certainly have to reflect on them now.

We are talking about 0.04 of a goal. People say that time is a healer, but Dens park in 1986 certainly proves that not to be case. However, there is good news from 1964-65. I am delighted that Willie Coffey took an intervention from Bruce Crawford. Dunfermline ended up third. The good news is that the gruesome twosome were nowhere to be seen as they were way down the league—I say that to win friends and influence people. I do not think that our national sport is helped by the duopoly, and there is significant camaraderie among fans outwith it, which is healthy.

I often get asked how a native of Lochaber, who was born and bred in the Highlands, comes to support the Hearts, and I get chided for not supporting my local team. I do support my local team, Lochaber Camanachd from Spean Bridge, in shinty, which is Scotland's other national sport. Of course, I am also keen to lend support to both Inverness Caledonian Thistle and Ross County, and I hope that they do well.

My father was a Hearts fan and the generation-on-generation thing is very important—my grandson is now primarily a Barcelona fan but also a Hearts fan. The club identifying with the community and vice versa is important.

I fondly recall Kilmarnock's win in 1997. I also fondly recall the bus-top celebrations in the wonderfully named John Finnie Street in Kilmarnock. I recall 2012 and the emotion around that. I will not dwell on the mixed emotions and the sadness associated with it.

I have enjoyed my visits to Rugby park, where there have been some good games, and certainly some good pies. As has been said, Kilmarnock have been a breath of fresh air of late.

There have been reflections on Eintracht Frankfurt—a famous name and a famous game. I am sure that many would like to see the European nights back at Rugby park.

I know that non-football fans—I am surrounded by them in this part of the chamber—have no comprehension of the issues and the nuances, but football is a wonderful game and a wonderful way of bringing people together. It is about the dark days endured—the cold, wet days—and the glory nights savoured in the hope of their being repeated. I was 42 years of age before I had a glory day in 1998.

Kilmarnock have made a proud contribution to Scottish football—a continuing contribution to our beautiful game. I want to see them enjoy a long and healthy future entertaining the rest of us. At

the end of the day, what is 0.04 of a goal between friends?

13:18

**George Adam (Paisley) (SNP):** I thank Willie Coffey for bringing the debate to the Parliament. I congratulate Kilmarnock FC on their 150th anniversary. I cannot believe that I wore a blue suit on the day when we are having this debate—my colours are usually black and white. I may not have mentioned this before, but I am a St Mirren supporter. In 2017, we were 140 years old, and we will probably join Killie in eight years' time in being 150 years old.

One of the big things about the debate is the importance of football to our nation. Not only is it our national sport, but these clubs are the heart and soul of many of the communities that we live in. As politicians, we should embrace that more than we do, because football clubs could help us with much of the work that the Parliament does on that side of things. Perhaps we should engage them more fully in that.

Members might be surprised to learn that I actually do some research for my speeches. While I was doing research for this debate, I found out that, between 1887 and 1890, Kilmarnock's strip was black and white stripes with black shorts and black socks. That sounds like a perfect colour scheme that Kilmarnock should have kept. At the same time, St Mirren had a black and white strip with blue shorts and blue socks.

There are many things that connect St Mirren and Kilmarnock, not least the fact that, when Morton and Ayr are not in the same division, St Mirren v Kilmarnock is our ne'er's day game—our derby game—because Kilmarnock is just a quick drive down the road. At this point, I would like to apologise to Willie Coffey for various Adam family soirées in Kilmarnock on ne'er's day, when the new year parties have continued after the match. The town's football club might have been started in the temperance hotel but, in the past, "temperance" was a foreign word to some of my family members.

If we look at the results of games between St Mirren and Kilmarnock, we see that Killie are winning 87-84, which is roughly 50:50. Another connection between the two clubs is the fact that the current manager of Kilmarnock, Steve Clarke, started his career with St Mirren, before going on to Chelsea.

**Brian Whittle:** Would Mr Adam recognise that yet another connection between Kilmarnock and St Mirren is the fact that they have both had the same sprint coach?

**George Adam:** I was rather disappointed that Mr Whittle bragged about the time that he worked in Ayrshire, but that he did not talk about the time that he upgraded to the position of sprint coach of the mighty St Mirren.

As has been said, both clubs have won the Scottish cup three times and the league cup once. Although Kilmarnock FC is Scotland's oldest professional club, it was not a founder member of the Scottish Football League, unlike St Mirren. When the SFL was inaugurated on 30 April 1890, it included two clubs from Paisley, one of which was Abercorn, for which my great-great-grandfather played centre half. Among the other original members of the SFL that are still in business are Dumbarton, Hearts and Celtic. There are some clubs that were in the SFL in that season that are no longer with us. Kilmarnock was a founder member of something called the Scottish Football Alliance, along with Ayr, which became Ayr United, and Morton, before they all ended up in the Scottish divisions.

The history of football is fascinating. As Willie Coffey mentioned, back then, the rules were not in place. If we looked at some of the football games that used to take place, we would think that they were rugby games. Kilmarnock and St Mirren both started as what would be recognised as rugby clubs. That is why Kilmarnock's ground is still called Rugby park. St Mirren have been playing football since 1877, but the club was originally founded in 1876 as a rugby football club. In the year that Kilmarnock FC was formed, Ulysses S Grant was sworn in as the President of the United States and the University of Oxford won the first boat race. That shows what was happening in the world while we were just kicking a ball around a field.

We must remember the other people who have been involved in our great game. Hugh McIlvanney, who recently left us, was another Kilmarnock boy. He did his apprenticeship as a journalist at *The Kilmarnock Standard*. With typical wit, he once said of Newcastle United:

"People talk about Newcastle as a sleeping giant. They last won the championship in 1927 and the FA Cup in 1955. They already make Rip Van Winkle look like a catnapper."

The teams of Willie Coffey and I have won competitions a lot more recently than Newcastle United. Perhaps our teams are just having a catnap and the glory days are just beyond the horizon.

13:24

**Graham Simpson (Central Scotland) (Con):** I congratulate Willie Coffey on securing the debate. His motion is one of the longest that I have ever

read. It seems to provide the entire history of Kilmarnock FC; all the high points are certainly in there. We almost do not need to have the debate, although I am glad that we are having it, because we have discovered that Brian Whittle is both a Kilmarnock and a St Mirren reject.

I am not a Killie fan, I am Celtic fan, but I have a soft spot for Kilmarnock. Mrs Simpson also has a soft spot for them, because Kilmarnock is the only away ground that she has been to in Scotland—I know how to treat her—and it was there that we discovered and fell in love with the Killie pie. It was a cold Sunday morning and the pie tasted absolutely fantastic. There is only one special one in football in my eyes, and it is not the former Chelsea and Man United manager.

In those days, it was easy for old firm fans to get tickets to go to a Kilmarnock game. You could either phone them up or just turn up and get in. Motherwell was in the same boat. Sadly, those days are gone and it is much more difficult for people such as me to go to grounds such as that of Kilmarnock. That is a shame, because it is a very open and welcoming club.

I remember that one of Killie's many managers, Bobby Williamson, also encouraged easy access. He would take phone calls from fans and listen to them explain tactics and team selection. He was a bit of a character was Williamson. While he was the manager of Hibs, his silver Mercedes was clocked doing 107 miles per hour on the M74 near Lockerbie. He was found guilty of speeding and banned for three months. Sadly, his fame as a soccer boss did not extend to Constable Jane Monteith. She said that Williamson was invited into the back of the police car and asked to give his details after the car was flagged down. She told the court that

"he was polite initially but then said we should really appreciate who he was and could settle the matter at the side of the road. He kept saying we should know who he was ... but I didn't know who he was."

In 150 years, you go through a few gaffers. We have also seen Tommy Burns, who left for Celtic, Alex Totten, Jim Jefferies, Kenny Shiels and, right up to the present day, Steve Clarke. I like Steve Clarke—he impresses and amuses me at the same time. I think that there is a bit of a comedian somewhere under that dour exterior. He is doing a fantastic job and, if Kilmarnock can finish second this season, I would be delighted.

Kilmarnock collected more points over the course of 2018 than any other team in the premiership—that is great stuff.

"Steve has given the players back their self-belief,"

says Sandy Armour, who is editor of the club fanzine, *The Killie Hippo*. Why is it called the

"Hippo"? I have absolutely no idea, but it sounds funny. Perhaps somebody knows? No.

Killie fans have plenty to be cheerful about as they celebrate their 150th anniversary. If they can notch up a few more victories over Rangers, especially this Saturday, we can all be very happy. Like Kenny Gibson, I was reading at the weekend about how the team's current success is giving a feel-good factor to the town. That is fantastic, because when I worked in newspapers, it seemed that all you ever read about Kilmarnock was stories about this or that "Scheme" star. Marvin's new teeth being paid for by *The Scottish Sun* stood out as a particularly ridiculous story. Onthank has never, in my view, been representative of Kilmarnock. The feel-good factor has even seen a boost for the Hard Luck Tattoo shop, which may now have to change its name.

Killie's first 150 years have been up and down. Let us hope that the next 150 years see them continue on their current upward trajectory—just so long as they are not too successful.

**The Deputy Presiding Officer:** Before I call the minister, I realise that, if we really wish to hear from him, we need to extend the debate for up to half an hour under rule 8.14.3. I invite Willie Coffey to move a motion without notice.

*Motion moved,*

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

*Motion agreed to.*

13:29

**The Minister for Parliamentary Business and Veterans (Graeme Dey):** Indeed, Presiding Officer—I will not take half an hour. I congratulate Willie Coffey on securing the debate and on making a smashing speech—one of a number that we have heard.

As a supporter of a Scottish club that has been around for only 116 years, I acknowledge the achievement of Kilmarnock in reaching its 150th anniversary and for marking it by enjoying a season to remember—albeit that, as an Aberdeen fan, I hope that the season will end with the Dons finishing ahead of Killie, which they currently are.

Football is Scotland's national game. It is in our DNA and can be a source of great banter. The fortunes of our club can have a major impact on our weekend. On and off-field activity dominates media and social media, as well as discussion in communities. It has, on occasion, been known to feature in Facebook interaction between myself and Mr Coffey.

On the friendly rivalry and banter that John Finnie referenced, it was great to hear substantial



contributions from supporters of St Mirren, Hearts, Queen of the South and Celtic. However, the passing mentions secured for Albion Rovers, Dunfermline and Stranraer bordered on the shameful. I also note Brian Whittle's diplomatic contribution, in which he described his loyalties as "diluted", and Kenny Gibson's getting through four minutes without showing his hand.

Scottish football has its challenges, which we are working with clubs, the football authorities and other stakeholders to address, but it remains a hugely important and generally positive influence on the day-to-day lives of Scots. Although our men's national team may not be as successful as it once was and our club sides are no longer feared across Europe, our game remains strong. Scotland's women reached the Euros two years ago, and this year they will contest the world cup finals, which is a remarkable achievement. Domestically, our game remains strong, with a top flight that sees just 11 points separating the top four sides and the championship being even more keenly contested. There is a competitiveness afoot that can only be good for the sport. Attendances remain high—the highest per capita in Europe—and interest is as powerful as ever. There is much to celebrate and discuss, and we have heard that reflected in members' speeches this afternoon.

As I and others have noted, this debate to mark the 150th anniversary of Kilmarnock FC could not be better timed, given the fantastic progress that has been achieved under the leadership of Steve Clarke. Despite having relatively modest resources, the club is performing magnificently near the top of the table and is involved in an exciting tussle for the title. It has been a thrilling season so far, and I hope that Killie can continue to keep up the pace for the remainder of its campaign.

However, as a Government minister, I am required to not knowingly mislead Parliament. Therefore, let me say that my personal hope is pretty much the same as that of Graham Simpson, which is to see Killie finish runners-up in the league behind Aberdeen, however unlikely that scenario might be—especially after last night.

I recognise, as other members have, the history and standing of the Rugby Park side in the Scottish game. It is the oldest professional football club in Scotland, one of the founding members of the SFA, and it took part in what is thought to have been the first ever Scottish cup fixture, in 1873. I was half expecting Stewart Stevenson to be in the chamber to tell us that a relative of his took part in that game or to claim to have been there.

The club joined the Scottish League in 1895 and was elected to the top flight for the first time in 1899. As Willie Coffey said, Kilmarnock won the Scottish cup in 1920. That success was soon

followed by a second success, in 1929, when Rangers were memorably beaten at Hampden in front of a 114,708-strong crowd, as Colin Smyth said. The club won the Scottish cup for a third time in 1997, and its most recent honour was the league cup in 2012, when Celtic were defeated.

However, the greatest moment in Killie's history—I apologise to John Finnie; I do not want to intrude on his personal grief—was when the club won the top-flight title in the 1964-65 season. It was a dramatic title race, as we heard, with Hearts three points clear—those were the days of two points for a win—with two games remaining. The two clubs went head to head on the final day of the season, and Kilmarnock won 2-0 to claim the championship.

The club has also made its mark in Europe, qualifying for European competition on nine occasions. Its finest hour was when it reached the semi-finals of the 1966-67 Fairs cup only to be defeated by Leeds United. Killie is, of course, one of only a few Scottish clubs to have played in all three European competitions.

Like all SPFL clubs and many other football sides in Scotland, Kilmarnock is associated with a trust that fulfils an important community role. The Scottish Government greatly values the work that is undertaken in communities, using the power of football to inspire the delivery of wider outcomes. Such work is the main focus of our engagement with football through individual organisations as well as through representative or national bodies such as the Scottish Professional Football League Trust and the Scottish Football Association.

The Kilmarnock Community Sports Trust, which was established in 2015, is a charitable organisation that aims to support the local community. It works with local people from the age of three and offers a wide variety of programmes to develop younger players and help them to aspire to get active and involved in football.

**John Finnie:** I concur with the minister's comments about trusts. Does he agree that fan ownership is a way of building on that approach and bringing communities closer to clubs?

**Graeme Dey:** I absolutely agree with the member. The more that fans are involved in the running of their football clubs, the better.

I congratulate Mr Coffey again on securing the debate, and I congratulate Kilmarnock FC on its 150th anniversary and wish it—almost—every success on and off the field in this historic season.

13:36

*Meeting suspended.*

14:00

*On resuming—*

## Glasgow Airport Access Project

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a statement by Michael Matheson on the Glasgow city region deal and the Glasgow airport access project. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

**The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson):** The Scottish Government recognises the important role that transport plays in the lives of people who live and work in Glasgow and the west of Scotland.

We continue to support the Glasgow city region deal and want to see it succeed. We support the Glasgow airport access project and are committed to working with partners to improve, as a matter of urgency, surface access to the airport.

As members know, the Glasgow airport access project is part of the Glasgow city region deal. As such, responsibility for delivering city deal projects rests with the relevant local authorities—in this case, Glasgow City Council and Renfrewshire Council.

Members might also be aware that the original outline business case for the Glasgow airport access project was approved by the Glasgow city region deal cabinet in 2016. Officials at Transport Scotland and Network Rail had consistently raised concerns about aspects of that business case. As a result, the then Minister for Transport and the Islands commissioned an independent audit. That approach was welcomed by the councils, which supported the audit process and agreed that the project team would work to address the key audit concerns around transport demand, rail operational issues and the economic case—including costs and benefits. Those discussions led to an agreement that Transport Scotland would commission parallel work in order better to understand existing and future rail demands and timetable capacity constraints around the south Glasgow rail network.

Over the past 12 months, the airport access project team has worked to address the concerns. On 30 January, I chaired the Glasgow airport access executive steering group, which includes the leaders of the two councils involved and representatives of Glasgow airport. The group was established in recognition of the importance of the project and to give strategic direction. At the meeting, we heard how the project team has

considered issues that were raised in the independent audit, including the potential impact of a tram-train option on the existing rail network.

Members should be aware that Glasgow Central is Scotland's busiest railway station. It serves about 33 million passengers a year and is operating at or near capacity. Growth projections indicate that, by 2040, the demand on the station will be 60 million passengers a year. The Scottish Government and the wider rail industry are aware that if those existing and future demands are not strictly managed, performance levels at Glasgow Central and across the west of Scotland rail network will be at significant risk.

In line with Government rail policy—supported by the wider rail industry—we seek first to manage and address capacity by increasing rolling-stock provision. Where additional services must be added to the existing network, the focus should be on routes on which heavy rail services are best placed to deliver, rather than on introducing new services that might be more efficiently delivered by other modes.

In taking forward that approach, Transport Scotland has assessed service enhancements that would make best use of current and planned major rail projects, and which would tackle routes on which passenger volume demands more seats. The improvements focus on providing longer and more frequent trains on the Shotts, East Kilbride, Ayrshire, Inverclyde, Lanark and Paisley canal routes, as well as additional cross-border services.

The tram-train service between Glasgow airport and Glasgow Central station was also considered as part of that work. The analysis has shown that accommodating tram-train services to the airport would negatively impact performance on the wider rail network and would require either a reduction of current rail services to and from Ayrshire and Inverclyde, or deferral of future service enhancements, and/or significant and high-cost infrastructure at and around Glasgow Central.

The capacity analysis that was undertaken by Transport Scotland has indicated that it would be possible to accommodate only six out of the planned 25 airport services during the morning peak period, and that 19 airport services would be in direct conflict with other train services and therefore could not be accommodated without that having a detrimental impact.

To give an example of the potential implications, the trains that would be in direct conflict with the tram include some arrivals into Glasgow between 08:00 and 09:00 from Ayrshire and Inverclyde, which carry high volumes of commuters. Furthermore, it has been estimated that 15 passenger services that use Glasgow Central station and its approaches would have to be

removed to accommodate four tram-trains per hour. That is estimated to represent in the region of 5,000 seats in the morning peak period, on heavily laden services.

In addition to those significant impacts, there are safety considerations in relation to operating lighter tram-train units on the heavy rail network, and those were not fully considered in the current business case. The leaders of the local authorities that are responsible for the project have recognised that current and future rail services should not be compromised, and that the tram-train case that was set out in the original outline business case was not robust in that regard.

We cannot ignore the fact that the tram-train option would have a detrimental impact on the network, and that it would face many real and potentially insurmountable challenges. I am sure that members would agree that taxpayers' money should be spent on a project that has a robust business case for inclusive growth, and which would not be detrimental to current rail passengers.

The executive steering group heard that the emerging preferred option of a personal rapid transit link could be delivered within the existing city region deal budget and within timescales, to be operational by 2025. It is important that the approach has received backing from the leaders of Glasgow City Council and Renfrewshire Council, who have rightly said that their responsibility is to deliver a workable and affordable solution that will not impact on rail services. Partners will shortly ask the city deal cabinet to approve work on the PRT option, to be completed this year.

In addition to supporting the city deal, the Scottish Government is carrying out work to determine what transport investments should be made in the future in order that we can deliver our economic strategy. The second strategic transport projects review is the opportunity to consider at national and regional levels the important contribution that transport infrastructure projects will play in delivering and sustaining the economic growth to which we aspire.

I recognise that the performance of the M8 between Glasgow and the airport is of concern. Consideration of the future needs of the strategic road network and the public transport network that support the economy of the Glasgow conurbation will be an important part of that work.

Our cities and regions are the engines of our economy. The Scottish Government is committed to working with partners to unlock investment, stimulate growth and deliver infrastructure. The Scottish Government will continue to support the city region deal: we want it to succeed.

Improving connectivity is a priority for the region as a whole, and improving surface access to Glasgow airport should be delivered for the benefit of all and not to the detriment of other services or planned enhancements. In taking forward the Glasgow airport access project, it is essential that we consider a whole-system approach. I am confident that we have made significant progress towards that outcome through the on-going work with the city region deal partners.

I look forward to seeing further development of the city region deal project to improve access to Glasgow airport, and of the second strategic transport projects review, which will set the long-term strategic outcome for the region and the nation as a whole.

**Jamie Greene (West Scotland) (Con):** I thank the cabinet secretary for advance sight of his statement.

Glasgow airport is the only major international airport that is accessible only by road. The airport is growing, the population around it is growing and the employment hub in which it sits is growing. It is simply inconceivable that the only way to access the airport is via a heavily congested M8. There has got to be some other form of connection.

As someone who represents parts of Ayrshire and Inverclyde, I accept that any rail link to improve connectivity should never be to the detriment of any other rail services. The cabinet secretary went into that in great detail, and I fully support him on that. However, the PRT proposal would connect the airport only to Paisley, which surely flies in the face of the intention of the city deal to connect Glasgow airport and Glasgow city centre.

I accept that there are issues with the tram-train proposal, but I ask the cabinet secretary whether he is truly confident that Transport Scotland and other stakeholders have fully explored each and every potential option that is available to connect Glasgow airport and Glasgow city centre. I am talking about the city centre—it does not need to be Central station specifically.

What is the potential cost of the PRT solution versus the estimate for the original tram-train solution? Will Paisley's infrastructure be ready to accommodate that connection?

With regard to the tram-train solution, which seems to have been shelved, is the cabinet secretary fully confident that the Scottish National Party council administrations that made that decision have been robust and have carried out adequate due diligence? Does he think that they have made the right decision?

**Michael Matheson:** It is simply not true that Glasgow is the only airport in Europe that does not

have a rail link. Luton airport does not have one, and it is putting a PRT in place. Luton airport serves—[*Interruption.*]

**The Deputy Presiding Officer:** Order. I want to hear the answers, and so does everybody else. I cannot hear them if members are shouting over one another.

**Michael Matheson:** Luton airport serves 16 million passengers a year, which is significantly more than Glasgow airport. Budapest airport does not have a rail link either. Many airports are looking at putting in infrastructure to support and improve connectivity. It is factually untrue to say that Glasgow is the only airport in Europe that does not have a rail link.

There is no doubt about the need to improve surface access to the airport. That is exactly what was proposed in the city deal, and that proposal is being taken forward by Renfrewshire Council and Glasgow City Council, which are considering proposals that they, and not the Government, have developed. When those councils considered the issue, back in 2016, they very quickly ruled out a PRT option and did not develop an outline business case for that to be considered. That decision was made by the council cabinets and not by the Scottish Government. In my view, they should have conducted much more work at an early stage to analyse the potential impact that that could have.

The deal is also about helping to improve growth and connectivity in the wider region. As I have set out, the proposed tram-train option would have had a significant detrimental impact on the rest of the region despite having the potential to improve services in those areas. That is why it is important that the city deal partners consider those issues and look for an option that allows them to improve surface access to the airport that is not detrimental to the rest of the region. That is why they have chosen to pursue the PRT option, and it is why they intend to develop a business case for that.

The member asked about the cost of the PRT option. The cost is allocated in the city deal budget; the amount intended for the tram-train option was around £138 million, and the amount for the PRT option is likely to be in a similar frame. However, the tram-train option had other significant cost elements that were not considered in the business case for the very reasons that I have outlined, and significant enhancements to infrastructure would also have been necessary to cope with it. Again, it would be for the city deal partners to decide whether they wished to allocate any additional moneys within the city deal arrangement to any surface access provision.

Alongside that, we need to address the issue of road connectivity to the west of Glasgow, particularly to the airport itself. That can be considered in STPR 2, and we are giving clear priority to looking at other options for improving connectivity to the airport by road.

**Colin Smyth (South Scotland) (Lab):** I thank the cabinet secretary for advance sight of his statement.

This is the second time that the Scottish National Party has axed plans for a rail link to Glasgow airport, and it is yet another betrayal of the people of Glasgow and the west of Scotland. It is a betrayal that has been roundly condemned by the business community right across the west of Scotland. The city of Glasgow and Glasgow airport continue to grow, but so, too, I am sad to say, does the utter lack of ambition of this SNP Government and the SNP leadership in Glasgow and Renfrewshire councils.

It is clear that the emerging preferred option of the so-called pod is a second-rate option for an increasingly second-rate transport system under this Government. This rail link, which has undergone review after review, was at the heart of the Glasgow city region deal that was signed by this Government five years ago, but only now is the Government raising capacity issues. Conflicting expert opinion is challenging those capacity claims, but, if they are an obstacle to the light rail plan, does the cabinet secretary not accept that that exposes the Government's complete failure to adequately improve capacity at Glasgow central? When will the Government show some ambition and put in place a proper plan for growing capacity across Glasgow instead of following the current policy of simply blocking badly needed new services, with all the economic damage that that does to Scotland?

**Michael Matheson:** The member might not be aware of this, but Transport Scotland and Network Rail raised concerns back in 2016, when the city deal partners brought up this matter, and they welcomed the independent audit and recognised the number of challenges that were set out.

The member seems to want to ignore the point that I made in my statement, that Network Rail and Transport Scotland are looking at introducing a range of enhancements to improve capacity at Glasgow central station through additional rolling stock and frequency of services. He does not seem to recognise that we cannot introduce a single project while ignoring the rest of the network nor think that everyone else should have less of a service in order to give priority to one particular service. That is, essentially, what the member is arguing, but we cannot ignore the potential impact of the proposal on the area that he represents, on

Inverclyde, on Ayrshire and on services into Lanarkshire.

I am disappointed that the original outline business case did not address those issues, which is why the work that is being undertaken by Transport Scotland and Network Rail includes the enhancement programme to improve these services and address the capacity issues that we have. We must undertake that in a managed way that does not create detriment to the other passengers who have to use the services that come into Glasgow central station. The member seems to want to say, "Who cares? Just get on with this proposal—we don't care about those in Ayrshire or Inverclyde who will be affected by it." He is saying that we should just ignore passengers from those areas, even in his own region, because he is committed to this for party political purposes instead of seeking to improve services for the travelling public within the Glasgow region.

**The Deputy Presiding Officer:** I see that 12 members want to ask questions. You will have to be quick in asking them. They will have to be short, and I hope that we will get answers to match.

**James Dornan (Glasgow Cathcart) (SNP):** Given the problems with the tram-train options that were mentioned in the statement, not least those that might hinder people coming into Glasgow to work, does the cabinet secretary agree that Labour councillors could learn from the SNP's commitment to not wasting taxpayers' money on major projects that have not been properly costed? One would have thought that it would have learned from the disastrous consequences of recent decisions made by some of its own councils, not least in the city in which we are speaking right now.

**Michael Matheson:** It is important that there is a very robust business case for any major infrastructure project of this nature. The audit demonstrated—as did the timetabling study for the south of Glasgow—that there are some significant issues around the original business case that need to be addressed. The executive group, which considered the matter last week, recognised that a number of the issues are extremely challenging and that the planned tram-train link to Glasgow airport would adversely impact the overall network. Those matters should have been considered by the city region deal partners at a much earlier stage, and I am disappointed that they never gave due consideration to them at the time. However, it is right that those in Renfrewshire Council and Glasgow City Council who are offering leadership on the issues recognise the potential risks and that those matters need to be addressed.

**Adam Tomkins (Glasgow) (Con):** Anyone who cares about the economic growth of Glasgow could see immediately that Glasgow needs a direct rail link to its airport, yet the SNP is cancelling such a plan for the second time in a decade. That is nothing less than a betrayal of Glasgow. Does it not show that the Government could not care less about Glasgow's economic future prosperity?

**Michael Matheson:** When it comes to betrayal, I will take no lessons from the Labour Party, given the impact that it has had on places such as Glasgow and its conurbation over the years—*[Interruption.]* I mean the Tories. I will take no lessons from them, given their betrayal of people in the west of Scotland over many decades. The member is sitting next to his colleagues Jamie Greene and John Scott, who represents Ayrshire, but Mr Tomkins seems to think that we should just say, "Who cares about the folk in Ayrshire or Inverclyde or the detrimental impact on their service?"

How can we improve connectivity to our airport? We can do so by pursuing a route that will help to deliver and improve connectivity. That is why the city region deal partners are looking to develop the PRT option further. We will take that forward in a measured fashion. When it comes to betrayal, the Tories know a lot more about betraying the people of Scotland, and in particular the people of Glasgow, than anyone else in the chamber, and Adam should know that.

**The Deputy Presiding Officer:** Please use full names, cabinet secretary.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** In his statement, the cabinet secretary touched on the example of Inverclyde losing a rail service between 8 am and 9 am. What would be the further disruption to transport in Inverclyde during the daytime if the Glasgow airport access project—which is supported by the Labour Party and the Conservatives—proceeds, bearing in mind that the proposed local development plan of the Labour-led council suggests 5,000 new homes in the Inverclyde area?

**Michael Matheson:** As I set out in my statement, it is estimated that, in the morning peak period, around 15 passenger services that use Glasgow Central station and its approaches would have to be removed, relocated or altered to accommodate four rail paths per hour for an airport service. That would mean that some 5,000 seats would be removed or significantly affected in order to facilitate the airport link. Although not all those services relate to Inverclyde and the member's constituency, there is absolutely no doubt that there would be a clear impact on the Inverclyde area and on an already very busy part of the rail network. It is also worth noting that the

headway that is required between heavy and light services, such as between a tram and heavy rail, would require additional time between the journeys, which would have a significant impact on the Paisley Gilmour Street to Glasgow Central service.

There is no doubt that there are significant challenges in delivering a rail link directly to Glasgow Central station from the airport, which is why the city region deal partners are sensibly looking at an alternative option that will improve connectivity but that will not be to the detriment of passengers on the existing network.

**Neil Bibby (West Scotland) (Lab):** I am not sure that the cabinet secretary fully understands the impact that congestion on the M8 could have on the west of Scotland economy. Does he accept that, when it comes to increasing the number of people who use public transport to get to and from Glasgow airport, a rail link and the tram-train solution has consistently been found to be the best-performing option?

**Michael Matheson:** I recognise the challenges with congestion on the M8 to the west from Glasgow city centre through to the airport, and the need to take forward a range of options. However, the member does not seem to recognise that the tram-train option does not address that problem. It is not a magic wand that will relieve all the congestion problems. A number of different issues need to be taken forward. That is why the way in which the matter is being addressed by the city deal partners is the right approach. They are looking at how they can deliver a system that will not cause detriment to existing rail users.

Further, as we have said, under STPR2, we will consider what further work can be undertaken to improve connectivity on the road network to the west of Glasgow. No doubt, the member will be aware that the Glasgow connectivity commission is giving due consideration to the matter and is considering the wider regional implications of transport choices in the year ahead. We will give its views due consideration when they are published in the coming weeks.

**Patrick Harvie (Glasgow) (Green):** The Greens have always seen a case for a rail link to Glasgow airport that would take airport traffic off the road rather than just increase the amount of it, but we have always made the case for that to be done as part of a wider national rail network improvement. Is the cabinet secretary aware that the proposal under the local rail development fund for crossrail was rejected specifically because it is of national and strategic importance? Is it not time for the Scottish Government to throw its weight behind crossrail, in alliance with an airport rail link? That would provide the wider regional improvements that we need, rather than create a

situation in which one project is left languishing on the shelf and another is thrown into confusion.

**Michael Matheson:** The crossrail proposal was considered in the previous STPR in 2008 and was rejected on the basis of the cost benefit analysis. Further, there were issues around the displacement of existing services in the Glasgow area, which would be to the detriment of people who use those services. However, it is an issue that can be reconsidered. With STPR2 coming forward, there is an opportunity to consider how we can further enhance the connectivity to Glasgow and the region that it serves and its connecting communities. That will enable us to consider a range of options, from rail through to road and other forms of improving connectivity. I have no doubt that councils—not just Glasgow City Council but those across the west of Scotland—will look to use STPR2 as a way to highlight the projects that they believe could enhance and improve public transport in the city region area.

**Mike Rumbles (North East Scotland) (LD):** Now that the SNP has cancelled a direct rail link for the second time, does the cabinet secretary think that it would be fair to charge the thousands of Glasgow airport workers the new car-parking charges that the SNP and Green MSPs are committed to voting through, given that those workers have no choice but to travel to work by road?

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** You are obsessed.

**Mike Rumbles:** I am obsessed; I think that this is important.

**Michael Matheson:** We can always count on Mike Rumbles for a bit of creativity.

I say to him that there are other options with regard to improving transport links to the airport. PRT is one such option. If it is pursued by the city deal partners, it will improve connectivity and will be available to be used by workers and travellers. We will also look at how we can enhance the existing road connectivity at Glasgow airport in order to improve the frequency of public transport provision to the airport from the city through bus prioritisation and intelligent traffic management systems. No doubt, airport workers will be able to benefit from that improved connectivity if it is taken forward.

**John Mason (Glasgow Shettleston) (SNP):** In his statement, the cabinet secretary spent a fair bit of time on the capacity of Glasgow Central station. Following on from Patrick Harvie's question, I ask the cabinet secretary to at least keep crossrail on the table as a possibility, because, for example, an Edinburgh airport service could be taken out of Glasgow Central and could use a new station at

Glasgow Cross, which would be a boost for that area and would provide a more direct service.

**Michael Matheson:** As I said to Patrick Harvie, issues around crossrail can be part of STPR2, which will enable us to take a strategic overview of the issues. However, crossrail itself would not enable us to address the major problems that we have with the tram-train link, as there would still be significant challenges in the Paisley corridor approach at the Arklestone and Shields junctions in relation to additional capacity issues. The idea that crossrail, with a link from Glasgow airport to Glasgow Central station, is the way in which we will resolve the issue is not correct.

There will still be significant capacity constraints. Even with crossrail in place, the introduction of a rail link from the airport to the city centre would have a detrimental impact on the rest of the network that is served by Glasgow Central station. It is important that members recognise that crossrail will not answer the problems and serious challenges that there are with capacity issues at the Arklestone and Shields junctions.

**Annie Wells (Glasgow) (Con):** Is the cabinet secretary confident that the PRT option will be a popular choice with passengers, will solve the problem with congestion on the M8 and will truly satisfy the appetite for a direct link?

**Michael Matheson:** The deal partners are working up the business case for a PRT option. A number of airports have a PRT system in place. I mentioned that Luton does not have a rail link at present; it carries some 16 million passengers per year compared with the 10 million or so that go through Glasgow airport. Luton is presently developing a PRT system from the airport terminal to the rail station to provide better connectivity, because it believes that that is the best option to meet its needs.

Other airports around the world have put PRT systems in place, while others have direct rail links because they have the capacity and ability to do that. We need to ensure that the business case made by the city deal partners is robust and detailed and that it delivers improved surface connectivity to the airport in the way that is intended. That is what the partners have set out to do and it is why, later this month, they will take that proposal to the city deal cabinet to consider the matter further and commission a full business case.

**Kenneth Gibson (Cunninghame North) (SNP):** Labour and Tory MSPs seem utterly oblivious to the detrimental impact that their pet tram-train proposal will have on commuters to and from Ayrshire and Inverclyde. Can the cabinet secretary advise Parliament what impact that white-elephant project would have on the

economies of Ayrshire and Inverclyde, which are areas that some of those Tory and Labour MSPs theoretically represent?

**Michael Matheson:** Kenneth Gibson raises an important issue, because the Glasgow conurbation—the region as a whole—plays a major part in helping to support, diversify and develop the economy in Glasgow. Mr Tomkins raised the issue of helping to improve the economy of Glasgow. That is why it is important that connectivity into the city is good and that we improve it, and why we are looking at improving and enhancing services from Shotts, East Kilbride, Ayrshire, Inverclyde and Lanark to ensure that people who need to travel into the city can do so.

The independent audit of the outline business case for the tram-train link identified that there was a potential risk that it would have a detrimental impact on other areas that need access into the city, potentially having a negative impact on the city's economy. We have to take a whole-systems approach to improving connectivity into the city, rather than pursue one option that causes a detriment to other services that come into the city. That would have a negative impact on the economy in Glasgow and the wider Glasgow conurbation.

**The Deputy Presiding Officer:** Before I call Johann Lamont, I point out that there are two additional members whom I want to call. I know that it is a very hot topic, but please can we have crisp questions, because we have to move on to the next debate?

**Johann Lamont (Glasgow) (Lab):** Will the cabinet secretary reflect on the dangers of seeking to turn one community against another, when all our communities have the right to expect a cabinet secretary who wants an integrated transport system for all? Why does he imagine that all the businesses and communities who are advocates for a rail line are wrong and that Transport Scotland, which only ever sees barriers, is right? Can he identify for me any business or community organisation in any part of the universe that has said to him, "What we really need for integrated transport is a people pod"?

**Michael Matheson:** In her initial question, Johann Lamont ignores the fact that we have to deal with the reality of the situation and the evidence that demonstrates clearly the detrimental impact that implementing the proposed plan would have on the network.

I am surprised. I do not know whether Labour will campaign in Ayrshire, Inverclyde or Lanarkshire to cut their rail services so that it can get a link from the airport to the city centre. It sounds as though the campaign calling card for Mr Smyth and his colleagues at the next elections will

say, "We're going to cut your services so we can get our rail link." I am sure—[*Interruption.*]

**Kenneth Gibson:** On a point of order, Presiding Officer.

**The Deputy Presiding Officer (Christine Grahame):** I hope that it is a point of order, Mr Gibson.

**Kenneth Gibson:** It is. Is it appropriate for people who have asked questions to heckle at the answers to them?

**The Deputy Presiding Officer:** Sit down, Mr Gibson. You are no angel yourself. It is for the Presiding Officer to control the debate. There is a bit of heat on both sides. We are coming to the end of an interesting set of questions. There are two more questions to take, and they must be brief, as they are eating into the next debate. Stewart Stevenson will be followed by Graeme Dey. I beg your pardon; I meant Graham Simpson rather than Graeme Dey. Members have got me all hot and bothered now.

**Stewart Stevenson:** I refer to my entry in the register of interests.

Ten years ago, Glasgow airport wanted an eight-figure compensation for the proposals to take heavy rail to the airport. Is there any update on Glasgow airport's current attitude to any of the proposals?

**Michael Matheson:** I cannot give Stewart Stevenson an update on that specific matter.

**Graham Simpson (Central Scotland) (Con):** There is, of course, a direct rail link to an airport from Glasgow—that is to Manchester airport. That seems rather farcical. I do not want to argue for reduced rail services to—

**The Deputy Presiding Officer:** No—I want your question.

**Graham Simpson:** If there has been a flawed business case in this case, will the cabinet secretary look at some of the other transport projects in the city deal to check whether they are also flawed?

**Michael Matheson:** All projects in any city deal are approved only once the outline business case has been fully assessed, as has happened with this particular project.

## Management of Offenders (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a debate on motion S5M-15733, in the name of Humza Yousaf, on the Management of Offenders (Scotland) Bill. I trust that this will be a more sedate part of the afternoon.

14:37

**The Cabinet Secretary for Justice (Humza Yousaf):** I am always sedate, Presiding Officer.

I welcome the stage 1 debate on the Management of Offenders (Scotland) Bill, and am very pleased to open it.

The bill introduces a number of reforms that are designed to deliver on the Scottish Government's commitment to reducing reoffending, and to ensure that Scotland's justice system will retain its focus on prevention and rehabilitation, while enhancing support for victims.

As members will no doubt know, part 1 of the bill provides for expansion of electronic monitoring, as part of our continuing development of community-based alternatives to prison. The electronic monitoring provisions of the bill provide an overarching set of principles for imposition of electronic monitoring. The bill provides clarity on when and how electronic monitoring can be imposed by the courts in relation to criminal proceedings, or by the Scottish ministers in relation to releasing people on licence from detention or imprisonment. It creates a standard set of obligations that clearly describe what is required of an individual who is subject to monitoring.

The bill will also empower ministers to make regulations to specify the types of devices that can be used for monitoring. The introduction of new technology such as global positioning system technology presents opportunities to improve the effectiveness of electronic monitoring—for example, through use of exclusion zones. That could offer victims significant reassurance and, indeed, respite.

Part 2 of the bill provides for progressive reforms to the system of disclosure of previous convictions. The reforms aim to strike a much better balance between improving the life prospects of people with convictions and the important need for public safety. The proposed reforms will reduce the length of time for which most people with convictions have to disclose their offending history, bring more people within the scope of the protections not to disclose at all, and make the regime more transparent and easier to



understand. The reforms will unlock untapped potential in Scotland's people by helping individuals to move on more quickly from their offending behaviour, which will assist the economy, improve people's life chances and reduce reoffending rates. I hope that, ultimately, it will mean that there will be fewer victims.

**Daniel Johnson (Edinburgh Southern) (Lab):**

I accept the cabinet secretary's points about disclosure and electronic monitoring. However, will he accept that, in order properly to achieve the objectives including rehabilitation, a much broader suite of assistance, beyond disclosure and electronic tagging, must be provided to people who leave prison?

**Humza Yousaf:** I have heard Daniel Johnson make similar points at committee meetings. He is absolutely right: there is an onus on the Government and on all stakeholders to think about wider support. The measures in the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill, which we debated on Tuesday, and in the Management of Offenders (Scotland) Bill can never be viewed in isolation and will always be part of a wider suite of assistance. I agree with the point that Daniel Johnson articulated well.

The parole system is the focus of part 3 of the bill. The Parole Board for Scotland reforms will deliver on the Scottish Government's commitment to

"improve the effective rehabilitation and reintegration of people who have committed offences and complete the implementation of the parole reform project to modernise and improve support for the vital work of the Parole Board".

The bill also aims to simplify and modernise processes and to support a consistent approach to parole matters and the Parole Board for Scotland. Specifically, the bill will amend the tenure of board members to bring it into line with that of other tribunals; it will reinforce the independence of the board; and it will provide for the administrative and accountability arrangements of the board to be set out in secondary legislation.

I welcome the Justice Committee's comprehensive report. I will now set out the Government's thoughts on some of the important matters that are raised in it.

The committee asked for an early review of whether home detention curfew guidance for governors is striking the right balance, and it sought reassurances from the Scottish Government that lessons that have been learned from the reports by Her Majesty's inspectorate of constabulary in Scotland and Her Majesty's inspectorate of prisons in Scotland will be applied to other areas in which electronic monitoring might be used.

Members will be aware that, following the tragic murder of Craig McClelland, the inspectorates made 37 recommendations on home detention curfew, which the Scottish Government, the Scottish Prison Service and Police Scotland accepted in full. Guidance on HDC was updated in October 2018, following the recommendations, and there was an initial decrease in the number of people who were granted release on HDC. We responded immediately to the issues that were raised in the independent reports by the inspectorates, and the balance of our response was, of course, in favour of public safety. We are continuing to assess the impact of the presumptions that were introduced in that guidance. An extensive review of the guidance on HDC, which was one of the inspectorates' recommendations, is under way.

HDC release decisions must have regard to protection of the public at large, to prevention of reoffending by the prisoner and to securing of successful reintegration of the prisoner into the community. We are led by the best available evidence about how to weight those considerations. The considerations are in some ways complementary—for example, rehabilitation is an important way of protecting the public from people who reoffend. I am happy to reassure Parliament that any lessons that are learned from other areas of the system will be applied as the electronic monitoring service develops.

Public protection is, of course, a key element of the criminal justice system. As the committee requested, I will consider whether key principles and the weight that is given to public protection should be given greater prominence in the bill. However, the need to consider public protection is already set out in the legislation that underpins the HDC and in the HDC guidance. Therefore, it is an existing legal requirement that a risk assessment must always be done prior to the granting of HDC and electronic monitoring of an individual under an HDC licence. I have already written to the Justice Committee with further information on the on-going work on risk assessment tools.

**Daniel Johnson:** Will the member take an intervention?

**Humza Yousaf:** I will finish this point first.

I am also happy to take forward the suggested discussions with colleagues from the Scottish Courts and Tribunals Service, and with social work colleagues, on what further information might be made available. I am clear that any changes must be informed by the Risk Management Authority's advice on the relationship that such information presents to the risk of harm.

**Daniel Johnson:** Recommendation 5 from Her Majesty's inspectorate of prisons in Scotland's report says that

"Given the additional HDC licence conditions were not monitored, it was doubtful that they served any purpose."

I hear what the cabinet secretary says about risk management and the considerations. Surely monitoring is just as important. Is he satisfied that that is now in place?

**Humza Yousaf:** Yes, I am satisfied not just that the appropriate lessons from the inspectorate's report have been learned, but that changes are under way and are being made by the organisations—primarily, the Scottish Prison Service and, where necessary, Police Scotland. Daniel Johnson need not take my word for it. On the back of the reports, I have been keen to stress that my expectation of and request to the inspectorates is that at the six-month mark they follow that up as independent inspectorates. I will, of course, then be happy to present their findings to Parliament.

I have already written to the Justice Committee with details of the revised guidance for criminal justice social work on responding to breaches. That guidance clarifies a number of key roles and terms in the process. I have also said that at stage 2 I will give the committee more information about our plans for creation of an offence of being unlawfully at large.

The committee sought our view on whether extension of electronic monitoring will result in more punitive sentencing. We do not believe that that will be inherent in the extension. Ultimately, sentencing decisions are for the courts. The new GPS and remote substance monitoring capabilities extend the range of options that are open to the courts. We will continue to collect data on how the new capabilities are used.

The committee also asked what additional resources have been made available for implementation of the bill. It is not anticipated that the bill, as it is currently drafted, will immediately lead to a large-scale change in the manner in which electronic monitoring is used by the courts. However, if and when pilots of the new technology are taken forward, appropriate funding will accompany them. I can confirm that the budget for electronic monitoring has increased to £6 million, in anticipation of such changes.

In part 2 of the committee's report, a specific recommendation highlighted a concern that had been raised by Scottish Women's Aid on ensuring continuing appropriate levels of disclosure for people who have been convicted of domestic abuse offences and other similar types of offence. I can confirm that steps are being considered for a future disclosure bill, which will be concerned with

the higher-level disclosure system in order to ensure that appropriate disclosure continues with no unintended consequences on higher-level disclosure resulting from changes to the system of basic disclosure in this bill. MSPs can be reassured that that consideration will be informed by feedback that is offered.

I note the committee's view in part 3 of the report that victims should have a role in the parole process, and its comments that the bill is progressing while detailed consideration of the Parole Board is under way through our consultation paper, which we published on 19 December.

**Liam Kerr (North East Scotland) (Con):** The cabinet secretary mentioned Scottish Women's Aid. Does he share its view that cutting off a tag should be an offence?

**Humza Yousaf:** I will listen to what Scottish Women's Aid and members have to say. To give credit where it is due, I note that the Conservatives pushed the Government and others to consider a person's being unlawfully at large becoming an offence. I said in my speech that serious consideration has been given to including that in an amendment at stage 2. We have to be careful about terminology in respect of when a person technically becomes unlawfully at large, versus the moment when they cut off a tag. There is a nuance there. I have a good relationship with Scottish Women's Aid, so if it and members have views on the matter, I will listen to them. I intend at stage 2 to lodge an amendment on making being unlawfully at large an offence.

**John Finnie (Highlands and Islands) (Green):** I am grateful to the cabinet secretary for taking an intervention. Does he acknowledge that there is currently a role for victims in the parole system? It is not the case that something is being introduced that does not already exist.

**The Deputy Presiding Officer:** Before you respond, cabinet secretary, I say to members that there is time in hand, so do not be anxious. If you take interventions, you will have that time made up to you.

**Humza Yousaf:** Thank you.

We know that representations can take different forms depending on the case, but there is an opportunity to make representations to the Parole Board. I record my thanks to the Parole Board, which does a really difficult job. All of us in the chamber recognise that making such decisions is no easy thing, but the manner in which the board does so is to its credit. I have spoken to many members of the board in my time as cabinet secretary, and they all recognise that there could be significant improvement, including with regard

to hearing the voice of victims. John Finnie made a hugely important point.

I have held a number of meetings with victims and their families. From speaking to them, it is clear that they want a greater voice in the parole system. We are always looking at ways to improve things, which is why parole processes are kept under continual review. Those meetings have directly informed the content of the consultation that is under way.

I listened carefully to evidence that was given and to the committee's view on removal of the psychiatrist member of the Parole Board. However, I feel that the board currently has the expertise that it needs to assess cases appropriately without there being a statutory requirement for a specific type of member. I will, however, seek the views of the Parole Board on how we might further enhance the role of psychiatrists and other mental health professionals in its assessments.

I turn briefly to tests for release. Statutory tests exist, as members probably know, for life-sentence prisoners and people who have equivalent sentences, including those on orders for lifelong restriction and recalled extended-sentence prisoners. However, I am not convinced that a standard test is necessary for all other categories of determinate-sentence prisoner. A common test would have to work for each category of prisoner who would be considered by the board, including those who are subject to transfer under the Mental Health (Scotland) Act 1984, and young offenders and children who are subject to a period of detention.

There are reasons for having a test for the release of life prisoners and extended-sentence prisoners who have been recalled—namely, that they are potentially held in custody beyond the punishment part or custodial part that the court sets. I do not believe that we should assume that because a statutory test exists for release of some categories of prisoner, one must exist for all prisoners and be set in identical terms. The nature of a life or extended sentence is different from that of a determinate sentence. In response to the parole reform consultation, the Law Society of Scotland was against the introduction of a common statutory test for all prisoners, and highlighted the reason why certain types of sentence must be treated differently.

A test for release of each category of prisoner being set out in legislation would determine the scope of any decision by the Parole Board. However, I believe that the Parole Board should be able to consider and weigh any factors that it thinks are relevant. Rule 8 of the Parole Board (Scotland) Rules 2001 sets out in legislation matters that can be taken into account by the

board in dealing with a case. However, it does not provide a definitive list, so the Parole Board may take into account any other factors that it considers to be relevant.

Although I agree that further information being available on the array of factors that the Parole Board can take into account might be useful and could be published elsewhere, such as in guidance, I do not believe that setting out a test in legislation for each category of prisoner is the best way to achieve that.

The bill will make a number of important changes to improve the criminal justice system. I am pleased to note that the Justice Committee recommends that the general principles of the bill be agreed to at stage 1.

I move,

That the Parliament agrees to the general principles of the Management of Offenders (Scotland) Bill.

14:54

**Margaret Mitchell (Central Scotland) (Con):** I am pleased to speak on behalf of the Justice Committee in today's stage 1 debate on the Management of Offenders (Scotland) Bill. I thank all those who provided the committee with written or oral evidence. The committee also thanks the Wise Group and G4S for hosting a visit that helped members to understand more about the use of electronic monitors or tags, and the impact of disclosing prior convictions. That gave us an opportunity, at the very beginning of our consideration of the bill, to hear at first hand about the challenges that people with prior convictions face in trying to reintegrate into society. I also thank the Justice Committee's clerks and past and present committee members for their work in producing our stage 1 report.

Before I move on, I would again like to offer the committee's condolences to the family and friends of Mr Craig McClelland. Craig's tragic murder led to two independent reviews by HM inspectorate of prisons for Scotland and HM inspectorate of constabulary in Scotland. In June 2018, the committee suspended its stage 1 scrutiny until the important review findings became available. Our thoughts were very much on Craig when we finalised our recommendations, and I confirm that our stage 1 report takes into account the findings and recommendations of both reviews. The Cabinet Secretary for Justice has stated that he fully supports and will implement all the reviews' recommendations. The committee has made it clear that it will hold him and others, such as the Scottish Prison Service and Police Scotland, to those commitments and, crucially, that it will press for swift implementation of the recommendations.

I turn to part 1 of the bill, which proposes changes to the use of electronic monitoring. It will allow the Government to expand the use of EM and to bring in new technologies, such as GPS and transdermal technology, which can help to monitor people with drug and alcohol problems. The committee recognises that, where EM is used as an alternative to custody, it is necessary to balance any potential benefits against the need for public protection. Although, on balance, the committee supports part 1 of the bill, in doing so, members added a number of vital qualifiers to that support.

The committee recognises that the weight that is given to the considerations of public protection, punishment and rehabilitation may vary, depending on the different situations in which EM might be used. The committee is decisively of the view that EM should be used only after a comprehensive risk assessment has been carried out, particularly in relation to home detention curfews and other orders under which the individual would otherwise be incarcerated.

**Humza Yousaf:** I do not disagree with the committee's recommendations, but does Margaret Mitchell agree that, even if all the recommendations are put in place—as they will be—and the HDC regime and the other electronic monitoring regimes are more robust, that will not necessarily completely eliminate the risk?

**Margaret Mitchell:** Absolutely. There are no situations in life in which risk can be totally eliminated. Having said that, the assessment measures must be absolutely robust, especially when it comes to HDCs. Robust risk assessment procedures are critical to the use of HDCs and electronic monitoring.

The committee calls on the Scottish Government to liaise with the Scottish Courts and Tribunals Service on the provision to criminal justice social workers of summaries of evidence from court cases, to inform the preparation of any risk assessments. We found it a little worrying that they have sometimes had to rely on information from the offender themselves. It is critical that, as part of the sentencing process, a robust professional needs risk assessment is carried out on the suitability of an individual for EM. There also needs to be careful risk assessment practice, including home visits, to inform decision making about EM curfew arrangements.

The committee calls on the Scottish Government to consider whether key principles, and the weight that should be given to public protection and risk assessment, should be given greater prominence. That includes assessing whether there should be risk assessment provisions in the bill, as well as provisions on the monitoring of people on electronic tags. I think that

the cabinet secretary said that he was prepared to look at that.

Monitoring and evaluation are important issues, particularly given the findings of HMIPS, which noted that where an individual's release on HDC was made subject to additional conditions, there appeared to be no monitoring of compliance. The committee considers that to be unacceptable. Consequently, it recommends that additional conditions be accompanied by monitoring arrangements, which are agreed to and put in place in advance and clearly annotated on the licence. If that is not possible, the committee recommends that serious consideration be given to not granting HDC.

The committee calls on the Scottish Government to consider making provision in the bill that requires the Government to consult on, produce and maintain statutory guidance on the roles and responsibilities of relevant agencies with regard to risk assessment and monitoring, or conditions that relate to the use of electronic monitoring.

On breaches of electronic monitoring orders, the committee recommends that breaches are swiftly investigated and, when they are found to be substantive—when they are not due to a technical fault, for example—that they are responded to quickly and effectively. The committee notes the powerful evidence from Scottish Women's Aid and others, which expressed concerns about the use of GPS and exclusion zones in cases that involve domestic abuse or sexual offences. Those concerns focused on how breaches will be responded to in real time when an offender enters an exclusion zone.

The public will not have confidence in the use of EM if the relevant authorities are not seen to investigate all breaches swiftly and to respond without delay to substantive breaches. The committee wants to see progress made on the development of the new risk assessment tool and seeks details before stage 3, as well as statutory guidance on the roles and responsibilities of the different agencies and how they work and communicate together.

The committee supports in principle the introduction of the new offence of being unlawfully at large, whereby someone has breached their home detention curfew and perhaps removed their tag. However, given the divergence of opinion between Police Scotland and the Law Society of Scotland about the merits of the new offence and the wider police powers of entry and search and other related issues, the committee will consider the amendment that the Government proposes to lodge at stage 2, which would not preclude the committee from taking further evidence.

Part 2 deals with changes to the basic regime for the disclosure of convictions. The changes do not affect high-level disclosures, whereby checks are made for some categories of employment and proceedings, which require greater scrutiny of an individual's background. However, the committee calls on the Scottish Government to respond to the comments of Scottish Women's Aid that clarity is needed on the possible impact of the changes on high-level disclosure of some categories of domestic abuse offences.

A delicate balance needs to be struck between risk and the need to integrate people with prior convictions back into society. Very real challenges are faced by people in relation to disclosure—getting beyond the initial application itself is a challenge. The committee therefore welcomes the efforts to tackle the issue of people not even being interviewed to see whether they are suitable for employment, merely by dint of their having ticked a box that discloses a prior conviction.

During our visit to the Wise Group in Glasgow, the committee heard evidence from people with prior convictions and their prison mentors that putting a monitor on someone and then releasing them into the community with no money, no job, nowhere to live and no access to general practitioner services or—if they need it—drug or alcohol support is simply setting them up to fail.

The committee considers that there is a danger that the good intentions of the Scottish Government in relation to increased electronic monitoring will not succeed if the people who are wearing the devices are not fully supported and adequately monitored, including through rapid and effective responses to breaches. Insufficient resource provision might result not just in a failure for individuals who are wearing the device; it could also represent an increased risk to the community.

Today's comments by the cabinet secretary notwithstanding, the committee urges him to consider resourcing. All members agreed that the Government must make clear what additional resources can be set aside in 2019-20.

The committee supports the general principles of the bill.

15:05

**Liam Kerr (North East Scotland) (Con):** I am pleased to have the opportunity to speak for the Scottish Conservatives on the Management of Offenders (Scotland) Bill. We will vote in favour of the principles of the bill, but I must be clear and unequivocal that our stage 1 support comes with significant caveats and that any further support is highly conditional.

The bill is in three parts and I will deal with them in reverse order, but by ease of disposal. Part 3 makes small reforms to the Parole Board, removing the requirement to include a high court judge and a psychiatrist, as well as moving to a five-year term for members. I have no problem voting for that, but with respect, I suggest that part 3 of the bill is a missed opportunity.

Last summer, in response to several tragic events, I joined the Stewart family in calling for Michelle's law. Indeed, I led a member's debate on the topic, in which I set out the campaign's three demands, including that parole reform go further to give victims a greater say over temporary release from prison and parole. In response, in December, the Government announced that it planned to consult on the openness and transparency of the Parole Board and the involvement of victims of crime in its work.

I also recall that the committee heard evidence from People Experiencing Trauma and Loss—PETAL—who suggested that victims of crime should have a place on each parole board and hearing. The committee also recommended that further work be done to consider the tests used by the Parole Board when releasing a prisoner. However, all that work will be undertaken separately.

We will support what is being done in part 3 of the bill, but I cannot help but feel that it was an opportunity to take a step back, review the whole Parole Board and its operation and introduce a bill directly related to it. We are still awaiting some movement from the Government on the equally distressing process of temporary release.

**Humza Yousaf:** Liam Kerr knows that I take what he says on the issue very seriously. I, too, have met the Stewart family.

I wonder whether Mr Kerr accepts that part of the concern is that we have already delayed the bill—understandably, because of the inspectorates' reports on HDC—and that to delay it further for consultation on the Parole Board, at a time when the committee is already under legislative pressure, would be the wrong move. Much of what the Stewart family has asked for, and some of the other issues, does not need legislation. Does he agree that delaying the bill would be the wrong move, given that we can achieve much of what he and the families want without legislative delay and the fact that the Parliament does not have much time?

**Liam Kerr:** I understand the cabinet secretary's point, which is reasonable. Equally, I am sure that he will understand the point, which I will make several times in my speech, that there has been a missed opportunity, because we have three

standalone things happening in one bill that could have been better dealt with separately.

Part 2 of the bill could also easily have commanded its own separate bill and inquiry. The move to reduce—sometimes—the length of time for which one is required to disclose convictions makes sense, as does the improvement in the clarity of legal terms. We know that getting a job and making that contribution to society is one of the best routes out of offending behaviour. I recognise the cabinet secretary's comments on that. It is difficult to strike the appropriate balance between the right of society or an employer to know about prior convictions and the ability of a person with convictions to move on.

It was right to refer to the regime change in England and Wales for reference and it is right to ensure that the change applies only to the basic disclosure regime. As the committee convener said, it is also right that the higher-level disclosure system is not being considered at this stage. However, I note with concern that there are plans for reform in that area. I flag up to the cabinet secretary that the report states:

“the absence of any proposed changes to the higher level disclosure system was welcomed by a number of witnesses”.

It certainly was and I will take a great deal of persuading to agree to downgrade any such protections around higher-level disclosures if that comes to us for consideration.

It is a little unfortunate that part 1, which is the crux of the bill, is not a separate bill. Part 1 concerns the use of and provision for the electronic monitoring of offenders. I reiterate that we will support the bill—and by extension part 1—at this stage, but I must be clear and unequivocal that I did not take that decision lightly, and I know that my party colleagues will not take it lightly this afternoon. We support the bill at stage 1 only on the strict understanding that we see the opportunity to improve it at stages 2 and 3. I put down the marker that, if we do not see at stages 2 and 3 amendments that go far enough, we will not support the bill.

The Law Society of Scotland put it succinctly:

“Maintaining public safety is essential in whatever way that electronic monitoring is intended to be used”.

That must surely be the starting point: that we enhance and protect public safety. I need not remind anyone in the chamber of the reasons why the bill process was delayed and further evidence was taken. The shocking, unprovoked and devastating murder of Craig McClelland by James Wright, who had 16 convictions, was out on home detention curfew, had tampered with his tag and had roamed around uninhibited for six months, provides vital and awful context to the debate and

the bill. It raises issues about not just home detention curfew, but the wider use of tagging for all underlying orders and licences.

To digress slightly, the cabinet secretary will recall that Daniel Johnson, Willie Rennie and I wrote to him in November last year to demand an independent inquiry into that case. The family wrote to the Lord Advocate yesterday, as I do not think that they have heard anything, so perhaps the cabinet secretary will take the opportunity in closing to update the family and the Parliament.

As we have heard, against that background, two reviews of the home detention curfew regime were conducted. They made various recommendations, which included strengthening the risk assessment process for HDC. The cabinet secretary told the committee that he had ordered a presumption against HDC for violent criminals and that he would consider the option of putting that in statute. The committee's report picks up the fact that whether the presumptions should be statutory exclusions will be examined before May. That is too long to wait. The bill is going through now, and we are being asked to pass it without knowing what is coming and whether the full protections are in place.

I understand that any new offence would apply only to HDC. As the bill stands, an offender who has another underlying order or licence could cut off their tag without automatically committing an offence, because the offence would hinge on the underlying order. I do not think that victims will accept that; that needs to change. Victim Support Scotland, Community Justice Scotland and Positive Prison? Positive Future were crystal clear to the committee that there must be a swift and visible zero-tolerance approach to breaches. When a breach occurs because of the removal of or tampering with the electronic tag, it must be an offence, regardless of whether the person has a custodial or community sentence. I heard the cabinet secretary's comment that we will learn more at stage 2, but the amendments that I refer to must be agreed to at stage 2, and the public safety angle must be suitably scrutinised.

In the committee, I was terribly exercised—I was not alone in this—by the lack of the risk assessment tool at this stage. We heard that the Government agrees that the guidance document requires extensive review to give more assistance to those who are charged with undertaking the assessment on releasing prisoners, but the guidance is not ready. The cabinet secretary will remember that the committee looked at that; I do not understand the situation. Surely, before we do anything to increase the numbers who are on electronic monitoring, we must have a robust and trusted assessment tool. That needs to be addressed before the bill is passed.

On the decision-making process, I will raise something that I struggled to understand throughout. No matter whom or which agency I asked whether public protection, punishment or rehabilitation is most important in considering release on HDC, I got an equivocal answer. No one said that public protection is paramount, which I do not understand. The cabinet secretary said that he would consider whether public protection should be given greater prominence in the bill and I can help—it should be.

My overriding concern, particularly because the bill remains unchanged from its initial form before all the learnings that came from tragedy, is that the cabinet secretary's predecessor introduced the bill in an atmosphere of—dare I say it—complacency and with a view to extending tagging to inappropriate cases, which was perhaps driven by the simple wish to empty prisons.

The landscape has changed fundamentally, and our continued support is predicated on reassurance that the bill is about getting the regulation of tagging right and protecting public safety. We must put electronic tagging on a basis that can command public support and we must learn the lessons of tragic cases such as that of Craig McClelland.

Following a good inquiry, the committee heard many promises from the cabinet secretary. Those promises must be kept, and we must see the further changes that we are calling for. If, over the course of parliamentary scrutiny, it looks like it will be the opposite, we will vote against the bill.

15:15

**Daniel Johnson (Edinburgh Southern) (Lab):**

I thank the clerks and my fellow committee members. It is always important to do that, but particularly in these circumstances. The committee treated a difficult set of circumstances appropriately, by delaying their report and taking further evidence; that was important. I pay tribute to the clerks; it was not an easy report for them to compile and they did an excellent job.

This is an important debate about how we manage people whom we send to prison and what happens to them when they transition back into our community. The expansion of electronic monitoring has the potential to make community justice more effective, by increasing the options that are available to manage and monitor those people who leave prison.

We can gain significant rehabilitation and public safety benefits by transitioning someone back into society with electronic monitoring. However, those benefits must never overshadow the public's right to be protected. Public safety must be paramount and it must trump all other considerations. That

was tragically demonstrated by the circumstances of Craig McClelland's murder. Failure in the management of offenders can have devastating and disastrous consequences. It is vital that we learn the lessons from the McClelland case.

When the cabinet secretary appeared before the committee, I reflected my feelings of having failed to ask the right questions when we first considered the bill. I failed to ask, "What currently happens when people who are on electronic tags breach those orders?" That was a significant omission, and one that the committee corrected. However, the Government must also recognise its failure to consider some elements in the bill. It needs to re-examine how effectively the orders are used and how effective electronic monitoring is.

From the reports by HMICS and HMIPS, it is clear that in the current system there are profound, systemic failures in process, in interagency communication and, most fundamentally, in the monitoring of people on HDC.

The HMIPS report indicated that a robust assessment process to help identify which prisoners are most suitable for electronic monitoring was not in place and that the SPS was not funded or staffed to undertake the more detailed, multidisciplinary approach that was required. It highlighted that those who made decisions to release an individual on HDC did not have access to all the relevant information, which made it difficult for them to come to an informed decision.

Although Labour members support the broad aims and principles of the legislation, it would be a dereliction of our duty as Opposition members not to fully scrutinise whether the bill, as it progresses, has adequately addressed the issues raised by both reports. Importantly, I am unconvinced that the policy changes or the new offence that the cabinet secretary proposed will be sufficient. A number of recommendations—made by both HMICS and HMIPS—might require provisions in the bill or would be enhanced by further legislation. In particular, action on recommendations 5 and 14 of the HMIPS report and recommendations 1 and 9 of the HMICS report need to be examined as to whether statutory guidance and clarification of statutory roles of agencies would help to make the system more robust.

There must also be a robust reporting regime, not just of the use of those measures, but of offences committed by those who are subject to the measures. That need for improved data is underlined by recommendation 21 in the HMIPS report. Furthermore, recommendation 11, which suggests a suspension of HDC for those who give an address outside Scotland, must also give pause for thought as to whether that is ever

appropriate, given the interjurisdictional issues that have been identified.

The improvements that we need will not be addressed solely through legislation, but following the tragic circumstances of Craig McClelland's death, there is a responsibility on us all to ensure that this bill is as robust as it needs to be and that it acts on the serious faults that were found through those investigations.

As a whole, I believe that this bill represents something of a missed opportunity. Much as Liam Kerr set out, there are three separate components which it may have been better to examine on their own and more holistically.

Evidence strongly suggests that managing and monitoring offenders in the community can only ever be successful if it is part of a broader rehabilitation and support package. A simple extension of electronic tagging is far too narrow on its own. The success of electronic monitoring will depend on adequate budgets being in place for criminal social work and the availability of wider services that support people who are subject to such measures.

It is extremely disappointing that the bill does little to address the underlying causes of reoffending. It fails to look at the broader issues of housing, healthcare, employment and other support measures that should be made available to those leaving prison.

From my conversations with prison services and organisations such as the Wise Group and Positive Prison? Positive Futures, I know that they support the view that we need a broader set of changes if we are serious about reform. In particular, I pay tribute to the Wise Group and thank it for making it possible for me to shadow one of its prisoner mentors, which was certainly a revealing experience for me.

**Liam Kerr:** In terms of what we do next, does the member agree with us that it should always be an offence to cut a tag off?

**Daniel Johnson:** There are some very compelling reasons to consider that point. The fundamental point is that for those released subject to a condition such as that set out in HDC—in other words, where electronic monitoring is a substitute for incarceration—we must treat that condition as similar to being in prison. In other words, we must treat someone in breach as though they have gone over the prison wall. That is the seriousness with which we should treat the breaching of HDC conditions.

In terms of the wider reform aspects, if people leave prison without knowing where they will live, how they will access medical services or how they will support themselves, we cannot assume that

they will not reoffend. To do so is to set them up for failure and it is an absolute dereliction of our responsibilities.

The expansion of electronic monitoring has some significant potential to improve our justice system, but we must go much further than the bill currently does in order to achieve that.

Let me be clear: Scottish Labour will support the bill at stage 1, but that support is not unqualified, nor is it unequivocal. The legislation requires further testing and further scrutiny to ensure that it upholds the very clear recommendations in the HMICS and HMIPS reports.

15:23

**John Finnie (Highlands and Islands) (Green):** The Scottish Green Party will endorse the principles of the bill tonight and it is supportive of the direction of travel and the growing acknowledgment of the ineffectiveness of short-term prison sentences.

We all agree that we need credible alternatives, first and foremost to prosecution, and then to custody, and that we need to make sure that the appropriate people are locked up and that those who might otherwise not require to be in custody have alternatives. Key to that is having the resource.

One of the challenges, I accept, is that it will be difficult to quantify when that resource transfer takes place. I think that the other Opposition parties will also accept that with good grace. Do we take one prison out of the equation? As long as we have the bricks and mortar, we will have that challenge.

The volume of court work that takes place is another challenge. Criminal justice social work plays a pivotal role. We talk about getting a summary of the reasons why a conviction has been upheld; that would be unnecessary if we had a criminal justice social worker in every court for every trial, following every case, with an intimate knowledge of the individual who is coming to court. Significant resources are required, but that is not to say that, in the long term, there are not savings to be made.

Fairly early on in his speech, the cabinet secretary talked about the key aim of the prevention of reoffending and Daniel Johnson talked about some of the causes of reoffending. Of course lack of housing, employment and welfare are pivotal parts of the issue.

Some of my colleagues have been a bit critical of the format of the bill. Odd things are sometimes joined together, but there is a criminal justice element to all parts of the bill.



I commend early intervention as a key part of the issue.

We heard from Leanne McQuillan of the Edinburgh Bar Association that it would be “very concerning” if a private company were to hold details of a person’s alcohol and drug use. Extending to GPS monitoring and the ability to monitor someone’s alcohol and drug consumption may seem straightforward. However, as well as the Edinburgh Bar Association, Dr Hannah Graham from the Scottish Centre for Crime and Justice Research highlighted to us the fact that the privatised model that presently applies in Scotland, and in England and Wales, is out of step with other places to which we would look for examples—we talked this week about the barnahus model. In progressive countries such as Norway, Sweden, Denmark and the Netherlands, the criminal justice system is a public service and not associated with profit. As someone who is deeply offended by the idea that people would profit from their involvement in the criminal justice system, I hope that the cabinet secretary will pick up on that. I may return to it at stage 2.

This is not just about private versus public; it is about the growing volume of data that is available and the perennial issue about who has access to that data, as well as the period of its retention. The existing arrangements already present challenges, such as when an offender who is out in the community finds themselves in hospital, and there is no communication about that. It is not as if the existing arrangements are not sufficiently challenging. I hope that the cabinet secretary considers that.

Concerns have been voiced by the appropriate oversight body, the Information Commissioner’s Office in Scotland, which said that information obtained through monitoring must be processed only for another law enforcement purpose. Elsewhere, we heard the suggestion that there might be challenges around article 8 rights. That is a pertinent factor, which I hope that the cabinet secretary will pick up on.

I want to talk about the astonishing turnaround in figures, and the 75 per cent reduction in the use of HDCs, with a move from a presumption in favour of HDCs to a presumption against. We all have sympathy in relation to the tragic events that brought that about, but we must not have a risk-averse public sector. If we do, it is a case of throw away the key. As the convener of the Justice Committee acknowledged, nothing is entirely risk free. We want informed decisions made with the best possible, timely information. I hope that we see a turnaround on that. I fear that risk assessment will become a tick-box exercise that is unable to pick up on the peculiarities of an individual’s circumstances, the wide range of

factors that may impact on the likelihood that they will breach their bail conditions and the trying circumstances that they may find themselves in while in custody.

Do I have more time, Presiding Officer?

**The Deputy Presiding Officer (Linda Fabiani):** I am so sorry, Mr Finnie. I was involved in something else terribly important. I can give you an extra minute.

**John Finnie:** Thank you.

I want to talk about the disclosure of spent convictions. There is wide recognition that the bill represents progress, although some, including the Howard League Scotland and Dr Hannah Graham, say that we could go further on that. We want people to leave custody without stigma. Like other members, however, I commend the words of Dr Marsha Scott about the significant difference that there is around disclosure regarding domestic abuse. I will leave it there.

**The Deputy Presiding Officer:** I call Liam McArthur. You have seven minutes, Mr McArthur. *[Interruption.]* I am sorry—I am all over the place this afternoon. You have six minutes.

15:29

**Liam McArthur (Orkney Islands) (LD):** I will not pass comment on that, Presiding Officer.

Like others, I thank colleagues, the Scottish Parliament information centre and the clerks for supporting our scrutiny of this important bill; I also thank all those whose written and oral evidence informed the scrutiny process.

As Daniel Johnson and others have reminded us, it has taken us rather longer to get to this point, following the committee’s decision to delay proceedings pending the outcome of the two inquiries that the justice secretary commissioned into the tragic circumstances surrounding the brutal murder of Craig McClelland. That was absolutely right and proper. Clearly there is a limit to how far the bill can provide the answers that the McClelland family are rightly seeking, but that only underscores the need for a fatal accident inquiry into that case. As we now know, there are 127 outstanding FAls dating back as far as 2010; the impact that those delays must be having on families who have lost loved ones is unimaginable, but they also prevent lessons from being learned and, where necessary, laws from being changed. That cannot be right or acceptable.

As far as the Management of Offenders (Scotland) Bill is concerned, we need to be careful to manage expectations about what electronic monitoring can and will achieve. Ultimately, we are talking about monitoring and management rather

than control and prevention. Moreover, as we heard repeatedly in evidence, the measures can do little to help with rehabilitation or reintegration if no other support is in place. It is critical that that is properly explained and understood, because if Government and its agencies do not get that communication right, there is a real risk of public confidence being undermined.

Of course, at the heart of decisions on the appropriateness of electronic monitoring lie assessments and judgments of risk. For those assessments to be robust, information and expertise have to be appropriately gathered and shared. For example, seeking views from everyone who might be affected, including family members, will be important in assessing the suitability of an individual for electronic monitoring. As the committee convener reminded us, it was concerning to hear how, in compiling their reports, criminal justice social workers often rely on information provided by an offender in the absence of summaries of evidence narrated in court. That issue needs to be addressed.

The committee also heard evidence from various witnesses about the importance of ensuring that breaches carry consequences. Victim Support Scotland talked about the need for

“clear implications for infringement of a buffer zone”,

while Karyn McCluskey of Community Justice Scotland observed that

“Non-compliance needs to be dealt with robustly, otherwise it will just increase”.—[*Official Report, Justice Committee*, 8 May 2018; c 15.]

Such calls are understandable, as is the case that has been made by Police Scotland for creating a separate offence of remaining unlawfully at large. That view has obviously been given added weight by the findings of the two inspectorate reports last autumn, but as the Law Society rightly cautions, the detail of any such provision will need careful and robust scrutiny, as will proposals for extending police entry and search powers. I have no difficulty at all with looking at how to improve the bill's provisions in that area, but I suspect that we might need to take further oral evidence on the specifics of whatever the Government comes forward with at stage 2.

I will highlight a couple of other concerns that were raised repeatedly with the committee during our evidence gathering, starting with the need to avoid simply adding electronic monitoring to existing community sentences. It was reassuring to hear the justice secretary acknowledge the risk of what the Howard League and others referred to as “uptariffing”. Ultimately, electronic monitoring should be about supporting efforts to find robust alternatives to imprisonment; it should not merely

be an add-on to restrictions on those already deemed suitable for community sentences.

The second recurrent theme, which I think all colleagues who have spoken in the debate have mentioned, was that electronic monitoring will be effective only if it is used alongside other support. For example, Families Outside felt that the bill focused solely on surveillance and monitoring, adding:

“Without structured supports in place,”

electronic monitoring

“becomes a purely punitive measure that fails to address the reasons for the offending or to reduce the likelihood of breach due to pressures of unstable housing, substance misuse, poverty, chaotic environments, and damaging relationships.”

That is a salutary warning and, again, something that needs to be addressed at stage 2.

I am also keen to explore further how far we might go in using electronic monitoring to reduce the high numbers of people who are held in prison on remand. I recognise that including it as a bail provision is not straightforward, but as the Law Society has reminded us, electronic monitoring would be “cheaper and ... more efficient” than imprisonment, with all the disruption to work, family relationships, housing and so on that that entails.

My final point on the electronic monitoring provisions in the bill is to record my anxiety about the massive reduction in the use of home detention curfew that we have seen over recent months—I echo the concerns that were expressed by John Finnie in that regard. The reasons for that reduction are perhaps not entirely clear at this stage, but it appears that there is now greater risk aversion in the system, and the fact that there are now categories of offence in respect of which HDC cannot be considered has also undoubtedly had an effect. I understand that, but moving away from a system that allows for a managed transition of offenders back into the community carries inherent risks not only in terms of rehabilitation but because it puts added pressure on staff and prisoners in an estate that we know is already bursting at the seams in some places. Various witnesses argued for keeping the matter under review and I agree with and welcome the cabinet secretary's commitment to keep the committee updated on the work that he has commissioned in relation to HDC.

Although much of the attention at stage 1 focused on the electronic monitoring provisions, the bill also proposes changes to the requirements on disclosure of convictions and, to a limited extent, the role of the Parole Board for Scotland. In the case of the former, I think that the approach, which matches that taken south of the border, is

reasonable and proportionate, and has the potential to simplify the rules around disclosure. However, that will depend on the success of efforts to promote public understanding of what should be disclosed, when and in what circumstances.

Ultimately, we know that people can and do stop offending, and that employment is a key factor in desistance. Therefore, in the interests of public safety, if we reduce the barriers to employment, we can reduce the risks of reoffending. In that regard, I hope that we also see an end to the tick-box approach that is used by some employers pre-interview.

There are a range of issues that need to be addressed before the bill concludes its passage through Parliament. For now, I confirm that the Scottish Liberal Democrats will support the principles of the bill at decision time.

**The Deputy Presiding Officer:** We move to the open part of the debate. Speeches of six minutes, please. I have a bit of leeway to allow for interventions.

15:36

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** As we have heard, the bill is fairly complex in parts, so it is hard to distil it in a speech of six minutes. However, I will try to capture each of the three main areas of the bill.

As deputy convener of the Justice Committee, I add my thanks to the clerks for their hard work in producing an accurate account of the evidence that we heard over many months, and to all those who gave evidence.

The bill brings about a number of reforms that I believe are badly needed to ensure that Scotland's justice system retains its focus on prevention and rehabilitation while enhancing support for victims.

Part 1 expands and streamlines the use of electronic monitoring. As the policy memorandum states:

"The expansion of electronic monitoring supports the broader community justice policies of preventing and reducing reoffending by increasing the options available to manage and monitor offenders in the community, and to further protect public safety"—

which is paramount, as the cabinet secretary stressed more than once in his opening speech.

The policy memorandum continues:

"The introduction of new technologies, such as Global Positioning System (GPS) technology, presents opportunities to improve the effectiveness of electronic monitoring, for example through the use of exclusion or inclusion zones that will offer victims significant reassurance".

Nancy Loucks, chief executive of Families Outside, said:

"Electronic monitoring offers a valuable tool for reducing the use of imprisonment. Prison fractures families, whereas with the right support in place, electronic monitoring can keep families together, thereby maintaining social supports and reducing the risk of further offending."

However, as the convener outlined, Scottish Women's Aid has raised some concerns around GPS with regard to the safety of women and children in domestic abuse situations, with perpetrators moving freely outside exclusion zones or continuing to use other means of contact, such as texts, emails or social media. I believe that that area has to be carefully considered by means of constructive amendments at stage 2.

We know that we are locking up too many people. The high use of remand accounts for Scotland being among the most punitive nations in western Europe. There are around 8,000 prisoners in Scotland, and remand prisoners make up around 19 per cent of the prison population and account for around 27 per cent of deaths by suicide in custody.

**Daniel Johnson:** Does Rona Mackay agree that it is shocking that the rate of entry to prison on the ground of remand in Scotland is almost twice as high as it is in the rest of Europe? The rate in Scotland is around 18 per 100,000, whereas the rate in most other Organisation for Economic Co-operation and Development countries is around half that.

**Rona Mackay:** I absolutely agree that that is shocking, and we seriously need to address it. I hope that the trajectory that we are on will do something to deal with it.

Efforts have been made, most notably in Dame Elish Angiolini's 2011 review, which reported that women in prison are likely to be victims as well as offenders, with 53 per cent having experienced emotional, physical or sexual abuse as a child. Despite those efforts, the number of women remanded has been rising steadily over the past 40 years. Some 75 per cent of those women do not go on to be convicted. That is unacceptable and, in my opinion, an abuse of human rights.

The use of electronic monitoring instead of remand is not included in the bill, but the committee heard persuasive evidence that it should be, so I look forward to the cabinet secretary's comments on that in his closing speech. I am aware that the Government is proposing to introduce a pilot project to test its use, and I would appreciate more information on that, too.

The expansion of electronic monitoring is part of the Scottish Government's continued development of community-based alternatives to prison. Since

the introduction of community payback orders in 2011, Scotland's communities have benefited from around 7 million hours of unpaid work by people serving CPOs. From the gritting of roads in cold weather to the refurbishment and redecoration of local facilities, CPOs have reaped dividends for offenders and the community. Furthermore, reconviction rates for those who have been released from a short prison sentence are almost double the rates for those who are on CPOs. That is strong evidence that the Government's plan to lay the order to extend, from sentences of three months to sentences of 12 months, the presumption against short prison sentences is justified.

**Liam Kerr:** Is the member concerned that the expansion of CPOs will come at a time when one in three CPOs is never completed?

**Rona Mackay:** The rate is not as high as that—the situation is not as extreme as Mr Kerr suggests. In any case, that issue is not a reason to not go down this road; it is a separate issue, which would have to be dealt with.

The cabinet secretary has indicated that, following the tragic murder in 2017 of Craig McClelland, he is considering the introduction of a new offence of being unlawfully at large. The Government approved all the recommendations in the two inspectorate reports, which has resulted in a drop in releases on HDC of more than 75 per cent, from around 20 to 30 a week to around seven a week, as John Finnie noted. The Justice Committee is calling for an early review of whether the right balance has been struck. It was interesting to hear the cabinet secretary's remarks on that in his opening speech.

For me and for the committee, risk assessment is crucial in the use of electronic monitoring. It must be the top priority, as public safety is paramount. The issue of breaches must also be addressed, and wider police powers of arrest might be necessary. I am sure that those issues will be considered at stage 2.

The policies of managing offenders through electronic monitoring and successful rehabilitation must be backed up with the resources that are required to support them. I agree entirely with Daniel Johnson's comments on that. The many fantastic organisations that carry out work in that regard need financial security if the new approach is to be successful.

Part 2 of the bill relates to disclosure of convictions. As we have heard, anyone with a previous conviction can be disadvantaged for the rest of their life although they have completed their sentence. Nacro and other organisations raised a concern about the tick-box practice whereby someone has to disclose a previous conviction at

the initial application stage. Families Outside stated:

"Convictions should not in themselves rule people out of employment, and people should have a fair assessment of their appropriateness for a role without being disbarred automatically at the first stage."

A committee visit to the Wise Group confirmed that view powerfully. However, on disclosure in the context of domestic abuse, in relation to which reoffending is particularly high, Scottish Women's Aid said:

"there must be a balance between the resettlement of offenders and the protection of the public."

**The Deputy Presiding Officer:** You must conclude, please.

**Rona Mackay:** The bill is a key part of the SNP Government's wider work to reform the justice system, protect public safety and support victims, and I ask the chamber to support its general principles.

15:44

**Maurice Corry (West Scotland) (Con):** I thank everyone who has worked hard on the bill prior to the stage 1 debate.

I have visited prisons and I have met offenders of all sorts, some who were imprisoned for a few months and others who had life sentences. Those offenders have families, aspirations and potential, just like the rest of us. Although we have a responsibility to those offenders for their rehabilitation, we have an equal responsibility to the victims of their crimes. The Management of Offenders (Scotland) Bill includes changes that will help to reintegrate prisoners, but it does not focus on victim safety as much as it should. We cannot overlook the safety of victims in moving the bill forward. As spokesperson for community safety for the Scottish Conservatives and as a member of our justice team, I have committed to keeping communities safe; I have also seen at first hand the importance of security at national and community levels.

In line with the theme of safety, the bill's three main elements—improving the approach to electronic monitoring, reducing the period of time for which disclosure is required and streamlining the Parole Board—should mean that risk assessment is used judiciously. I acknowledge the research that has gone into the bill, but further examination is needed to ensure that it does enough to improve the management of offenders and to protect our communities.

**Humza Yousaf:** I thank Maurice Corry for giving way. I will, of course, listen to the rest of his speech, but can he give an indication of exactly what amendments he will lodge or wants the

Government to lodge that will give more weight to victim safety? It would be helpful if at this stage I was able to get some specifics on that on which to come back at stage 2.

**Maurice Corry:** We should give more power to the police to make sure that they are on the ball when they are investigating crime and protecting our communities. The appropriate procedure should be put in place and adhered to, to ensure that the perpetrators of the crime are dealt with. As far as the Conservatives are concerned, if we put electronic monitoring in place, we should make sure that it is properly sorted. We must reduce the number of people who cut the band off their leg or wherever it is—or prevent them from doing so. It is about managing the issue and being sensible about it.

Part 1 of the bill outlines changes for electronic monitoring. I support the bill in its step towards improving electronic monitoring capabilities, but I do not support extending its use. Since electronic monitoring was introduced, technology has significantly changed and using the GPS system seems to be a logical step in improving its use. The electronic monitoring in Scotland working group report claims that

“Increasing the number of individuals released on licence with EM ... presents a unique opportunity to aid prisoner reintegration while maintaining an element of control.”

However, we must be cautious. As I said to the cabinet secretary, it is about putting the system in and managing it.

In the wake of cases such as that of Craig McClelland, it is obvious that improvements are necessary to secure the safety of our citizens so that such horrendous and preventable crimes cannot happen again.

I stand by the 2016 Conservative manifesto statement that

“life should mean life for some of the worst offenders, who would not have the right to apply for parole.”

We must ensure that everything is done in wisdom and order, and we must not overlook the victims of those offenders. Using exclusion and inclusion zones with GPS monitoring can offer victims the reassurance of greater safety, but it is still not enough.

As I have said, the issue is twofold: we must keep communities safe, and we must rehabilitate the offenders. By that logic, many people argue that community sentences are the best way forward for the offender, but justice cannot be denied. One third of community sentences are not completed, so surely expanding their use is questionable. Victim Support Scotland notes that

“communities have no faith in community sentencing”.

It is not fair to victims, nor is it just, if offenders evade what is both a punishment and a rehabilitation.

I will touch briefly on disclosure. It is staggering that 33 per cent of males and 10 per cent of females in Scotland are likely to have a criminal conviction. That does not mean that those people are all hardened criminals—the position is much to the contrary. Those people have to disclose their sentences to employers, colleges, the armed forces, universities and the like in accordance with the timetable that is set in place in the Rehabilitation of Offenders Act 1974.

The world is a changed place since 1974, but much remains the same. Although we might not like to think so, employers could discriminate against someone with a criminal record when hiring them. Having to disclose spent convictions over a long period of time can have an on-going impact on someone's career opportunities, their education and whether they can open a bank account, for example. That makes it difficult for people who want to move on from their past offences. Their crime was committed and a punishment was served. Now that they have served their time, it is not only compassionate, but just, that reformed offenders should be allowed to move on from their past offences.

Justice is an on-going process and I agree that it is only fair that people who offended in the past and who could benefit from that change are able to do so. However, to protect public safety, it is only correct that more serious offences are disclosed in disclosure and barring checks.

It is only right that there is an update to the Parole Board's form and regulation. The Parole Board serves an important and essential role in managing an offender's risk to the community. Although the issues are separate from those that are addressed in the bill, the Conservatives pressed the Government in December last year on the Parole Board's openness and transparency and its involvement of victims; as a result, the Government plans to consult on those matters.

I have met members of the Parole Board and have seen the good work that they do. Deciding an offender's future is not an easy task, and the bill contains provisions to improve the Parole Board's operation.

Through improving the approach to electronic monitoring, reducing the period of time for which disclosure is required and streamlining the Parole Board, the Management of Offenders (Scotland) Bill could take a step in the right direction to a safer Scotland. However, that is not enough. The bill seeks to reform offenders, but it overlooks the needs of victims. As the bill progresses, I will welcome amendments that have community and

victim safety at their forefront. I trust that the cabinet secretary will take action on such amendments.

15:50

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** It has been a pleasure to be a member of the Justice Committee for the second round of evidence gathering on the bill, although I was not on the committee when evidence was first called.

Like other members, I thank the clerks. As the Presiding Officer knows, we had a debate in the chamber earlier in the week on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill, and it is a credit to the clerking team that they have prepared two high-quality reports to tight timescales. It is a very busy committee.

The bill allows for GPS to be used to prevent and reduce reoffending by managing people in the community and reducing time in prison, which is in line with the wider ideology on justice in Scotland. We know that, in general, rehabilitation is much more likely to be successful in the community.

**Daniel Johnson:** Although I agree with my colleague Fulton MacGregor's sentiment about the use of electronic tagging in reintegration, does he acknowledge the new prisons inspector's comments that we do not have the data on the effectiveness of such things, which is a deficiency?

**Fulton MacGregor:** I am just going on to talk about restriction of liberty orders, but I recognise that the lack of data is an issue.

Restriction of liberty orders, which are a form of electronic monitoring, have been used since about 2002 and they are effective. Compliance seems to be quite high—although I take Daniel Johnson's point that we might need a wee bit more data on that—and they are widely used by courts as an alternative to custody. The key thing that RLOs do is to allow people to continue the work that they are doing, perhaps through a community payback order, that allows them to address their offending behaviour, rather than going into custody. RLOs also allow people to maintain their employment—if they have employment—and positive relationships, which are two of the key factors that are crucial to reducing reoffending.

As other members mentioned, the period of evidence gathering was extended until January, which was prompted by the tragic case of Craig McClelland. I am pleased that the cabinet secretary has now proposed that the risk assessment process with regard to the decision-making procedures for home detention curfews should be strengthened. I also note from the

cabinet secretary's speech that there will now be a presumption that individuals whose index offence involves violence or knife crime will not in normal circumstances receive home detention curfew, and that there is an intention to extend that to serious and organised crime. That refers to the index offence for which somebody serves a sentence, and the committee was a wee bit unsure where past offences that came under those categories would fit in. That is why the assessment process is crucial.

The committee heard from James Maybee of Social Work Scotland, who was pretty clear that

"electronic monitoring is not a panacea".—[*Official Report, Justice Committee*, 8 May 2018; c 5.]

I think that everybody on the committee agreed that electronic monitoring is not appropriate for every case. We need to take into account its wider impacts, particularly when somebody is on a community payback order.

With regard to Liam Kerr's intervention on my colleague Rona Mackay on community payback orders, the stats for 2017-18 were out this week, and 70 per cent of community payback orders were complete, which means that roughly 30 per cent were incomplete, as Liam Kerr said. Instead of just thinking that there is a failure in the system, we need to understand that there is a wide range of reasons why those community payback orders have not been completed. Seventy per cent of them having been completed is probably quite a good level to reach.

**Liam Kerr:** Will the member take an intervention on that point?

**Fulton MacGregor:** Do I have time, Presiding Officer?

**The Deputy Presiding Officer:** That is up to you, Mr MacGregor.

**Fulton MacGregor:** I need to move on. I have already taken one intervention. I know that I mentioned Liam Kerr, so I apologise to him.

Those who carry out risk assessments need to take into account all the circumstances and to have access to the relevant information in other areas. We have heard evidence that social work reports take into account only what the individual has to say but, in my experience, that is not often the case. However, I accept that the majority of the information for a report often comes from the individual interview.

The committee looked a lot at the risk to others. If someone is given an electronic monitoring device and placed at home, they could pose a risk to others. Children could be in the house, so there are child protection issues. We also need to consider domestic abuse situations, and I know

that colleagues will speak about that. Given the nature of domestic abuse, that risk might not be detected, so an individual who is perpetrating domestic abuse against their partner could be in the house. We need to look at those issues.

I see that I am running out of time. The committee took a lot of evidence on tackling breaches. I welcome the creation of a new offence and what the cabinet secretary said in his opening speech. I also hear what the other parties are saying, but we need to reach a compromise on the issue. We need to be mindful of breaches that involve alcohol or drugs. In this country, we treat addiction more as a health concern than a justice concern, but we need to look at that issue, too.

I had a couple of things to say about the Parole Board but, given that I am out of time, I finish by simply urging the chamber to support the principles of the bill at stage 1.

15:57

**Neil Bibby (West Scotland) (Lab):** I thank the members of the Justice Committee for preparing their report. The bill is important not just because it provides for modernisation and reform of how offenders are managed, but because it is an opportunity to strengthen the law.

I want to focus on the strengthening of the law in relation to electronic monitoring and home detention curfews. We must not miss this opportunity, because the clear gaps in the law and in the system need to be addressed. As has been said, the committee supports, in principle, the introduction of a new offence of being unlawfully at large when an HDC is breached, and so do I.

On resources, it is clear that electronic monitoring alone is not sufficient, and that it must be provided alongside other forms of monitoring and intervention. The committee has, quite rightly, called for greater clarity on the additional resources that will be made available to the Risk Management Authority, local authorities and others, in order to make a new approach work. The committee stated that

"it is not immediately obvious where the extra resources will come from."

Like Daniel Johnson and others, I suggest that there are a number of areas in which the Scottish Government could go further. There could be enhanced public reporting on the use of home detention curfews and independent monitoring. Jurisdictional issues could be avoided by requiring that, to be eligible for an HDC, someone must provide an address in Scotland that has been properly assessed. Crucially, we must ensure that there is always thorough risk assessment of an HDC. Serious consideration should be given to how risk assessments could be made

independently, as opposed to their being conducted only by Prison Service staff who are overstretched and under pressure. The bill needs to deliver a far better system for managing offenders in practice.

**John Finnie:** Does the member acknowledge that there is a role, at present, for criminal justice social workers in the compilation of risk assessments?

**Neil Bibby:** I acknowledge that, but we need to look at how we strengthen the process further and make it more independent, as I said.

As members have said, the bill must deliver a system that carries the confidence of the public, victims and law-abiding families, such as the family of Craig McClelland. My community was shocked by Craig's tragic murder. He was a family man who was killed one evening in an unprovoked attack as he went about his business in Paisley. He was killed by a man who had been previously convicted of knife offences and who, having broken his tag, had been unlawfully at large for five months.

One of the most important duties of any Government, of Police Scotland and of the Scottish Prison Service is to keep the public safe. The policy memorandum makes perfectly clear the need to balance the provisions in part 1 of the bill against the need to further protect public safety. In the McClelland case, that duty was failed with tragic consequences and now there are three children who will grow up without their father.

The committee report on HDC sentences states:

"The public has the right to be protected as far as possible against the risk that someone will re-offend".

That simply did not happen in the case of Craig McClelland. No member of my community or any other should ever be failed in the way that Craig McClelland was. No family should have to go through what Craig's family have gone through; nor should they have to fight as they have had to do just to get some answers and to understand not just what happened to Craig but, most important, why it happened.

Two process reviews by HMIPS and HMICS have confirmed that there had been significant failings leading up to Craig's death, but the reviews said only so much and the family have been left with more questions than answers. They know that something went terribly wrong, but what that was and why it came to pass have never, to their mind, been fully and properly detailed, explained and exposed. The family fear that they simply cannot trust the answers that they have been able to get, such as their loss of confidence in the system that they should be able to turn to in times like this.

Close members of the McClelland family have called for a full independent inquiry, in order to ensure that lessons are learned and that no other family has to go through what they did. Such an inquiry would be very clearly in the public interest and hugely relevant to the debate that we are having today about the future of electronic monitoring.

Members will be aware that the justice secretary is resisting a public inquiry into the circumstances leading to the murder of Craig McClelland. Like many others, I believe that that refusal is without good reason. Families should have a right to answers, and they should not have to plead with ministers for action and a full inquiry. It should be automatic.

Craig's father Michael has now written to the Lord Advocate, asking him to instruct a fatal accident inquiry, and I welcome the support for that from members across the chamber. I hope that the Lord Advocate will agree and give the case full and sympathetic consideration.

The battle that the family are going through for an inquiry serves to illustrate another weakness in legislation. If a prisoner in a custodial setting were to murder another, there is no question but that there would be a fatal accident inquiry. Any death in prison custody could lead to a fatal accident inquiry under the 2016 act. If that is the case for deaths on the prison estate, why do we not apply similar standards to deaths that are caused by prisoners serving their sentence, or part of their sentence, on an HDC?

I am prepared to lodge amendments to that effect to the bill at stage 2, and to ensure that inquiries would be mandatory in tragic cases such as the murder of Craig McClelland. How can we be confident in the solutions that the Government brings forward to make HDCs work in the right way if it does not fully learn the lessons when they go so wrong?

Families that have been let down so awfully need to have confidence in the system and confidence in the bill. The bill might plug gaps and fix some of the weaknesses in electronic monitoring and HDCs, but will it fundamentally strengthen the way in which we manage offenders and improve public safety? We cannot have confidence in the system until we know for sure that lessons have been fully learned.

16:03

**Shona Robison (Dundee City East) (SNP):** In order to have a truly fair and progressive criminal justice system for Scotland, it is fundamentally important that we get our management of offenders right. The bill has the potential to transform Scotland's approach to criminal justice

by focusing on the prevention and rehabilitation of offenders as well as on the enhancement of support for victims.

The bill also furthers the Scottish Government's ambition to reform Scotland's justice system to make it a more progressive model. The Government has already demonstrated that approach through a number of initiatives. It has established clear guidance on the rights of victims of crime under the "Victims' Code for Scotland"; it is developing community custody units to rehabilitate women offenders who are nearing the end of their sentences, helping them to transition back into society; and, just this week, it has progressed legislation to protect vulnerable witnesses—particularly child witnesses—in a bill that, I am pleased to say, was backed unanimously by the Parliament on Tuesday. The bill furthers that approach, which is built on evidence, compassion and, of course, justice.

I have spoken before in the chamber about the importance of electronic monitoring as an alternative to remand sentencing, and I am pleased to see that part 1 of the bill expands that practice. Expanding the use of electronic monitoring has the potential to prevent and reduce reoffending in Scotland. However, the point that has been made about data collection is valid and needs to be pursued.

Electronic monitoring offers a community-based alternative to prison sentencing that is consistent with our presumption against short-term sentencing. We know that short-term prison sentencing has the potential to significantly disrupt families and impact on housing security, for example. We also know that offenders who are held in custody for 12 months or less are nearly twice as likely to reoffend as those who are given community-based alternatives.

Electronic monitoring is an opportunity to manage and monitor offenders effectively while, importantly, protecting and ensuring public safety. I acknowledge the comments that have been made—I think that we are all particularly mindful of the tragic case of Craig McClelland. Public safety must be at the core, and it has to be the overriding priority. I believe that it is possible, with some of the reforms in the bill, to achieve that and to minimise risk.

The implementation of GPS technology offers the potential to improve the effectiveness of electronic monitoring through the use of exclusion or inclusion zones. The benefits of such technology are obvious, but it should only ever be used where that is appropriate. To that end, I am pleased that the bill also provides guidance on the appropriate use of the technology and ensures that risk assessments must be made.



Scotland should follow the evidence and pursue a results-based approach. I believe that the bill does that. I also note that the bill makes reforms to the disclosure of criminal convictions. It is important to note, however, that the bill does not impact on higher-level disclosures, nor does it propose abolishing the disclosure process altogether. It supports the ambition of reintegrating and rehabilitating offenders as well as recognising the stigma that is often attached to previous convictions. That ambition was supported in the majority of the evidence that was given to the Justice Committee, and the proposals in the bill have been developed through consultation and dialogue with stakeholders.

Criminal record disclosure can be a significant barrier when people try to secure employment. Job applicants can face stigma and discrimination, making it much harder for them to reintegrate into society. If we truly desire our criminal justice system to be rehabilitative and believe in the principle of opportunities for reintegration into the workforce, we must address that issue. A balanced approach is required, and I believe that the bill helps us to achieve that.

The bill deals with a number of other reforms, notably in relation to the functions and structure of the Parole Board for Scotland, by delivering on some of the aims of the parole reform programme. It is important, however, to stress that the Parole Board will continue to act independently, which is important. These reforms will simplify and modernise the Parole Board's processes as well as ensuring greater consistency in the application of parole decisions.

The commitment to strengthen the voice of victims and their families in parole and temporary release is to be welcomed, as it supports the principle that victims must be heard and listened to. I note that the programme for government includes a commitment to increase the transparency of Scotland's parole system and that the Government will consult on proposals to do that later this year. I look forward to hearing more about those proposals from the justice secretary in due course.

As I said at the start of my speech, the way in which we treat offenders in Scotland will define our criminal justice system—it must be fair and just not only to offenders but to their victims. To that end, I am pleased that the programme for government also commits to a number of reforms to support the victims of crime, particularly in partnership with Victim Support Scotland. That builds on the work of the Victims and Witnesses (Scotland) Act 2014, the "Victims' Code for Scotland" and the £18 million that the Scottish Government spends each year on supporting the victims of crime through agencies such as Victim Support Scotland. That is

the balanced approach that we seek for Scotland's justice system.

We all share a belief that the system should aspire to be fair for both victims and offenders, where possible, and the bill represents another step in the Scottish Government's work to transform and continually improve the criminal justice system. As a member of the Justice Committee, I welcome it.

16:09

**Jeremy Balfour (Lothian) (Con):** I do not have the pleasure of being a member of the Justice Committee, which is the committee that has done all the hard work on the Management of Offenders (Scotland) Bill, so, when I read the stage 1 report, I did so with fresh eyes. I was very interested to read about what was proposed and the evidence that had been taken. I congratulate the convener and her committee on a very full report that fleshes out many of the ideas and concepts behind the bill.

As other Conservative members have said, we will support the bill at stage 1, but our support comes with a number of caveats. The Government still has some work to do at stages 2 and 3. The danger when speaking at this stage of a debate is that many of the issues will already have been fleshed out by people with more expertise than oneself, but I will concentrate on the electronic monitoring system.

Although I welcome the new technology that is out there, I am still slightly concerned. I was interested to read that the police monitoring is not done in real time, which means that, if someone breaks their curfew or goes out with their tag on, the police will not be aware of that until after the event has occurred.

**John Finnie:** Does the member accept that it is a private commercial company, not the police, that does the monitoring?

**Jeremy Balfour:** I accept that a private company does the monitoring on behalf of the state, but my point is that it is not done in real time. Given that the way in which technology works is constantly changing, I ask the Scottish Government to look at the issue again to find out whether monitoring could be done in real time. Victims—vulnerable victims, in particular—would be much happier knowing that, if somebody who was being monitored were to reoffend, the relevant agency or the police would know about it and would be able to intervene earlier.

**Daniel Johnson:** Will the member take an intervention?

**Jeremy Balfour:** I would like to make some progress. I might come back to Mr Johnson.

As someone who is not heavily involved in this area, I was surprised to discover, when I read the report, that the Government had not changed its position with regard to the cutting off of a tag. I think that the overwhelming majority of the public would expect the cutting off of a tag to be an automatic offence. The cabinet secretary made comments about that in his opening speech, and I urge him and the Government to look at the issue again. In my view, the cutting off of a tag ought to be a blanket offence and, if it happens, the appropriate punishment should be applied. The same would be true if bail conditions were breached. I am concerned by the argument that some offences are different from others. I welcome what the cabinet secretary said, but I push him to go further.

Let me turn to the issue of bail. Many years ago, I spent a whole year instructing advocates to do bail appeals in the High Court in Edinburgh. I found bail appeals interesting, because the process of determining who would get bail and who would not never seemed to be completely logical. I was interested to read that, when the cabinet secretary's predecessor gave evidence to the committee on the issue, he did not think that the use of electronic monitoring for bail was an appropriate way to go. I understand from the report that the study that was done on the subject, which was carried out about 12 years ago, did not provide enough evidence to suggest that the use of electronic monitoring for bail would be appropriate.

Clearly, things have moved on since 12 years ago, and I am interested to know whether the cabinet secretary would consider a fresh pilot scheme to see whether that is an appropriate way for electronic tagging to take place. Knowing that somebody was being tagged and could be monitored would give victims—particularly victims of assault or serious crime—the reassurance that they want.

I will draw my remarks to a conclusion by welcoming some of the reforms around the Parole Board. I absolutely agree with Shona Robison that we need to keep the Parole Board independent and that it must not be interfered with by politicians. Victims and their families need to have more of a say—I appreciate that the cabinet secretary commented on that in his opening remarks. Although I recognise the previous comments to the effect that that is already in the system, I know that many victims feel isolated when it comes to the Parole Board.

I welcome keeping the Parole Board's independence, but there needs to be a bit more accountability for how and why it reaches its decisions. That does not mean that we should jump up at every First Minister's question time to

question the Parole Board's decisions. However, particularly for families and victims of crime, it would be beneficial to have more public accountability.

16:16

**Bob Doris (Glasgow Maryhill and Springburn) (SNP):** I wish to speak as much to what is not in the bill as to what is in it. I will return to that later.

My comments will refer particularly to the work of the Parole Board. Part 3 of the bill contains elements of reform of the Parole Board. I note and agree with the committee's description of those elements as "limited". For instance, the bill will remove the requirement to have a High Court judge or a psychiatrist on the Parole Board. I also note that the committee is "broadly supportive" of the reforms more generally. However, as the cabinet secretary acknowledged, the reforms must be seen in conjunction with the consultation document "Transforming Parole in Scotland", which was published on 19 December 2018. I also agree with the committee that it is "unfortunate" that the proposals are not being "considered in the round" with what emerges from the wider consultation. Of course, that is not a reason to reject the proposals in the bill, but it remains unfortunate.

We must remember that the principal role of the Parole Board relates to the possible release of a prisoner once they have served in custody the part of their sentence that relates to punishment and deterrence. Crucially, the Parole Board is charged with assessing whether the level and nature of risk that a prisoner presents at that point can be safely managed within the community. That is crucial, because it sets the rights of the prisoner who is being considered for release alongside the rights of the wider communities that we serve, and those of society in general.

The Scottish Government's programme for government states that it

"will ensure victims and their families have better information and greater support ahead of prison release arrangements."

Given the tragic stories of families that we have heard about in the debate—not least, the tragic murder of Craig McClelland from Paisley—if we do not get the provisions in part 1 of the bill right, we risk creating a whole new set of victims. I strongly believe that the opportunity exists to have a safer community disposal and to reduce reoffending by using the bill wisely. I absolutely believe that that is what the outcome can be.

In that context, however, I repeat the committee's recommendation on part 1 of the bill that

“electronic monitoring should only be used after a comprehensive assessment of risk, particularly for those individuals who would otherwise be incarcerated.”

I will make no comment on the robustness of the review of any comprehensive risk assessment. Rather, I thank the committee, which has looked at the matter in some detail, for its work. There must be strong public confidence in such risk assessments, and we must acknowledge what the convener of the Justice Committee, Margaret Mitchell, said. We must also acknowledge the thoughtful speech from John Finnie, who made the point that although risk is never fully eliminated, we, as a society, do not lock people up and throw away the key.

However, I record my support for the opportunities that technology allows us, including through electronic monitoring. I will also follow closely the Scottish Government’s consideration of the introduction of a specific offence of being unlawfully at large, which was mentioned earlier.

As I said at the start of my speech, my comments on part 3 are as much to do with what is not in the bill as they are to do with what is in it. On the consultation on the Parole Board and the role of victims, we need to ensure that the commitment to better information—which is referred to in the very welcome enhanced openness and transparency that the Scottish Government wishes for victims and families—is meaningful, interactive, involves a dialogue and is more than a box-ticking exercise. On that point, I commend the committee’s conclusion that the Scottish Government should ask the Parole Board to consider the wider impact of its decisions, particularly on victims, and how victims can be given a voice in the process.

The committee notes that that will be a key part of the consultation. I want to go further than that. I ask the Scottish Government to give consideration to including witnesses in the process, in certain circumstances. Let me explain. Imagine that the evidence of a crucial witness in a serious criminal trial has been instrumental in securing a sound conviction. Their identity is known to the perpetrator—perhaps the witness knew them—and the perpetrator could be released from prison under certain parole conditions. Would not that witness wish to be notified of the perpetrator’s impending release? Would not that witness like support and assurances? Would not that witness, too, benefit from openness and transparency? I ask the Scottish Government to give that point serious consideration and to take my speech as a contribution to the wider consultation.

Finally, I commend the Scottish Government for establishing a support service with Victim Support Scotland to give families who have been bereaved by murder and culpable homicide dedicated and

continued support. I understand that it will also be open to people who are bereaved by such acts that happen overseas. I welcome that—it is a matter in which I have a particular interest.

I have enjoyed listening to the debate more than I have enjoyed contributing to it, because I did not sit on the committee and do not have granular knowledge of the issues that have been raised. However, I wanted to raise the specific issue of witnesses being treated similarly to victims. I hope that Parliament will agree the general principles of the bill this afternoon.

16:22

**Mary Fee (West Scotland) (Lab):** I begin by supporting the points that were made by my colleague Neil Bibby on the tragic case of Craig McClelland. I welcome comments that were made by other members from across Parliament showing support for Craig McClelland’s family. The family of Mr McClelland deserve answers, and the debate today should serve as a reminder to us all that management and monitoring of offenders are important for protecting the public and for supporting rehabilitation of those who need and deserve it. It is also a reminder that management of offenders can have an impact on more people than just offenders.

I welcome the general principles of the Management of Offenders (Scotland) Bill, and I thank the Justice Committee for a very informative and thorough stage 1 report. The contributions from people in the criminal justice sector and from third sector groups have given us greater insight into the needs of the bill, at the same time as they have detailed how we can improve support for offenders, their families and the community as a whole.

The changes to electronic monitoring that are proposed in the bill have widespread support, but they could go further. However, even if they remain as they are set out, the changes must be effectively and efficiently funded.

The Justice Committee recognises that electronic monitoring will be effective only if it is delivered in conjunction with the right support from other agencies. That issue was raised by several witnesses during the committee’s evidence sessions. James Maybee from Highland Council and Social Work Scotland said that the bill would be “a failed opportunity” if it resulted in increased workloads for social workers, and that working with criminal justice social work and the third sector has to be

“an integral part of electronic monitoring in the future if we are to maximise its potential success.”—[*Official Report, Justice Committee*, 8 May 2018; c 2-4.]

Families Outside also warned that

“Without structured supports in place, EM becomes a purely punitive measure”—

a point that was well made by Liam McArthur in his comments. Families Outside went on to say that that happens if electronic monitoring

“fails to address the reasons for the offending or to reduce the likelihood of breach due to pressures of unstable housing, substance misuse, poverty, chaotic environments, and damaging relationships.”

That quotation from Families Outside also reveals the importance of support for the family of an offender who is on electronic monitoring. I have often spoken in chamber debates about the need to support the families of offenders. Evidence to the committee shows that families can struggle to deal with the demands of living with someone who is on a home detention curfew or electronic monitoring. Karyn McCluskey of Community Justice Scotland best described that by saying

“home detention curfew is a big ask for lots of families. Having someone in the house from seven until seven might be quite difficult for families. We know that families can support people to comply with their order, but it takes a great toll on them.”—[*Official Report, Justice Committee*, 8 May 2018; c 9.]

Tensions can grow at home, between partners, between parents and between children, and anyone living in the home. Tensions can happen in any home, but curfews and monitoring can exacerbate problems at home. Children must be protected when they face such challenges and such massive change. It can be daunting for a child to have strangers in the house, adding new technology in the home, and to see a parent wearing a tag around their ankle.

Problems that are associated with alcohol or drug misuse will not disappear through collecting data on use or consumption. As was highlighted by the Edinburgh Bar Association, it would be dangerous to expect complete abstinence from alcohol. On the link between alcohol and domestic abuse, Scottish Women's Aid warned the committee not to assume that preventing domestic abuse offenders from drinking would prevent them from offending. Of course, many people find themselves in the criminal justice system because of alcohol or drugs, but they need proper treatment and counselling to overcome their problems.

In order to ensure that the police can protect communities, we must ensure that they are properly empowered. We cannot have more tragic losses like that of Craig McClelland. Such losses are entirely preventable, given the right resources and powers to allow the police to carry out their duties.

At the heart of the debate is a need to accept the necessity of a wraparound system of community justice—one that starts at the point of

sentencing and goes right through to release and the person re-entering the community. That is clear from the evidence that was presented to the committee in written submissions and in evidence sessions. That is another issue that I have raised many times in debates in the chamber.

It is clear that the bill needs to be strengthened. I hope that, as it progresses, we will see more recognition of impacts on families and acknowledgement that support is required. As my colleagues have done, I welcome the general principles of the bill and hope that the Government will listen to and heed the external bodies that contributed to the stage 1 report.

16:28

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** I begin by thanking, for the second time this week, the clerks to the Parliament's Justice Committee for all their work in supporting the committee and pulling together its report ahead of this stage 1 debate. I am glad that we will all vote this evening to support the principles of the bill.

When I was still at school in 2001, Scotland's prison population stood at 5,803 people. By 2015, it had gone up to 7,647—an increase of more than a third.

Just two days ago in the chamber, members heard about evidence from Children 1st, which described Scotland's approach to criminal justice as being

“rooted in the Victorian era”.—[*Official Report*, 5 February 2019; c 30.]

The bill is therefore a timely intervention in respect of management of offenders—especially if we consider that recorded crime rates in Scotland remain at a record low level.

As has been mentioned, the bill has three overarching policy intentions: to extend use of electronic monitoring; to reduce the time period for which there must be disclosure of convictions, for example when applying for a new job; and to reform the functions and governance of the Parole Board for Scotland.

The wider policy context for the Scottish Government is set within the parameters of community justice and preventing and reducing reoffending. That can be achieved only by increasing the options that are available to manage and monitor offenders. Rona Mackay quoted Families Outside, which powerfully told the committee that

“Electronic monitoring offers a valuable tool for reducing the use of imprisonment. Prison fractures families, whereas with the right support in place, electronic monitoring can keep families together, thereby maintaining social supports and reducing the risk of further offending.”

Engender emphasised the different impacts of imprisonment on men and women, particularly with reference to traditional family roles. It pointed to the fact that the prison rate for women in Scotland remains among the highest in northern Europe. As the electronic monitoring working group recommended in October 2016,

"GPS technology is versatile and decisions on its use should be made as part of an individually tailored approach, including where it can aid public and victim safety and where it can be used supportively to strengthen the monitored person's desistance."

As the Justice Committee's convener said in her speech, the committee considered in great detail the balance between public protection and the potential benefits of releasing someone with the use of electronic monitoring as an alternative to custody. As Scottish Women's Aid told the committee,

"there must be a balance between the resettlement of offenders and the protection of the public."

The bill will allow use of GPS technology to monitor offenders' movement, and it provides for enforcement of exclusion zones—for example, around victims' homes. As the cabinet secretary said in his opening speech, that can offer victims reassurance and respite.

On that point, a number of gendered implications for broader use of electronic monitoring were highlighted to the committee. Scottish Women's Aid pointed out that

"where the monitoring was used pre-trial, victims may be made anxious by seeing the abuser moving freely about in settings outside the exclusion zone(s), and studies have indicated that they were concerned that abusers would be able to manipulate the technology or subvert its capacities and undermine programme rules and restrictions".

I have raised that point at committee with the cabinet secretary. I would be grateful if he could, in summing up, revisit the gendered implications of widening use of GPS technology, in particular in domestic abuse cases. As enshrined by legislation that has been passed by Parliament, domestic abuse is now acknowledged as encompassing coercive and controlling behaviour, which is far more difficult to police via GPS technology.

Glasgow city health and social care partnership noted that

"Some victims have reported over time being re-traumatised by the presence of the electronic monitoring box in their homes, so this provision very much requires the cooperation of victims."

Because routine electronic monitoring involves a curfew, there is the potential that, for example, the victim could go to the perpetrator's home while they are confined to that address, which could increase risk, or that the perpetrator would take potential victims into their home. We highlight that electronic monitoring can be used as an effective

tool in domestic abuse cases, but it can have unidentified risks.

**Liam Kerr:** Does Jenny Gilruth agree with Scottish Women's Aid that breach of electronic monitoring conditions must automatically be an offence?

**Jenny Gilruth:** We have discussed that today. I am not convinced either way, but Scottish Women's Aid makes a valid point.

However, the Howard League Scotland is not against use of exclusion zones. It argued that exclusion zones must be limited in size, especially in cases involving domestic violence. Social Work Scotland told us:

"It is imperative that boundaries are unambiguous and clearly outlined for those subject to restriction".

Of course, the bill is part of the Government's wider work on reforming the justice system, protecting public safety and supporting victims of crime. As was heard in a debate in the chamber this week, there is consensus to pull the justice system out of "the Victorian era"—as it is depicted by Children 1st—and into the 21st century. That is partly about investing in alternatives to traditional imprisonment, but it is also about how the system supports victims of crime. On that point, I welcome the cabinet secretary's establishment of the victims task force.

The bill introduces a number of reforms to strengthen Scotland's justice system and to widen the alternatives to imprisonment. I am grateful to have the opportunity to make the case for a gendered analysis of what that means for both women offenders and victims of crime—in particular, victims of domestic abuse.

Electronic monitoring can have a great role to play in supporting our vision for a fairer, safer and more inclusive nation. The bill commits to getting right the balance between public protection and the alternatives to managing offenders, with the wellbeing of victims of crime at its heart.

**The Deputy Presiding Officer (Christine Grahame):** We move to closing speeches. Daniel Johnson will close for Labour. I will give you seven minutes.

16:34

**Daniel Johnson:** That is very generous of you, Presiding Officer. Thank you very much.

The Justice Committee clerks must have been listening to the debate because the head clerk has joined us to hear the praise that is being heaped on the clerks. I reiterate that the bill has been a difficult bit of work in which the clerks have supported the committee extremely well.

In summing up, it is hard not to acknowledge the shadow that the tragic murder of Craig McClelland has cast on the process. It is right that we reflect on the issues that that has thrown up and on how we can improve the bill in their light. I will touch on two key elements with regard to that case, which were raised by my colleague Neil Bibby and by Liam McArthur.

The strategic and procedural nature of the two inquiries that were carried out by HMIPS and HMICS meant that there were always going to be questions left unanswered. They touched on a specific element of the Craig McClelland case and, by definition, were not detailed inquiries specifically into the incident. The question remains whether there should be an independent inquiry. I know that the cabinet secretary has been reluctant, but I ask him again whether he would consider it, in particular because of some of the issues that Liam McArthur raised.

I believe that the call for automatic fatal accident inquiries when people are on non-custodial sentences or on measures such as HDC are valid and have merit, so I will certainly support Neil Bibby on that. The backlog of FAls is an issue in and of itself. We need FAls when there are failures in our public services and when there are tragic incidents on which we need answers. We need understanding of systemic issues. That backlog hinders our ability to give people confidence and understanding of what went wrong so that we can learn lessons.

In relation to HDC, members have rightly brought to light a number of issues around assessment, how we consider risk and how it should be monitored. The issues around interagency communication and other such technical points are important, but there are also fundamental issues of capacity and competence to consider, which circumstances have highlighted.

Specifically, the HMICS report states that 44 offenders were “unlawfully at large”. The fact that so many of them were quickly apprehended after that and the number reduced to a single digit in such a short space of time shows that those people could have been apprehended earlier. It is simply the case that resources were not brought to bear.

Indeed, in Gill Imery’s subsequent evidence to the committee, she pointed out that the standard operating procedures as they stood were adequate, but

“it was just that they were not followed.”—[*Official Report, Justice Committee*, 20 November 2018; c 39.]

Those are her words, not mine. We need to look carefully at how breaches are followed up and pursued by the police. I do not believe that answers on that have been established.

**John Finnie:** Does Daniel Johnson acknowledge that the current arrangements involve three organisations and, therefore, six different relationships, and that if it was just about one public body and the Prison Service, we would not have such a complex set-up of relationships?

**Daniel Johnson:** John Finnie makes an excellent point. That is one of the things that needs still to be looked at. The complexity of relationships is a point to consider. The member also made a good point in his intervention on Jeremy Balfour: we need to question whether use of private sector organisations has added an extra loop to the information chain, and added a level of complexity that does not need to be there.

There has been something of a missed opportunity with the bill. When we were considering electronic monitoring, the points that many members have raised about the new possibilities that GPS offers should have prompted re-examination of how such things are used, how they can best be used and whether the existing orders and provisions could be adapted, amended and improved to reflect the new possibilities of technology.

I thank members for reflecting my points, which were also raised by HMIPS, about the lack of data. I want to support the measures on that. I am fundamentally progressive in my attitude to such things. However, unless we have the data—unless we know what works—we simply cannot make decisions that are as effective as we want.

The other key missed opportunity is in relation to remand. I will correct the record, because I made a small error in data that I used earlier. The incarceration rate for remand prisoners in Scotland is 30 per 100,000 of the general population, and 20 per cent of our prisoner population is on remand. I will not compare that with OECD figures, but with England and Wales, which have a similar overall level of incarceration to the OECD figures. The incarceration rate for remand prisoners in England and Wales is 16 per 100,000 of the general population, and 11 per cent of the prison population is on remand. We need to ask ourselves why that is happening. The bill is a missed opportunity to examine whether we could use electronic monitoring to tackle the stubborn problem that we have in the Scottish prison system.

I will talk about the Parole Board for Scotland. I do so mindful of members of the public in the gallery. Bob Doris made an excellent point. The Parole Board serves a central function in our justice system—it is a gatekeeper and a guardian at the point at which people are reintroduced to our communities from prison. It is therefore really important that we examine the issues in the round. It is unfortunate that the bill was embarked on

when another consultation was in the works in the Government.

More important, the bill was introduced after there were concerns regarding the Worboys case in England. It would therefore have been relevant, and warranted, to have had transparency regarding the Parole Board, and to have looked at its status and how it functions. In its submissions, the Parole Board made good points about how its position and the transparency of decision making could be improved through the bill. I would like those points to be considered as we proceed through stages 2 and 3.

I reconfirm that Scottish Labour will support the bill at stage 1, but a good deal of testing and scrutiny needs to be done on it. It needs improvement.

16:41

**Gordon Lindhurst (Lothian) (Con):** I close on behalf of the Scottish Conservatives. These benches broadly support large parts of the bill, but in the next stages of the parliamentary process we will seek to amend the bill where we feel that that should be done.

We are looking today not just at the way in which we deal with offenders, including their rehabilitation, but at ensuring that victims and wider society have confidence in our criminal justice system. That confidence has unfortunately been eroded, particularly by some high-profile cases. That shone through clearly in the evidence that was given to the Justice Committee, some of which has been cited today.

We have heard calls for a zero-tolerance approach to breaches of electronic monitoring, backed by effective police powers to be able to deal with individuals who flout the rules. The current system is slow and ineffective, requiring a breach to be dealt with by a sheriff, who assigns a hearing within four weeks. The fact that Police Scotland action in those circumstances is limited by bureaucracy will be of little comfort, especially to victims, who may have to endure a number of encounters with an offender, despite an order being in place to protect them. It is therefore a step forward that consideration is to be given to making the breaching of a home detention curfew a criminal offence. That will be dealt with at stage 2. However, as we heard today, in some areas the bill does not go far enough. If it is to mean anything, zero tolerance must include swift action and response. Incidents should be dealt with as soon as they happen, and we should prevent a slide into more serious behaviour.

There are serious questions about why the bill does not propose to make the cutting off of a tag an automatic criminal offence. My colleague Liam

Kerr referred to that. That is one of the questions that must be addressed as we proceed through the next stages of the bill.

Electronic monitoring does of course serve a purpose for offenders, allowing those with a history of offending to be active and responsible contributors to their communities. Indeed, the Scottish Conservatives have previously called for greater use of satellite tracking and strict home detention.

The Scottish Government has set out and, I think, repeated this week that electronic monitoring could be used for individuals who would otherwise have served short-term prison sentences of less than 12 months. The problem is, as we have heard, that the Scottish Government is seeking to expand community sentencing when the statistics show that it is not delivering justice for victims. One in three community sentences are ignored; a quarter of community payback orders do not include any unpaid work or activity; and only 40 per cent of drug treatment and testing orders are completed.

What is emphasised in the presumption against jail sentences of under 12 months is that it cuts reoffending rates, but we must think not just about the offenders in such cases but about the sort of message that we will be sending to victims and their families if the orders that replace prison sentences are breached and ignored to the extent to which they are being ignored and breached now. It is paramount that we keep at the forefront of our minds the experiences that victims have gone through. Moreover, as I think Bob Doris pointed out, we should not forget the witnesses who are involved in such matters and the effect on them.

**Daniel Johnson:** The member has made some good points, but does he not recognise the need for justice to be applied consistently and that the inclusion of the victim's perspective in parole and other matters needs to be balanced against that consideration?

**Gordon Lindhurst:** I certainly agree that we need consistency of approach in the justice system, no matter whether we are dealing with offenders or victims, and that a number of interests need to be balanced against each other.

The committee report highlights areas where information is severely lacking, particularly where victims are concerned. Without summaries of evidence, social workers have only one side of the story, and important information, particularly on the risks to victims, might be missed. It was therefore welcome to hear the committee calling for more detailed information to be supplied through summaries of evidence.

**Fulton MacGregor:** Does the member not accept that, as part of social work assessments, information is obtained from various sources? I have reflected on the evidence to the committee in that respect, but I do not think that what was said would be the case for every single assessment.

**Gordon Lindhurst:** That is right. Indeed, the point that I am making is that one would try to get information from more than one source to enable the social worker to better assess the position than they can at present.

Turning to other areas of the bill, I note that the proposed legislation seeks to pose greater limits on the sharing of information. In that respect, I want to refer to the issue of disclosure. The committee was correct in highlighting that, as others have pointed out, there is a balance between the right of society and an employer to know about prior convictions and a person's ability to move on with their life. There are exceptions to that where required—rightly so—but if they are to play an active and responsible role within their community, an offender must have the opportunity to rejoin the workplace, if that is appropriate.

Lastly, I turn to part 3 of the bill, which deals with parole reform. I will not go over the points that others have made, but I want to raise one issue with the justice secretary: the need for vulnerable prisoners to have appropriate representation at Parole Board hearings. What provision will be made for prisoners who lack capacity through, say, a learning disability, dementia or some other reason and who are therefore unable to instruct a solicitor to represent them? I am thinking in particular of the power of the Mental Health Tribunal for Scotland under the Mental Health (Care and Treatment) (Scotland) Act 2003 to instruct, where appropriate, a solicitor in the form of a curator ad litem to represent an individual. As I am raising the issue for the first time with the cabinet secretary, I do not expect to get a substantive response here and now, but I ask him to confirm whether he is happy to look at the issue with me for stage 2.

As I said at the beginning of my speech, the Scottish Conservatives support the bill's general principles and look forward to its next stages to ensure that we have a criminal justice system that works for offenders, victims of crime and witnesses alike.

16:49

**Humza Yousaf:** This has been a good debate, much like the debate on the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill earlier this week. It has been constructive but challenging. Members from all the political parties, including my own, want to see the Government, and the bill, go

further. It is rare that the Government presents a bill at stage 1 that is perfect and ready to go. Therefore, as the members who know me will know, I have listened very carefully and I will take members' ideas on board as much as I can.

I will touch on the general context of the bill, as a couple of members did. By many accounts, we now have the highest prison population per 100,000 in western Europe. That is not a statistic to be proud of, although it may counter some of the claims of soft justice that have been made in the chamber. Although we have made gains and had successes towards achieving a progressive justice system, the management of offenders is one area that we have not cracked. We know that short prison sentences do not work. They disrupt people's lives, they can cause people to lose their jobs and they are detrimental to family connections, to people's housing situations and so on. That is not just our view; it is increasingly the view of the United Kingdom Government—there have been positive statements this week from Rory Stewart and from David Gauke, the Secretary of State for Justice.

We first piloted electronic monitoring in Scotland in 1998, and in 2011 the Scottish Government introduced community payback orders, which provide courts with a range of requirements that they can impose in community sentencing, including robust unpaid work options. Through the bill, we are taking steps to enhance the options that are available when choosing how to monitor individuals in the community, which adds to our existing electronic monitoring capabilities.

I will touch on the key themes in the debate. A number of members mentioned the concerns of Scottish Women's Aid, and Jenny Gilruth's gender analysis of the bill was very powerful. There are two strands to the concerns around domestic abuse. One is the use of GPS. A number of witnesses voiced concerns, and I reassure members that my officials have had discussions with Scottish Women's Aid about the design of an electronic monitoring project that is focused specifically on domestic abuse cases. Planning is at a very early stage and I do not have further detail yet, but I will update the committee on progress in due course. I hope that that gives some reassurance.

The second concern that Scottish Women's Aid and a number of members raised related to disclosure. I hope that I addressed that concern in my opening speech. The views that were offered by Scottish Women's Aid and other stakeholders will be an important factor in our consideration of changes to the relevant list of offences that are subject to the higher-level disclosure scheme. As members know, that issue is part of another bill that the Government is taking forward. The



changes to the Management of Offenders (Scotland) Bill will inform that consideration. Placing domestic abuse and other relevant offences in the schedule 8A list in the Police Act 1997, rather than in the schedule 8B list, is under active consideration to address the issues that were raised by Scottish Women's Aid. That is not to take away from Scottish Women's Aid's very real concerns, and as cabinet secretary I will continue to engage with the organisation.

A number of members mentioned support for people who are being electronically monitored. Daniel Johnson, Mary Fee, John Finnie and a number of others all made that point and I thank them for doing so, as it is an important one. Some members have told me that they visited the Wise Group during the committee's considerations. I was at the Wise Group on Monday, when I had a very good, positive visit. I give members the reassurance that the Scottish Government is piloting a number of projects that add support that will run alongside electronic monitoring. We do not have to legislate to take that support forward, and I am happy to furnish members with the details if they want them.

**Margaret Mitchell:** Can the cabinet secretary comment on the wider point that the Wise Group emphatically made to us about resourcing of electronic monitoring? Its view was that, without adequate provision, people are being set up to fail.

**Humza Yousaf:** That is a powerful point, and the member can be assured that the Wise Group made it to me during my visit earlier this week. I want to ensure that we make the right type of support available to people who are part of the electronic monitoring regime. That is why the pilot projects are important. We need to evaluate them and see what is effective so that we can, I hope, upscale that work. I do not take away from what the convener or the Wise Group say.

I am conscious of time, Presiding Officer, but I want to deal with a couple of issues that have been referred to during the debate.

Many members referred to the fact that the bill does not explicitly reference bail as a missed opportunity. The Government's view is that we believe that, as drafted, the bill enables pre-conviction bail, when the offender is awaiting trial, and post-conviction bail, when the offender is awaiting sentencing, to be added to the list of disposals that section 3 says can be subject to electronic monitoring. That would be achieved via subordinate legislation under section 4, which enables section 3 to be extended to include additional disposals that might be imposed on an offender at any stage of criminal proceedings, which would include bail. However, in order to clarify the power in section 4 and to make it clear that pre-conviction disposals can be added to

section 3, I will introduce an amendment to that effect at stage 2.

**Liam McArthur:** I welcome the assurance that the cabinet secretary has just given. It is a bit of a departure from what the committee was previously told, which was that, as the bill was to do with the management of offenders, the inclusion of pre-conviction conditions might be outwith its scope.

**Humza Yousaf:** I thank Liam McArthur for his comments. I am happy to provide that clarification. The amendment that I will lodge at stage 2 will be tested and interrogated at that point, no doubt.

All members who spoke in the debate mentioned risk assessment. That, coupled with the issue of data and what works, is an important issue. On risk assessment, I have provided the committee with further evidence—I know that some of that was seen by the committee only recently—and I re-emphasise the point that, on the back of the two inspectorate reports, there have been some key changes around the risk assessment process. Individuals who make decisions about release on home detention curfew will now have greater access to police intelligence, for example, and we know that it is now prison governors, rather than unit managers, who will decide on release on home detention curfew, which adds an extra level of assurance. Further, in direct response to the independent reports, immediate action has been taken to include a focus in daily police tactical briefings on apprehending individuals who are unlawfully at large. I acknowledge that the committee and members who have spoken today want to see more detail in that regard. I am happy to provide that, once the working group and partners have done some more detailed work.

**John Finnie:** Does the cabinet secretary recognise that there is a danger associated with using intelligence rather than hard facts in relation to making risk assessments?

**Humza Yousaf:** Yes. John Finnie always raises points from a position of knowledge, based on his past experience. I recognise what he says. We should be well aware of the issue that he raises. I take his point, and it is on the record.

A number of members raised the tragic case of Craig McClelland. I take this opportunity again to put on the record my condolences, as well as those of the Scottish Government, to the McClelland family. I understand that the McClelland family have written to the Lord Advocate in relation to a fatal accident inquiry. It would be appropriate for the Lord Advocate, who has responsibility for fatal accident inquiries, to consider that request. As I have said in the chamber previously, there have been two

independent inspectorate reports, and the HDC regime has been changed and made more robust.

**Daniel Johnson** *rose*—

**Humza Yousaf:** I will take an intervention in a second.

I understand from an intervention from Neil Bibby and from his speech that he will lodge amendments at stage 2 on automatic, or mandatory, FAls. The Government will, of course, look at those amendments with an open mind, but I go back to the point that FAls are understandably and rightly in the Lord Advocate's remit.

It is five o'clock, so I will end on disclosures. Many members made strong points around the impact and stigma of disclosure. A number of Government campaigns are looking at changing employers' attitudes. Two of the major campaigns—in particular, the release Scotland campaign—bring employers to the front of the conversation so that they can talk to other employers about the benefits of taking on people who have convictions.

I will end there because I am conscious of the time. It has been a very worthwhile debate. When it comes to stage 2, my approach will be to consult members closely on how we can strengthen the bill. I am thankful for the indications of support for the bill at stage 1.

## **Management of Offenders (Scotland) Bill: Financial Resolution**

17:01

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of motion S5M-11941 on the financial resolution for the Management of Offenders (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Management of Offenders (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.—  
[*Derek Mackay*]

## Decision Time

17:01

**The Presiding Officer (Ken Macintosh):** The first question is, that motion S5M-15733, in the name of Humza Yousaf, on the Management of Offenders (Scotland) Bill at stage 1, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Management of Offenders (Scotland) Bill.

**The Presiding Officer:** The final question is, that motion S5M-11941, in the name of Derek Mackay, on the financial resolution for the Management of Offenders (Scotland) Bill, be agreed to.

*Motion agreed to,*

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

*Meeting closed at 17:01.*



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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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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