



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Thursday 3 October 2019**

**Session 5**



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# Scottish Parliament

Thursday 3 October 2019

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

## General Question Time

### Children and Young People (Rights and Wellbeing)

1. **Ruth Maguire (Cunninghame South) (SNP):** To ask the Scottish Government what steps it takes to ensure that its policies and legislation protect and promote the rights and wellbeing of children and young people. (S5O-03625)

**The Minister for Children and Young People (Maree Todd):** Protecting and promoting the rights and wellbeing of our children and young people is fundamental to achieving our national outcome that

“We grow up loved, safe and respected so that we realise our full potential.”

In 2015, we introduced the child rights and wellbeing impact assessment approach to support all Scottish ministers in meeting their duties in relation to the United Nations Convention on the Rights of the Child, which are set out in the Children and Young People (Scotland) Act 2014. That helps us to assess whether proposed policies, measures and legislation will protect and promote the rights and wellbeing of children.

The recent programme for government clearly demonstrates the priority that we continue to place on supporting our children and young people to thrive in these uncertain times. Importantly, it reaffirms our commitment to incorporating the UN Convention on the Rights of the Child into domestic law and to bringing forward legislation within the current parliamentary session.

We have also made clear our continuing commitment to getting it right for every child, which remains at the heart of our approach to promoting the wellbeing of Scotland’s children and young people.

**Ruth Maguire:** On 20 June this year, in a statement to Parliament, the Scottish Government committed to replacing schools guidance on transgender young people with Scottish Government guidance that will be inclusive of all children, and will not risk excluding girls from female-only spaces.

Does the minister agree that the use of a child rights and wellbeing impact assessment in policy and guidance formation is the best way to ensure

that all children enjoy their rights, as set out in the UNCRC? Furthermore, does she agree that any organisation that works with children and young people, or that advises people who work with children and young people, should be held to those best-practice standards, which protect and promote the rights and wellbeing of all children?

**Maree Todd:** In June this year, the Scottish Government confirmed that we will bring forward updated guidance to support transgender young people in our schools. Work is under way for that to be available by the end of the year. That will include completion of an equality impact assessment and a CRWIA.

Since its introduction in 2015, the child rights and wellbeing impact assessment has been a really valuable tool in ensuring that we protect and promote the rights and wellbeing of children and young people. It allows us to identify potential negative impacts of proposed policy and legislation, and to take action to mitigate them. An example of that relates to the stop and search code of practice: the CRWIA and responses to the consultation shaped revisions of the draft code and identified the need to include a separate section to deal exclusively with children and young people.

**The Presiding Officer (Ken Macintosh):** Question 2 has not been lodged.

### Funded Childcare Expansion (Aberdeenshire)

3. **Gillian Martin (Aberdeenshire East) (SNP):** To ask the Scottish Government whether it will provide an update on progress with personnel recruitment and facilities in Aberdeenshire for the expansion of funded childcare to 1,140 hours. (S5O-03627)

**The Minister for Children and Young People (Maree Todd):** The Scottish Government wants children and families right across Scotland to benefit from extra access to high-quality, nurturing early learning and childcare. We are investing an additional £2 billion to realise our ambition, though a landmark funding deal with the Convention of Scottish Local Authorities.

By 2021-22, Aberdeenshire Council will receive nearly £26 million of additional revenue funding for early learning and childcare, which will support the expansion of the early years workforce. Over the five-year period to 2020-21, Aberdeenshire Council will also benefit from more than £27 million of additional capital funding to build, refurbish and extend nursery facilities.

Yesterday, the Improvement Service published further progress data that shows that, nationally, more than 46,000 two, three and four-year-olds are already benefiting from extra funded early learning and childcare. The data demonstrates

that local authorities across Scotland, including Aberdeenshire Council, are working incredibly hard with nurseries, playgroups and childminders locally to prepare for August 2020, and that recruitment and infrastructure development continue to progress well.

**Gillian Martin:** I thank the minister for that comprehensive answer. Trained personnel are, of course, only one part of the equation. Can the minister give an update on where we are nationally with improvements to the availability and condition of the estate that is needed to deliver the 1,140 hours? What has been done to assist private partner providers in helping us to meet the challenges in recruitment and facilities?

**Maree Todd:** We are investing £476 million for new, refurbished and extended high-quality ELC settings. Yesterday, I visited Sauchie nursery school in Alloa, where I saw the benefits of that investment at first hand. Clackmannanshire Council has used some of its capital funding to extend Sauchie nursery school with a kitchen and dining facilities. Children now have hot cooked healthy meals provided on site.

We expect that 900 such projects, large and small, will be delivered by the end of the expansion. In July, we set out the support that each local authority offers to private providers. Through our funding deal with the Convention of Scottish Local Authorities, we are delivering significant increases in hourly rates, which from August 2020 will enable payment of the real living wage to all childcare workers who are delivering funded hours.

Many private nurseries can also now benefit from 100 per cent business rates relief, and we have enabled private and third sector providers to post job opportunities for free on the myjobscotland website.

**Alison Harris (Central Scotland) (Con):** I am pleased to hear the minister's response to Gillian Martin. However, in a recent survey of the private, voluntary and independent sector, around 80 per cent of respondents stated that they were having great difficulty recruiting and retaining trained staff because local authority nurseries are able to offer a much higher rate of pay. That is largely due to local authorities using a higher revenue funding rate per child for their own services than they allocate to PVI providers. What can the minister offer the PVI sector to assist it with that ongoing staffing crisis?

**Maree Todd:** As I have said since I became the Minister for Children and Young People, private providers will be absolutely crucial to delivery of the expansion. We have put in place a number of opportunities, including training opportunities in college, on the job, in modern apprenticeships and

at university. There is a vastly increased number of qualified people in the sector.

Through the agreement with COSLA, we have also ensured that a sustainable rate is being paid to private providers so that they can pay the living wage and compete with local authority providers in the future.

### **Cold Spell Heating Assistance (Implementation)**

**4. Linda Fabiani (East Kilbride) (SNP):** To ask the Scottish Government when it will take decisions on the implementation of cold spell heating assistance. (S5O-03628)

**The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville):** We are putting in place robust plans to deliver cold spell heating assistance from winter 2021. Our priority in taking on full responsibility for all the devolved benefits is a safe and secure transition so that people continue to receive support at the right time and in the right amount.

Over the course of the next year, we will seek the views of people who have benefited from cold weather payments in the past, as part of our commitment to designing our new social security system with the people who are likely to use it. In addition, we will seek a wide range of expert opinion and look to design processes that better reflect the needs and experiences of the people of Scotland.

**Linda Fabiani:** I was pleased when the cabinet secretary previously said that she would review how eligibility for payments is triggered, including looking at the number and location of weather stations. That was very welcome for towns such as East Kilbride. Its weather is currently judged by the weather station in Bishopton, which is at sea level and is therefore often much warmer than East Kilbride. When will we have confirmation that the weather stations have been reviewed, in order that my constituency will no longer be disadvantaged?

**Shirley-Anne Somerville:** I am well aware of the calls for more localised forecasts and additional weather stations, most particularly from Linda Fabiani, who has been determined to take the case forward for a number of years now. As I said in my original answer, we will, over the course of the next year, seek the views of people who have benefited from the cold weather payments in order to ensure that we can develop our policy around cold spell heating assistance. We want the most appropriate, most active and most cost-effective ways of ensuring that the weather forecasting and monitoring that we have targets support and assistance to those who are in greatest need. That will, of course, include a

review of eligibility for payments and how they are triggered, with the number and location of weather stations being very much part of that process.

### **Infrastructure Failures (Impact on Surgical Waiting Lists)**

**5. Michelle Ballantyne (South Scotland) (Con):** To ask the Scottish Government what impact infrastructure failures at the Queen Elizabeth university hospital and Royal hospital for children and young people have had on patients who are on surgical waiting lists. (S5O-03629)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** No patients who are on surgical waiting lists at the Queen Elizabeth university hospital or the Royal hospital for children and young people have been impacted by the infrastructure issues at those two hospitals. NHS Lothian has confirmed that infrastructure issues at the Royal hospital for children and young people have had no impact on patients on surgical waiting lists. A number of theatre lists were cancelled before and after the original planned move date as part of the agreed migration plan. However, the infrastructure issues have had no impact.

**Michelle Ballantyne:** That is an interesting answer. After 15 months on the neurosurgical waiting list and 11 months on the short-notice list because of persisting severe pain, my constituent had still had no operation and felt that he had no choice but to pay to have it undertaken privately. His surgeon's explanation related to a lack of a trained theatre nurse, the response to emergency work and infrastructure issues, including sewage ingress, and delays of more than 18 months to get access to new theatres at the Queen Elizabeth university hospital. My constituent, who is watching this meeting, is angry and out of pocket and he feels let down. What can the cabinet secretary say to ease his anger? Does she know how many other patients have sought private treatment because of the waits that they have faced?

**Jeane Freeman:** If Ms Ballantyne had cared to write to me before now, I would have been able to give her a more detailed answer on the particular case that she has raised. However, in the absence of that, it seems to me from what she has said that she is referring to the neurosurgical theatres, which were the responsibility of the University of Glasgow to plan and build. We have discussed previously in the chamber and elsewhere the inadequacy of the original plan-and-build process in meeting the standards that the national health service requires. Following an important and helpful intervention from the principal of Glasgow university, the work has now been undertaken to standard and I believe that NHS Greater Glasgow

and Clyde is about to take possession of those theatres, at which point they will be able to be used for patients.

### **Non-prescribed Benzodiazepines**

**6. Adam Tomkins (Glasgow) (Con):** To ask the Scottish Government whether it will provide an update on the action that it is taking to address the use of non-prescribed benzodiazepines, such as etizolam, in Glasgow. (S5O-03630)

**The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick):** That is an issue not just in Glasgow but in communities across Scotland, and it is one of the matters that the drug deaths task force will consider as part of its work. Earlier this year, the Glasgow health and social care partnership put in place a number of measures on so-called street Valium, including specific outreach activity and the provision of harm reduction information. The partnership also implemented a treatment protocol for the management of dependence that is associated with the use of street Valium for those most at risk.

Nationally, Police Scotland, national health service boards and funded agencies have sought to increase awareness of the dangers of taking prescription-type drugs, including so-called street Valium, through national warning bulletins, messages on social media and local information campaigns.

**Adam Tomkins:** Street Valium costs less than a chocolate bar to buy. What is the minister's reaction to evidence, including from Police Scotland, that one unintended consequence of minimum unit pricing for alcohol is that it has pushed people with problem alcohol use to switch to cheap drugs such as benzodiazepines?

**Joe FitzPatrick:** Concerns regarding the availability and use of street Valium predate the introduction of minimum unit pricing. We know that the key driver of the recent increase in the number of deaths associated with street Valium is the extremely low price of the pills. Mr Tomkins talked about the price of a bar of chocolate, but the reports are that the figure is as low as 20p a pill, and there is increased evidence of poly-drug use.

NHS Health Scotland is looking closely at all the implications in relation to minimum unit pricing. One of its studies assesses the impact of the policy on those drinking harmful levels, and includes considering substitution with other substances. We will absolutely keep an eye on that issue.

**Bob Doris (Glasgow Maryhill and Springburn) (SNP):** I have been informed of significant issues for people in seeking support for benzodiazepine dependency from health services, including general practitioners, which can force

people into the hands of dealers pushing the potentially deadly so-called street Valium. Will the minister consider how health services can better help those with such a dependency?

**Joe FitzPatrick:** Health services and general practitioners in particular have a significant role to play in helping to tackle the challenges that we are seeing with drug use and the associated health harms. The Royal College of General Practitioners is represented on the drug deaths task force. It is the role of GPs to assess the clinical needs of their patients, using relevant evidence to take a person-centred approach that identifies their preferences and, where it is clinically appropriate, to follow those.

There are clinical guidelines in place for the management of drug misuse and dependence, and we expect clinicians to take the person-centred approach that is advocated in our alcohol and drug strategy in relation to issues relating to addiction to any type of drug.

**Pauline McNeill (Glasgow) (Lab):** Street drug use has been primarily responsible for the HIV outbreak in Glasgow, with the injection of heroin and cocaine. Of course, Scotland was the first part of the United Kingdom to make pre-exposure prophylaxis available on the national health service. PrEP is a game-changing treatment but many people might not be aware of it. The minister will be aware that it is taken by people who are HIV negative and that it has been shown to reduce the risk of infection by up to 86 per cent. What is the Government doing to increase awareness of the existence of PrEP to drug users?

**Joe FitzPatrick:** I thank Pauline McNeill for asking that important question. I was pleased to visit Waverley Care in Glasgow, which is one of the partners that we are working with in order to try to reach people who have been more difficult to reach, particularly in relation to the particular issue in Glasgow that the member raises.

The point that the member makes is important, and I think that we can all do what we can to ensure that people are aware of the benefits of PrEP, and we must also raise awareness of the undetectable equals untransmittable—U=U—campaign, which aims to remove the stigma around HIV. We have treatments in place, and we have PrEP, which is part of a preventative approach.

### **NHS Resource Allocation Committee Funding (NHS Grampian)**

**7. Mike Rumbles (North East Scotland) (LD):** To ask the Scottish Government whether NHS Grampian will receive its full share of NRAC

funding in the next Scottish Government budget. (S5O-03631)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** The Scottish Government will publish its spending plans in due course as part of the Scottish budget.

Under this Government, NHS Grampian's budget has increased by almost 30 per cent above inflation, and this year, the board is receiving record investment that is in excess of £957 million. In 2019-20, the Scottish Government continues to ensure that no board is more than 0.8 per cent from NRAC parity.

**Mike Rumbles:** Well, 0.8 per cent sounds great, but the Scottish Parliament information centre has confirmed that over the past 10 years, the Scottish Government has given NHS Grampian £239 million less than it was supposed to receive under the Scottish Government's own funding formula. That has led to 30 per cent of patients waiting longer than 18 weeks for treatment for chronic pain, and to cancer treatment times not being met for a quarter of patients. Will the cabinet secretary find at least some of that missing £239 million in order to put this situation right?

**Jeane Freeman:** I have to point out to Mr Rumbles that NHS Grampian is a great deal closer to parity than it ever was when his party was in government in Scotland. I also point out the significant additional funding that NHS Grampian has received and say that, given the significant additional investment in waiting times and other areas, being 0.8 per cent away from parity is not a sufficient reason for NHS Grampian or any other board to continue to fail to meet its targets—we have had that discussion before.

I also point out that between 2015-16 and 2019-20, in being moved closer to parity, along with other boards in the area, NHS Grampian has received additional recurring funding of £56.2 million. I think that that places NHS Grampian in a good position to deliver the healthcare that the citizens of that area deserve.

**The Presiding Officer:** I call Tom Mason.

**Tom Mason (North East Scotland) (Con):** Thank you, returning officer—[*Laughter.*] I mean thank you, Presiding Officer. My apologies, but I was caught up in the by-election in Bridge of Don in Aberdeen.

NHS Grampian has recently missed its targets for delayed discharge, accident and emergency waiting times, drug and alcohol treatment waiting times, chronic pain waiting times and the 18-week referral-to-treatment period. Since the NRAC formula was introduced in 2009, NHS Grampian has never reached parity, resulting in a total shortfall of £239 million over that period. Does the

cabinet secretary accept that those two things might just be related?

**Jeane Freeman:** No, I do not, because other boards are in the same position and are performing better than NHS Grampian, as indeed NHS Grampian is performing better than other boards.

We have the £850 million additional investment in waiting times and the additional investment in mental health services and care, because our real focus with those boards is on the trajectory that is set out in the waiting times plan that I published last year—if Tom Mason would care to go back to look at it—in order to improve performance and meet waiting times targets.

Much of the issue is down to service design and delivery, and it is not as much about the resourcing of our health service as members might care to argue. I remind members that the resourcing that our health service receives is the highest that it has ever been since the Parliament reconvened.

## First Minister's Question Time

12:00

### Brexit

1. **Jackson Carlaw (Eastwood) (Con):** The deal that was presented by the Prime Minister to the European Union, about which he is currently speaking in the House of Commons, has now attracted support from people who want to leave the European Union with a deal. I would vote for it—why will the First Minister not do so?

**The First Minister (Nicola Sturgeon):** We found out this week that Jackson Carlaw will vote for whatever Boris Johnson tells him to vote for.

The proposals that were published by the United Kingdom Government yesterday do not look, at this stage, like they will be acceptable to the European Union. The proposals also seem to break all the promises that were made to Ireland at the start of the Brexit process. Aside from all that, the proposals would take Scotland out of the European Union, out of the single market and out of the customs union, all against our will, and they suggest a much looser relationship with the EU—a much harder Brexit—even than that proposed by Theresa May.

I will be quite clear, as I have been crystal clear in the past, that I will not support something like that, because Scotland does not support that. If Jackson Carlaw was interested in standing up for Scotland, as opposed to simply standing up for Boris Johnson, he would not be supporting it either.

**Jackson Carlaw:** Our position is that further dither, delay and uncertainty, and the prospect of Jeremy Corbyn as Prime Minister—to which the First Minister is disgracefully open—is much more damaging to us all than getting the matter sorted now. We are at the 11th hour; there is a need on all sides to compromise if we are going to reach a negotiated settlement. Yet, the record of this Scottish National Party Government has been to fail to do so.

The First Minister repeatedly says that she will do anything possible to stop no deal, yet, despite three opportunities so far this year, her MPs have never voted for a deal. Does she regret not ordering her MPs to vote for a deal when she had the chance?

**The First Minister:** My alternative to no deal is no Brexit. That is what the people of Scotland voted for. All the efforts that I made at compromise, to keep us in the single market and the customs union, were spurned and cast aside by Theresa May. I will not support an option that

takes us out of not just the EU but the single market and the customs union.

Jackson Carlaw has no credibility on this, or perhaps on anything else, after the events of this week. He has gone from being an enthusiastic remainer to a Boris Johnson-loving, no-deal Brexiteer in what seems like a heartbeat. To use the language of the Secretary of State for Scotland, he has brought the Scottish Tories “into line” with his Westminster bosses. In doing so, he has completely abandoned the interests of the Scottish people—shame on him for that. No wonder his colleagues now want to get rid of him. I have to say that I thought the Labour Party was the master when it came to getting rid of leaders, but at least it waits until the leader is elected before it tries to oust them. Jackson Carlaw is about to be ousted before he is even elected.

**Jackson Carlaw:** The real shame is a First Minister who is prepared to conspire to make Jeremy Corbyn the Prime Minister of this country.

Once again—and typically—the First Minister confirms that there has not been a referendum this century the result of which she is prepared to accept, support or implement. That is not democracy. Let us just examine for a moment the First Minister’s plan and the fantasy top team that she now wants to run Britain. We have the Liberal Democrats, who want to cancel Brexit altogether—although Jamie Stone, the official spokesman for Scotland, wants to support no deal over Jeremy Corbyn. We have Jeremy Corbyn, who wants to get a new deal and then possibly campaign against it in a referendum that he may or may not support. That is topped up by the SNP, which claims that it will do everything to avoid a no-deal Brexit, other than to vote for a deal.

The Conservatives want a deal and we would vote for a deal—*[Interruption.]*

The First Minister has said that she wants a deal, but now will not vote for one. Which approach does she think is most likely to secure a deal?

**The First Minister:** I want Scotland to remain in the European Union. First, because that is the best option for Scotland and secondly, because that is what people in Scotland voted for—they voted to remain in the EU. Jackson Carlaw used to agree with me on that: he used to agree that, if that was not possible, we should at least stay in the single market and the customs union, and he used to agree with me that no-deal Brexit should be avoided at all costs. Now, we have a situation where Jackson Carlaw’s position can be simplified to simply doing whatever Boris Johnson instructs him to do.

Jackson Carlaw does not care about the best interests of the Scottish people. I am not even

sure that he cares about the best interests of the Scottish Conservative Party, because backing no deal is certainly not in those interests. I think that Jackson Carlaw has made the miscalculation that backing Boris Johnson is the best way to remain leader of the Scottish Conservative Party. I have to say that his colleagues seem to have a completely different view of that. Jackson Carlaw has squandered any shred of credibility he ever had.

**Jackson Carlaw:** If the First Minister had the courage of her convictions, she would have voted for a general election several weeks ago and there would have been an opportunity for the issue to have been resolved before 31 October. She had a chance, but once again, her MPs were all talk and no action.

The Scottish Conservatives welcome the fact that, in the EU and the European Commission, senior figures have not rushed to judgment—unlike the First Minister—and have made it clear that they are prepared to examine the plan in detail. We urge both those in Europe and the UK Government to continue their intensive discussions over the coming days. That is the best way to get the matter resolved, rather than the neverendum that the First Minister supports.

The truth is—and the First Minister has confirmed it—that the SNP does not want a deal. It is not prepared to respect or implement the result of the referendum; whether it is this deal or Theresa May’s deal, the SNP’s answer is always no. Rather than have yet more delay, is it not time that we got this done?

**The First Minister:** When it comes to Boris Johnson’s proposals, it is probably more a case of intensive care, rather than intensive discussions, given the reactions that we heard yesterday. I do not see any indication that the proposals will be acceptable to the European Union. They also break every single promise that was made to Ireland. I remember Ruth Davidson saying that she would never, ever back any proposals that put a border down the Irish Sea, but now Jackson Carlaw has completely changed his position on that.

The fact of the matter is that there is not a shred of principle in the Scottish Conservatives’ position. They have gone from enthusiastic remainers to no-deal Brexiteers, simply because they have been instructed to do so by Boris Johnson.

**Jackson Carlaw:** Support a deal.

**The First Minister:** Jackson Carlaw is saying that I do not support a deal. I do not know where Jackson Carlaw has been for the last three-and-a-half years: I do not support Scotland being taken out of the European Union. I want us to remain in the EU. I do not want Scotland to be dragged out

against our will by any Tory Government. That is why I will continue to press for Scotland's place in the European Union and I will continue to offer a choice to the people of Scotland, so that we can choose an independent future as a way of protecting that relationship.

### **Mental Health Services (NHS Tayside)**

**2. Richard Leonard (Central Scotland) (Lab):** In May, Dr David Strang published the interim report on his independent inquiry into mental health services in NHS Tayside. What has been done to implement his recommendations?

**The First Minister (Nicola Sturgeon):** Discussions continue while we await David Strang's final report. In the meantime, we have taken a range of actions to ensure that we improve mental health care and treatment for people who need it.

**Richard Leonard:** In his interim report, Dr Strang made only one recommendation. He said that proposals to centralise mental health services in Dundee should not be considered before

"a comprehensive review of mental health service strategy"

is carried out. Not only has NHS Tayside failed to carry out the review, but, worse still, the board is pressing ahead with the centralisation of services. Speaking in the past week, Dr Strang said:

"It is disappointing. This was the only recommendation in the whole report, because I thought it was urgently needed."

The independent inquiry was set up because of the deep concerns of families who have lost their loved ones through suicide. Why is there no urgency? Why is it that, so far, the sole recommendation of the independent inquiry is being wilfully ignored?

**The First Minister:** Richard Leonard is right to talk about the seriousness of the issue and about the impact of such decisions on families across the country. Let me be very clear: when an independent inquiry makes recommendations, the Scottish Government and I expect national health service boards to take those recommendations fully into account. I expect NHS Tayside to take account of the recommendations that David Strang has made thus far in its decision-making process in relation to mental health services in the Tayside area.

When we receive David Strang's final recommendations, we will expect the recommendations for the NHS to be complied with. Any recommendations that come forward for the Scottish Government will be treated with the utmost seriousness.

**Richard Leonard:** Let us remember why the independent inquiry is taking place. It is three

years since David Ramsay died by suicide, and too many other families have lost their loved ones. Just yesterday, David's niece Gillian told me:

"NHS Tayside refuse to listen, they refuse to change, they are being allowed to carry on: business as usual ... things are getting worse at NHS Tayside, not better".

The independent expert who was appointed to chair the inquiry—a man with considerable experience—says that his recommendation is being ignored, despite action having been demanded as far back as May. Grieving families are saying that things are getting worse, not better. The First Minister's expectation is not being met, so it is not time that she stepped in before more time is wasted, before more families are made to suffer and before more lives are needlessly lost?

**The First Minister:** I will—and always do—reflect very carefully on issues that are raised with me at First Minister's question time. I will do so today, given the seriousness of the issues that Richard Leonard has raised.

I repeat what I said in my earlier answer: I expect health boards to properly take account of such recommendations in the decision-making processes that they are required to undertake. I will certainly consider carefully the points that Richard Leonard has made.

I take the opportunity, again, to put on record my condolences to David Ramsay's family and to anyone else whose loved one has lost their life to suicide. The Cabinet Secretary for Health and Sport would be very willing to meet David Ramsay's family, if that would be of interest, to hear at first hand their concerns about the ongoing situation at NHS Tayside. It is important that we listen to the lived experience of patients and patients' relatives, and we will continue to do that in good faith and in all sincerity. I am happy to ask the health secretary to write to Richard Leonard once I have had the opportunity to consider carefully the points that he has raised and the quotes that he has put on the record.

**The Presiding Officer (Ken Macintosh):** We have some constituency supplementaries, the first of which is from Murdo Fraser.

### **National Health Service (Winter Planning Funding)**

**Murdo Fraser (Mid Scotland and Fife) (Con):** NHS Tayside has serious financial difficulties, but it has just been advised by the Scottish Government that its winter planning budget has been cut in half. It received £737,000 last year and will get just £396,000 this winter. Can the First Minister give me an assurance that elderly and vulnerable patients will not be put at risk from the cut? Why is it being made, when the Scottish

Government is set to receive an additional £635 million in Barnett consequentials due to increased health spending south of the border?

**The First Minister (Nicola Sturgeon):** Murdo Fraser's comment about winter planning funding is not quite right. Today, the Cabinet Secretary for Health and Sport announced initial allocations to health boards. We will continue to discuss winter plans with boards and see what further financial provision is required to support them. I stress clearly to members and health boards that today's announcement was of initial allocations, but that is not necessarily the end of the process.

I know well—not just as First Minister but from my past experience as health secretary—the importance of winter planning, of keeping winter planning under review and of the Scottish Government working closely with health boards to ensure that planning is robust and properly resourced.

We hear a lot from the United Kingdom Government about spending commitments and the consequentials that might flow from them. However, if Murdo Fraser does not mind, I prefer to see the colour of the money and have the cheque cashed—rather than have it bounce—before we start allocating it. On past experience, what the Tory Government says about consequentials does not always flow through into actual money, so we will wait and see.

Finally, I remind Murdo Fraser that while we are ensuring record funding to the national health service in Scotland, if we had taken the advice of the Scottish Conservatives on tax cuts for the richest, we would have had to take £650 million out of our budget, which is equivalent to having 16,000 fewer nurses in our national health service.

### EU-US Trade Dispute

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** The First Minister will be aware that, as part of the European Union-United States trade dispute, the US has published a list of products from the EU to which tariffs of 25 per cent will apply from 18 October. The list includes a range of iconic Scottish goods: whisky, cashmere, shortbread, cheese and seafood. The financial and economic impact on businesses in constituencies such as mine is likely to be huge. Will the First Minister assure Parliament that the Scottish Government will press United Kingdom Government ministers to do all that they can to protect Scotland's interests?

**The First Minister (Nicola Sturgeon):** I thank Gail Ross for raising an extremely important and concerning issue. The news this morning is profoundly worrying for producers of Scotch whisky and the other Scottish products that are

exported to the United States that Gail Ross mentioned.

On pressing UK Government ministers, I recently wrote to the Prime Minister highlighting the threat to, in particular, the Scotch whisky industry, and I discussed the issue directly with the Scotch Whisky Association just a couple of weeks ago. We will continue to encourage the UK Government to support a negotiated settlement on that, and we support the efforts of the EU to find one.

It is in nobody's interest to have such trade wars; everybody ends up being a loser. The sooner that we find a resolution, the better, so I encourage UK ministers to work hard to find one.

### Fair Work Practices

**Mark Ruskell (Mid Scotland and Fife) (Green):** Agency workers at Amazon in Dunfermline face having wages withheld, unrealistic performance targets and hourly rates that are, in effect, below the minimum wage. This time last year, the First Minister welcomed Amazon's commitment to pay the living wage. What action will she take this year to ensure that Amazon applies fair working practices to all its staff?

**The First Minister (Nicola Sturgeon):** We will continue to press all employers, including Amazon, to use fair work practices, including the living wage. As Mark Ruskell will be aware, we have made commitments to our fair work first policy, under which future Government funding streams, grants and investments, for example, will be made conditional on fair work practices being followed.

The issue is extremely important, and my message to Amazon and any other employers is that they would not be able to make the profits that they make without the contribution of their workers, and it is essential that they treat their workers fairly.

### Flood Damage (Aberdeenshire)

**Peter Chapman (North East Scotland) (Con):** Last weekend, seven bridges were destroyed in central Aberdeenshire through severe weather and flash flooding, with numerous roads damaged. I have spoken with a major vegetable producer who employs 100 people and who has had access to his premises severely restricted as a result of the flooding. There are numerous households in rural areas that are severely disadvantaged due to the road and bridge damage.

I have been talking with officials from Aberdeenshire Council all week, and the estimated cost of repairs will run to millions of pounds. Can the First Minister commit to

delivering extra funding to Aberdeenshire Council to help rebuild the bridges and repair the damage?

**The First Minister (Nicola Sturgeon):** We will continue to engage in dialogue with Aberdeenshire Council, as we do with any council whose area suffers from the kind of severe weather that was suffered in Aberdeenshire last week. There are recognised and well-used schemes in place. In addition, we have on-going dialogue with councils, and we will seek to help wherever we can. I know how much of an impact the flash flooding had and how much of that impact is still being felt. We want to ensure that that impact is mitigated as soon as possible.

### Home Care (Availability)

**3. Willie Rennie (North East Fife) (LD):** On Monday, I met Douglas Dawson at St Andrews House care home. The local authorities have been unable to provide a care package so that he can go home, and he has been stuck there for 18 months. Now the authorities want to charge him £26,000 for 24-hour care that he does not need in a care home that he does not want to live in. Mr Dawson told me that that is a completely degrading way of dealing with someone who just wants to go home. Does the First Minister agree?

**The First Minister (Nicola Sturgeon):** Yes, in general terms I strongly agree. As Willie Rennie will appreciate, I do not know all the details of Mr Dawson's case. If he wishes to share those with me and with the Cabinet Secretary for Health and Sport, I will look into the issue as a matter of urgency.

We have taken action in a range of ways, from integrating health and social care to increasing the funding going specifically to social care, to reduce delayed discharge and ensure that people are in the care setting that is most appropriate to their needs. I am not saying that this is the case with Mr Dawson, but sometimes there will be particular circumstances that make that particularly challenging. However, the general principle is that people should be in the care setting that is right for them. I would be very happy to look into the particular case.

**Willie Rennie:** If the Government had kept its bedblocking promise four years ago, Mr Dawson would not be subject to that degrading treatment. He is not alone. There have been 2 million unnecessary bed stays in Scottish hospitals since Scottish ministers promised to stop the practice completely. There is a home-care crisis across the country, and it is getting worse. In Fife alone, 400 people are waiting for a care package. People in real need look to the Government and listen to its promises, but they have been left waiting and abandoned. What do they have to do to get something done?

**The First Minister:** As I said in my original answer, I do not know the circumstances of Mr Dawson's case, so I cannot draw conclusions as to what the reasons for that are. What Willie Rennie has described to me is not acceptable for any individual to be going through, but I will look into the case.

More generally, delayed discharges have been coming down overall over the past few years. Delayed discharge remains a challenge, and that is why we have integrated health and social care, why we are investing more funds specifically in social care and why some of the other work on waiting times, particularly in accident and emergency, is so important, as the issues are interconnected. We will continue to take the action that we need to take, as well as supporting and extending free personal care for people who need it, so that everybody across Scotland gets the care that they need in the setting where they need it. That commitment is very important to me and to the Government.

### Food Insecurity

**Shona Robison (Dundee City East) (SNP):** Is the First Minister aware of the new report from A Menu for Change, which is out this week and was produced by Oxfam, the Poverty Alliance and others? It shows that Scots are being pushed into food insecurity by low wages, zero-hours contracts and delays in receiving universal credit. Does the First Minister agree that the social security safety net is failing to catch enough people? What can the Scottish Government do to stop people becoming hungry in my constituency and throughout Scotland, including through this place taking full control over welfare policy?

**The First Minister (Nicola Sturgeon):** I absolutely agree that nobody should experience food insecurity in a country as prosperous as Scotland. This week's report from A Menu for Change highlights the impact of the United Kingdom Government's punitive welfare changes and welfare cuts. We will continue to challenge those cuts and we will continue to call for a halt to universal credit, which is clearly causing so many of those problems.

In addition, our £3.5 million fair food fund supports dignified responses to food insecurity. Last week, we announced an additional £1 million investment through the charity FareShare to support community resilience to the impacts of Brexit on food insecurity. The Scottish welfare fund provides vital support to those who need access to emergency funding to help with the cost of essentials, such as food and heating. Since the fund's start in 2013, more than £200 million has been paid to more than 330,000 households in crisis.

We will continue to do everything we can. However, as I often say in the chamber, until all the powers over welfare lie in the hands of this Government and not in the hands of the Government at Westminster, we will continue to do that with one hand tied behind our back. That is not acceptable.

### **Human Trafficking and Exploitation (Scotland) Act 2015**

**Jenny Marra (North East Scotland) (Lab):** Four years ago this week, the Parliament unanimously voted for the Human Trafficking and Exploitation (Scotland) Act 2015, section 11 of which gives unaccompanied children the legal protection and support of the Scottish guardianship service. Members should make no mistake about how important that is. Children who are trafficked into Scotland, many from Vietnam, with no idea where they are and no parent or guardian to look after them, are alone and vulnerable to criminal gangs. Four years later, that protection has not been implemented by the Scottish Government. Why not? Those children do not have the legal protection that we passed into law for them. Will the First Minister commit to implementing in full that vital protection before Parliament breaks for Christmas?

**The First Minister (Nicola Sturgeon):** I will write to Jenny Marra on that point. I will give her a full answer on why that provision has not been commenced so far and the timescale for bringing it into force. It is an important issue.

More generally, I commend and pay tribute to the work of the Scottish guardianship service. A couple of weeks ago, I visited young people who are under the care and support of that service, and I saw its benefit to them. We want to make sure that the service is available to all young people who need it. I will make sure that Jenny Marra gets a specific answer to that question as quickly as possible.

### **Houses with Aluminium Cladding**

**Andy Wightman (Lothian) (Green):** I am receiving a growing number of emails from constituents and Edinburgh solicitors in relation to flats in the city that cannot be sold due to the attitude of lenders, who refuse to lend for properties with aluminium cladding. Surveyors are giving home reports with zero valuation, which means that people's homes are unsaleable. Next week, I will speak with stakeholders. I ask the First Minister for her Government's assistance in sorting out that growing problem.

**The First Minister (Nicola Sturgeon):** I am happy to look into that issue in more detail. We want to make sure that we help, in any way that we can, any home owner who is in that position. If

Andy Wightman shares with us the evidence that he gathers from constituents, the Minister for Local Government, Housing and Planning will be happy to discuss additional support that the Scottish Government might be able to offer.

### **WASPI Women (High Court Judgment)**

**Sandra White (Glasgow Kelvin) (SNP):** The First Minister will be aware of the decision of the High Court today with regard to WASPI women—the women against state pension inequality. Unfortunately, they have lost their case. Does the First Minister agree that the United Kingdom Government must acknowledge the suffering and disadvantage that the transition period has caused those women? Does she also agree that a payment should be made by the UK Government to all WASPI women?

**The First Minister (Nicola Sturgeon):** I thank Sandra White for raising that issue. Although it is a matter for the court, like many people, I am disappointed in this morning's judgment. Those women should not have to be in court, trying to protect what is theirs by right. The UK Government has effectively robbed women of their pension entitlement. It is disgraceful.

Today, like Sandra White, I call on the UK Government to reverse that policy, to give back to women what is theirs and to ease the suffering that so many women are experiencing because of the policy. When people save for their pensions, they have a right to expect that that is what they will get, not to have it taken away from them by a Tory Westminster Government. The policy affects women in particular, which makes the women's position even more regrettable.

### **Cummins UK (Closure)**

**Mark Griffin (Central Scotland) (Lab):** Cummins UK is set to close its factory in Cumbernauld, with the loss of 130 jobs, after 30 years of loyal service by that community. Along with Unite the union, will the Scottish Government intervene to do everything possible to save those vital jobs?

**The First Minister (Nicola Sturgeon):** In these circumstances, the Scottish Government will always work with a company and trade unions to see whether there is action that we can reasonably take, within the constraints within which we operate, to try to save jobs and save the company. That is always the first step that we take. If that does not prove possible—and we are not yet at a stage at which I can say that in this case—we bring to bear the resources of the Government to try to help people to find alternative employment.

We are always interventionist in these situations—I am about to answer a question on which I will make that very point. We always seek to intervene where we can. It will not always be possible but, where it is not possible, we provide whatever help we can.

My thoughts are very much with the workers in this case, because I know what a difficult time it is for them at the moment.

#### Attacks on Police Officers

**4. Kenneth Gibson (Cunninghame North) (SNP):** To ask the First Minister what the Scottish Government's response is to reports that the number of police officers injured in attacks has risen by almost a third amid heightened sectarian and other tensions. (S5F-03600)

**The First Minister (Nicola Sturgeon):** Nobody should be the victim of abuse or violence while they are at work. Attacks against our police officers are despicable and perpetrators must be dealt with in the strongest possible way.

A wide range of powers is available to tackle such crimes, and we fully support the Crown Office and Procurator Fiscal Service in dealing robustly with perpetrators. The Police and Fire Reform (Scotland) Act 2012 enables penalties of up to 12 months' imprisonment or a £10,000 fine, or both, following convictions for offences against emergency services staff.

We are introducing restitution orders—a new financial penalty that can oblige offenders to contribute to the cost of support services for police officers and staff who have been assaulted.

**Kenneth Gibson:** I thank the First Minister for her comprehensive reply. Does she agree that the repeal of the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012, which was driven through this Parliament by the Opposition parties, has sent a signal that behaviour that was considered unacceptable just a couple of years ago is somehow less reprehensible?

Will the First Minister provide an update on measures that are being taken to enable police officers to work safely and respond to attacks appropriately and effectively?

**The First Minister:** I agree with Kenny Gibson. I have consistently said that, in my opinion, the repeal of the 2012 act sent entirely the wrong signal. The Scottish Government resisted repeal, because no viable alternative was offered at the time. As we have clearly seen since, the issue of sectarianism at football has not gone away. Repealing the act rather than seeking to strengthen it took away important protections to

help us to address the issue, and we now have to deal with the consequences of that.

The tactics that are used by Police Scotland to police events and parades are an operational matter for the chief constable. I know that all police officers receive regular officer safety training and all public order officers receive additional training and have access to enhanced protective equipment.

#### Loans and Investments (Write-offs)

**5. Jamie Greene (West Scotland) (Con):** To ask the First Minister whether she will provide an update on the £135 million in loans and investments that the Scottish Government has recently written off. (S5F-03604)

**The First Minister (Nicola Sturgeon):** We published a full set of audited consolidated accounts for the financial year 2018-19 last week, including detailed disclosures on the value of the Government's loans and investments.

Our support for private companies has protected hundreds of jobs and ensured that key economic infrastructure and business assets are preserved for future productive use. We will continue to support companies and workforces that face challenges, not least the dire economic consequences of a no-deal Brexit.

**Jamie Greene:** I thank the First Minister for mentioning the Government's accounts. In a response to the Government's published accounts, the Auditor General for Scotland said:

"The Scottish Government's financial reporting has taken a step backwards ... Parliament needs better information to be able to better scrutinise ministers' financial decision-making".

Does the First Minister accept that writing off such large sums of money adds to public spending pressures? Does she accept the Auditor General's criticisms of her Government's financial transparency and reporting?

**The First Minister:** We will take on board all recommendations of the Auditor General around financial reporting.

On investments to protect and preserve jobs, I am afraid that I take a different view from that expressed by the Conservatives. These loans and investments were made for the purposes of protecting vital businesses and jobs. It says a lot about the Tories that, last week, they described that as "a waste of money". I take a different view. This Government, as I have just said, follows an active industrial policy and we are prepared to step in where action is required to safeguard industries and preserve jobs.

I would have thought that Jamie Greene, given the region that he represents, would have

welcomed the steps that we have taken to support the workforce of Ferguson Marine in Port Glasgow and the staff of the former Texas Instruments plant in Greenock. Through those two interventions alone, we have safeguarded around 600 jobs in Inverclyde. Jamie Greene might think that that is a waste of money; I think that that is what Governments should be doing.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** The loans to Ferguson Marine in Port Glasgow were important at the time and are equally important now. Does the First Minister agree that the decision by the administrator and the subsequent announcement yesterday is the only way that Ferguson Marine can safeguard jobs and build more ships, which provides the future that my constituents want for the yard?

**The First Minister:** Yes, I agree. The bottom line is that if the Government had not acted in the way that we did, there would be no Ferguson Marine right now and none of those jobs would exist right now.

Our action in bringing Ferguson Marine under public control has ensured that the jobs are protected, that the yard has stayed open and that much-needed new ferries can be completed. The administrators have concluded that despite other bids being submitted for the yard, the Government's offer presents the best outcome for creditors, so the administrators are now in discussion with the Government to agree the final terms of the sale. We expect that to be completed within the next four weeks.

Although we recognise that there is still a lot more to be done, our actions have ensured that there will be a future for Ferguson's shipyard and those are the right actions to have taken.

**Rhoda Grant (Highlands and Islands) (Lab):** Will the First Minister now develop an industrial strategy to ensure that financial interventions in private companies secure the companies' futures, secure jobs and build the Scottish economy?

**The First Minister:** That is exactly what we are doing. Labour regularly calls on us to step in—rightly, in my view. Only today, a Labour member of the Scottish Parliament called on us to step in in another case, which we will consider, as we always do. It is not always possible for us to step in, because all investment decisions have to be subject to proper due diligence and we have to be satisfied that we are acting within the law.

Within those constraints, we will always take action to save companies, to give them a future and to protect the jobs of the people who are employed there. I hope that even if the Tories think that that is a waste of money, we will always have the support of Scottish Labour for taking such action.

## Child and Adolescent Mental Health Services

**6. Monica Lennon (Central Scotland) (Lab):** To ask the First Minister what action the Scottish Government is taking to ensure that young people can quickly access mental health services, following reports that there were over 36,000 children and young people referred to CAMHS last year. (S5F-03609)

**The First Minister (Nicola Sturgeon):** It is to be welcomed that the stigma around mental health is breaking down and that people are coming forward to get the help that they need. We have demonstrated our commitment to supporting the mental wellbeing of children and young people, including through the £250 million commitment to support positive mental health in children and young people.

We are taking measures to strengthen the support that is available in communities, including the development of a national 24/7 crisis support service and provision of community wellbeing services. We are building the capacity of schools to provide early support: we are ensuring that every secondary school will have access to a counselling service by next September, and that an additional 250 school nurses will be trained by 2022. We are also working closely with national health service boards across Scotland to improve access to CAMHS.

**Monica Lennon:** Earlier this year, and soon after his general practitioner explained that it would take a very long time to get a CAMHS appointment, my constituent Kyle Stevens, who was just 14, completed suicide. His family is not looking to apportion blame, but they want to make sure that no family experiences the same painful and preventable loss.

In the past year, 7,500 children and young people in Scotland were refused access to specialist mental health services and did not even make it on to a waiting list. We have no record of what support, if any, was offered.

After a year of saying that it would do so, will the Scottish Government commit today to implementing the 29 recommendations that were set out in the audit report "Rejected Referrals Child and Adolescent Mental Health Services" audit, and put an end to children and young people being turned away from specialist mental health support when they need it most?

**The First Minister:** First, I convey my deepest condolences to Kyle's family.

In response to the question, I say that we are working to implement all the recommendations. It is right that we do so. On referrals to CAHMS, the number of referrals that are accepted has

increased over recent years. The number of referrals is also increasing.

However, Monica Lennon is right. When a referral is rejected—which should happen only if the reason is legitimate—it is important that good community services be available, which is why, as I said in my original answer, we are investing in the community wellbeing service and 24/7 crisis support, as well as support in councils and schools.

I have said many times that we must make sure that young people have the access to CAMHS that they need. However, young people are often referred to CAMHS because there is no community support, when it would be better if they could access that. Building up community services is therefore just as important, so we are working, using considerable investment, on all aspects of that approach.

**Annie Wells (Glasgow) (Con):** In Glasgow, more than two in 10 children and young people are waiting longer than 18 weeks to be seen. The figure is worse than it was a year ago. On top of that, nearly 5 per cent of patients in Glasgow had to wait between 36 and 52 weeks to receive treatment.

This time last year, when the Scottish National Party Government made promises to radically overhaul mental health services, people expected to see those promises being followed through. Instead of warm words, what urgent action will the First Minister take to support children and young people in Glasgow who are in need of that vital support?

**The First Minister:** We will continue to implement the measures that we set out last year, on which we are making progress. More people are coming forward for mental health support. That is a good thing that we should welcome, but we must build up the service to ensure that the increased demand can be properly met. That means making sure that we invest in CAMHS services. In the past 12 years, CAMHS staffing has increased by 76 per cent; it is important that we continue that investment.

However, it is also important that we build up community services so that we also take much more a preventative approach to mental health problems. That is why we are prioritising £250 million of investment, including for additional school counsellors and community wellbeing services. We set out the measures last year in the programme for government, and we are implementing them. We will continue to focus on and make progress on doing that.

**Gillian Martin (Aberdeenshire East) (SNP):** Will the First Minister provide an update on child and adolescent mental health referral waiting

times in the NHS Grampian area since the opening of the dedicated CAMHS centre in Aberdeen?

**The First Minister:** The dedicated facility for child and adolescent mental health in Aberdeen officially opened yesterday, although the facility was operational in advance of that. The Scottish Government provided £1 million for the new unit. Such facilities are the future for CAMHS. It has been purpose designed for children and young people with mental health issues, and a number of services are available under one roof. That co-ordination between services is crucial.

The statistics for the next waiting times update for the quarter ending September 2019 are due to be published in early December.

### Heart Attacks (Diagnosis and Treatment)

**7. Brian Whittle (South Scotland) (Con):** To ask the First Minister what action the Scottish Government is taking to tackle inequality between men and women in diagnosis and treatment of heart attacks. (S5F-03610)

**The First Minister (Nicola Sturgeon):** The Scottish Government is committed to ensuring that everyone, regardless of gender, has access to the best care and treatment. The “Bias and Biology” report by the British Heart Foundation Scotland, which has been published this week, raised really important issues about inequality between men and women in terms of diagnosis and treatment of heart disease.

Our programme for government committed to establishing a women’s health plan to reduce inequalities in health outcomes that affect women. That includes reducing inequalities relating to cardiac disease. We will work closely with the third sector, including the British Heart Foundation, as we develop that plan.

We also continue to implement our heart disease improvement plan, which sets out the priorities and actions that we will take to deliver improved prevention, treatment and care for all patients.

**Brian Whittle:** Parliament is rightly proud of its work on highlighting issues to do with gender bias. However, as the First Minister has stated, research that was funded by the British Heart Foundation and others has uncovered that at every stage—diagnosis, treatment and aftercare—women who have heart attacks receive poorer care than men. Underlying all that is the common misconception that coronary heart disease and heart attacks are men’s diseases. What can the Scottish Government do, in collaboration with organisations such as the British Heart Foundation, to tackle that dangerous misconception?

**The First Minister:** That is a very important question. In some respects, Scotland is probably slightly ahead of other countries both in recognising the issue and in starting to tackle it. The British Heart Foundation's publication is an important contribution; it supplements research in the book by Caroline Criado Perez that was also published recently.

There are many issues. The particular one that Brian Whittle referred to was that although symptoms of a heart attack in women often manifest differently from how they manifest in men, when we think of somebody having a heart attack we often think of the symptoms that men tend to have. There are also issues to do with some treatments perhaps not being tailored properly to women's biology.

Those are all big issues. The first step in tackling them is to make sure that there is properly detailed and in-depth understanding. We should, through the actions that I have set out—in particular, the women's health plan—then be very systematic in tackling the matter. Not only do I and the Cabinet Secretary for Health and Sport have a keen interest in it, but our chief medical officer is leading the way on it. I am sure that Parliament will continue to take a very keen interest in it, too.

12:46

*Meeting suspended.*

12:50

*On resuming—*

## Great British Beach Clean

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a members' business debate on motion S5M-18053, in the name of Maurice Corry, on the Great British beach clean. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament recognises the efforts of the Marine Conservation Society in raising awareness of the importance of keeping beaches clean for the sake of marine wildlife; acknowledges that sign-ups for the Marine Conservation Society's flagship Great British Beach Clean event in September 2019 are now open; understands that each year the citizen science project involves thousands of volunteers heading out across Scotland, including in the West Scotland region and the rest of the UK, to clean beaches and collect invaluable data on the litter that is washing up on shores; further understands that, following the 2018 Beachwatch project, it was shown that beach litter had risen by an average of 14% in just one year for those beaches surveyed in Scotland, and notes calls for all MSPs to get involved with their local Great British Beach Clean events between 20 and 23 September 2019.

12:51

**Maurice Corry (West Scotland) (Con):** First of all, I thank all the members who very kindly signed my recent motion to allow the debate to take place. I am so pleased to speak on the amazing Great British beach clean. Every September, we can all take part in a beach clean and collect data from the litter that we find. This year's national beach clean took place from 20 to 23 September, and I was happy to join the local beach clean in Arrochar, where almost 1,000 articles were collected by me and other volunteers in a 100m stretch.

Organised by the Marine Conservation Society, the innovative project has long promoted the necessity of ensuring that our beaches are clean, while protecting marine life. The work of the MCS has confronted us all with the threat of the plastic tide. There is now more litter in our waters than ever before. For that precise reason, we cannot underestimate the damaging legacy of plastic. Ocean pollution has reached an emergency scale—it is a true crisis. Across hundreds of different and unique species, we see many cases of marine life becoming entangled in, or accidentally swallowing, plastic and other litter.

As long as we carry on using plastic as much as we do, the estimation is that, by 2050, there will be more plastic in our seas than fish. With the Great British beach clean, we have the opportunity to not only raise awareness but contribute to vital information gathering on marine litter. All that

those who take part have to do is survey a 100m stretch of the beach and tally each piece of litter that they find. That information, gathered from every beach clean around the United Kingdom, is collated in a database, which informs the work and focus of the Marine Conservation Society. Indeed, it helps to shape awareness-raising campaigns to reduce the sources of litter. For other experts and organisations in the field of marine litter, such data informs their research of pollution trends immensely.

On both a national and an international scale, the Great British beach clean is, at its heart, a citizen science project. Through partnership, every volunteer can become part of the wider movement of caring for marine life. As a huge-scale, cross-generational and collaborative effort between volunteers and experts, it is an innovative and organic project. As part of the international coastal clean-up, it allows communities to rally together in their passion for protecting their coastline. For families with children, helping out at their local beach clean is a practical and fun way to learn about the consequences of marine litter.

The year 2020 will be the year of coasts and waters, and a host of events is planned to promote Scotland's natural environment and encourage responsible engagement. As part of that, it would be fantastic for beach clean volunteering to reach its highest numbers ever. Indeed, the MCS has already seen a rise in the number of volunteers from just over 200 in the first year of the Great British beach clean to around 2,900 in 2018, which is an incredible advance.

This year, my local beach clean under the GBBC banner was organised by the Group for Recycling in Argyll and Bute—or GRAB—Trust. For the past 20 years, GRAB has worked with not only the MCS but Marine Scotland, the Loch Lomond and Trossachs national park and Keep Scotland Beautiful to promote recycling and beach cleaning in local schools and the wider community.

Awareness of beach cleans has grown to the extent that the Marine Conservation Society can say that they are finally mainstream, and long may that continue. Documentaries such as the “Blue Planet” series and “Drowning in Plastic”, which I am sure that all members will have seen, have helped to open up the topic to a much wider audience. They have shown the horrifying impact of litter on our precious marine wildlife and have motivated many of us to do something about it.

Each contribution helps, especially when we consider that Scotland is lagging behind the rest of the United Kingdom when it comes to the scale of marine litter. Although there was an overall reduction of 16 per cent in the amount of such litter in the UK last year, there was a 14 per cent increase in Scotland. More polystyrene,

microplastic and sewage-related debris, such as wet wipes and cotton buds, was found on Scottish beaches than was found on beaches anywhere else in the UK.

During the Arrochar beach clean, more than 90 per cent of what we found was plastic or polystyrene. Moreover, I have read of the increasing problem of cigarette filters on our beaches. Cigarette filters were the number 1 item found by volunteers across the world. As those cigarette butts slowly degrade into smaller pieces of plastic, they spread damaging toxins into the environment. That shows the extent of the problem that we and the generations to come face, and we must be aware of the part that we need to play in tackling it.

After 26 years, the Marine Conservation Society beach cleans have brought about positive, forward-thinking and forward-looking changes in policy, such as a reduction in plastic straw use, the introduction of the 5p carrier bag charge and commitments to push for deposit return schemes for cans and bottles. Those progressive changes have come about as a result of the findings of the annual beach surveys.

Given that the ocean and climate emergencies are reaching an ever more critical stage, we cannot afford to be complacent in our decision making. For the sake of Scotland's waters and wildlife, we need to promote efficiency and sustainability as pillars of any legislation that deals with our environment. The promise to implement a deposit return scheme for glass, plastic and metal by April 2021 should be realised. We can all play our part to encourage the use of reusable packaging and to reduce the amount of single-use plastics, which are a common find on beach cleans. We must realise that, despite fluctuations over the years, the litter trend is rising, so it is fundamental that we push forward with such changes. We recognise that the scale of the issue is far wider than we can know, as there are still beaches on our coastline that are yet to be surveyed.

Each year, the Marine Conservation Society has garnered more and more data and, this year, it hopes to reach more beaches than ever before with an even bigger army of volunteers. Each contribution informs the data, which in turn informs change. That is how we can gain a greater understanding of how we can stop litter right at its source.

12:58

**Kenneth Gibson (Cunninghame North) (SNP):** I congratulate Maurice Corry on securing the debate, which recognises the important work of the Marine Conservation Society in keeping

beaches clean and helping marine wildlife. The MCS is the UK's leading marine environment charity, which campaigns to increase protection of the seas around our coasts. It organises an annual Great British beach clean—this year, it was held from 20 to 23 September—which is the largest volunteer beach clean and litter survey in the UK. This was the 26th year of the event.

The beach clean programme has a dual purpose. First, local volunteers help to clean beaches to preserve the coastal environment and to reduce the immense pressure on the planet's oceans. Secondly, the society conducts a detailed survey of the items that are collected, as Maurice Corry outlined. That data is added to the MCS litter database and sent to ministers to inform policy.

Last month, 12 beach cleans took place in North Ayrshire. I participated in the Largs beach clean in my constituency on the dreich morning of Sunday 23 September, along with Patricia Gibson MP and 16 other volunteers. Together, we cleaned the beach from the Royal National Lifeboat Institution station on Largs promenade to the marina, collecting 67kg of litter, an old fish box and a car wheel. We were then thawed out by complementary coffee, tea and bacon rolls at Scotts in Largs marina.

Last year, 15,000 volunteers cleaned 494 UK beaches, collecting a staggering 8,550kg of litter. In Scotland, volunteer numbers rose by 83 per cent, with 22 per cent more beaches being cleaned and 559 items being collected per 100m, compared with a UK average of 601 items.

There are eight main types of coastal litter: plastic, glass, metal, cloth, paper, polystyrene, rubber and wood. Up to 12.7 million tonnes of plastic are dumped in the sea globally each year, which is the equivalent of a truck full a minute. That is shocking, given that a single plastic bottle can remain intact for 450 years and then degrade only into smaller pieces. However, according to an international coastal clean-up report, the most common piece of litter found in beach cleans across the world is cigarette butts. Almost 4,000 million cigarettes are smoked in Scotland each year. The cellulose acetate plastic filters take years to degrade and they leach toxins into the environment.

Beach litter has a significant impact on marine wildlife. Almost 98 per cent of dead North Sea fulmars studied had plastic in their stomachs. The economic cost of coastal and marine litter to the Scottish fishing industry alone is £13 million a year. Globally, millions of birds, marine mammals and sea turtles die each year after becoming entangled in or eating plastic materials, while plastic has undoubtedly entered the food chain through the fish that we eat.

An estimated 70 per cent of marine litter sinks to the bottom of the sea, 15 per cent floats and 15 per cent is washed up on our coasts, so beach cleans give only a flavour of the magnitude of the damage inflicted. Keep Scotland Beautiful has developed a national clean up Scotland campaign that has supported more than 620,000 participants to remove more than 6,000 tonnes of litter from across Scotland. Keep Scotland Beautiful also piloted the my beach, your beach campaign last summer to encourage behavioural change and raise awareness of beach littering.

I have organised many beach cleans, including the annual Cumbrae beach clean, which I have organised and participated in for the past 13 years. We should all play our part in preserving Scotland's beautiful coastal environment. An increased willingness to beach clean is undoubtedly due to the success of television programmes such as "Blue Planet II", which showed starkly the impact of marine pollution.

I commend all the volunteers who participated in the 2019 Great British beach clean and thank them for their efforts to ensure that our beaches are cleaner, less hazardous to wildlife and safer for people to enjoy. I also thank Maurice Corry for bringing this debate to the chamber.

13:01

**Finlay Carson (Galloway and West Dumfries) (Con):** I, too, thank my colleague Maurice Corry for bringing this debate to the chamber.

As a member of the Environment, Climate Change and Land Reform Committee and as my party's spokesperson on the natural environment, the subject of this debate is close to my heart. With the Climate Change (Emissions Reduction Targets) (Scotland) Bill being passed last week in the Scottish Parliament, we are at a critical stage in how we ensure that we protect our natural environment, and we all must do our bit on that.

I am biased, but everybody knows that my constituency of Galloway and West Dumfries is the most picturesque of all constituencies and has one of the most wonderful coastlines in all of Scotland. Indeed, the Minister for Rural Affairs and the Natural Environment, Mairi Gougeon, recently visited the area and was full of praise for it; I look forward to having more conversations with her about the creation of a Galloway national park on that basis.

It is clear that more and more people are recognising the need to do more to ensure that our beaches are litter free. What is even more encouraging, though, is that that recognition is intergenerational, with both our young folk and the not so young putting their hearts and souls into ever more frequent beach cleans across the

country. Many groups have emerged in Dumfries and Galloway in recent months and years that are doing great work in cleaning up our beaches, which are sadly overloaded with litter and plastic. For example, D&G Eco Warriors has been carrying out regular beach cleans since 2018. Mullock Bay was the targeted beach over the recent beach clean-up weekend, with lots collected by those in attendance. I am sure that the grey seals that were keeping a close eye on things certainly enjoyed seeing their beach tidied up.

Not for the first time, Hardgate primary school pupils should also be extremely proud of themselves for taking part in the beach clean at Brighthouse Bay in Kirkcudbright. They collected and surveyed the waste and ended up gathering 29kg of largely plastic waste. Beach litter is an extremely sad sight, but it fills me with optimism when I see youngsters getting involved and appreciating how important our natural environment is to all our futures.

Another mammoth clean-up was led by the plastic free communities campaign in Dumfries and Galloway, alongside the local oceans need us project, the Solway Firth Partnership, Scottish Natural Heritage, and the Scottish Environment Protection Agency, at the Cairndoon shore, with 29 volunteers turning out. A huge skip was filled in four hours. It is quite astonishing just how much people can lift off the beach in one clean.

The ECCLR Committee will soon start work scrutinising the Government's deposit return scheme proposals. A successful scheme will do a lot of good for Scotland and the rest of the UK. One benefit will be to substantially reduce drinks container litter and leave our pavements, hills and beaches free from it.

Scotland spends £75 million a year dealing with litter and its effects, and that money could be far better spent on other public services. Many people spend hours volunteering to clear up litter, and their time could be better spent just enjoying the natural environment. A properly implemented, and preferably UK-wide, deposit return scheme would significantly reduce drinks container litter, which makes up a significant part of our beach litter. I know that the Marine Conservation Society approves of such a system.

The D&G Eco Warriors motto is "Together we can make a difference", which is a sentiment that I believe should be spread right across our communities. Beach cleans are a fun way of helping the community as well as protecting our natural environment. Earlier this year, the group highlighted that the shores at Barlocco Bay and Castle Muir in the Stewartry region were the worst that the group's members had ever seen. The items that had been dumped or washed up

included wheelie bins, traffic cones, parking bollards and 30 or 40 fishing boxes. The group said that every step was on plastic and that it would take days to fully clean it up.

I have lived in Dumfries and Galloway all my life and have enjoyed numerous days out to our stunning coastal towns and villages, and I want future generations to experience them in pristine condition. The statistic that litter on beaches rose by 14 per cent in just a year should put pressure on every one of us to take action. Although the sort of groups that I have mentioned are leading the way, we all have a responsibility to do our bit. I encourage everyone to find out about their local group and to go along if they can. In doing so, people will be doing their bit for the environment and—who knows?—they might make a few new friends in the process, with everyone working towards the same goal. In that, I include us politicians—we need to get out with our litter pickers as well.

13:06

**Angus MacDonald (Falkirk East) (SNP):** I thank Maurice Corry for bringing the debate to the chamber. There is no doubt that Scotland is renowned the world over for its incredible natural heritage, and our beaches have a special place in that recognition. I contend that the quality and beauty of our beaches and their surrounding landscapes mean that they rival beaches in the Caribbean or Pacific islands, although the weather may not be in the same league. One only has to think of the majestic strands in the Western Isles to see that. Of course, my constituency has a couple of beaches that are ideal for a leisurely stroll along the Forth on a Sunday, or in fact any day of the week.

Across the world, litter pollution on our beaches is a scourge and one that we all have a responsibility to tackle. One way that we can do that is to work with the Marine Conservation Society and take part in the Great British beach clean. I was delighted to take part in the beach clean on 21 September at Blackness beach in my Falkirk East constituency. It was great to see so many folk out surveying and clearing litter off the beach, which has so much importance in the area. Not only do many people from local communities enjoy the beach as a beauty spot, but it complements Blackness castle, which has become a huge tourist attraction as a result of its role as Fort William in the globally successful television series "Outlander", and its part in the film "The Outlaw King", which is about Robert the Bruce.

From those points alone, we can see the importance of keeping our shores litter free in helping to maintain our global reputation and

sustain our local and national economies. However, there is much more to the issue than just the economic argument. It is vital to the future of our country and, indeed, the world to keep pollution out of our oceans and seas. The work of the MCS is vital to our understanding of litter and where it comes from and allows us to take forward our plans to tackle the problem. The most important element of the Great British beach clean is that every volunteer is contributing to a scientific survey that feeds information to Governments across the world. That information is crucial to the leaders of the world in coming together to tackle those environmental issues. Clearly, plastic and other pollution in our seas and oceans does not recognise intercontinental boundaries and borders.

In our local beach clean-up at Blackness, the 27 volunteers who came along collected a total of 13kg of litter from a 100m by 2m strip of the beach. Of that, nearly 36 per cent was plastic or polystyrene; around 33 per cent was sanitary waste; almost 19 per cent was glass; and the rest was made up of other materials. I was going to touch on the issue of cigarette butts on our beaches, but that has been mentioned by Maurice Corry and Kenny Gibson.

However, it is not all doom and gloom. The Great British beach clean has been around for 26 years and one positive outcome is that more and more people are becoming involved and therefore aware of the impact of litter on our seas and on the wider environment and willing to take action to do something about it.

There is clearly much more to say than I have time for, as usual. However, in closing, I thank members of the MCS, including Calum Duncan, the head of conservation, and, in particular, Catherine Gemmell, the conservation officer for Scotland, and her team of local volunteers in the Falkirk East constituency for their work in making the beach cleans in the area the successes that they are. I look forward to working with them all again at some point in the not-too-distant future.

13:10

**Jackie Baillie (Dumbarton) (Lab):** I, too, congratulate Maurice Corry on securing debating time for this subject because, as he will be aware, my constituency has an abundance of beautiful beaches. Some are small and secluded and are frequented only occasionally, perhaps by a lone kayaker; and others are large and attract many people from across the country during the summer months, when you cannot see the beach for the sunbathers, and during the winter months, when only the braver among us will go for a bracing walk. We are blessed with a truly stunning coastline. In my opinion, there is nothing better

than being able to enjoy the great outdoors. That is especially the case for those who are lucky enough to live in my local area, where we are blessed with not only stunning coastline, but freshwater lochs and inland sea lochs right on our doorstep.

It is, therefore, disappointing to see those beaches not being treated with the respect that our natural environment needs and deserves. I was saddened to learn from the research on the 2018 beachwatch project that beach litter in Scotland had gone up by 14 per cent in just one year. The effect that that has on local marine life is, quite frankly, disastrous, and the situation will only get worse if we do not act fast.

I will repeat an example that Kenny Gibson gave, because I was struck by it. A recent study found that 90 per cent of fulmars—a common seabird that is based around the North Sea—had plastic in their stomachs. In Scotland, the 2018 Great British beach clean resulted in an incredible 75,000 pieces of litter being picked up—well done to the person who counted them. Some of that is down to people not cleaning away their litter when they leave the beach, but rubbish is also washed up from the sea. Therefore, a concerted effort by us all to recycle more and to reduce the use of unsustainable containers, such as those made of single-use plastic, can help to address the problems that are faced by our beautiful beaches.

Like others, I will be slightly parochial and thank those who volunteer in my local area. The Group for Recycling in Argyll and Bute Trust and staff and volunteers from the Loch Lomond and the Trossachs national park have run fantastic beach cleans in Arrochar. I will also pay tribute to Maurice Corry for doing his bit, too. Those events have boasted an impressive turnout from local volunteers and have resulted in great improvements to our local beaches. Marine Scotland, which is running a pilot to address litter sinks and which does important work in my area, estimates that around 62,000 pieces of litter are washed up on Arrochar's beaches every year.

I also mention Helensburgh community council, which does beach cleans in its area, and the friends of Dumbarton foreshore group, along with people involved with the plastic-free Dumbarton campaign, who work tirelessly in all conditions to ensure that our beaches are a pleasant environment for us all. Last year, West Dunbartonshire Council helped the group with an uplift of more than 200 bags of rubbish. As well as the countless empty cans and crisp packets that were collected during one of its events, the group had the unique experience of finding a 100-year-old coin, a prosthetic limb—they were grateful it was not a real one—and the body of a 4ft python.

All those groups, whatever they are picking up, work tirelessly to ensure that our beaches are clean and enjoyable places for us to visit and are a safe environment for the varied local marine life. The September beach clean in Arrochar collected an astonishing 40kg of litter.

Many of the groups, as well as doing the beach cleans, also run educational programmes to teach younger generations about the importance of protecting and taking care of our local beaches. However, having seen the valiant efforts that young people in this country and around the world have made in relation to climate change, I think that they should perhaps be the ones teaching us.

As we look forward to the year of coasts and waters in 2020, I encourage all my colleagues from across the chamber to help protect our beautiful natural environment in order to save local wildlife and keep our beaches and coasts looking beautiful.

13:14

**Gillian Martin (Aberdeenshire East) (SNP):** I too congratulate Maurice Corry on securing the debate.

Last week, I had the pleasure of joining local residents at Forvie national nature reserve in the quite tropical sunshine to undertake our beach clean. It was organised by Scottish Natural Heritage staff from the Forvie reserve station. Young children, elderly members of the community and others all met with the common purpose of tackling the tide of plastic pollution that gets washed up on the shore of Newburgh beach and the Forvie reserve. I thank all the volunteers who joined me that Sunday.

The beach is home to sandy dunes with Marram grass, which catches a lot of the litter, oyster-catchers, eider duck and more than 2,000 grey seals, which haul out there and for which I am proud to be the Scottish Environment LINK species champion. They are all threatened by the wave of litter that is in our seas and on our beaches.

The vast majority of litter that I picked up that day tells a story. I picked up an awful lot of fishing gear, including the plastic rope and netting that can entangle seals and cetaceans. The carcass of a seal was washed up on the beach and it was entangled in something, which is absolutely tragic. I also picked up a huge number of very small plastic fragments, of the size that is very dangerous. As other members have mentioned, the plastic is swallowed by sea birds and fish and it enters the food chain. The plastic pieces can also kill fish, birds and marine mammals. The global crisis in biodiversity is as serious as that of climate change, and plastic pollution is a major

cause of reduction in the numbers of marine species.

Members have been talking about the bizarre things that they found on their beach cleans. At our beach clean, one young boy found a crisp packet and we were struck when we found out that it was 23 years old. That means that a person finding it inconvenient to put their rubbish in the bin all those years ago resulted in the packet being left to lie on our shores for a couple of decades. If it had not been found by the young boy, it would probably have stayed there untouched for many more decades.

That reminded me of the legacy that we leave for younger generations. I firmly believe that, on this incredibly important issue, we need to be the change that we wish to see in the world. Over the summer, aside from taking part in beach cleans, I have launched a little local campaign of my own, called the take5 campaign. It urges people when they go for a walk—perhaps with their dog—to pick up just five pieces of litter and take them home to recycle or put in their domestic bins. Whether people are off on a day at the beach, taking a stroll, or just making a trip to the local supermarket, if they have a little reusable bag in their pocket, it does not take much to pick up five pieces of litter. I am taking the campaign round the schools in my constituency and urging young people to do that, too.

I thank the Marine Conservation Society for its work on the beach cleans. As members have mentioned, 319 tonnes of litter have been picked up from beaches across the whole of the UK—that will make an incredible difference to the wildlife on our beaches.

For anyone who enjoyed our morning on the estuary, I say get back out there—perhaps this weekend—because last week's heavy rain has meant that a tremendous amount of rubbish has been washed up on the beaches that we cleaned so comprehensively a couple of weeks ago. It is an on-going issue.

I will leave people with the following little mantra: take a wee walk, take a wee bag and take five pieces of litter home. Imagine if we all did that; what a difference it would make.

13:19

**Alison Johnstone (Lothian) (Green):** I welcome the opportunity to speak in this important debate and I thank Maurice Corry for bringing the debate to Parliament this afternoon. Like colleagues, I have taken part in many beach cleans, which have been organised by the MCS, and I know how immensely rewarding it is for people to feel that they have helped to restore their local beach to its natural beauty.

As we have heard, the Marine Conservation Society and volunteers have picked up 319 tonnes of litter at beach cleans across Scotland and England this year. That figure is shocking, although it also reveals the dedication and enthusiasm of those who get out there and help to clean our beaches. That litter should not be there in the first place. What we see washing up on our beaches is the tip of the iceberg. It tells us how healthy our oceans and seas are—or in this case, how unhealthy they are.

We are always talking about protecting our green belts in Scotland—rightly so—but we need to have the same focus on our blue belts. We have vast swathes of water that stretch over our planet. Our oceans are home to complex ecosystems and all manner of organisms but they, and our shores, are being neglected and degraded.

In 2007, I became aware of the work of Rebecca Hosking, a former BBC filmmaker, who was behind the ban on plastic bags in Modbury, a little town in Devon. The reason that that came about was because Hosking had photographed, on an island—far out in the Pacific—birds and sea-life that had been killed by plastic. We have all seen those horrendous images: birds' stomachs filled with plastic bags, toys, pens and toothbrushes, while their chicks starved to death. There were horrible cases of birds feeding their chicks plastic. It made a great impression on her, on me and on many other people.

That same year, in 2007, I was elected to the City of Edinburgh Council and one of the first motions I suggested was for Edinburgh to become the first plastic bag-free city in the UK. It is fair to say that the motion was not dismissed outright, but some people clearly thought that I was going far too far. Time has moved on: we are seeing real progress and there is now a general consensus that we must do more. In Modbury, local action made the difference—43 local businesses decided that they were just not going to use plastic bags and were not going to sell them, saying, “We're not having them here.” That is the kind of action that we need to roll out across Scotland and beyond.

There is no disagreement now that plastic is bad for our oceans, bad for our marine life and bad for our beaches. Behavioural change is an important part of what is needed. We must all stop littering. Where do we think that we are putting this stuff? There is no “away”.

In the beach cleans that I have been part of, the things that we have found have included cotton buds, sanitary waste and items that are sold as being flushable. The messaging around what is being flushed into our oceans is misleading. Last November, the BBC reported that all wet wipes

sold as flushable in the UK have so far failed the water industry's disintegration tests. They should not be going anywhere near the loo. Those wipes also cause up to 80 per cent of blockages in our sewers and are a key component of fatbergs. Those products are being pumped into our oceans and are littering our shorelines.

There needs to be more collective responsibility. As members may be aware, there are currently five ocean gyres, which collect plastic waste and other rubbish. The gyre in the North Pacific Ocean is sometimes called the great Pacific garbage patch. However, it is far bigger than a patch: it is like a floating municipal dump. It is massive. Members should go online and look at it—they will be horrified.

Cruise ships are an issue. In my region of Lothian, palm oil bergs have washed up in Leith and on Portobello beach. They are thought to have been dumped by cruise and cargo ships. There is sheer thoughtlessness going on. I have to ask: why are businesses allowed to produce materials that are not recyclable or biodegradable, but which simply damage our planet and our local communities? SEPA warned that some of the fatbergs could be poisonous to dogs. Our careless attitude towards our oceans cannot continue. If we keep dumping waste into our oceans, sooner or later it will wash up at our feet.

Like Angus MacDonald, I, too, thank Catherine Gemmell, Calum Duncan and the MCS. I thank each and every person in Scotland who gets out there in their own time to help clean up our local environment.

**The Deputy Presiding Officer:** I call Mairi Gougeon to close and respond to the debate.

13:23

**The Minister for Rural Affairs and the Natural Environment (Mairi Gougeon):** I welcome the Marine Conservation Society to the gallery to listen to the debate. I thank Maurice Corry for securing the debate and for recognising an important event. I also thank the Marine Conservation Society for the huge amount of work that it does—day in, day out—to clean up our seas. I am sorry that we did not get the chance to hold the debate prior to the Great British beach clean weekend, so that we could have encouraged more MSPs to take part—although I know that many did.

We should not underestimate the scale of the problem and the effects on our environment and wildlife. That point was made very well and passionately by Alison Johnstone. Kenny Gibson and Jackie Baillie talked about the fact that 90 per cent of fulmars have plastic in their stomachs, which is absolutely shocking. We must do

everything that we can to tackle the problem, which will not be easy.

The Marine Conservation Society is absolutely instrumental to that work. Its support has grown year on year, as more people volunteer their time to pick rubbish off our beaches. This year was no exception, with the 26th Great British beach clean taking place two weeks ago. I like Maurice Corry's suggestion that we use the fact that next year is the year of coasts and waters as a focus to get more volunteers than ever to take part.

We have the best beaches in the world, and we all have a part to play in cleaning them and keeping them that way. It has been fantastic to hear about the activities of individual members and the work that is taking place all over Scotland. Finlay Carson mentioned the DG Eco Warriors in his constituency, and Angus MacDonald talked about his local events, such as the clean-up at Blackness castle. He said that we do not have the weather to match our beaches, so he has clearly never visited the tropic of Montrose—I am happy to invite him. Jackie Baillie mentioned the plastic-free Dumbarton campaign. I fully support Gillian Martin's initiative to pick up five pieces of litter every time that we are out and about, which is such an easy, simple and effective thing to do. However, as Alison Johnstone highlighted, we can always do more.

I could not speak in the debate without talking about some of the work that has been happening in my constituency. Several cleans were organised as part of the Angus coastal festival, and they took place on the beaches at St Cyrus, Montrose, Ferryden, Scurdie Ness, Lunan Bay and West Sands.

I am glad that Angus MacDonald and Alison Johnstone mentioned Catherine Gemmell from the Marine Conservation Society, who is the driving force behind its campaigns and a big champion of its work. I add my thanks to her.

All that work goes on alongside the regular cleans that are done by local community groups that are taking action to clean up our coastline. On Sunday, I joined Montrose Bay community group, which holds regular sessions at the beach front. Its big focus is now on cigarette butts; a few members mentioned the massive problem that they pose. There is also the Johnshaven sharks, whose aim is to improve the environment; beach cleans are organised as part of that work.

I turn to the actions that the Scottish Government is taking to tackle the issue. We know that plastic is the main material that washes up on our beaches, and that is why we are taking action now. We are challenging Scotland's throwaway culture and using a variety of means to develop an ethos of sustainability, with additional measures

proposed in the new circular economy bill, which will be open to consultation soon.

Our new deposit return scheme, which Maurice Corry and Finlay Carson mentioned, is the first national scheme of that type in the UK, and we aim to deliver it by 2021. We are the first nation to develop a scheme design, and we are proud that it is ambitious and includes a broad range of materials, with a target return rate of 90 per cent. The benefits of the scheme will include increased recycling rates and reductions in carbon emissions, as well as a reduction in litter.

The proposals for the circular economy bill will enable charges to be applied in relation to the provision of some of the most damaging items, such as single-use cups, which generate 4,000 tonnes of waste every year in Scotland. We have committed to banning more problematic single-use plastic items such as cutlery, plates and food and drink containers that are made of expanded polystyrene by 2021, and to meeting or exceeding the standards that have been set out in the European Union single-use plastics directive. We are also working to reform the extended producer responsibility system for packaging. We have already introduced legislation on one of the products that is identified in the directive. The ban on the manufacture and sale of plastic-stemmed cotton buds will come into force on 12 October, ahead of the ban in the rest of the UK.

Litter, which has been raised a number of times, is a massive part of the problem. Our national litter strategy sets out the framework to reduce littering, which can make its way into our waters. The strategy is being refreshed to ensure that it offers effective guidance to deliver litter prevention on the ground. We recognise that additional measures to deter littering are required. Such measures will include a new penalty regime in the circular economy bill for littering from a vehicle. We will hold the registered keeper ultimately responsible for litter that is dropped from their vehicle.

We have a marine litter strategy with more than 40 actions to reduce litter sources, promote behaviour change, improve monitoring and promote international working. It includes the support of five local coastal partnerships that deliver marine litter education and organise clean-ups.

Recently I joined my local partnership, East Grampian Coastal Partnership, as it trialled a new approach with a beach clean just north of Stonehaven. It was a real team effort. The Stonehaven Sea Safari took us to a beach that is hard to access for clean-ups, and the local RNLI lifeboat crew also took part and removed the collected rubbish. I thank Crawford Paris for the work that he and the partnership do, because they

do a power of work to clean up our coastline in the north-east, and they also work with many local schools.

The marine litter problem is so important that we have committed to additional work through successive programmes for government. We delivered an international marine conference in February that was attended by the industry, scientists, officials, community representatives, young people and people from around the globe. It provided a platform to discuss and share information and to develop solutions for problems as varied as nurdles and marine industry waste. It also gave us an opportunity to talk about sewage-related debris.

At the conference, we announced our plans to encourage people to move from single-use plastic sanitary products to reusable options. The campaign is due to start next month and will support the reduction of waste and help to address social inequalities that are associated with period poverty.

We have also supported Water UK to develop a fine to flush standard for wet wipes, which will specify that those products should not contain plastic and must easily disintegrate. We encourage manufacturers to follow that lead.

We are committed to action on litter sink areas. We funded Scrapbook, which is managed by the Moray Firth Partnership and has mapped the Scottish mainland coastline using aerial photographs taken by the charity Sky Watch Civil Air Patrol. The project has facilitated clean-ups by signposting volunteers to areas that are most in need and by providing hands-on staff in remote locations.

We also pledge to support our coastal and fishing communities to tackle marine litter. Gillian Martin talked about the problem of fishing gear and the threat that it can pose to seals and crustaceans. We continue to support KIMO's Fishing for Litter scheme, which has grown and now involves more than 300 vessels in 20 ports and has removed 1,400 tonnes of litter since it began in 2005.

Marine litter is a global problem that requires international solutions. We work with other OSPAR convention contracting countries in the north-east Atlantic to find solutions for shared problems. Together, we are considering how to develop an extended producer responsibility scheme for fishing gear, and how to implement the port reception facilities directive to support better waste management in our fishing industry. We also encourage responsible gear disposal through the Global Ghost Gear Initiative.

I have outlined the extraordinary amount of work that is under way or planned. I am absolutely

passionate about the issues and I am committed to tackling them, whether by removing plastics and other waste from our seas or by preventing the waste from getting there in the first place. The Great British beach clean reminds us just how important the removal element is and that it is possible only with partnership working. Government has a role to lead, but we can tackle the problem only by everybody getting involved. I thank the Marine Conservation Society for leading on the issue and being a force for positive action.

**The Deputy Presiding Officer:** Gosh! I lost count of the number of "alsos". That concludes the debate.

13:33

*Meeting suspended.*

14:00

*On resuming—*

## **Scotland's Onshore Unconventional Oil and Gas Policy**

**The Presiding Officer (Ken Macintosh):** The next item is a statement by Paul Wheelhouse on Scotland's onshore unconventional oil and gas policy.

14:00

**The Minister for Energy, Connectivity and the Islands (Paul Wheelhouse):** I am aware that details in relation to this statement were briefly and inadvertently released yesterday. All members of the Parliamentary Bureau were made aware of that at the time. We have discussed this serious matter with those concerned, Presiding Officer, and I reassure you and colleagues across Parliament that the Scottish Government will take appropriate procedural measures, with the intention of ensuring that it does not happen again.

Today's statement on onshore unconventional oil and gas policy is the conclusion of a policy development process that began as far back as 2013. Over the intervening period, our energy and climate change policy has developed significantly. In 2013, our world-leading climate change legislation committed to emissions reductions targets of 80 per cent by 2050. Just last week, our Parliament passed new legislation committing Scotland to net-zero emissions by 2045. In 2013, no one would have predicted that renewable energy sources such as offshore wind would secure contracts for difference—CFD—to produce electricity more cheaply than existing gas-fired power stations.

There has been a dramatic change in public perceptions of the environment and the climate crisis, and in the expectations of the Government to respond. Throughout the period, our cautious evidence-led approach to the future of unconventional oil and gas development, including coal-bed methane extraction and hydraulic fracturing—the latter being commonly known as fracking—has ensured that we have reached a policy decision that is fit for purpose.

We have considered evidence that has been gathered from a range of independent experts, we have undertaken the necessary statutory assessments and we have ensured that people and industry across Scotland have had the opportunity to participate in the policy-making process in a constructive, inclusive and transparent way.

We have undertaken one of the most far-reaching investigations into unconventional oil and gas by any Government in the world. That means that I am now able to confirm Scottish ministers' final policy position on unconventional oil and gas—a policy that is informed by facts, evidence and analysis, as well as by public views.

Following careful consideration of the statutory and other assessments and related consultation responses, and considering all the previous evidence that we have assembled, ministers have concluded that an unconventional oil and gas industry would not be of sufficient positive benefit to Scotland to outweigh its negative impacts.

Therefore, based on the evidence on impacts and the clear lack of social acceptability, I confirm today that the Scottish Government's final policy position is that we do not support the development of unconventional oil and gas—often known as fracking—in Scotland. That means that there is no support from the Government for development connected to the onshore exploration, appraisal or production of coal-bed methane, shale oil or shale gas using unconventional oil and gas extraction techniques, including hydraulic fracturing and dewatering for coal-bed methane.

I will now set out the detail behind that conclusion, before I set out how we will enact it. In September 2013, the Scottish Government established an independent expert scientific panel on unconventional oil and gas. The panel's report, which was published in July 2014, highlighted a number of issues that required further investigation, prior to a policy decision being reached. Therefore, on 28 January 2015, the Scottish Government put in place a moratorium on unconventional oil and gas development.

On 8 November 2016, we published a set of independent expert reports that considered the specific issues that had been identified by the expert panel, which included health, economics, seismicity, decommissioning, climate change and transport impacts. That included a health impact assessment that was undertaken by Health Protection Scotland, which highlighted that there is insufficient epidemiological evidence on health impacts and indicated that a precautionary approach to unconventional oil and gas is warranted on the basis of the available evidence.

On 31 January 2017, we launched a comprehensive public consultation on unconventional oil and gas, "Talking 'Fracking': A Consultation on Unconventional Oil and Gas", which received more than 60,000 responses.

On 3 October 2017, in response to publication of the consultation responses, I confirmed to Parliament that having considered the suite of evidence, including expert reports and

consultation responses, Scottish ministers' preferred policy was not to support unconventional oil and gas development, subject to the necessary statutory assessments, including a strategic environmental assessment, being carried out prior to a decision being made on the final policy. On 24 October 2017, following a parliamentary debate, Parliament voted overwhelmingly in favour of that preferred position.

In May 2018, the Scottish Government successfully defended a legal challenge to the Scottish Government's actions in relation to unconventional oil and gas.

In October 2018, the Scottish Government published and consulted on the strategic environmental assessment report, a partial business and regulatory impact assessment and the preferred policy position, which was updated to reflect the devolution of onshore oil and gas licensing powers in February 2018. The environmental assessment report concluded that, even when taking account of existing regulation and consenting processes, the development of an unconventional oil and gas industry has the potential for significant negative effects on the environment. It also concluded that the effect of the preferred policy position would be to avoid the environmental impacts that are associated with the unconventional oil and gas industry.

Altogether, 2,577 responses were received to the 2018 consultation. They comprised 329 substantive responses and 2,243 standard campaign responses, which were submitted by supporters of Friends of the Earth Scotland. Those led the Scottish Government to form the view that it would be helpful to provide further clarification on a number of points that were raised in response to the consultation documents, specifically regarding the preferred policy position and its objectives.

On 30 April 2019, we published an addendum to the SEA report, the preferred policy position statement and the partial BRIA, and we invited further comments on the points that were covered. The addendum set out that the objectives of the preferred policy of there being no support were to ensure that, in the planning sphere and in relation to ministers' onshore oil and gas licensing and regulatory powers, the policy should, first, minimise the potential risk of environmental and health impacts by adopting a precautionary approach. It set out, secondly, that it should promote the achievement of our energy transition goals and, thirdly, that it should maximise the prospects of meeting the Scottish Government's carbon emissions and climate change targets. A total of 98 responses were received on the consultation addendum, comprised of 15 from organisations and 83 from individuals.

The analysis of the 2018 and 2019 consultations and the responses to them will be published today, along with the final business and regulatory impact assessment, which has been informed by those responses.

The majority of responses to the 2018 and 2019 consultations correspond with those that were received to our 2017 "Talking 'Fracking'", in which the predominant view of respondents, who live mainly in the densely populated areas of the central belt, where unconventional oil and gas development has been proposed, was not in favour of unconventional oil and gas. No consultation on unconventional oil and gas that the Scottish Government undertakes should be considered to be an opinion poll. However, the overwhelming response to each of the consultations indicates that there is no social licence for the development of unconventional oil and gas in Scotland.

We have also considered our environment, economic and energy policies as part of that process. The Scottish Government has been at the forefront of global action to limit climate change. Our "Climate Change Plan: The Third Report on Proposals and Policies 2018-2032", which was published in February 2018, sets out our approach to meeting our statutory emissions reduction targets to 2032, and has paved the way for Scotland's transition to a low-carbon economy. The plan is due to be updated in 2020.

Last week, Parliament passed the Climate Change (Emissions Reduction Targets) (Scotland) Bill, which contains the most ambitious statutory targets of any country in the world for 2020, 2030 and 2040. In its significant report on global warming, the Intergovernmental Panel on Climate Change stated that, by 2050, the world needs to reach net zero greenhouse gas emissions. Scotland will do so by 2045 at the latest. That will require new and existing policies to be developed or reviewed to ensure that they are compatible with our targets. That is evident in the recent programme for government, which has climate change at its core.

Our environment and economy are intrinsically linked. The transformation of the energy system in Scotland, as part of the drive to tackle climate change, has the potential to bring significant economic and social opportunities to individuals, businesses and communities. We will work to ensure that those opportunities are realised, in order to ensure a just transition.

Similarly, one of the key aims of Scotland's energy strategy is to secure a stable energy transition that harnesses Scotland's renewable and low-carbon energy potential and creates new jobs and supply-chain opportunities.

The Committee on Climate Change's advice is clear: oil and gas will continue to have a role in the energy mix even when we have reached net zero emissions. Scotland faces a similar challenge to that which is faced by all advanced economies in developing cost-effective substitutes for hydrocarbons. That means that we require an approach that reduces demand for carbon-intensive fuel sources and lowers our reliance on imported fossil fuels.

As we outlined in our programme for government, our continued support for oil and gas exploration and production in the North Sea is based on a sustainable, secure and inclusive energy transition. That includes industry ambitions, as expressed in the industry's "Roadmap to 2035: a blueprint for net-zero", to become the first net zero carbon basin in the world, at the point of production.

We considered carefully how support for development of onshore unconventional oil and gas sits with our policies on climate change, energy transition and decarbonisation of our economy: we have concluded that such support is incompatible with them.

We will continue to work closely with businesses and key industrial clusters to support action to accelerate cost-effective industrial decarbonisation measures, including development and deployment of carbon capture, utilisation and storage, as well as hydrogen technologies.

Scotland's chemicals industry has conveyed strong views on the potential benefits for Scottish industry of unconventional oil and gas. Although we do not share that vision, I make it clear that our support for Scotland's industrial base and our desire to develop our world-class chemical manufacturing sector are unwavering. We will continue to support the sector in a range of ways in the months and years to come, but we do not agree that unconventional oil and gas extraction is a requirement of the industry's future.

Let me set out what the policy position of there being no support for unconventional oil and gas means in practice. On 9 February 2018, the Scotland Act 2016 devolved to the Scottish Parliament certain powers to legislate for granting and regulation of licences for onshore oil and gas. The finalised policy of there being no support for unconventional oil and gas development in Scotland enables us to set a framework for the exercise of planning and licensing functions in respect of onshore oil and gas licensing, as devolved under the 2016 act. As a result of our decision, fracking could happen only if licences were issued. We do not intend to issue licences that would permit fracking.

To put that into immediate effect, the chief planner has today written to planning authorities throughout Scotland, stating our finalised policy and confirming that a new planning direction is being issued in respect of the policy. That action means that decisions on onshore unconventional oil and gas developments will be made having regard to planning policy and procedure, and within the framework of Scottish Government policy—a policy that does not support unconventional oil and gas development in Scotland.

Our finalised policy will be reflected in the next iteration of the national planning framework, which must, under the Planning (Scotland) Act 2019, be approved by Parliament before it can be adopted by ministers. Once the new national planning framework has been approved, no Government will be able to adopt a revised national planning framework to support unconventional oil and gas development without the backing of Parliament. I am sure that that will be welcomed across the chamber and beyond it.

I am mindful that there have been calls from stakeholders and from colleagues in Parliament for a legislative ban on unconventional oil and gas. We do not consider that new legislation is necessary at this time to control unconventional oil and gas development. A strong policy position that is enacted through devolved planning powers and licensing is, we believe, robust, evidence led and sufficient. However the legislative option remains open if evidence appears, over time, that further action is required.

The final decision on unconventional oil and gas is the culmination of careful and comprehensive evidence gathering. We have not taken the process or the decision lightly. At each stage, we created opportunities for discourse and debate, and I thank everyone who contributed to the process. At the same time, since the moratorium in 2013, no unconventional oil and gas extraction has taken place in Scotland. The contrast with the gung-ho approach that is being taken in England could not be more stark.

It is right that this Government sought independent expert scientific advice, and that we took the time that was needed to assess the evidence and to seek the views of the people of Scotland. We have now reached a position that will provide the clarity that is sought by communities and industry alike, and which will allow ministers to implement a robust policy—which is that the Scottish Government does not support the development of unconventional oil and gas in Scotland.

**The Presiding Officer:** The minister will now take questions.

**Alexander Burnett (Aberdeenshire West) (Con):** I thank the minister for early sight of his statement and for his apology for the accidental release of details yesterday.

The Scottish Conservatives have always supported achieving the right mix of energy supply, including more use of renewables. We understand the need to support new technologies and businesses and we recognise the need for oil and gas in the just transition to a low-carbon economy. However, today's fudge of a final position but not a legal ban is just more hypocrisy from the Scottish National Party. The minister talks of an approach that "lowers our reliance on imported fossil fuels", but today's action fails to recognise the tens of thousands of barrels of shale gas that are imported daily from across the Atlantic. It would appear that the SNP supports fracking where it does not think that fracking could cost it votes.

We have stated that although the response to the Scottish Government consultation was substantive, consultations should not be used as opinion polls and responses must be considered on the basis of factual evidence. Although the SNP's scientific panel highlighted issues, it also showed how those could be mitigated.

Is the minister confident that the evidence from the panel unequivocally demonstrates that onshore gas extraction is impossible to carry out without adequate mitigation?

**Paul Wheelhouse:** I thank Alexander Burnett for the earlier part of his remarks, and I appreciate what he said about my apology.

On the wider points about the supply of feedstock for Grangemouth, for example, I am a minister in the Scottish Government, which can control only the environmental conditions that apply in Scotland. I have made that point on the record before, in October 2017. A product that is sourced from outside Scotland is not a matter for us in terms of trade—we do not have powers over trade, and we do not have powers over jurisdictions elsewhere, such as the United States.

We believe that the North Sea oil and gas industry can provide ethane as a feedstock for plants such as Grangemouth. Indeed, we would encourage the use of product from the North Sea—as I am sure Alexander Burnett would, being a supporter of the industry. We want that product to be used first before we look at imports.

We are going to work hard with the chemical sciences industry to look at how we can help to decarbonise the plant and find alternatives to hydrocarbons, as I said in my statement. We are committed to working with Ineos and other companies in the chemical sciences sector to make that happen.

I assure Alexander Burnett that we are not ignoring the issue. We will try to help the industry to decarbonise, to become more efficient and to use less fuel in the first place. I hope that we can address the issue through those means. Ultimately, other Administrations have to police the environmental conditions in their own countries.

**Claudia Beamish (South Scotland) (Lab):** I thank the minister for advance sight of the statement.

As Scottish Labour's spokesperson for environment and climate change, I have joined campaigners from across Scotland and worked with non-governmental organisations that have supported us in the fight against fracking for years, for our water, air and land and for our communities. Fuel from onshore fracking is not a transition fuel; it is a toxic new industry, as has been shockingly proven in England and across the globe.

No doubt Ineos and the whole industry will finally grasp the message loud and clear: no fracking here! Crucially, however, it is not a legal ban, which is what my proposed prohibition of fracking bill could still deliver.

I welcome the Scottish Government's policy position of no support for fracking and the robust evidence underpinning it, but I seek assurance from the minister on how that position will be kept secure under future Governments, and protected from the whims of future ministers.

The Parliament agreed to an amendment in my name to ensure that the national planning framework review would further reinforce the Scottish Government's position by having it taken forward by the chief planner, with no licences being issued in the future. Can the minister confirm categorically and guarantee that the NPF process will be completed in this parliamentary session?

Does the minister agree with me that his no fracking in Scotland statement will reinforce the signals sent to everyone by our new Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 that sustainable, unionised jobs through just transition as part of the green jobs revolution is what we must all work for?

**Paul Wheelhouse:** I recognise that Claudia Beamish and other colleagues across the chamber have taken a great interest in the subject. I very much appreciate the bipartisan nature of the engagement that I have had with her throughout the process to keep each other informed of our respective plans. I respect the fact that she has been consistent in her opposition to fracking. Through an evidence-based process, we have reached a conclusion that I can see she is happy with.

To reassure Claudia Beamish, because she makes an important point, I re-emphasise that our policy of no support will be reflected in the next draft iteration of the NPF—NPF4—which is expected in the 2020-21 parliamentary year. I cannot guarantee that it will be completed because, as she will understand, it is the Parliamentary Bureau that determines chamber business. However, with our support and, I hope, the support of Labour, we can make sure that NPF4 proceeds to the chamber and is heard. I am sure that Kevin Stewart will be keen to engage with Claudia Beamish on that matter.

The provisions of the Planning (Scotland) Act 2019 mean that ministers cannot adopt the national planning framework unless Parliament approves it, and, once adopted, it will form part of the development plan. In practice, and as I said in my statement, once the national planning framework has been approved, no Government will be able to change it to support unconventional oil and gas without the backing of a majority in the Parliament. I hope that that will give some reassurance to Claudia Beamish, who I know is passionate about the issue, that we are sincere in our effort to reflect in NPF4 the meaning of her amendment and to follow through on our commitment.

**Angus MacDonald (Falkirk East) (SNP):** The majority of constituents in my Falkirk East constituency will warmly welcome the Scottish Government's announcement preventing the extraction of unconventional oil and gas—as do I. With the climate emergency that was announced earlier this year, there is clearly no place for fracking in Scotland, or indeed, further afield.

Last month, Falkirk Council declared a climate emergency, with a target of limiting carbon emissions to net zero by 2030 while making Grangemouth Falkirk district's first carbon neutral town. Will the Government continue to engage with Ineos, Petroineos and other major players in Grangemouth, with a view to encouraging a full transformation in order to reduce emissions significantly and to assist them in establishing meaningful carbon reduction targets?

**Paul Wheelhouse:** As I did in relation to Claudia Beamish, I recognise Angus MacDonald's longstanding interest in the subject. We continue to engage positively with those businesses on a range of issues and we welcome the significant investments that they have announced to date.

The Scottish Government is working in partnership with energy-intensive industries to build on the considerable strengths of industry across Scotland and to highlight that industrial decarbonisation is an economic investment opportunity. We will continue to co-ordinate activity across all partners, including Scottish Enterprise

and Falkirk Council, to ensure that the skills and expertise in the industrial cluster at Grangemouth can facilitate significant emission reductions and continue to support economic growth in Falkirk and the wider Scottish economy.

I commend the efforts of Falkirk Council in aiming to make Grangemouth the first carbon-neutral town in the district, and I look forward to helping him celebrate that if it is achieved.

**Mark Ruskell (Mid Scotland and Fife) (Green):** On behalf of the Scottish Greens, I warmly welcome today's decision, which at long last enacts the decision of the Parliament in 2017 to deliver a ban on fracking, using powers over both planning and licensing. It draws to a conclusion a campaign that the Green Party has been running with communities since 2012.

However, over the intervening years, communities in the Forth valley have faced a huge amount of uncertainty. I have spoken with residents who have been unable to sell their homes because of the threat of fracking applications. Can the minister confirm that the lifting of the moratorium on planning decisions will finally enable Ineos's application for the Airth coal bed methane development to be rejected by the planning minister?

**Paul Wheelhouse:** I cannot comment on the latter point because it is a planning matter. The appeals remain sisted, but now that we have finalised our policy position on unconventional oil and gas, the planning and environmental appeals division will write to the parties seeking their views on whether any additional or updated evidence will be required before reports are submitted to Scottish ministers. Ministers will then make final decisions on those appeals, in line with the policy set out today.

I hope that that response is helpful to Mr Ruskell. I recognise how unsettling the situation has been for communities. Unfortunately, the nature of the process means that the statutory assessments that we have to undertake take time: they have to be done properly, they have to be properly evidenced. I hope that he is comfortable with the process that we have gone through.

We have now reached the final policy position, which replaces the moratorium and means that the planning appeals that have been sisted can now proceed through the process.

**David Torrance (Kirkcaldy) (SNP):** I also welcome today's announcement as the representative for the Kirkcaldy constituency, which has massive coal seams that have attracted a lot of interest from certain companies. Can the minister elaborate on the findings on the environmental impact of fracking? Does he agree

that is high time that the United Kingdom Government followed this Government's lead to ensure that no fracking can take place in the UK, allowing us to meet our net zero carbon emissions targets?

**Paul Wheelhouse:** I very much hope that the UK Government will change tack on the policy position that it has set out. The planning direction issued today requires planning authorities to notify, under planning legislation, the Scottish ministers of the receipt of any planning applications for unconventional oil and gas developments. Ministers can call in an application at any time for consideration, ensuring that decisions on onshore unconventional oil and gas developments can be made having regard to planning policy and procedure and the Scottish Government's policy framework. That is not the approach that has been taken in England. Community views have been an important part of our decision-making process in Scotland; again, that has not been reflected in England.

We would be happy to share with UK ministers the evidence that we have gathered. In response to Mr Torrance's point, I point out that we now know, as a result of research by the University of Nottingham that was published on 20 August 2019, that the UK's underground shale gas reserves may deliver only a fraction of the gas that was previously thought to have been recoverable. That finding is in contrast to the British Geological Survey data. Rather than the 1,300 trillion cubic feet of gas that was estimated by the BGS, the University of Nottingham's estimate is 200 trillion cubic feet. That is obviously still a lot of gas, but it is not as significant an amount as had been thought. We would argue that UK ministers should reconsider their position.

**Liam McArthur (Orkney Islands) (LD):** I thank the minister for early sight—indeed, the inadvertent early sight—of his statement. Like others, I welcome the fulsome apology that he offered the chamber.

The minister is right to acknowledge the uncertainty that communities across central Scotland that are on or near sites earmarked for fracking have been living with over recent years. It is very welcome that the Scottish Government has now confirmed its decision that fracking should not happen in Scotland. The minister mentioned that he has not ruled out the possibility of bringing forward a bill in due course. It would be helpful if he would set out what the trigger or threshold for bringing forward a bill might be.

**Paul Wheelhouse:** As a keen follower of football, that sounds to me like the definition of thresholds for introducing video assisted referees.

We have been consistent in our view that this has been an exercise in policy development rather than legislation. We do not consider that legislation is necessary to control unconventional oil and gas development in Scotland. The adoption of our strong policy provides the most appropriate and proportionate means of regulating such development, having regard to the objectives of the final policy.

However, as Mr McArthur has asked about it and I know that the issue is of interest to Claudia Beamish, Mark Ruskell and others, I will say that the option of legislation remains open if there is evidence that further action is required. Should that be the case, I will be happy to work with Claudia Beamish, Liam McArthur and others to consider legislative steps. It is worth pointing out that any legislation would require similar statutory assessments to be completed and, therefore, a similar timescale to achieve the outcome that we are talking about. In terms of the legislative powers that have now been passed to us through the Scotland Act 2016, we would be more likely to look at using the licensing framework to specify the technology that would be allowed in Scotland. That could constrain the nature of unconventional oil and gas extraction developments.

**Gillian Martin (Aberdeenshire East) (SNP):** The Scottish Government has set the most stringent emissions targets in the world, which the Scottish Conservatives seemed to support last week; after Mr Burnett's comments today, however, I am not so sure.

The UK Committee on Climate Change was explicit in stating that, in order for Scotland to meet its emissions ambitions, the rest of the UK has to do its part. What indication has the minister had that the UK Government is undertaking investigations into unconventional oil and gas, and will he commit to sharing the Scottish Government's evidence with the UK Government so that it can take a similarly well-informed decision?

**Paul Wheelhouse:** Absolutely. I recognise the points made by Gillian Martin. She is right to identify the need that we all now have, given the evident climate emergency, to reflect on our actions. That is what the Scottish Government will do in developing the climate change plan: we will look at all the policies that are in place across the Scottish Government. Equally, the UK Government has a responsibility under its powers to look at what it is doing.

Gillian Martin is also right that UK Government ministers—colleagues of our Conservative colleagues in this chamber—have previously criticised our cautious and evidence-led approach and our finalised policy position on fracking. I hope that we have demonstrated that we reached our

decision in a proper and considered way, using evidence, and that we have arrived at a robust policy position. We did not push forward with unconventional oil and gas extraction without checking with communities and science, despite the pressure from outside, and I recommend to the UK Government as essential reading the extensive evidence-base that we have gathered on unconventional oil and gas, on which our decision not to support fracking is based. All that evidence will be published on the Scottish Government website and will be available to anyone who wishes to use it. I may be tempted to send a web link to my colleague Kwasi Kwarteng in the UK Government, to make the process easier for him.

**Dean Lockhart (Mid Scotland and Fife) (Con):**

There must be an SNP party conference coming up, because we have yet another statement on fracking. It has taken six years for the Scottish Government to come to this position, which follows nine reports on fracking, four consultations and a court case costing the taxpayer £175,000. After all that, will the minister clarify whether today's statement amounts to a legal prohibition on fracking, an extended moratorium, or just more public relations gloss?

**Paul Wheelhouse:** I could have predicted that that one would come up, and, indeed, it did. This is obviously a process. As I said in my statement, I appreciate that communities and industries will have been frustrated by aspects of the process and the length of time that it has taken to get to where we are. However, those aspects are governed by statute: there is a statutory process and it takes time.

Since I gave my statement in October 2017, we have taken appropriate time to do what Parliament asked us to do in the motion that we passed on 24 October 2017: that is, to undertake a strategic environmental assessment and a business regulatory impact assessment on the preferred policy position. We have now finalised that position.

Today's announcement marks the conclusion of the process that we have followed in the development of our policy. That process has ensured that we have reached a policy decision that is fit for purpose, and that enables us to set a framework for the exercise of planning functions, and for our functions in respect of onshore oil and gas licensing, which we arrived at after the statement that I gave in October 2017. Under the policy, we will not issue a licensing round for new underground unconventional oil and gas production.

In relation to the point about language that Dean Lockhart mentioned, he will be aware of the court action that he referenced in his question, and I

emphasise that language is extremely important. We are trying to respect the determination of Lord Pentland in the inner house of the Court Session, and not to put at risk the position that we have taken very great care to reach. That is what I have to say about language. We were very particular about what we put in today's statement, which, I appreciate, may not have been as exciting as some statements can be—on occasion. As I have said previously, although it may be a case of campaigning in poetry and governing in prose, we had to put the language down in a particular way to give clarity on the policy position so that all stakeholders—whether they are for or against unconventional oil and gas—know exactly where we stand. I am confident that we have done that today.

**Stuart McMillan (Greenock and Inverclyde)**

**(SNP):** Clearly, opening up any new fronts for fossil fuel extraction is bad for the climate. Will the minister outline what plans he has to build a low-carbon and decarbonised energy system in Scotland?

**Paul Wheelhouse:** Absolutely. Stuart McMillan raised an important point on a matter that I am sure that all of us in the chamber care about. In December 2017, we published "Scottish Energy Strategy: The future of energy in Scotland", which set out a target to deliver 50 per cent or more of the energy that we need from renewable resources by the milestone of 2030, not just across power generation but also across heating and transport. That is extremely important.

As I referenced earlier, the oil and gas industry has a role in that transition. We are working hard with Oil & Gas UK, the Oil and Gas Authority and operators to ensure that we achieve a net zero solution centre for the industry, and to ensure that the industry achieves its road map to 2035, which is not insignificant—it wants to save 15 megatons of CO<sub>2</sub> from the production process itself.

We are clearly pushing on with vigour in our pursuit of renewable energy in Scotland. I am delighted to say that, according to the last year of figures that we have, 76.3 per cent of Scotland's electricity demand can be met by renewables. We also saw 1.2 gigawatts of new capacity installed in 2018-19 alone. We see continued investment in renewables, which is driven by a strong policy position from the Scottish Government and the support of the industry.

**Claire Baker (Mid Scotland and Fife) (Lab):**

I have been campaigning in opposition to fracking in Fife and Scotland since 2012, and today's statement is very welcome. My understanding is that there are two issued licences in Scotland at the moment. How does the Government plan to manage those licences, and what does that mean for the relevant planning authorities? In addition, is

the new planning directive that is due to be issued imminent? Will that be done in the next few days?

**Paul Wheelhouse:** On the latter point, I believe that the new directive is to be issued as soon as I sit down. I will confirm that. Obviously, we did not want to pre-empt the statement, but it will be issued today and planning authorities will have it.

As I mentioned in response to Mark Ruskell, now that the policy position that I have outlined today has been finalised, the planning and environmental appeals division will write to the parties in the two appeals that were sisted to seek their views on whether any additional or updated evidence will be required before it submits its report to the Scottish ministers. The DPEA will take stock of the position today and will assess whether anything has changed since the appeals were sisted as regards the evidence base from the applicants. The Scottish ministers will then make final decisions on those appeals. That is the appropriate route to go down.

I hope that that is helpful, but I would be happy to discuss the matter further with Claire Baker, whose strong interest in this area I recognise.

**Gil Paterson (Clydebank and Milngavie) (SNP):** Recognising that the licensing of fracking was previously a reserved matter, when the Liberal Democrats pushed through fracking licensing, and that the member of Parliament for East Dunbartonshire, which my constituency is part of, received £14,000 from a director of a fracking company, does the minister agree that Jo Swinson, who professes to be against fracking but actually voted for it, should hand back the frackers' money and tell the frackers to frack off?

**Paul Wheelhouse:** I probably need to be careful in how I respond to that question, and I recognise that the Presiding Officer probably has an interest in that, too.

I recognise that Ms Swinson's voting record shows that she has been inconsistent on fracking. It will be for the voters of East Dunbartonshire to take a view on that in due course. I have no doubt that Gil Paterson will highlight that issue.

We certainly recognise that there are inconsistencies in the party's approaches. I am sure that Liam McArthur will have a consistent position on the matter. I know that he is against fracking, but it is for others outside this chamber to answer for their actions.

**Jamie Halcro Johnston (Highlands and Islands) (Con):** In 2016, the Scottish Government commissioned an economic impact assessment of unconventional oil and gas extraction. That strong and detailed piece of work demonstrated that there would be many potential benefits to Scotland if such extraction could take place here. Among

them, it highlighted the sum of £4.6 billion of gross value added that it could bring to our economy, as well as more than 3,000 jobs, many of which would be in highly skilled professions, and £3.9 billion in tax receipts.

Does the minister still recognise those figures? Does he accept that his Government's decision will come at a very high cost to our economy, to jobs and to Scottish public spending?

**Paul Wheelhouse:** I disagree with the premise of the member's question. I will explain why. We commissioned an economic impact study from KPMG. In the central scenario, which was thought to be the most likely one—taking out planning constraints and the fact that not all sites would receive planning consent—it was predicted that there could be £2.2 billion of turnover and £1.2 billion of economic benefits in Scotland up to 2062. That is a very long period of time. The study said that the industry would contribute approximately 0.1 per cent of gross domestic product on an annual basis and that, at peak, it would support 1,400 jobs in the economy—that figure includes the supply chain and indirect effects. It identified cumulative additional UK tax receipts of £1.4 billion over the period up to 2062.

I appreciate that Mr Halcro Johnston disagrees with us, but he might be overstating the economic impact of a fracking industry in Scotland. In relation to his point about cost, I emphasise the cost of mitigating the climate emissions that the UK Committee on Climate Change identified, which, in the same scenario, would amount to at least 0.4 megatonnes of additional emissions annually, even with the strongest regulatory environment in place. The considerable costs of mitigating those emissions must be set against the relatively modest economic benefits. I am sure that Mr Halcro Johnston will be familiar with the scale of the figures that we are talking about to implement the climate change plan.

**Richard Lyle (Uddingston and Bellshill) (SNP):** To ensure that there is no doubt and no fudge, as some members have suggested, can the minister confirm that, unlike England, we in Scotland will resist fracking to the best of our ability?

**Paul Wheelhouse:** Absolutely. Obviously, we will do so within the bounds of planning policy—I cannot fetter the actions of future ministers down the line. I outlined to Claudia Beamish the need to enshrine our policy position in NPF4.

I can guarantee that we have taken a robust, evidence-based approach and can confirm to Richard Lyle that, since onshore oil and gas licensing powers were devolved to the Scottish ministers in February 2018, and as a consequence of the moratorium on unconventional oil and gas

development that was introduced by the Government in 2015, no fracking has taken place in Scotland. The robust finalised policy that we have enshrined today will be used in processing any future planning applications that come in.

**Neil Findlay (Lothian) (Lab):** The experience of public procurement shows that reliance on statements of policy intent without legislation leaves those policies open to having a coach and horses driven through them. I believe that that could happen in this case. The Government has faffed around with this issue for about seven years. Why do we not just take clear and decisive action once and for all and simply legislate to ensure that fracking cannot and will not take place in Scotland?

**Paul Wheelhouse:** I am not saying that this is characteristic of Neil Findlay, but he is being a bit mean-spirited about our approach. We have taken time because we needed time to gather and assess evidence and consult the public, from whom we had 60,000 responses to our talking fracking consultation. We have had to follow the statutory process and conduct the strategic environmental assessment required by the Environmental Assessment (Scotland) Act 2005, which was put in place by Labour and the Liberal Democrats when they were in power. We have therefore followed the legal requirements placed on the Government in order to get to where we are today.

I am not sure whether Neil Findlay is aware that his colleagues in the Welsh Government have relied on the evidence that we gathered to form their policy in Wales, so our work has benefited others and we are keen to share it with England too. I recognise that there is concern, but there is always concern about whether policy will stand up to scrutiny and the test of time. We are willing to work with other parties, including Labour, to ensure that this policy position is robust. However, I believe that what we have put in place today, using our devolved planning powers and the licensing powers that we have had since February 2018, is robust. If we need to, though, we will work with others in the chamber to ensure that it is still more robust.

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** Does the minister share my astonishment that the Scottish Government has repeatedly been criticised for taking advice from a wide range of independent experts, for pledging to publish that advice in full and for promising to give the people of Scotland the chance to make their views heard?

**Paul Wheelhouse:** Mr Beattie's question is well timed, given what we have just heard from Mr Findlay. As I have outlined a number of times now, we have taken a robust, evidence-led approach to

finalising our policy on unconventional oil and gas. We have considered evidence gathered from a range of independent experts, undertaken the necessary statutory assessments and ensured that people and industry across Scotland have had the opportunity to participate in the policy-making process in a constructive, inclusive and transparent way. We are aware of the strongly held feelings on all sides of the debate, which gave us an extra responsibility to approach the matter in a careful and considered way and to listen to all voices. It is only right that we considered all the submissions that were provided.

I thank again everybody who contributed to our policy process, not only the members of the Scottish Parliament, but others out in the affected communities and industry partners. I pay tribute to them for their considered submissions to the process.

## Portfolio Question Time

14:43

### Fire Stations (Pet Oxygen Masks)

#### 1. Tom Arthur (Renfrewshire South) (SNP):

To ask the Scottish Government how many fire stations have been supplied with pet oxygen masks by the organisation Smokey Paws Ltd. (S5O-03617)

**The Minister for Community Safety (Ash Denham):** Smokey Paws is to be commended for its work in raising awareness of the safety of pets in fires and fundraising to provide the Scottish Fire and Rescue Service with oxygen masks that are specifically designed for pets. In total, 251 pet oxygen mask kits have already been handed over to fire stations across Scotland, with another 25 in the process of being distributed to SFRS local senior officer areas. Those 276 kits have been supplied to the fire service through donations by the Smokey Paws charity, individual members of the public, firefighters, animal charities, dog-walking groups and a range of companies, including several veterinary practices.

**Tom Arthur:** I thank the minister for her response and for updating Parliament. My constituent Ron Ewing was at the forefront of the Smokey Paws campaign in Scotland. He co-ordinated the operation of Smokey Paws in Scotland and visited countless fire stations the length and breadth of Scotland to hand over the pet oxygen mask kits. He was also an enthusiastic member of the cross-party group in the Scottish Parliament on accident prevention and safety awareness, which is convened by my colleague Clare Adamson, and he is a former chair of Johnstone community council.

Ron Ewing was also a friend and was, in many respects, responsible more than anyone for the prevalence of the oxygen mask kits across Scotland today. Sadly, during the summer recess, Ron passed away after a short illness. Does the minister agree that Ron's legacy is one of which his wife Carol and his family, friends and community can be proud?

**Ash Denham:** I certainly agree with that. My thoughts are with Ron Ewing's family and friends at this time after their sad loss. Clearly, Ron was the driving force in introducing the kits to the SFRS, and spent a large part of his time supporting their delivery, travelling the length and breadth of Scotland. His passion and dedication will be remembered, and his legacy will continue as Scottish firefighters use the oxygen mask kits in the line of duty.

## Recorded Crimes (North Ayrshire)

#### 2. Kenneth Gibson (Cunninghame North)

**(SNP):** To ask the Scottish Government what the percentage change has been in the number of recorded crimes in North Ayrshire over the past decade, and how this compares with the national figure. (S5O-03618)

**The Cabinet Secretary for Justice (Humza Yousaf):** The latest national statistics show that the number of crimes recorded in North Ayrshire fell by 36 per cent between 2009-10 and 2018-19, which represents a reduction of just over 3,300 crimes. Over the same period, recorded crime fell by 27 per cent across Scotland.

**Kenneth Gibson:** The House of Commons Public Accounts Committee has criticised the UK Government's ability to tackle organised crime, including human and drug trafficking, drug dealing and cybercrime, and has suggested that the UK Government look to Scotland for answers. How is organised crime tackled in North Ayrshire and across Scotland, and to what extent is that reducing crime in our communities?

**Humza Yousaf:** Kenneth Gibson raises an important point. He will probably know that I chair the serious organised crime task force, which the Lord Advocate attends, and that partners on that continue to take forward a range of activity to reduce the harm that is caused by serious organised crime in North Ayrshire and across Scotland.

That effort is supported by state-of-the-art facilities at the Scottish crime campus at Gartcosh, and by the collaborative approaches that its facilities engender, which law enforcement colleagues elsewhere across the United Kingdom look at with great envy. In fact, in July this year at Westminster, the chief constable of Merseyside Police, in evidence to the Public Accounts Committee's inquiry into serious and organised crime, said:

"A lot of good things are happening ... in Scotland that we should keep a very close eye on".

The Scottish Government is, of course, keen to continue the effort against serious organised crime, including human trafficking, which Kenneth Gibson mentioned. We routinely share information where we can, and when we can share good practice with forces and other partners across the United Kingdom, we are always happy to do so.

**Liam Kerr (North East Scotland) (Con):** Not only has violent crime risen for the fourth year in a row, to the highest level in seven years, but clear-up rates for violent crime have dropped to their lowest level in eight years. There are more robberies and serious assaults, and fewer of the perpetrators are being brought to justice. Does the

cabinet secretary have any answers to that? It does not seem so.

**Humza Yousaf:** It is easy for anybody—particularly Liam Kerr—to pick out a statistic from a given year, but what he wants to look at is the longer-term trends, which are that violent crime has reduced drastically, by 43 per cent over the past decade, and recorded crime has fallen by almost half, over the same period.

Let us contrast that with Tory-run England and Wales, where the Conservatives have been in power for the past decade and where adults are more likely to be victims of crime. That is probably because the Conservatives have cut 20,000 officers, when we have increased officer numbers by more than 1,000. I will take no lectures from Liam Kerr and the Conservatives on how to deal with crime and law and order in Scotland.

If Mr Kerr is serious about tackling the issue, he should look at the underlying causes of some of the rise in violent crime. For example, we know that part of it is to do with operational reasons around stop and searches for drug possession. We are serious about reducing crime, which is why we have had such a good track record for just over a decade. Liam Kerr and the Conservative Party could learn from that.

**James Kelly (Glasgow) (Lab):** One area of concern in the recent statistics is the rise in crimes of a sexual nature, which have gone up by 8 per cent and are at the highest level since 1971. In Glasgow, where the figure has gone up by 9 per cent, and South Lanarkshire, where it has gone up by 20 per cent, that has caused real anxiety. Does the cabinet secretary recognise the serious issue and the challenge that is presented by the rise in crimes of a sexual nature? What will the Government do to tackle the issue?

**Humza Yousaf:** I thank James Kelly for asking that serious question on an important subject. I appreciate the tone in which he asked it.

My answer is not too different from the answer that I gave Liam Kerr, in that I will say that it is important to consider long-term trends, and the long-term trend over the past eight years has been a rise in sexual offences. A number of reasons underlie that rise, including the fact that a number of the offences are historical offences. We hope that that means that people now have more confidence about reporting, although I know from having talked to a number of victims' organisations and so on that there is more we can do to increase confidence.

More worrying is that there has been a rise in use of technology in sexual offences, with cyber-enabled sexual offences occurring more often. Perhaps even more worrying is the number of offences of a sexual nature involving young

people. To answer James Kelly's question directly, I say that Dr Catherine Dyer has done an incredible piece of work on that particular matter. Her final report is due to be with us shortly: I will update James Kelly and Parliament once we have it.

### **Wildlife and Natural Environment (Scotland) Act 2011 (Convictions)**

3. **Alison Johnstone (Lothian) (Green):** To ask the Scottish Government how many convictions for vicarious liability have been made under provisions in the Wildlife and Natural Environment (Scotland) Act 2011. (S5O-03619)

**The Cabinet Secretary for Justice (Humza Yousaf):** Up to 2017-18, which is the latest date for which information is available, four prosecutions involving relevant charges have been brought under section 18A of the Wildlife and Countryside Act 1981, and those have resulted in two convictions. One person was convicted of four charges in 2014-15 and another person was convicted of two charges in 2015-16.

**Alison Johnstone:** Vicarious liability was presented by the Scottish Government in 2012 as a strong response to raptor persecution. Civil society welcomed the provision and had high expectations that it would be effective. However, it is clear that there is no indication that raptor persecution rates have been positively affected and, as the cabinet secretary said, there have been few convictions. Why have there not been more, and does the cabinet secretary agree that the time is right for an urgent review?

**Humza Yousaf:** The question that Alison Johnstone asks is incredibly important. With regard to why there have been only two convictions in relation to vicarious liability since 2011, there are a number of reasons why it might not be appropriate to pursue a charge of vicarious liability. For example, in common with the position for other crimes, there are evidentiary thresholds that must be met before a case can be brought, and the Crown Office and Procurator Fiscal Service must also consider whether it would be in the public interest to pursue a conviction.

The member will, of course, be aware of the introduction of the Animal and Wildlife (Penalties, Protections and Powers) (Scotland) Bill. Although that does not create new offences, it will look to increase the maximum fine and prison term that a court can impose on people who are found guilty of vicarious liability.

On raptor persecution, the member will be aware that we established an independent group to examine how we can ensure that grouse moor management is sustainable and compliant with the law. That review, which is led by Professor Alan

Werritty, is due to report in the coming weeks and, again, I will ensure that the appropriate minister keeps Alison Johnstone updated on that process.

**Claudia Beamish (South Scotland) (Lab):** Landowners have a direct responsibility for what happens on their land. As there have been only two convictions for vicarious liability, will the cabinet secretary clarify whether it is legally necessary for there to have been a charge and a successful prosecution of the perpetrator of a crime against our wildlife in order for a vicarious liability charge to proceed, if the evidence of the crime is compelling?

**Humza Yousaf:** Again, I can perhaps get more detail to Claudia Beamish about the exact dependencies of the law but, as I said to Alison Johnstone, a range of factors have to be considered in pursuing a charge of vicarious liability. Those include evidentiary thresholds and whether the Crown Office and Procurator Fiscal Service considers that it would be in the public interest to pursue a conviction. I know that Claudia Beamish's position would be that it often is in the public interest to do so, but that is a matter for the Crown, and is not something that I, as justice secretary, can interfere in.

I take the points that Alison Johnstone and Claudia Beamish have made, and I will certainly see whether I can write to Claudia Beamish with more detail on the specific question that she asks.

### Domestic Abuse

**4. Rhoda Grant (Highlands and Islands) (Lab):** To ask the Scottish Government what it is doing to protect families who have been affected by domestic abuse. (S5O-03620)

**The Minister for Community Safety (Ash Denham):** The Children (Scotland) Bill was introduced on 2 September. A key aim of the bill is to further protect victims of domestic abuse and their children in family courts.

In particular, the bill restricts the personal conduct of a case in proceedings that involve vulnerable witnesses, ensures that special measures to protect vulnerable parties are available in child welfare hearings, and establishes a register of child welfare reporters, which will ensure that reporters are appropriately trained in domestic abuse.

The Domestic Abuse (Scotland) Act 2018 created a specific offence of domestic abuse. It reflects that children are harmed by domestic abuse by creating a statutory aggravation in relation to children and enabling the court to use a non-harassment order to protect children, as well as the adult victim of the offence.

**Rhoda Grant:** The minister acknowledges the harm that is done to children who are subject to domestic abuse, regardless of whether they have directly witnessed it. However, the civil courts continue to give parental rights and access to abusive parents, and the abuser often continues to control and abuse their victim using those rights.

Will the Scottish Government legislate to ensure that an abusive parent will no longer be granted such rights, and will it ensure that no victim of domestic abuse is faced with the horrifying choice of either sending their children into an unsafe situation or facing arrest and jail for contempt of court?

**Ash Denham:** I thank Rhoda Grant for raising a serious issue. We are aware that some perpetrators of domestic abuse might seek to lodge repeated court cases regarding contact and residence in order to continue the domestic abuse. We propose to make regulations under section 102 of the Courts Reform (Scotland) Act 2014 in relation to vexatious behaviour in contact and residence cases, which will allow the Court of Session, the sheriff court or the sheriff appeal court to make an order in relation to a person

“who has behaved in a vexatious manner”.

There are also a number of provisions in the Children (Scotland) Bill that aim to put the child at the centre and protect victims of domestic abuse and their families.

### Short Sentences (Impact on Female Offenders)

**5. Clare Adamson (Motherwell and Wishaw) (SNP):** To ask the Scottish Government what impact a presumption against short sentences will have on female offenders. (S5O-03621)

**The Cabinet Secretary for Justice (Humza Yousaf):** National statistics show that around 90 per cent of custodial sentences for women are for 12 months or less. Many of those women will have experienced abuse, mental health or addiction problems—or indeed a combination of all three—at some point in their lives.

Short prison sentences do little to rehabilitate people or reduce their likelihood of reoffending, and we know that they can disrupt families and adversely affect employment opportunities and stable housing, all of which, evidence shows, support desistance from offending.

The presumption is not a ban and decisions about sentencing are a matter for the independent court. However, the extended presumption is intended to help enable a further shift to community-based interventions, where appropriate, and is expected to positively impact on women in the justice system. The impact of the

presumption will be monitored closely, including in relation to female offenders.

**Clare Adamson:** A recent analytical report from the Ministry of Justice, “Economic and social costs of reoffending”, shows that there is a societal cost of £18 billion a year in the United Kingdom. Therefore, does the cabinet secretary agree that Scottish Conservatives in the Scottish Parliament, and the new UK Government Secretary of State for Justice, Robert Buckland, should get behind the presumption against short sentences for the benefit of the whole of society?

**Humza Yousaf:** I agree with that sentiment. I have often said that my approach to justice is an evidence-based approach. That was clearly also the approach that was being taken in terms of short sentences by Robert Buckland’s predecessor, David Gauke, and his junior minister at the time—the Minister of State for Prisons—Rory Stewart, who I know was well thought of by some members on the Conservative benches.

In his last speech as UK justice secretary, David Gauke stated:

“Whether through prison, community sentences or fines, offenders must face justice. And justice works best when punishment and rehabilitation are balanced and the cycle of crime is broken ... Let me be clear: I don’t want to see softer justice; I want to deliver smarter justice where offenders serve sentences that punish but also make them less likely to reoffend.”

We know that the economic and social costs of reoffending are significant. We know from evidence that short custodial sentences are not effective in rehabilitation. The extended presumption against short sentences is not a silver bullet. However, it is an important reform as part of an evidence-led, progressive approach to reducing crime.

**Liam McArthur (Orkney Islands) (LD):** According to Her Majesty’s inspectorate of prisons for Scotland, the number of women held in custody on 31 March 2019 was 318—as it was at the same time in 2018. Given that the new female custodial estate is due to accommodate 230 places, what assurances can the cabinet secretary offer that not only will the new community custody unit be completed in 2020, as promised, but that female prisoner numbers will be in line with capacity at that stage?

**Humza Yousaf:** Liam McArthur raises an important point. The hope is that the presumption against short sentences will have an impact on reducing the female custodial population. He might be aware that, at the moment, there is capacity in other prisons to hold women. That is not the position that we want to be in. We want our new CCUs, along with the new national facility, to hold our female custodial population. However, there are other places that capacity could be found if

needed, although that is not the intention. The intention is that the PASS will reduce the number of women in our female custodial estate and that the CCUs and the new national facility will meet capacity. However, there is capacity in other parts of the prison estate to hold women, should it be required.

**Daniel Johnson (Edinburgh Southern) (Lab):** In its recent report, Audit Scotland suggested that the presumption against short sentences would reduce the prison population by just 200. Given that we are 5 per cent over capacity, what other measures is the cabinet secretary considering either to reduce the prison population or to increase capacity?

**Humza Yousaf:** I assure the member that I do not want to increase capacity: I do not want to be a minister who is building additional prisons—of course we will build new prisons to replace the ones that are closing down, but I do not want to build additional prisons. The answer lies in the first part of Daniel Johnson’s question, on how we reduce the numbers coming in. He is right to say that the presumption against short sentences will have an impact, which will be a reduction of around 200-300 prisoners.

What I am very keen to do—I know that Daniel Johnson has a keen interest in this—is to tackle the part of our prison population that is on remand. Bail supervision will be a large part of that: some of the provisions in the Management of Offenders (Scotland) Act 2019 will commence later this month and we can then look further at more bail supervision measures. We will also be investing in community justice alternatives so that sheriffs have confidence in those measures. However, despite the suggestion in Daniel Johnson’s question, there is no panacea or silver bullet to help us with that. We need to implement a range of measures. We are absolutely determined to take an evidence-led, progressive approach.

## Drug Deaths

**6. Monica Lennon (Central Scotland) (Lab):** I refer members to my entry in the register of members’ interests as a member of Unite the Union.

To ask the Scottish Government to what extent the Crown Office and Procurator Fiscal Service works with the University of Glasgow’s forensic toxicology service when responding to drug deaths. (S5O-03622)

**The Lord Advocate (James Wolffe QC):** All sudden, unexpected and suspicious deaths in Scotland are reported to the Crown. Where the death may be drug related, the Crown instructs a toxicological analysis of samples obtained at post-mortem examination. The University of Glasgow

currently provides that service under contract to the COPFS for deaths in the east and west of Scotland. NHS Grampian provides a service for the north of Scotland. In such cases, toxicological analysis may be essential in order to establish the cause of death.

**Monica Lennon:** When we have a drug deaths emergency, there should be no disruption to such a vital service, which deals with 90 per cent of all cases requiring toxicological analysis. Can the Lord Advocate guarantee that there will be no gap in provision or knock-on delays if the current contract with the University of Glasgow ceases early next year?

**The Lord Advocate:** It is perhaps important that I put the current situation with the contract into context. The Crown Office and Procurator Fiscal Service is engaged in a project that aims to improve the provision of pathology, mortuary and toxicology services across the board, including in relation to quality of service delivery, affordability, transparency and value for money. In the course of negotiations with the University of Glasgow, the university intimated that it does not wish to continue to provide toxicology services in the longer term.

The Crown has had constructive discussions with an alternative provider, with a view the work transferring from the University of Glasgow. The COPFS anticipates that, assuming the discussions reach a satisfactory conclusion, staff will have the option to transfer to the new provider. The COPFS is working with the alternative provider on a full assessment of future service requirements, as well as on the management of transition. No contract is yet in place, so I am afraid that I cannot say more about that at this stage.

In the meantime, I am pleased to say that, this week, the University of Glasgow has confirmed that it is willing, in principle, to extend the toxicology contract to the end of September 2020, with a view to the work transferring to an alternative provider thereafter. That will help to minimise disruption to that essential service and will, I hope, give reassurance to the staff involved.

I make clear the significant contribution that the pathologists and toxicologists at the University of Glasgow and elsewhere make to the investigation and prosecution of crime and to the investigation of deaths, and the value that I attach to that work. Last week, senior Crown Office officials met staff to discuss their concerns and to set out next steps.

**Sandra White (Glasgow Kelvin) (SNP):** It is very sad to have confirmed what I already knew from a letter from the university and from meeting staff. The letter that I received from the Crown Office mentioned the creation of a national forensic and non-forensic pathology service for

Scotland. Will the new provider be that service, and will it be based in Scotland?

**The Lord Advocate:** The work that the Crown Office is engaged in has the long-term ambition of establishing a national forensic and non-forensic pathology service for Scotland, with centres of excellence for relevant specialisms in different locations. For example, progress has been made on the establishment of a national neuropathology service, which will be provided by NHS Lothian. We have a strong interest in retaining such services and the relevant skills in Scotland. Through the work that I have described, the Crown Office and Procurator Fiscal Service hopes to retain that work in Scotland.

## Business Motion

15:07

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-19218, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 of the Children (Equal Protection from Assault) (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during stage 3 of the Children (Equal Protection from Assault) (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 and 2: 45 minutes.—[*Graeme Dey*]

*Motion agreed to.*

## Children (Equal Protection from Assault) (Scotland) Bill: Stage 3

15:08

**The Presiding Officer (Ken Macintosh):** The next item of business is stage 3 of the Children (Equal Protection from Assault) (Scotland) Bill.

**Adam Tomkins (Glasgow) (Con):** On a point of order, Presiding Officer.

I sought to lodge two amendments to the bill, but both were ruled to be inadmissible. The bill is about the criminal law of assault, and my amendments would have clarified the meaning and scope of the law of assault for the purposes of the bill. Moreover, they would have done so in a manner that was designed to give effect to, and not to frustrate, the stated policy objectives of those who have promoted and supported the bill. Those objectives are, of course, to bring to an end the physical punishment of children.

The problem is that the badly drafted bill does not stop there; it goes much further. Under Scots law, an assault can be committed even if no physical force is used. Given that my amendments were in line with the bill's stated policy objectives, and given that they were avowedly concerned with the scope of the law of assault, which is the subject matter of the bill, why were they ruled to be inadmissible?

**The Presiding Officer:** I thank Mr Tomkins for giving advance notice that he intended to make a point of order. As the member might be aware, the criteria for admissibility are laid out in standing orders. At stage 2, such decisions are a matter for the committee convener; at stage 3, they are matters for me, as Presiding Officer.

The key aspect of admissibility is that an amendment must be consistent with the general principles of the bill and must be relevant to it. The selection of amendments is a matter for me at stage 3, and I take a number of factors into consideration when reaching my decisions.

**Adam Tomkins:** On a point of order, Presiding Officer.

I cast absolutely no aspersions on the motives or purposes of those who advised you on the matter: I have no doubt that they acted in good faith throughout. However, I have concerns about the effect of their advice and your ruling.

As I understand it, Presiding Officer—please correct me if I am wrong—members of the Scottish Parliament have no means of challenging the advice of officials when, as in this case, we perceive that the advice is so narrow as to rule out amendments to legislation that are honestly

believed to be directly and rationally connected to it. Are you content that our rules are appropriate in that regard? Do they need to be reviewed?

**The Presiding Officer:** I thank Mr Tomkins for his point of order.

I am content. The rules are there to ensure that matters for policy discussion, which he has now raised and put on the record, are for policy makers—MSPs—and are not matters for debate between the chair and members. The chair must treat everybody in a fair manner, and apply the rules fairly across the board.

I also point out that, in this case, the legislation team worked with Adam Tomkins as much as possible on trying find a way to try to express the matters as amendments. He has, at least, had the opportunity to make his point on the record.

On that note, we move to stage 3. I ask that members have with them the bill—SP bill 38—the marshalled list and the grouping of amendments. I remind members that the division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon, for which there will be a 30-second vote. Thereafter, there will be a one-minute voting period for the first division after a debate. Members who wish to speak on any group of amendments should press their request-to-speak buttons as soon as possible after I call the group.

### Section 1—Abolition of defence of reasonable chastisement

**The Presiding Officer:** Group 1 is on the effect of section 1 on parental responsibilities. Amendment 2, in the name of Oliver Mundell, is grouped with amendment 3.

**Oliver Mundell (Dumfriesshire) (Con):** Amendments 2 and 3 are designed to be simple. For the avoidance of doubt, that means that they would not add anything new to the bill, but instead seek to clarify what is already in it. They were intended, in the narrow scope of the bill, to provide some reassurance to parents and address some of the concerns that the committee heard during its deliberations.

I have lodged the amendments in good faith, because I wish to allow the courts, when they consider cases that might come forward under the legislation, to look at the best interests of the child. I am confident that, if my amendments were to be agreed to, they would remove some doubt for the courts—in particular, about restraint and similar circumstances that are complicated to deliberate on, in practice. There is often a fine line: what could appear to some people to be physical punishment might well be appropriate in very limited circumstances when exercised properly by caring parents who are acting within the law.

I also draw out the distinction of restraint. Paragraph (c) of amendment 2 makes specific reference to the exercise of a parent's

“lawful parental rights and responsibilities”,

which is designed to capture the duties and responsibilities that are already placed on parents by legislation—namely, the Children (Scotland) Act 1995.

I do not intend to say a great deal more, given that the issues that are raised in the amendments have been debated at stage 2.

I move amendment 2.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I rise in opposition to the amendments in the group. I cannot support them for a number of reasons.

Amendment 2 suggests, in part, through interpretation, that there might be times when assault is justified if it is in a child's “best interests”. We are not creating a new offence through the bill, but amending—

**Oliver Mundell:** I want to clarify for Alex Cole-Hamilton that the amendments refer to circumstances that currently exist in Scots law, whereby “assault” could mean a person raising their voice or putting someone in a state of fear or alarm. I think that both those things can be acceptable for parents to do rightfully under the law, and I want to make it clear that that is not what we will get under the bill.

15:15

**Alex Cole-Hamilton:** Again, we will cover that when we talk about judgment and application of policy by the judiciary. As I have said, we are not creating a new offence; we are repealing an ancient defence. It is a legal defence that we have repealed before. Nowhere in statute or in common law have we felt the need to clarify that physical intervention or restraint of a hysterical and drowning man is not assault. That is just common sense. Application of the new legislation will be met by the same test.

Every day, our police make educated judgments about child protection and criminal assault. We should not presume to tell them how to do that or where the thresholds for that lie. We oppose amendment 2.

**Oliver Mundell:** Does Alex Cole-Hamilton accept that, in relation to common law, there is already significant case law on assault, which often informs how the police judge things. Under the bill, however, there will not be such case law.

**Alex Cole-Hamilton:** I am quite certain that the judiciary will draw on that case law, to that end.

Amendment 3 would muddy the water more. There is no lawful right to physically chastise; there is only a defence for it. The amendment also suggests that there might be other kinds of justifiable assault, beyond physical punishment. I am not entirely sure what they might be, but the amendment would leave the eventual act open to interpretation when we should, once and for all, be repealing an arcane and antiquated legal defence. We will not support amendments 2 and 3.

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** I thank everyone who has been involved in the campaign—which has lasted a number of years—and especially John Finnie and his team for steering the bill through.

From day 1 of taking evidence on the bill, the Equalities and Human Rights Committee was told time and again by organisations and individuals, including the Law Society of Scotland and the Lord Advocate, that removing the defence of justifiable assault would improve clarity in the legal process. An equivalent of amendment 2 was lodged at stage 2 and, after lengthy discussion, Oliver Mundell told the committee that he would consider the wording of the amendment. He has done so, by removing the lines

“to ... maintain the child’s safety and wellbeing”

and

“to ... prevent the child from committing a criminal offence.”

I acknowledge that a change has been made, but it does little to change the intention of the amendment.

Children’s charities—organisations including Barnardo’s, Children 1st and the National Society for the Prevention of Cruelty to Children—many of which are represented in the public gallery today, have urged members not to back amendments 2 and 3, and have stated that they would make the law relating to assault of children unclear, and would do the complete opposite of what the bill intends to do. Amendment 2 being passed would, essentially, take away the central intention of the bill. It would retain a right for parents to use what has been described as “reasonable chastisement” or “a loving smack”.

We talk about clarity, so let me be clear: it is never in the best interests of a child to hit him or her—whether it is a light tap, a smack or anything else. We have heard examples—a child might be about to run on to a road, pull down a pan of boiling water or touch a fire or an open socket—but the method of teaching children through fear belongs in the dustbin of history, and comes from a time when we did not fully understand the consequences for the child.

The other issue with amendment 2 is that, when we begin anything with the phrase,

“For the avoidance of doubt”,

that creates, as the Children and Young People’s Commissioner Scotland has stated, the impression that doubt exists. It does not—or, at least, should not.

The United Nations Committee on the Rights of the Child has stated that Scotland should

“prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences”.

I will not be supporting amendments 2 or 3.

**Oliver Mundell:** I understand the line of argument that Gail Ross is progressing, but does she not recognise that the bill will not do all those things?

**Gail Ross:** I listened to all the evidence in the committee and I read everything that was submitted to us by organisations. I am sorry, but I have to disagree with Oliver Mundell. The provision that is proposed in his amendment 2 would remove the clarity that is sought and would not result in the societal shift that we are aiming for under the bill.

I told my nine-year-old son this morning over Skype that we would be considering the bill today, and his response was, “I’m proud of you, mum, but I thought it was already against the law to hit people.”

The young people of Scotland are watching us here today, and I will be immensely proud to vote to align children’s rights with those of adults at decision time, by voting for this welcome and much-needed bill.

**The Minister for Children and Young People (Maree Todd):** I am grateful to the committee for its careful scrutiny of the bill and for taking evidence from a wide range of stakeholders, both those for and those against the removal of the defence.

I will discuss amendments 2 and 3 separately, as they raise different issues. The Scottish Government cannot support amendment 2. First, it purports to establish that the removal of the defence will not affect the ability of a parent or carer to

“act in the best interests of the child”.

Who is to decide whether the actions of a parent or carer are in the child’s “best interests”?

**Oliver Mundell:** It would be for the courts, the police or prosecutors to decide what is in the best interests of the child, given the purpose of the offence. That is how the whole bill is drafted.

**Maree Todd:** The amendment is not clear whether the parents or the courts will decide. What if a parent or carer were to decide that physically

punishing the child was in the child's best interests?

**Oliver Mundell:** Will the minister take an intervention?

**Maree Todd:** One moment.

That is fundamentally at odds with the purpose of the bill, as agreed by the Parliament at stage 1, which is to give children equal protection from assault—with zero qualifications.

**Oliver Mundell:** The bill fails to recognise the distinctions that already exist, in many aspects of the law, between children and adults. It is appropriate for parents to make a judgment on what is in the best interests of their child. That should be the first thing that happens. When they take that decision and it is incorrect, police and prosecutors should step in. Amendment 2 makes that principle clear.

**Maree Todd:** The Scottish Government believes that parents should not be allowed to assault their children. Oliver Mundell is of a different view.

Amendment 2 also purports to establish that the removal of the defence will not affect the ability of a parent or carer to restrain a child, either to keep them safe or to prevent them from coming to harm.

**Liz Smith (Mid Scotland and Fife) (Con):** Under current law, in what circumstances is a parent allowed to assault their child?

**Maree Todd:** The defence of reasonable chastisement can currently be used on occasions when a parent assaults their child. Today, we intend to remove that defence.

The removal of the defence does not impact the ability of a parent to use restraint to prevent their child from coming to harm. At its heart, restraint is an act of protection. Physical punishment is an act of discipline. They are fundamentally different.

**Oliver Mundell:** Under the legislation as it is drafted, who will decide on the difference between restraint and physical punishment?

**Maree Todd:** As is the case for any report of assault, the police will investigate it, and the Crown Office and Procurator Fiscal Service will make a decision. In its written evidence on the bill, it noted that

“the use of physical force to remove a child from danger, such as pushing the child out of the way of an oncoming car, would lack criminal intent and would not, for that reason, constitute an assault.”

**Oliver Mundell:** Will the minister take an intervention?

**Maree Todd:** I would like to make some progress.

“We do not agree physical punishment is required to protect children from harm. We conclude that the bill as drafted will not change a parent's or carer's ability to restrain a child to keep him or her from harm.”

In line with the committee's stage 1 report, we consider that element of the amendment to be unnecessary.

**Johann Lamont (Glasgow) (Lab):** My sense is that, across the chamber, people are committed to children being equally safe. However, under the current law, our children are not equally safe. Therefore, I was astonished that the financial memorandum says that

“it is not anticipated the Bill would incur significant costs to implement.”

Will the minister give a commitment to achieving a proper understanding of how vulnerable some of our children are? Despite their parents breaking the law as it stands, they are left in homes where they are neglected and are not nurtured. Those children cannot be supported without adequate resource. Regardless of what this bit of legislation says, if the intention behind the bill is to keep our children safe, will the minister say what resources will go into our communities to ensure that that happens, for all children?

**The Presiding Officer:** That is an important point, although you were not speaking specifically to the amendments. I will allow the minister to respond.

**Maree Todd:** I assure everyone in the Parliament and all the people in Scotland that the safety, security and wellbeing of the children of Scotland are paramount for this Government.

**Alex Cole-Hamilton:** Does the minister recognise, as I do, that in Ireland, Jillian van Turnhout, the former Irish senator, who is in the public gallery, brought similar legislation through the Dáil Éireann, for which there was no financial memorandum because the provisions were contained in an amendment to another bill, and that the legislation was agreed to unanimously in the Dáil and has protected children? Does she agree that such legislation and a Government initiative to drive up positive parenting in our country are not mutually exclusive?

**Maree Todd:** For once, I agree with Mr Cole-Hamilton. [*Laughter.*]

Finally, amendment 2 purports to provide that the removal of the defence will not stop a parent exercising their parental responsibilities and rights. Sections 1 and 2 of the Children (Scotland) Act 1995 clearly set out those responsibilities and rights, which include

“the responsibility to safeguard and promote the child's health, development and welfare”,

and

“the right ... to control, direct or guide”

appropriately

“the child’s upbringing”.

The strand of amendment 2 that we are considering seems to be an attempt to create an exception to the removal of the defence, so that a parent could say that they physically punished their child in exercise of their right to control the child’s upbringing.

Fundamentally—again—that is at odds with what the Parliament has agreed, which is to provide children with equal protection from assault. The proposed approach would muddy the waters. We have frequently heard, throughout the bill’s progress through Parliament, that the bill will bring clarity to the law. Amendment 1 would take away that welcome clarity, again leaving parents unclear about the law.

Parental responsibilities relate to a child’s health and wellbeing, and the evidence is clear that physical punishment can have long-term negative outcomes for a child. Retaining the ability to physically punish children—or even just creating doubt about whether that is permissible—would be at odds with the evidence.

The Scottish Government does not support amendment 3. Section 1(1) of the bill is clear: it abolishes the rule of law whereby the physical punishment of a child in the exercise of a parental right, or right derived from having charge or care of a child, is justifiable and is therefore not an assault. That does not affect other parental responsibilities and rights as set out in the 1995 act.

Oliver Mundell said that the offence of assault is wide. We agree. We are also mindful that, as the Lord Advocate said, when he gave oral evidence:

“the law of assault ... is applied day and daily by police officers and prosecutors.”—[*Official Report, Equalities and Human Rights Committee*, 6 June 2019; c 7.]

The law on assault is clear and is regularly used. There is no need for an amendment that seeks to avoid doubt where there is none to begin with. Section 1(1) is clear: it is about physical punishment, because that is what the defence of reasonable chastisement is about. Therefore, amendment 3 would clarify nothing. The parental responsibilities and rights in the 1995 act are not otherwise affected by the bill. Amendment 3 would add doubt, not clarity.

**Adam Tomkins:** I am grateful to the minister for her patience, given the number of interventions that she has taken.

I agree with what the minister said about clarity in the criminal law, and I agree with what Gail

Ross said about the fundamental importance of clarity in the criminal law.

The policy objectives of the bill are stated in the policy memorandum that is attached to it. In paragraph 4, it says:

“The aim of the Children (Equal Protection from Assault) (Scotland) Bill is to help bring to an end the physical punishment of children”.

The committee said, in its stage 1 report:

“The Bill’s purpose is to ... discourage the use of physical punishment.”

Those are not my words. They are the words of the committee and the policy memorandum.

Amendment 3, in the name of Oliver Mundell, says:

“For the avoidance of doubt, this section applies only with regard to physical punishment”.

How is that muddying the waters? How is that doing anything other than bringing welcome clarity to an element of the bill that is currently anything but clear?

15:30

**Maree Todd:** We want equal protection for children and adults; the bill achieves that by removing the reasonable chastisement defence. We think that that is the right outcome. Is the member suggesting that parents should have the right to raise a hand to their child so that the child thinks that there is physical injury imminent? An adult doing that to a member of the public could—depending on the exact facts and circumstances—be committing assault. I can see no good reason why it would be acceptable for a parent to do that to their child. No child should fear physical injury at the hands of a parent.

**Oliver Mundell:** That is exactly what my amendment seeks to do because it is about physical punishment. A parent could take a number of actions that would not be appropriate to do to another adult—confiscating a mobile phone, restricting their access to finance, refusing to let them out of the house and, in some cases, lifting a person up and physically moving them from one setting to another. All those things could be considered to be a form of assault or abuse when conducted between one adult and another but would not be inappropriate actions for a parent in relation to their child.

**Maree Todd:** I disagree profoundly. I think that the bill brings simplicity and clarity to a currently confused situation and it appears that the Law Society of Scotland agrees with that view.

**Daniel Johnson (Edinburgh Southern) (Lab):** In the interests of clarity, can the minister tell us whether she thinks that it is acceptable to lift an

adult and place them in another room and whether she thinks that it is unacceptable to do that to a child? That is the important clarification that Oliver Mundell requested.

**Maree Todd:** I think that I am going to just ignore that point and move on. I think that the law—*[Interruption.]*

**The Presiding Officer:** Order.

**Maree Todd:** I think that the law of assault is crystal clear. The law of assault is prosecuted in Scotland day in, day out, perfectly clearly. I have no concerns about the current law of assault. The Law Society of Scotland says that as the law stands, there is a lack of clarity for the public about what parents and others can and cannot do by way of physical punishment of children. That has led to confusion among parents and carers. The Law Society supports the bill because it thinks that it will provide much-needed clarity.

We have heard repeatedly throughout the progress of the bill that it will bring clarity to the law. I cannot welcome an amendment that would lead to confusion. We do not want the effect of the bill to be that parents continue to have doubt about what is and is not acceptable. I urge members to reject amendments 2 and 3.

**John Finnie (Highlands and Islands) (Green):** I do not accept that there is any doubt to address, just as I did not accept that when we discussed the amendments at stage 2. The provisions in amendment 2 are liable to do more harm than good. Adding additional material could cause difficulties in interpretation and hamper the ability of the relevant authorities to exercise appropriate judgment—judgment that, as others say, is applied daily.

We clearly heard—as did Mr Mundell, who was present at the committee—the Lord Advocate, the police and Social Work Scotland all say that the simple proposal in the bill brings much-needed clarity. It is hard to see how we could apply the additional tests set out in amendment 2 consistently, given how vague and subjective they are.

It was a deliberate policy choice not to include a specific statutory provision on circumstances in which force—rather than physical punishment—against a child would be permissible. Although consideration was given to the inclusion of such a provision, the view was taken that the better approach would be for the common law of assault to apply, as it does in relation to adults.

**Oliver Mundell:** I understand the point that the member is making, and that it was a deliberate decision, but does he accept that other people take a different view, and not just those who, like me, oppose the bill? For example, Professor

Andrew Tickell detailed in a column in *The National* why he felt that it would have been better to create a specific offence with clearly set out thresholds, so that parents would know when the law would apply.

**John Finnie:** He is an interesting choice. I have to say that, in general, I would defer on matters of law to the Lord Advocate.

Risk is inherent in the clarificatory approach that the member seems to be attempting in amendment 2. Setting out such matters in statute risks creating loopholes of dubiety as to the reach of those matters. The most important point, which was raised by a number of members, including my colleague Daniel Johnston, is that under the common law of assault, criminal intent is an essential element of the offence. Lifting a child from one room to another certainly would not fall into that category. As others have said, the use of force—even with an adult—to avoid accident or injury would not ordinarily amount to assault, provided that excessive force was not used.

The key point is that none of those actions would constitute punishment and only the law relating to physical punishment of a child is being changed by the bill.

Evidence at stages 1 and 2 from the Lord Advocate, the Crown Office and Procurator Fiscal Service, the Law Society of Scotland, police and social work stated that the bill would simplify the legal position. Amendment 2 would likely have the reverse effect of that intended; that is, it would introduce doubt rather than dispel it.

Paragraph (a) of amendment 2 would change the purpose of the bill, because a parent could consider physical punishment to be in the child's best interests. It would also introduce confusion and subjectivity, as there is no objective test of what is in a child's best interests. The committee heard that prosecutors will continue to consider the best interests of a child as part of the public interest test, and that the relevant matters are already included in the prosecution code, which is taken into account when investigating and prosecuting any case of assault.

**Oliver Mundell:** If the member accepts that the best interests of a child are already considered as part of public interest test, why does he have such a strong objection to having that test in the bill?

**John Finnie:** I have already explained to the member that the Lord Advocate said that it is the simplicity of this bill—

**Oliver Mundell:** The member is not answering the question.

**John Finnie:** It is the answer. Mr Mundell might not like it, but it is indeed the answer. It is the simplicity that is the attraction. In any case, the

reference to the child's best interests that he is seeking is an intrinsic part of Scots law, and indeed, of the way that all our public bodies discharge their obligations.

Paragraph (b) of amendment 2 is unnecessary. Restraining a child to protect it from harm is quite distinct from physical punishment. There is no overlap, so there should be no doubt about the implications for restraint. Permitting the physical restraint of children, apparently in connection with their safety and preventing harm, is not the focus of the bill, which deals with the use of force in punishment of a child. The bill legislates only in relation to physical punishment. It has no implications for situations that do not involve that, such as when physical hurt is caused to a child in order to protect them from greater immediate harm.

Paragraph (c) of amendment 2 seeks to protect the exercising of

“lawful parental rights and responsibilities”.

Under the current law, smacking a child can count as such lawful exercise. The point of the bill is to change that, so that smacking a child as punishment can never be lawful. Therefore, as soon as the bill becomes law—as I hope that it will—paragraph (c) would no longer have any application, and so it would become unnecessary, by virtue of its own wording.

On amendment 3, as with amendment 2, I do not accept that there is any doubt. It is clear that the bill will change the law only in relation to physical punishment, and not more generally, so there is no need for amendment 3. It would create uncertainty, doubt and confusion, rather than remove—

**Oliver Mundell:** I thank the member, who is being very generous and patient. Does “the rule of law” that is referred to in section 1 apply only to physical punishment?

**John Finnie:** Can the member repeat the question?

**Oliver Mundell:** Can the member clarify whether “the rule of law” that is mentioned in section 1 applies only to physical punishment?

**John Finnie:** The rule of law applies all the time. The member has heard from the Lord Advocate.

**Oliver Mundell:** I meant the specific rule of law around reasonable chastisement and justifiable assault. Does it apply only to physical actions at present in Scots law?

**John Finnie:** Mr Mundell knows what the definition of assault is. He knows—*[Interruption.]* Mr Mundell may not like it, but that is the answer that he is getting.

The practitioners have all said that the bill brings welcome clarity. I ask members not to support amendments 2 and 3 and to have in their minds at all times the word “clarity”, which is what the practitioners in the legal profession believe that the bill delivers.

**Adam Tomkins:** Will the member take one more intervention?

**John Finnie:** No.

**Oliver Mundell:** We have had a robust debate on section 1, so I will not take up too much time. I have a few quick points to make. If we are going to focus on things being decided on the basis of intent, after investigation, that sadly means that families will already have been taken to court and been in contact with our criminal justice system before they get a definitive decision.

**Alex Cole-Hamilton:** The member said rather categorically that families will be subjected to the full force of the law before a judge determines whether they acted with criminal intent. Those decisions are taken daily by attending police officers. It is a fallacy to suggest that legions of parents will be marched through the courts to test the legislation.

**Oliver Mundell:** I understand the point that Alex Cole-Hamilton is trying to make but I am afraid that because of the way that the legislation is drafted, he cannot make that statement with any certainty. I, like most members, would expect that legislation passed by this Parliament will be enacted by—

**Mike Rumbles (North East Scotland) (LD):** I did not intend to intervene, but from listening to the debate on his amendments, I am clear that Oliver Mundell objects to the bill—the amendments are simply muddying the waters. Would it not be more honourable for him to withdraw the amendments before we get to a vote and make his objections to the bill?

**Oliver Mundell:** I do not accept that. I speak on behalf of other Conservative members as well as myself. There are members of my party—not all of us, but some—who would have liked to vote for the bill this evening. As an Opposition member of this Parliament I regularly vote against legislation at stage 3, but I lodge and vote for amendments to try to improve legislation. I want the legislation to be as good as possible, because it embarrasses the whole Parliament when substandard legislation is passed and we later see challenges to it in court.

As I will cover in my stage 3 speech, I am concerned that this legislation will be the subject of questions in the future because of the lack of adequate thresholds. We should make it clear that restraint is, in our view, different from physical

punishment. Often, when looking at assault, things that look one way to a bystander can seem rather different if we know the circumstances. It is not proportionate or appropriate to wait until further down the line, once cases are already going through the criminal justice system, to decide whether there was criminal intent. It is better to make those considerations up front, and that is what amendment 2 is about.

**The Presiding Officer:** The question is, that amendment 2 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division. I suspend Parliament for five minutes to summon members to the chamber for the vote.

15:43

*Meeting suspended.*

15:49

*On resuming—*

**The Presiding Officer:** We move to the division on amendment 2

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)

Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)

Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Wishart, Beatrice (Shetland Islands) (LD)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 47, Against 64, Abstentions 0.

*Amendment 2 disagreed to.*

*Amendment 3 moved—[Oliver Mundell].*

**The Presiding Officer:** The question is, that amendment 3 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
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 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Wishart, Beatrice (Shetland Islands) (LD)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 47, Against 63, Abstentions 0.

*Amendment 3 disagreed to.*

#### Section 4—Commencement

**The Presiding Officer:** Group 2 is on prosecutorial guidance on the act. Amendment 1, in the name of Richard Lyle, is the only amendment in the group.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Amendment 1, in my name, has attracted the support of colleagues across the chamber. I think that that cross-party support is a reflection of the fact that legitimate concerns are shared by colleagues on all sides. I share those concerns.

Members will recall the rather forthright comments that I made the last time the bill was discussed. I must admit that I am concerned. I am the father of two and the grandfather of three, soon to be four, and I love them all to bits. However, I am aware that the bill has the backing of many colleagues, and I accept that the law is going to be changed in this regard at decision time.

In lodging amendment 1, I simply wanted to ensure that the operation of the law will continue to be proportionate in terms of its impact on families and children. Amendment 1 is very simple indeed. It establishes that, before the bill comes into effect, the Lord Advocate must publish clear guidance for the courts and the police to help them to navigate the new legal landscape and to continue to deal with parents sensibly.

I think that the guidance should do three things. First, it should set out very clearly

“what is a proportionate and appropriate response to the individual circumstances of a particular case”.

Secondly, it should outline

“the circumstances in which alternatives to prosecution should be considered”.

Thirdly, it should outline

“appropriate pathways that should be considered as an alternative to prosecution.”

I do not think that it is in anyone’s interests for people to be treated harshly under the law. I think that in many, if not most, cases criminalisation would be a step too far. The effects of a police investigation, court appearances and prosecutions on families in such scenarios would be hugely disproportionate, especially for the children involved. Criminalisation should be reserved for adults who have acted to harm a child; it should not be for parents who are simply ill informed

Good guidance by the Lord Advocate will avoid the scenario that has often been talked about in which a parent who taps their child on the hand or on the backside ends up with a criminal record. A tap on the hand would not be prosecuted under the current law on reasonable chastisement under

section 51 of the Criminal Justice (Scotland) Act 2016. However, removing that defence will create ambiguity in the law that could lead to a disparity in enforcement.

In his submission to the Equalities and Human Rights Committee, Michael Sheridan of the Scottish Law Agents Society said that, under the bill, a parent could

“be guilty of assault, even if acting reasonably.”

The Lord Advocate himself has said that the impact of the proposed legislation on prosecutions is still “unknown”. The guidance that amendment 1 provides for would clear up any uncertainty and allay the public’s fears.

Amendment 1 reflects the approach that is being taken by the Welsh Government, which wants to remove reasonable chastisement from the law in Wales. Julie Morgan, the Deputy Minister for Health and Social Services, has said that the Welsh Government favours out-of-court disposals for parents who use mild physical discipline following a change in the law in Wales. The Welsh Government aims to establish a bespoke diversion scheme that prevents parents from being landed with a criminal record. The National Assembly for Wales’s Children, Young People and Education Committee has called for

“a clear pathway to divert cases that would currently be captured under the defence of reasonable punishment away from the criminal justice system, where appropriate and proportionate to do so.”

The committee states that such a scheme

“should focus on encouraging and supporting parents rather than penalising them”.

I quite agree. It seems to me that the Welsh Government’s approach is sensible and one that we should mirror here in Scotland, in the interests of parents.

There are strong feelings on both sides of this debate and I have witnessed that in the past 20 or 30 minutes. However, despite that, I think that there is common ground between MSPs today, regardless of our individual views or party affiliation. I do not believe that any of us wants ordinary, loving mums and dads criminalised—I do not want that. By supporting amendment 1, members will be putting a guarantee in the bill that sensible and proportionate guidance will be produced ahead of a change in the law. We should reassure parents that they will not face draconian punishments under a so-called smacking ban and show them that we politicians want to support them in bringing up their children.

I move amendment 1.

**The Presiding Officer:** We are at the agreed time limit, so I am exercising my power under rule 9.8.48 of standing orders to allow the debate to

continue beyond the time limit to avoid discussion being unreasonably curtailed.

**Alex Cole-Hamilton:** The Liberal Democrats do not support amendment 1, because it is simply unnecessary. The 54 countries globally that have gone before us in embracing equal protection for their children have not seen legions of parents criminalised or marched through the courts. In fact, we heard of only eight prosecutions in New Zealand, four of which would have been prosecuted anyway without the change in law.

The Lord Advocate's guidance is usually sought only in special and untested circumstances. A good example of that would be the Lord Advocate's guidance not to prosecute victims of human trafficking who had been coerced into committing a criminal act by virtue of their having been trafficked. However, amendment 1 would ask the Lord Advocate to guide judges on a range of measures and tests that they already apply every day.

**Oliver Mundell:** Given the point that Alex Cole-Hamilton is making, does he recognise that the Lord Advocate has already said that he will produce guidance in relation to the bill and that he recognises some of the concerns that exist?

**Alex Cole-Hamilton:** Absolutely, and the Lord Advocate has every right to do that operationally. However, we do not therefore require it to be included in the bill, as amendment 1 proposes. We have had recent cause to trust the judgment of our Scottish judiciary. Judgment is exercised by the police first and then the judiciary in a very human way every day, ascertaining intent from the point that an incident is indexed. That often leads to an understanding of the circumstances around an alleged offence and a decision not to prosecute.

The debate on amendment 1 comes down to the nexus of the bill. The hyperbole that surrounds the arguments against abolishing the defence of reasonable chastisement stems from the fact that people believe that we will have thousands upon thousands of normal, loving parents marched through the courts. That argument simply does not stand up, given the international evidence. For that reason, the Liberal Democrats cannot support amendment 1.

**Oliver Mundell:** I am always concerned when people refer to laws in other countries without recognising that those countries often have substantially different legal systems with different prosecution policies. Given that the Lord Advocate came to Parliament and said that he will set out guidance on the bill, it is perfectly appropriate for MSPs to set out what we feel that guidance ought to cover in order to make the eventual law reasonably foreseeable for parents and allow them the opportunity to understand properly the types of

behaviour that we seek to criminalise, rather than leaving that to be interpreted, particularly where no case law currently exists.

Much of what Richard Lyle said was sensible. I do not always agree with him on everything, but in this case he gave a measured explanation of the thinking behind amendment 1. Agreeing to the amendment would go a long way towards addressing parents' doubts. It is all very well to say that we have confidence in the prosecutorial procedures in this country, but the amendment will help parents to have confidence in the legislation that we are passing. It is our responsibility to ensure that people in this country understand what the law of the land is and what our intentions are.

16:00

**Gail Ross:** We have already discussed the issue at length in the committee. We need to be careful with the language that we use—the bill does not introduce a smacking ban; it removes a defence, and we need to be careful that we say that time and again. The Law Society of Scotland has been mentioned. In its briefing for today's debate, it states:

“As the current law stands, there is a lack of clarity for the public about what parents and others can and cannot do by way of physical punishment of children. That has led to confusion amongst parents and carers.”

The Law Society goes on to say:

“We support the aim of this Bill to provide that much needed clarity.”

That could not be any clearer.

**Oliver Mundell:** Will the member take an intervention?

**Gail Ross:** I am sorry, but I think that Oliver Mundell has had enough interventions today.

We discussed the issue at length in the committee. Amendment 1 would infringe on the Lord Advocate's constitutional independence, and he is committed to producing guidance. The amendment is unnecessary, so I will not support it.

**Pauline McNeill (Glasgow) (Lab):** I want to make a short contribution in favour of amendment 1. Richard Lyle gave a carefully considered speech. I will vote for the bill at decision time, but I have always had reservations about the message that we give to parents who, as Dick Lyle said, are doing what they think is best for their children. We will remove the defence in law, but we should not criminalise those parents unnecessarily.

We should be clear that the amendment relates to the Lord Advocate's guidance for prosecution. I say to Alex Cole-Hamilton that it has nothing to do with judges; it is guidance for the prosecution. It is important to make that distinction. Once a case

comes before a judge, they will make a determination on what they think the law is.

I accept Alex Cole-Hamilton's point that there are few occasions on which we would want a prosecution. In the bill, the Parliament wants to send a clear message to parents that we want to be a progressive country. However, in the process, we do not want parents who are actually doing a good job of looking after their children to be unnecessarily criminalised. What harm would it do to put amendment 1 into the bill? At the end of the day, it could mean that we pass the bill with greater consensus.

**Maree Todd:** I am concerned about the implications of amendment 1 for the Lord Advocate's independence. It is for the Lord Advocate to determine prosecutorial policy, to decide what guidance and guidelines he should issue to the police and to determine what should be published. Amendment 1 would require the Lord Advocate to produce and publish guidance. When the Lord Advocate gave oral evidence to the committee, he said that, if the bill is passed, he intends

"to issue Lord Advocate's guidelines to the chief constable of Police Scotland on the investigation and reporting of allegations of assaults by parents on children."

He added:

"Those guidelines and prosecutorial policy will support a proportionate and appropriate response to the individual circumstances of particular cases. When appropriate, that response may include the use of informal response by the police, recorded police warnings, diversion and other alternatives to prosecution."—[*Official Report, Equalities and Human Rights Committee*, 6 June 2019; c 3.]

The Lord Advocate also said that the approach to prosecutions will be informed by the state's responsibility to protect children from harm and by a consideration of the best interests of the child. The member can therefore be reassured that work is already in hand on guidelines to the police and on prosecutorial policy. It would not, though, be appropriate to place statutory obligations on the Lord Advocate—who acts entirely independently of Government in these areas—in relation to the production of prosecutorial guidance and guidelines.

**Oliver Mundell:** I am interested in getting further clarity on why the minister thinks that that presents a problem and how the proposal would interfere with the independence of the application of that prosecutorial policy.

**Maree Todd:** It is for the Lord Advocate to decide whether guidance and guidelines should or should not be published; that is part of his independence. In making that decision, I understand that he considers whether the publication of such guidance would be liable to prejudice the prevention or detection of crime.

**Oliver Mundell:** I am specifically interested in where the minister feels that the Lord Advocate would not be able to do that, and in why she feels that he would not be able to draft guidance that would meet that test.

**Maree Todd:** Let me be absolutely clear: it is up to the Lord Advocate to decide. However, there must be a risk that the publication of guidance that is intended to inform decision making by police and prosecutors could be used as a guide to how to avoid prosecution, or be understood in a way that would tend to undermine the clarity that the bill seeks to provide, and it is best to leave the judgment in that regard to the Lord Advocate.

Placing statutory obligations in the bill on the Lord Advocate in relation to the preparation and publication of guidance could set an unwelcome precedent for other areas. I would also be concerned about some of the consequences of the member's amendment. Instead of the bill itself just stating the commencement date—one year after royal assent—the main provisions would come into force either one year after royal assent or when the Lord Advocate's guidance is published, depending on which one of those was later. It would not be appropriate to have those provisions brought into force without a clear date being stated in the bill or in commencement regulations. That would create needless uncertainty and make it harder for the public to find out whether the law is actually in force. I am absolutely sure that that is not the member's intention. Stage 3 should be about resolving any technical issues in bills, not creating new ones.

In conclusion, given the need to protect the independence of the Lord Advocate in this area, the undertakings that have already been provided by the Lord Advocate in relation to his intention to issue guidelines to the police, and the uncertainties that the amendment might create, I ask Parliament to reject amendment 1.

**John Finnie:** I thank my friend and colleague Richard Lyle for coming to discuss amendment 1 with me in advance. He and I had a lengthy discussion, and I understand what motivated him to lodge it. I share the concerns about the circumstances that he spoke about in relation to himself and his family.

As I said to him at the time, I do not think that his amendment is helpful. He spoke about common ground, and of course there is a lot of it. I want to talk about the areas of consensus because I hope to allay some of his concerns. There is some geeky technical stuff in my argument, so I will read from my notes, but I want to say first that I understand where Mr Lyle is coming from.

The amendment would make the commencement of section 1 conditional on the issuing of prosecutorial guidance. However, it could give rise to uncertainty about whether, on a particular date, section 1 was in force. For a person to determine whether section 1 was in force, they would need to ascertain not just whether guidance had been published by the Lord Advocate but whether the guidance had fulfilled the requirements of the amendment. That could well be disputed, and the amendment provides no means for that dispute to be resolved. So, there would be no objective means for anyone to know whether section 1 was in force.

The amendment also contains an inherent contradiction between issuing guidance on policy, which must be in general terms, and ensuring that it is appropriate to the

“individual circumstances of a particular case”.

The Lord Advocate cannot say what would be appropriate in every conceivable set of individual circumstances.

I hope that Richard Lyle will take reassurance from the fact that, at stage 2, the lead committee heard from the Lord Advocate that guidance will be prepared and issued to the chief constable. The Lord Advocate said:

“If the bill is passed, I intend to issue Lord Advocate’s guidelines to the chief constable of Police Scotland on the investigation and reporting of allegations of assaults by parents on children. Those guidelines and prosecutorial policy will support a proportionate and appropriate response to the individual circumstances of particular cases.”—[*Official Report, Equalities and Human Rights Committee*, 6 June 2019; c 3.]

The phrase “proportionate and appropriate” is very important, as it is the phrase that Richard Lyle used.

The Lord Advocate went on to say:

“we are already in discussion with Police Scotland about the shape and parameters of guidelines. That is under active consideration. I certainly intend to issue guidelines as near as possible to the coming into force of the legislation. I issue guidelines to the chief constable, and it is then his responsibility to disseminate the instructions to his officers on the ground.”—[*Official Report, Equalities and Human Rights Committee*, 6 June 2019; c 9.]

Importantly, the Lord Advocate also set out details of the current publicly available prosecution code, which contains comment on the public interest test and how the best interests of the child are central to decision making. We also heard about that from Police Scotland and social workers, who are at the front line of dealing with such issues. The amendment is therefore likely to cause confusion as to whether section 1 is in force and will add no value to the work that the Lord Advocate has already confirmed is under way.

I hope that that provides some assurance to Richard Lyle. If he presses his amendment, I ask colleagues not to support it.

**The Presiding Officer:** I call Richard Lyle to conclude, and to press or withdraw his amendment.

**Richard Lyle:** Today, during a school visit by Taylor high school, I was asked what I believe in. I believe in the rule of law and I believe that I should stand up and share my concerns at each and every opportunity, and that, most of the time, I should listen to my constituents who have emailed me, sharing their concerns regarding the bill.

I also believe that I should be allowed to share those concerns and I therefore thank every member in the chamber for listening to my concerns without a single interruption, for a change. I also thank John Finnie for the discussion that we had.

Members lodge amendments and sometimes we later think about them and have a change of mind. With regard to the minister’s comments, I believe that the Lord Advocate has now indicated that he will begin discussions with Police Scotland, with a view to producing procedural guidance. It is a feature of our law that the police are not obliged to report every crime: they report according to the parameters that the Lord Advocate lays down, and prosecutors are not obliged to prosecute every crime.

Due to those assurances, I will not press my amendment. However, I believe that I have made the point for safeguarding and I have made the point that, as far as I am concerned, assurances have been made. Therefore, I am not pressing my amendment 1.

**The Presiding Officer:** Thank you, Mr Lyle. I am afraid that you will have to seek permission to withdraw the amendment. Does any member object to the amendment being withdrawn?

**Members:** Yes.

**The Presiding Officer:** The question is, that amendment 1 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)

Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)

MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Wishart, Beatrice (Shetland Islands) (LD)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 47, Against 63, Abstentions 0.

*Amendment 1 disagreed to.*

## Motion Without Notice

16:15

**The Presiding Officer (Ken Macintosh):** I am sorry, but the debate on the amendment stage has gone 25 minutes over schedule and I do not wish to curtail the debate on the bill, so I am minded to take a motion without notice to move decision time to 5.25.

*Motion moved,*

That, under Rule 8.14.3, the debate be extended by up to 25 minutes.—[Graeme Dey]

*Motion agreed to.*

## Children (Equal Protection from Assault) (Scotland) Bill

**The Presiding Officer (Ken Macintosh):** As members will be aware, at this point in proceedings, under standing orders I am required to decide whether, in my view, any provision of the bill relates to a protected subject matter: that is, whether it modifies the electoral system or franchise for Scottish parliamentary elections. In my view, no provision of the Children (Equal Protection from Assault) (Scotland) Bill relates to such matters and therefore, the bill does not require a supermajority at stage 3.

We move to a debate on motion S5M-18623, in the name of John Finnie, on the Children (Equal Protection from Assault) (Scotland) Bill.

16:16

**John Finnie (Highlands and Islands) (Green):** I am delighted to open the debate on whether the Parliament should pass my bill: the Children (Equal Protection from Assault) (Scotland) Bill. It has been a privilege to lead the work of many dedicated organisations and individuals—both within and outwith Parliament—without whom the bill would not have been possible.

I have a lengthy list of thanks. I thank the convener and members of the Equalities and Human Rights Committee for the diligent and measured consideration of my bill that was displayed throughout the evidence sessions and at stage 2. Special thanks are due to the committee's clerking team. I thank the many colleagues, from all parties in the Parliament, who have offered their support and advice as my bill has progressed. I offer thanks for the tremendous assistance from those outside Parliament: Barnardo's Scotland, the National Society for the Prevention of Cruelty to Children, Children 1st and the Children and Young People's Commissioner's office.

I am also grateful to the Scottish Government and its officials for their support of my bill, and to the Minister for Children and Young People, Maree Todd, for her active and informed support. I also thank Nick Hawthorne of the Parliament's non-Government bills unit and Catriona McCallum from the office of the solicitor to the Scottish Parliament for their tireless work. Finally, huge thanks also go to Steven Dehn, my tireless and long-suffering office manager, for leading the work in my office on the bill.

Last week, the leaders, and interim leaders, of all the Parliament's parties received a letter from the President of the Faculty of Public Health, Professor Maggie Rae. The letter was co-signed

by, among others, representatives of the British Medical Association public health medicine committee, the Royal College of General Practitioners Scotland, the Royal College of Physicians and Surgeons of Glasgow, the Royal College of Physicians of Edinburgh, the Royal College of Psychiatrists in Scotland and the Royal College of Paediatrics and Child Health. The letter urged the party leaders to show their commitment to supporting the health and wellbeing of Scotland's children, specifically stating:

"We want a Scotland where all children can thrive. We want to support and empower families to give their children the best start in life. We want to deliver this bill to stop the long-lasting consequences of violence against children in Scotland."

That is exactly why the bill was proposed to Parliament. For decades now, we have become increasingly aware of the long-term effects of physical punishment on children. The research is irrefutable. Professor Sir Michael Marmot of University College London, in the foreword to the report "Equally Protected", which was published in 2015, stated:

"The international evidence could not be any clearer - physical punishment has the potential to damage children and carries the risk of escalation into physical abuse. It is now time for action."

He went on to say:

"On the issue of physical punishment, Scotland is out of step with Europe and increasingly, the world. There is an urgent need for Scotland and the rest of the UK to comply with international human rights law and to prohibit all forms of physical punishment."

During stage 1 evidence, Dr Anja Heilmann, one of the lead authors of the "Equally Protected" report, told the committee:

"Our report on the evidence on physical punishment shows very clearly that such punishment has the potential to harm children; that it is not effective as a parenting strategy, because it tends to increase problem behaviour and children's socioemotional difficulties"—[*Official Report, Equalities and Human Rights Committee*, 28 February 2019; c 7.]

The committee heard plenty of evidence on the physical and emotional effects of the current permissive law on Scotland's children, as they experience it.

I will take some time to discuss the wider effects of the current law in Scotland. What does the law teach the youngest members of our society? Surely, the answer is that might is right. Imposing one's will on a child through the use of force teaches that that is a legitimate means of mandating a desired behaviour. When rational argument will not do, physical imposition of power legitimately prevails.

It is difficult to see how the aims of equally safe—the strategy to prevent violence against

women and girls—which I am sure that every member supports, can be achieved while there is a contradictory legal approach that says, on one hand, that there is a zero-tolerance approach to violence in the home, but that an assault on a child may be subject to a legal defence of justifiable assault.

Critics of the simple reform have often accused the bill of criminalising parents. There is no evidence that a change to the law has resulted in an increased number of prosecutions in any of the more than 50 countries where similar reforms have taken place. In fact, the change in the law in Ireland prompted more parents to contact services to ask for help and support with alternative disciplining techniques. Surely that should be welcomed as an encouraging consequence of a positive legal change.

In Scotland, we have many support services that are provided by both the Government and the third sector. Anticipating a reaction in Scotland, if the bill is passed, similar to that in Ireland, those services—including "Ready Steady Baby!", "Ready Steady Toddler!", our health visitors, parent clubs, parentline, Childline and the One Parent Families Scotland helpline—are ready to help parents. I am grateful to all those who are involved in those ongoing preparations, the fruits of which will be harvested should members pass the bill this evening.

It is very nearly 30 years—20 November is the 30th anniversary—since the United Nations Convention on the Rights of the Child was signed. Since then, states across the world have been required to protect children from all forms of violence. The United Kingdom has been criticised repeatedly for failing to take sufficient steps to comply with the requirements of the UNCRC.

My bill aims to bring Scotland into line with what appears to be becoming the international standard in 57 countries—Sweden was the first country to introduce such reforms in 1979, Ireland did so in 2015 and Nepal did so in 2018. The UK is now one of only a few European countries with no such protections, so I am delighted that, following a long campaign in Wales, Julie Morgan AM, the Deputy Minister for Health and Social Services—whom I had the great pleasure of meeting recently—is introducing a bill to give children equal protection. The bill was supported at stage 1 by Welsh Labour, Liberal Democrat, Conservative and Plaid Cymru AMs. Since stage 1 of my bill, more countries have given legal effect to measures that will protect children from all forms of violence. This evening, I hope that Scotland will join South Africa, France and the Republic of Kosovo in doing so.

I move,

That the Parliament agrees that the Children (Equal Protection from Assault) (Scotland) Bill be passed.

16:24

**The Minister for Children and Young People (Maree Todd):** I am delighted to speak today for the Scottish Government. I thank John Finnie and his team for all their efforts in progressing the bill. I say to Mr Finnie, who is planning to retire at the end of the parliamentary session, that the Scottish Government is absolutely committed to upholding and promoting the legacy that he leaves in the Scottish legislative landscape in the form of the Children (Equal Protection from Assault) (Scotland) Bill.

I thank children's charities for their support of the bill and for the valuable insights that they have provided during the parliamentary process, and I pay tribute to Jillian van Turnhout, who I know is here today. Ireland led the way in these islands in removing the reasonable chastisement defence, showing how simple it could be to protect children equally.

The bill is supported by a wide range of bodies and individuals. The Faculty of Public Health, other health bodies and bodies that work for children jointly signed a letter on 23 September urging the Scottish Parliament to support the bill today. There is support from many other bodies as well, including women's organisations and family law academics. The breadth of support for the bill clearly shows its importance.

As the Minister for Children and Young People, I am committed to making Scotland the best place in the world for children to grow up. That means placing children's rights at the heart of what we do, so that we create a Scotland where children feel loved, safe and respected. The removal of the defence of reasonable chastisement will help to ensure that that goal can be achieved. The bill places Scotland in the vanguard in the UK in providing children with the same legal protection from assault as adults. That is the kind of country that I want my children to grow up in.

The Scottish Government supports the removal of the defence. Its very name—reasonable chastisement—is outdated and unconscionable. It suggests that it is sometimes acceptable to hit a child, which is at odds with the Scottish Government's aim of helping children to grow up feeling safe. It is also at odds with the international evidence that shows that the physical punishment of children is harmful and ineffective. In line with that international evidence, many countries have already changed their laws in that area, in ways that are appropriate to their legal systems.

By removing the reasonable chastisement defence, we will provide children with the same legal protection from assault as adults. Why would we not want that for our children? By doing so, we will also ensure that Scotland's approach is

consistent with international treaties, best practice in human rights and the United Nations Convention on the Rights of the Child.

Section 2 of the bill provides that

"The Scottish Ministers must take such steps as they consider appropriate to promote public awareness and understanding about the effect of section 1."

Should the bill be enacted, we will take forward that obligation, as well as considering what else might be needed for implementation.

We acknowledge the importance of raising public awareness of the effect of the removal of the defence. That is why we have formed an implementation group, which has already begun to consider what might be required to implement the bill, should it be enacted, including awareness raising among parents, children and organisations, and the provision of resources. In line with the lead committee's comments at stage 1, we will also consider how we can effectively raise awareness in hard-to-reach communities and minority groups.

We promote positive parenting in our work with the third sector and through the universal and targeted support that we provide to families and the resources that we make available. We already have trusted channels of communication, such as the Parent Club website, through which we can raise awareness about the bill, as well as continue to promote positive parenting and provide practical tips and support for parents.

As a parent, I understand only too well the unique challenges of parenting and I understand the value of having access to practical support in high-stress moments. When we fulfil our obligation to raise awareness about the effect of the bill, we will not scold or cajole. As Liam Kerr said during stage 2,

"Our goal should be to help parents to provide the best environment for their children".—[*Official Report, Equalities and Human Rights Committee*, 20 June 2019; c 15.]

The Scottish Government whole-heartedly endorses that goal.

Finally, I want to talk about clarity. As the bill has progressed through Parliament, we have heard many times that it will bring much-needed clarity to the law. The bill will make it absolutely clear that the physical punishment of children is not acceptable, and that clarity will help parents, carers and others. There will be certainty about what the law is—

**Jamie Greene (West Scotland) (Con):** Will the minister take an intervention?

**The Deputy Presiding Officer (Linda Fabiani):** The minister is just closing.

**Maree Todd:** Parents will know what the position is, and front-line workers who support parents will finally be able to provide clear, unqualified advice in this area.

In conclusion, I hope that we will vote today to remove the antiquated defence of reasonable chastisement from the law of Scotland. I commend the bill to Parliament.

16:30

**Oliver Mundell (Dumfriesshire) (Con):** As I stated during the stage 1 debate and the stage 2 consideration of the bill, I believe that violence against children is wrong. However, that is not the issue that is before us today. We are being asked to pass into law primary legislation that is imprecise and suboptimal. Those who support the bill have stated that it is the only option. In fact, we could have passed primary legislation that said up front—at the start—that the physical punishment of children is wrong. That is what some of the other countries that members have mentioned have done. We could have made a clear statement on that, if the Parliament had wanted to do so. Instead, we have decided to do half a job. In doing so, we are misdirecting our focus and passing legislation that could unnecessarily criminalise good parents and draw others needlessly into the criminal justice system.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** If we had brought to Parliament a bill that said up front that we would end the physical punishment of children, would the member have supported it?

**Oliver Mundell:** Yes, I personally would have supported it.

As I said today in an interview, the physical punishment of children, with the right thresholds and safeguards, should be considered, but I respect the right of parents to make some of those choices for themselves. That is why the threshold for state intervention is very important. It should be set high for criminal intervention—it should not be the case that any physical punishment is instantly prosecuted. That approach is what members on the Conservative side of the chamber are asking for.

We are relying entirely on prosecutorial guidance to save parents from an intervention by the state. Parents are not able to foresee the circumstances in which they could find themselves entangled with the criminal justice system. One person's idea of what constitutes a mild tap on the hand or a tap on the backside may be quite different from someone else's, but we will have that discussion only at the end of the process. When we have previously passed legislation to change the common law and introduce new

offences, we have set out in detail where we think that the law should start and end. In this case, we are leaving things wide open.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** What weight does the member place on the evidence that we heard in committee? As other members have said, we heard loads of evidence from a lot of different organisations saying that the concerns that he outlines will not come to fruition. What weight do you place on the evidence from the countless number of agencies that came and spoke to the committee?

**Oliver Mundell:** I thank Fulton MacGregor for that intervention, and I say this as gently as I can. Very recently, I sat through the consideration of the named person legislation in the Parliament. The Deputy First Minister said to me that he was confident that we could come up with a draft legal code, but we then found out down the line that that was not possible.

I respect the views of those organisations and the principle that they are fighting for, but we could have had a much more robust piece of legislation before us that was far less narrow in its intent. The member who introduced the bill was not able to give me a clear answer earlier on whether the rules that the bill seeks to change in law would apply only to physical punishment or whether their scope is potentially broader. In response to my point and the point that Daniel Johnson made, the minister has not been able to say for certain where the intention with regard to what kind of behaviour should be seen as criminal starts and ends. We are asking the Lord Advocate to decide whether individual cases should be prosecuted. As parliamentarians, we should take responsibility for setting out clearly, in primary legislation, when we think people should be caught within the ambit of the criminal law.

The bill is not acceptable. I refer members to the article from Dr Andrew Tickell, which captures the point. Too often in this Parliament, we like to make grand statements about our views. In this case, we want to pass moral judgment on the behaviour of others and place that behaviour within the criminal law. We can say that we do not want to criminalise parents, but, as the Lord Advocate and multiple legal figures have said, the bill puts behaviour that is currently not criminal into a category of behaviour that is criminal. Therefore, it opens up the possibility of prosecutions.

**Andy Wightman (Lothian) (Green):** Will the member take an intervention?

**Oliver Mundell:** Certainly.

**The Deputy Presiding Officer:** I am afraid that you have come to an end, Mr Mundell.

Before we move on, I remind members that they should speak through the chair, even when it comes to interventions. Please do not have conversations with each other. I am still here. I have toothache and I am in a bad mood.

**Anas Sarwar (Glasgow) (Lab):** I can help you with that. [*Laughter.*]

16:36

**Mary Fee (West Scotland) (Lab):** Presiding Officer, given what you have just said about being in a bad mood and having toothache, I do not know whether I want to speak now. [*Laughter.*]

I thank John Finnie for introducing this member's bill and for all the work that he has done on the issue. I and my party have supported the bill since he introduced it to Parliament. By passing the bill today, Scotland will commit to protecting children from physical punishment. That is an important step forward for children's rights.

As I said in the stage 1 debate,

"this Parliament is a guarantor of human rights and ... we have an obligation to protect the human rights of children ... The bill will help Scotland to meet part of its international human rights obligations under the UNCRC ... Scottish Labour is fully committed to the incorporation of the UNCRC into Scots law, and the bill is a step towards progressing that commitment."—[*Official Report*, 28 May 2019; c 21.]

By prohibiting the physical punishment of children by parents or care givers, the bill seeks to give children equal protection from assault. The bill is not about criminalising parents and carers; it is about giving children the same protection in the law that adults currently have. Any kind of assault is assault. It cannot be justified by saying, "It was reasonable to hit that person." If a person strikes another person, they are assaulting them.

In the committee, we heard evidence that demonstrated that physical punishment is harmful to children and is likely to lead to an increase in negative outcomes. Parents, children and family support services are best served if methods that do not involve physical punishment are adopted.

**Liam Kerr (North East Scotland) (Con):** How does the member respond to Adam Tomkins's earlier point that the category of "assault" is not necessarily limited simply to physical assault?

**Mary Fee:** Assault is assault. If we assault someone, we are committing a crime. There are ranges of assault. We should not use force to control another individual. That force could take many forms.

The bill is often incorrectly described as introducing a smacking ban, but it is important to remember that it does not create a new criminal offence. Rather, it seeks to remove a legal

defence, in order to give children and adults the same legal protection from assault. It is a bill about equality and respect for children's rights. It gives children the same rights and protections that adults enjoy.

I understand the concerns that were raised by parents who argued that the bill could lead to an increase in the criminalisation of parents. However, the bill does not make changes to policing or to prosecution procedures and practices. Police Scotland says that it will continue to take a view as to whether there is enough evidence to charge a person, and the prosecution authorities will decide whether there is sufficient evidence to support the prosecution of a case.

International experience from countries that have addressed the use of physical punishment suggests that prosecutions will not notably increase following the passing of the bill. Ireland unanimously repealed its common-law defence of reasonable chastisement in 2015. Jillian van Turnhout, the former Irish Senator who introduced the amendment that led to the prohibition of corporal punishment in Ireland, said that since the implementation of the law, Ireland has

"not seen a dramatic increase in prosecution of parents."—[*Official Report, Equalities and Human Rights Committee*, 21 March 2019; c 6.]

A key factor in the bill is the aim to facilitate a cultural change that will protect children from violence. The public education strategy will seek to work in the same way as the ban on smoking in public places and legislation requiring the use of seat belts worked—that is, not by criminalising people but by encouraging positive change.

**Michelle Ballantyne (South Scotland) (Con):** Will the member take an intervention?

**Mary Fee:** I am sorry; I have almost finished.

The importance of the campaign cannot be overemphasised. There needs to be a co-ordinated campaign message, so that parents, care givers, teachers and social workers are aware of the implications of the changes that are being made.

I hope that the bill will be backed with sufficient funds to raise public awareness of the change. Indeed, I hope that, having given equal protection from assault to children, we can focus on properly resourcing and supporting children who have experienced abuse. The bill does not provide for additional funding to help abused children and families in which abuse occurs. I sincerely hope that that can now be our focus, so that every child can grow up in a safe and loving environment.

I urge all members of the Parliament to vote in favour of the bill at decision time tonight.

16:41

**Alison Johnstone (Lothian) (Green):** The law as it stands affords children less protection from physical assault than we adults benefit from. That is quite simply wrong. My colleague John Finnie seeks Parliament's support to change that today, and to give equal protection to our youngest citizens. I am particularly proud to speak in support of my Green MSP colleague. I feel so strongly about the importance of legislating on the issue that if Mr Finnie had not taken the matter up, I would have sought to do so.

Barnardo's Scotland says that

"we want to see a society and a culture where no violence against children is acceptable."

Who could possibly disagree with that? The bill is part of an important change in our culture—a change to one in which non-violent ways of encouraging learning and behaviour change are championed.

The change that the bill will bring is long overdue. Article 19 of the United Nations Convention on the Rights of the Child gives children

"the right to be protected from being hurt"

or badly treated. Our current "justifiable assault" defence contravenes children's rights. Today, we can change that.

I want to live in a country in which all children and young people know and understand their rights. I want our young people to know that rights are not just words, and that rights matter and can be realised. Human rights are not matters of opinion.

As Mary Fee said, Parliament prides itself on Scotland's respect for human rights, but in every one of the 20 years of this Parliament's existence, Scotland has been in breach of the UNCRC. Article 19 is absolutely clear. It says:

"States Parties shall take all appropriate legislative ... measures to protect the child from all forms of physical or mental violence".

However, the existing loophole in our law says that it is sometimes okay to use violence when disciplining our children. It is not okay, as we have been repeatedly told. In 2002, the UN Committee on the Rights of the Child said that continuing to allow physical punishment is

"a serious violation of the dignity of the child",

and

"undermines educational measures to promote positive and non-violent discipline."

It is therefore no wonder that the bill is supported by Police Scotland, Social Work Scotland, Children 1st, the Royal College of Paediatrics and

Child Health, the NSPCC, Barnardo's and the Children and Young People's Commissioner Scotland, to name just a few.

The bill is also strongly supported by young people themselves. A school pupil in my region wrote to me in support of the bill, as did many people. The pupil said of physical punishment, "it hurts" and

"could leave a mark or physically damage the child. Also ... it is very sore."

They went on to say that

"people who are hit themselves think it is ok to hit each other and no person would like that, would they?"

Before I close, I pay tribute to John Finnie and his team. I know from experience that promoting a member's bill, particularly on a topic that attracts such public and media attention, is a significant piece of work for the MSP and their staff. John and his tireless office manager, Stephen Dehn, have worked very hard to get the bill to this stage. I also thank everyone who has worked with them.

John Finnie will, as we have heard, step down from Parliament at the end of this session of Parliament after a decade as a member. He also had many more years as a police officer, and he has been a councillor, too. If the bill is passed this evening, it will stand as testament to someone who has spent their career serving others and seeking to improve lives.

We cannot allow the defence of justifiable assault to remain in our laws. If we are to create a Scotland that is truly the best place in the world not only to grow up in but to flourish in, we cannot implicitly endorse use of violence against children. Colleagues—we can change that today, by voting for equal protection from assault for children.

16:46

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I welcome to the public gallery Jillian van Turnhout and many dear friends and colleagues from the children's sector with whom I used to work. Most important, I welcome the many children who are in the public gallery today. The bill is for them and the children who will follow them.

This is a proud and emotional day for me. Today, a road that I have walked for 20 years finally comes to an end. On that journey, I have stood shoulder to shoulder with some of the finest people I know. I thank them for their efforts—efforts that have spanned nearly a quarter of a century—to bring about the act that we shall pass this evening.

Three children's commissioners, a former Irish senator and many advocates within the children's

sector have all played their parts, and together they represent the vanguard on children's rights in our society. They will all be remembered for the change that they achieve today.

Together, we have worked to support the architect of the bill. As a former police officer and repentant parent who used to smack his children, John Finnie has lent wisdom, experience and understanding of the journey that so many Scottish parents have been on in recognising the harm that is caused by physical punishment. Thank you, John.

It is not a big law; it is not even a big change. The bill will simply remove the antiquated legal defence of justifiable assault on the ground of reasonable punishment. That legal defence used to allow men to hit their wives and servants and was removed long ago. We would not dream of allowing it to be reinstated. As such, the case for its repeal in relation to children is unanswerable.

People who have to deal with assault and abuse in our streets and homes made powerful representations to the committee. They told us that we shall forever fail in our efforts to end such brutality as long as the state sanctions any kind of violence in the home.

We have heard many arguments for retention of physical punishment and of the defence, but none has withstood the test of the committee's scrutiny or the evidence that was offered by the bill's supporters.

Smacking is not an article of faith; it is not demanded by scripture. It does nothing to prevent children from scalding themselves or running into traffic. Parents do not use its application consistently: they do not always retain control when they do, and a light tap on the wrist or the bottom is not the full extent of every parent's intervention. That last point matters, because the only clarity that is offered in Scots law around physical punishment came by amendment in 2003. The sum total of statutory direction on the matter is that there should be no head shots, no use of implements and no shaking. That is it: on everything else, our law is silent.

Above all that lies the fundamental disparity between treatment of adults and treatment of children that the arcane defence creates. We would not for a minute consider relaxing the law on assault to allow physical punishment of an adult with the mental age of three as a tool of correction or protection, so why do we permit it for actual three-year-olds?

**Liam Kerr:** Will the member give way?

**Alex Cole-Hamilton:** I do not have time.

To maintain the defence is to argue that in our society it is only okay to assault someone if they

are smaller than you, if they have not yet reached adulthood and if they cannot hit you back. That is not compatible with our aim to be thought of as a human rights leader; it is not even compatible with our aim to be thought of as a civilised society.

Today, Scotland joins a family of more enlightened nations—countries that have recognised that the measure of a modern and progressive nation is in the rights that it extends to its most vulnerable citizens and in the protections that it offers its children.

I will take great pride in voting for the bill tonight.

**The Deputy Presiding Officer:** We move to the open debate. We are really pushed for time, so speeches should be strictly up to four minutes.

16:50

**Ruth Maguire (Cunninghame South) (SNP):** The bill is about rights. Children have the right to protection from all forms of harm and physical violence and they have the right to grow up in safe and nurturing environments that are free from violence.

When anyone's human rights are denied, everyone's rights are undermined and—as things stand—without equal protection from assault, children's rights are not being realised. Their physical and mental immaturity means that children are entitled to and require more protection, not less. The current legal position in Scotland must change.

The bill, which I will be very proud to vote for this evening, is a simple one. By removing the defence of justifiable assault on the ground of reasonable chastisement, it will give our children in Scotland the same protection from assault as adults have. I take very seriously my party's aim to make Scotland the best place in which to grow up and our commitment to incorporating into Scots law the UN Convention on the Rights of the Child. Removing that defence is consistent with that aim and with the commitment to human rights and international treaties.

Most witnesses at the Equalities and Human Rights Committee supported the idea that realising children's rights could not be fully achieved without legislative steps to remove the defence of justifiable assault on the ground of reasonable chastisement. The Scottish Child Law Centre stated that

"If Scotland is to meet international standards of human rights and children's rights outlined both in the European Convention on Human Rights and United Nations Convention on the Rights of the Child and to achieve its aim to be a nation which promotes the best possible start for children in life, then it is of crucial importance that any legal defence or justification for acts of violence against children are removed."

**Liam Kerr:** Will the member take an intervention?

**Ruth Maguire:** I have done a lot of listening during the passage of the bill, so I am going to share my thoughts for three minutes.

Internationally, use of physical punishment is, increasingly, regarded as unacceptable.

I acknowledge the difficulty and discomfort that the debate and the proposition cause some people. Many of us here grew up in very different times. Some of us might well have been skelped or smacked as we grew up and, yes, some of us might even have turned out all right. Taking action to improve things for children, now and in the future, is not, however, a judgment on our parents, their parents or parents now who are doing their very best, but the inescapable fact is that we know better now.

Evidence shows that physical punishment can cause long-term harm to children. It is associated with increased childhood aggression and antisocial behaviour, can be related to depression symptoms and anxiety among children, and carries a serious risk of escalation into abuse—all factors that not only impact on the child at the time, but can cause problems in later life. Even if it does not always do so, if physical punishment can cause harm, why on earth would we take the risk?

In closing, I wish to thank personally all the members—those who agree with me and those who do not—of the Equalities and Human Rights Committee, the Parliament staff who so ably and diligently supported us, and all the many folk who shared their views, opinions, worries and aspirations.

I give a special mention to the children and young people in Portree high school and Bun-Sgoil Ghaidhlig Phort Rìgh. Mòran taing. Bha sibh dìreach sgoinneil.

I aspire to a Scotland that is the best place in the world in which to grow up, and to a Scotland that protects and promotes human rights. I thank John Finnie for introducing the bill and for taking us a step closer to that place.

16:54

**Gordon Lindhurst (Lothian) (Con):** In “Memory Hold-the-Door”, John Buchan, the Scottish politician, lawyer and novelist, recorded some of his personal recollections of people whom he had known, such as Lord Milner, whom he described as being the last man suitable for a particular task. I quote Buchan:

“He detested lies, and diplomacy demands something less than the plain truth.”

One wonders what Lord Milner would have thought of current British politics. Buchan continues:

“How often he would study a scheme of mine with knitted brows, and lay it down with a smile. ‘Very pretty; but it won’t work!’”

Those are apt words, perhaps, for the bill that is before us today. It has the word “equal” in its title, as if that made anything right, but the bill does no such thing. Rather, its effect is to enable increased state interference in, and destabilisation of, family life to the detriment of children and the criminalisation of ordinary parents. There are good intentions here or there, but the effect is to open the road to prison for unsuspecting parents.

**Daniel Johnson (Edinburgh Southern) (Lab):** Will the member take an intervention?

**Gordon Lindhurst:** Like others, I have very little time to speak, so I cannot take an intervention. I do not wish to aggravate the Presiding Officer’s toothache further.

Supporters of the bill have always said that its purpose was not to criminalise parents or to increase prosecutions but to bring us into line with other countries. However, the bill does none of those things. That is why I presented amendments at stage 2, all of which were deemed by the drafting clerks, in private, to be inadmissible—even an amendment that ensured the non-criminalisation intention and an alternative that required prosecutions to take place within two years of any alleged offence, which are types of protection that are guaranteed in almost all the countries that supporters of the bill rely on. However, the amendments were prevented from being lodged by the committee convener, Ruth Maguire, at stage 2 and the Presiding Officer at stage 3. Apparently, MSPs do not even deserve to be told the reasons for those decisions.

If there had been proper scrutiny of the bill and proper consultation, by which I mean the voices of ordinary people who contributed and experts who disagreed with the bill being listened to, and if MSPs had been allowed to lodge appropriate amendments, we might have been looking at a different bill today and one that had wider and greater support. However, we are not. It is as if none of the intermediate stages since the bill proposal had ever happened. What we have seen in this bill procedure is a serious failing by the Parliament. It has been undemocratic, it has not been transparent and it is, frankly, a disgrace. It is that sort of conduct by current politicians that destroys public confidence.

It is not pretty at all, and it will not work.

16:58

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

I, too, thank John Finnie for his tireless work in bringing the bill to Parliament. It is important that the bill is passed this evening, because the law as it stands neither makes sense nor, most importantly, reflects the realities of parenting and bringing up children in 2019.

Currently, assault is illegal unless one is “reasonably chastising” a child. That is flawed, if not absurd. How can it be right to allow a defence for assault to be based on the category of person who is being assaulted, let alone when that category is those people whom we should be seeking to protect and nurture—namely, our children? Of course there is a reasonable need to discipline a child—any responsible parent knows that—but how can discipline that causes pain to a child and would be considered to be assault if it was inflicted on an adult ever be considered reasonable? I do not think that it can and, therefore, we need to remove that legal defence and provide children with protection from assault that is equal to the protection that we provide for all other people in society. That is why I believe that we should pass the bill at decision time.

**Liam Kerr:** Daniel Johnson knows my view on the premise that he has just outlined. However, does he not accept that the bill should be absolutely unambiguous and clear in its scope?

**Daniel Johnson:** In broad terms, it is. However, I share some mild concerns, which I was going to come to later in my speech. I do not think that we necessarily covered ourselves in glory as we debated the amendments this afternoon. There was a need for clarification on the use of restraint. In broad terms, I accept the points around intent and unreasonableness. I also accept that the courts and prosecutors apply those sorts of tests day in, day out.

However, I am not sure that I precisely understand the difference between some circumstances and examples, such as lifting a child out of a room, and the exact same actions if they occurred with an adult. I appreciate John Finnie’s clarification around criminal intent. However, simply lifting an adult out of the room in order to calm them down could, at the very least, perhaps be considered criminal intent, because you would be frustrating the intentions of that individual. I believe that there could have been clarification there. More importantly, it is for Parliament to test the law that we are seeking to pass. I say with respect to the minister that I noted with concern that she met some of those calls for clarification with a scoff and did not answer them at all. Ultimately, it is our duty to test the law and to ask for distinctions and clarifications. It is,

therefore, right that we ask for those, and it is with regret that those requests were not met.

However, ultimately, I think that it is important that we pass the bill this evening. In part, that is because it is a fundamental belief on my part, as a parent, that you reap what you sow with parenting, and that, in many ways, your behaviour is reflected by your children. You do not calm a child down by shouting at them, you do not resolve bad behaviour by being unreasonable yourself, and you certainly do not teach a child that aggression is wrong by striking them. For those simple reasons, we need to change the law, and we should pass the bill. Fundamentally, physical discipline is counterproductive. Moreover, society has changed, and so must our law.

17:02

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** When I spoke in the stage 1 debate in the chamber a couple of months back, I said that it was a really simple bill for me to support—a no-brainer—and nothing has changed.

Like others, I thank John Finnie for his tireless work on the bill. I am very happy for him. As Alison Johnstone mentioned—and which I saw through his announcement on social media over the summer recess—he intends to stand down. What an achievement it would be if we passed the bill, with credit to him, tonight. I am very happy for him in anticipation of us doing that.

I also thank all the organisations that have worked over many years to make it happen: Barnardo’s, Children 1st, NSPCC, the children’s commissioner and Amnesty International. I am sorry if I missed any others that are in the public gallery—I thank the many organisations that have fought for the bill and got it to this stage. For them, I hope that every member votes to pass the bill tonight.

As Gail Ross said during the discussion of amendments, almost all stakeholders told us the same thing during the committee stage. We as MSPs have a responsibility in relation to how we respond to our constituents and the wider public when they raise concerns. I cannot overemphasise that the evidence continually told us that the bill will protect children’s rights and bring equality, and that it will not lead to the criminalisation of parents, as it does not change the current child protection processes that are in place. It removes an outdated offence. It is our duty to allay fears and concerns. We—particularly those of us who were members of the committee—are in the privileged position of having heard the evidence, and of taking that forward.

I will give an example of that and pay due credit to my friend and colleague, Richard Lyle. We saw

democracy today. He brought forward an amendment, he got a response from the minister and the member in charge, and he changed his mind. That is what we should be doing with ministers. [*Interruption.*] I hear somebody laughing. However, that is what happened—we saw democracy in action.

As we have said before, some of the fears that have been expressed are not justified. Indeed, I would go as far as to say that they were expressed only to scaremonger.

In the stage 1 debate, I mentioned my social work experience, and I will mention it in today's debate, too. When I worked in social work, the response from agencies—whether criminal justice or care agencies—was always measured, and we heard from social work and procurator fiscal representatives that that will not change. I repeat that the bill will not create new law; it will remove an outdated defence. I cannot believe that anybody would think that we should not do that. During the committee's consideration of the bill, we could not even get figures on how often the reasonable chastisement defence has been used. Folk just did not know.

The bill will make the law and the relevant processes clearer. We heard that that will be one of the main benefits of the bill, which is why the stage 3 Tory amendments could not be supported. One of the most important issues is that practitioners and parents have clarity on the law because, as others have said, there are many people who think that the physical punishment of children is already illegal. Oliver Mundell gave the examples of lifting up a child and confiscating a mobile phone; Daniel Johnson put it another, better way. The clue is in the name of the bill: quite simply, it is about equal protection from assault for children. I ask Tory members to join us in voting for it.

**The Deputy Presiding Officer:** We move to the closing speeches.

17:06

**Iain Gray (East Lothian) (Lab):** As we come to the culmination of a great effort by John Finnie in getting the bill to this final stage, I would like to add my congratulations to him on having done so. It must have seemed like a long road for him but, for some of us, it stretches all the way back to the earliest years of this Parliament, when we considered similar legislation. On that occasion, we fell short of fully protecting our children by keeping the compromise of reasonable chastisement, which I fully expect us to do away with in a few minutes.

We can believe that Parliament and society have moved on since those days, because those

of us who were around then will remember what an angry, bitter and difficult debate that was, in the Parliament and in the country. We spent time debating why it might be okay to hit a child with a slipper but not a coat hanger, although, thankfully, even then we concluded that neither was "reasonable". If that seems barbarous, we should remember that that was only a few years on from a time when teachers routinely hit five-year-olds with a thick leather belt.

Time moves on, thank goodness, and so, too, does this Parliament. The process that we have gone through on the Children (Equal Protection from Assault) (Scotland) Bill has involved much more mature consideration of a basic principle—that children should have the same protection from assault as adults have. There have still been concerns, of course—perhaps that is why the bill is a member's bill rather than a Government one—but they have been reasonably and fairly explored. I disagree with Mr Lindhurst's take on that.

One part of the Parliament's maturity is our greater understanding of rights and our desire to see our nation ever more shaped by those rights and respect for them. A key aspect of that is the commitment that has been mentioned by many speakers, which is shared by Labour members, that we want the UN Convention on the Rights of the Child to be incorporated in our legislation. The UNCRC says:

"States shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence."

There is no ambiguity. Physical punishment breaches the convention, so if we wish to claim to be a rights-respecting Parliament, we must pass this law this evening, and I think that we will.

However, if we wish to claim that we truly respect the rights of children, the bill is a necessary but not a sufficient condition. Mr Mundell warned us against a liking for bold and grand statements, and I think that he is right, because as long as one in four children in our country lives in poverty, as long as a child born to a poor family is three times more likely to die young, and as long as 70,000 children need emergency food parcels and 36,000 children are referred to mental health services in a single year, a claim to be the best country in the world to grow up in is a rather vainglorious boast.

I am sure that we will end reasonable chastisement tonight, as we should have done 20 years ago. We should celebrate that and congratulate Mr Finnie. However, while so many children still suffer unreasonable punishment just for the sin of being poor, vulnerable, sick or disabled, we should not pat ourselves on the back too hard.

17:10

**Liz Smith (Mid Scotland and Fife) (Con):** It should go without saying that when this Parliament seeks to pass legislation, it should adhere to some key principles. The legislation should be clear and uncomplicated; it should be based on fairness and maximising the common good; it should be acceptable to the public, who must see it as both useful and beneficial; and, as far as possible, it should be easily enforceable and not be open to constant debates about repeal. The Scottish Conservatives have never taken issue with the good intentions of those promoting the bill; indeed, there are some in my party who would have chosen to support the bill. However, there are many in the chamber, not just on the Conservative benches and including some members who are absent today, who have grave reservations about the bill before us because it does not meet the good legislation tests.

As my colleague Adam Tomkins clearly set out during stage 2, the bill's fundamental failing is the wrongful classification of "reasonable chastisement" as "assault". Throughout stage 2 and again today at stage 3, the bill's proponents have not been able to address that fundamental failing. In fact, I find rather disturbing the number of occasions that there have been throughout the bill's proceedings when the distinct definitions in law have not been wholly recognised.

Daniel Johnson and I will probably vote differently on the bill this evening, but he made an important point about the need for clarity, and that clarity has not been forthcoming. Indeed, the bill has serious problems because it is weak and has so many grey areas. There is still no conclusive evidence to prove that the bill will make children safer and the evidence is severely weak in key areas about why the current law is not acceptable.

Mr Gray mentioned that we have debated the issues around the bill several times in the past. I remember the debates when David McLetchie and most of the party leaders, including Jim Wallace, made very plain the difficulties that the Parliament faced with legislation to abolish the defence of reasonable chastisement. Those difficulties were the same as those regarding the current bill. The issue is what makes for good legislation.

One of the reasons why we did not decide previously to abolish the reasonable chastisement defence was that we found that it would create so many difficulties in law. It is clear from what happened at stage 2 that we still have that problem. My colleague Oliver Mundell made it clear that there are issues for the Lord Advocate, as he will have to produce the necessary guidance to accompany the legislation. That issue has not gone away.

My colleague Gordon Lindhurst mentioned that there is a movement away from the responsibilities of parents to what the state feels is better for families. That aspect is a fundamental problem with the bill and it is something that has been rejected time and again by parents. We have seen that again in recent instances.

**Alex Cole-Hamilton:** Will the member take an intervention on that point?

**Liz Smith:** I will not, if Mr Cole-Hamilton does not mind.

On the advice that we have been given by Police Scotland, the Law Society of Scotland and the Scottish Children's Reporter Administration, I fully acknowledge that they state that there is no intention to criminalise parents—I understand that—but what we have in the bill will do exactly that, because of the way that it has been drafted. There is an increased likelihood that parents will be criminalised; it might not be many, but there is that risk and that is why the bill has so many faults. Police Scotland and social workers have referred to the confusion that could be caused for parents, because they could be unsure about exactly where they stand.

The Parliament should always be judged on the legislation that we introduce. The bill before us has so many faults that it is not acceptable and therefore the Conservatives will not support it.

17:15

**Maree Todd:** I am grateful to members who have contributed to the debate. I will comment on some of the points that have been made. Daniel Johnson raised the issue of restraint. That was wholly considered by the committee. The stage 1 report was clear that restraint to safeguard a child is not affected by the bill. Daniel Johnson asked specifically whether lifting an adult from one setting and moving them to another is assault. The reality is that it would depend on the facts and the circumstances. That could be justified and thus not criminal if, for example, it was self-defence. That defence will continue to be available in relation to adults and children once the bill is passed, as it is now, but it will depend on the facts of the case.

As I said in my opening speech, the Scottish Government supports the removal of the reasonable chastisement defence, because doing so is in the best interests of children. Conservative members have raised concerns that removing the defence will criminalise loving parents, but the evidence from other countries that have made similar changes suggests that that simply will not be the case. Neither Ireland nor New Zealand, where changes in the law were handled in a similar way to that in the bill, has reported a

significant number of convictions following those changes.

The lead committee heard from the Lord Advocate that he intends

“to issue Lord Advocate’s guidelines to the chief constable of Police Scotland on the investigation and reporting of allegations of assaults by parents on children.”

He went on:

“Those guidelines and prosecutorial policy will support a proportionate and appropriate response to the individual circumstances of particular cases.”—[*Official Report, Equalities and Human Rights Committee*, 6 June 2019; c 3.]

The Scottish Government recognises the key role of parents and carers in our society and aims to provide them with support in the challenging yet vital job that they do. As part of that, in line with section 2, we will promote awareness and understanding of the removal of the defence. We will also continue to promote positive parenting and provide support for families who need it.

**Michelle Ballantyne:** Will the minister take an intervention?

**Maree Todd:** I think that we have had enough interventions today, so I will just make—

**Michelle Ballantyne:** It is on that point.

**Maree Todd:** Certainly.

**Michelle Ballantyne:** Section 30 of the financial memorandum that accompanies the bill refers to the fact that you wrote to John Finnie to say that, for the purposes of marketing and making parents aware of the bill, you were seeking to use only £20,000 and would do it through a website. However, in previous campaigns, you have considered it necessary to spend a lot more. Is that amount really adequate for a bill such as this?

**The Deputy Presiding Officer:** Remember always to speak through the chair, please.

**Maree Todd:** Absolutely. We will provide people with practical advice and information using existing channels such as the Parent Club website, which people already trust and rely on.

Awareness raising is not just about families. We know that public bodies such as Social Work Scotland need to be involved along with third sector organisations. Our approach to awareness raising will involve consideration of the needs of professionals who provide support for families, such as social workers, and we will work in partnership with the voluntary sector, children’s organisations and others to raise awareness.

There will be resource implications of raising awareness, but those will of course be driven by the form that the awareness raising takes. We want the awareness raising to be in the most

effective form possible. That is just one reason why we have set up an implementation group to consider what needs to be done should the bill be enacted. The group met very recently, on 23 September, and at that meeting group members discussed awareness raising and monitoring the bill’s impact. The group will hold further meetings over the next year and will listen to the points that are raised about resources. The implementation group includes bodies that deal with the implementation of criminal law, such as Police Scotland and the Crown Office and Procurator Fiscal Service.

It has been suggested today that the law of assault is not clear and that the bill will create confusion rather than add clarity. I have to say bluntly that I do not agree with that. I reiterate what the Lord Advocate said:

“the law of assault ... is applied day and daily by police officers and prosecutors. There is not a problem with the clarity of the law.”—[*Official Report, Equalities and Human Rights Committee*, 6 June 2019; c 7.]

What the removal of the defence means is clear: parents and carers will no longer be able to use the reasonable chastisement defence.

In conclusion, the Government supports removing the defence. I look forward to voting for the bill and providing children with equal protection from assault.

17:20

**John Finnie:** I thank members who participated in the debate. I will reflect on some of their speeches, and I am sure that members will understand that I wish to remain positive and that I will not mention all the speeches.

I thank the minister and all members for their kind personal remarks, and I thank the minister in particular for her supportive comments and for talking about the Government’s long-term goals. I am aware of the implementation group and the work that is going on there, and her comments about universal provision and targeted support were important.

My colleague Mary Fee said that the legislation represents an important step forward for children’s rights, and highlighted the obligations on us all with regard to the Scottish Parliament’s role as a guarantor of children’s rights.

My dear friend and colleague Alison Johnstone—for whose support on this issue and many others I am grateful—also laid out some interesting information, not least regarding the contact that she had with a young person who expressed concerns that, I hope, we will address at decision time.

Alex Cole-Hamilton is one of the individuals whom I want to refer to, among many others. His long-standing commitment to this cause is to be recognised and applauded and I am grateful for the support that he has often provided me with during this process. His comments about wives and servants put the issue very much in context and showed the anachronistic nature of the situation that we find ourselves in.

Ruth Maguire said that children's rights are not being recognised. The bill gives us the chance to address that, and I thank her and her committee for all their hard work.

Daniel Johnson used the term "flawed and absurd", and I think that that is absolutely correct. He also spoke about protecting and nurturing children, which should be key to our deliberations.

We are always grateful for the insight that Fulton MacGregor has as a result of his background in social work. He spoke about the measured response on the part of agencies and, of course, that will not change. We heard from the police and social workers during stage 2, and we know that nothing in that process will change. The morning meeting that considers the accusations that have been made and the joint response that will take place will occur exactly as it did previously.

Iain Gray shared some longer-term reflections. It was interesting that he said that the previous deliberations had fallen short in their outcome, and I think that that is true. Time moves on. It is true to record that there will be no rejoicing that the job is done today. Much of what he said about poverty and the problems that our children face is true. Those issues are not addressed by the bill, but there are other opportunities to do so.

I would always call on the advice of the Commissioner for Children and Young People, and he has laid out a range of reasons why support should be given to the bill. He said that the bill plays an important role in ensuring

"comprehensive legal protection from violence for all children in Scotland. All children have an equal human right to respect for their dignity and physical integrity. Assaulting a child for the purpose of punishment should never be lawful. Legalised violence against children in one context risks a tolerance of violence against children generally."

As many members have done, the commissioner also said that there is no such thing as a reasonable level of violence. Those standards have been set by the United Nations and the Council of Europe and we should all aspire to meet them. The commissioner also talked about the overwhelming expert evidence, and we heard from many people during the debate about our obligations to protect children and to recognise their particular vulnerabilities. Children are rights holders. Something that I find quite

unpleasant in some of the discussion is the idea that children do not have rights. It is absolutely the case that they have rights, and this is the place where those rights should be realised and guaranteed.

This is a law-making building. I was reflecting on what we are here for. We are here to make things better for our nation. The legislation is not a critique on how our parents brought us up, or how we brought up our children. It is not a challenge to people's right to hold differing views. We are here to make laws and to scrutinise, which includes the scrutiny of our international obligations. We are here to make good laws that reflect other aspirations regarding the lives that children lead in Scotland, and that are based on sound evidence. The overwhelming evidence supports the bill. We are here to make things better. The bill meets all those criteria—it protects and nurtures—and I hope, for Scotland's children's sake, that members will support it.

## Business Motion

17:25

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-19271, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out revisions to next week's business. If the motion is agreed to, it will mean a late decision time next Wednesday.

*Motion moved,*

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

(a) Tuesday 8 October 2019—

after

*followed by* Topical Questions (if selected)

insert

*followed by* Ministerial Statement: Scottish Government overview of "No Deal" preparations

(b) Wednesday 9 October 2019—

delete

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions

*followed by* Stage 3 Proceedings: Transport (Scotland) Bill

insert

1.00 pm Parliamentary Bureau Motions

1.00 pm Portfolio Questions

*followed by* Stage 3 Amendments: Transport (Scotland) Bill

delete

5.00 pm Decision Time

insert

6.40 pm Decision Time

(c) Thursday 10 October 2019—

delete

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions

insert

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions

after

2.00 pm Portfolio Questions

insert

*followed by* Stage 3 Debate: Transport (Scotland) Bill—[*Graeme Dey*].

*Motion agreed to.*

## Decision Time

17:26

**The Presiding Officer (Ken Macintosh):** The question is, that motion S5M-18623, in the name of John Finnie, on the Children (Equal Protection from Assault) (Scotland) Bill at stage 3, be agreed to. As the motion is on passing a bill, there will be a division.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)

McArthur, Liam (Orkney Islands) (LD)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wightman, Andy (Lothian) (Green)  
 Wishart, Beatrice (Shetland Islands) (LD)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### **Against**

Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Corry, Maurice (West Scotland) (Con)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harris, Alison (Central Scotland) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Mason, Tom (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Tomkins, Adam (Glasgow) (Con)  
 Wells, Annie (Glasgow) (Con)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 84, Against 29, Abstentions 0.

The motion is agreed to and the Children (Equal Protection from Assault) (Scotland) Bill is passed. [Applause.]

*Meeting closed at 17:27.*



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