



# Meeting of the Parliament

Tuesday 29 October 2019

Session 5



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## Scottish Parliament

Tuesday 29 October 2019

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

### Time for Reflection

**The Presiding Officer (Ken Macintosh):** Good afternoon and welcome back. The first item of business is time for reflection, and our leader today is Father Vincent Lockhart, the national director of the Pontifical Mission Societies—a Catholic organisation that is known in Scotland as Missio.

**Father Vincent Lockhart (Pontifical Mission Societies (Missio Scotland)):** Presiding Officer and honourable members of the Scottish Parliament, good afternoon.

For many years, I lived in a remote village in the rainforest in Cameroon, West Africa. There was no electricity or running water. We were a close community, which lived a simple life, and most of us were content.

However, an enterprising bar owner in the village travelled to Nigeria and bought a small electric generator, a television and a DVD player. These he smuggled back across the border, along with a box set of DVDs of the American TV series “Dynasty”. For those of you who are too young to remember, “Dynasty” was a glitzy saga about very rich people living in Denver, Colorado. The bar owner announced that he would have a showing of “Dynasty” on the forthcoming Saturday night.

The entire village turned up. It was the social event of the year. The next day, I asked a young man, Julius Agendia, what he had learned from watching the TV. He paused and said, “I learned that I am poor and that where I live is very small and backward.”

In the blink of an eye, his world had become smaller. All the important things that enriched his life and held everything together had lost their once-powerful significance. What had satisfied him before was now replaced with hunger and longing.

There are two fundamental questions that every human being has to face in life. The first is: what does it mean to be human? The second is: what is reality? How we perceive others, and the image that we present of them and their lives, can have a profound impact on how they view reality. We have to be careful about the nature of our concern.

The organisation that I represent, Missio Scotland, is the Pope’s official charity and aims to create solidarity among Catholic communities

throughout the world. What counts is recognising that we are dependent upon one another at many levels, not simply in financial terms. Material wealth does not make us superior as human beings. For Pope Francis there is not a rich Church and a poor Church. There is only one Church.

In our dealings with those whom we designate as poor, our financial generosity must be matched by an actual acceptance of what they can teach and share with us. Otherwise, our generosity can create a deeper poverty, in them and in us.

The reality is that we are equal. That must be true for the Church and for humanity.

Thank you. [*Applause.*]

## Topical Question Time

14:03

### Human Trafficking and Exploitation

**1. Sarah Boyack (Lothian) (Lab):** To ask the Scottish Government what resources it is allocating to address human trafficking and exploitation. (S5T-01840)

**The Cabinet Secretary for Justice (Humza Yousaf):** The horrifying discovery in Essex last week underlines in the gravest terms the seriousness of the issue. I am sure that I speak on behalf of all members in passing on our condolences to the families and loved ones of those who so tragically lost their lives.

Migrant Help and the trafficking awareness raising alliance—which is known as TARA—are funded by the Scottish Government to support victims of human trafficking and exploitation. TARA supports women who have been trafficked for the purposes of commercial sexual exploitation, and Migrant Help supports all other adult victims of human trafficking and exploitation. The organisations will share more than £3 million across the financial years 2018-19, 2019-20 and 2020-21.

We are also providing funding of £120,000 this financial year to NHS Greater Glasgow and Clyde, to provide a national psychological trauma support service to adult trafficking victims.

We are providing £300,000 to the Aberlour Child Care Trust and the Scottish Refugee Council to deliver the Scottish guardianship service in this financial year.

A wide range of partners throughout Scotland also dedicate resources, under the framework of the collaborative approach that is set out in our human trafficking and exploitation strategy, which was published in May 2017.

**Sarah Boyack:** The support that is available is welcome, given the horrendous exploitation that people who have been trafficked have faced. Will the Scottish Government ensure that the figures on victims of trafficking are broken down by police division and area so that local authorities can deliver an adequately funded response and give people who have been trafficked the support that they need across the whole of the country?

**Humza Yousaf:** I will certainly consider that suggestion, which is very worth while. I have attended many a conference on the dangers of human trafficking, and the last couple that I have attended have been at the Scottish Police College at Tulliallan. As our partners, the police are heavily involved in the important work to tackle the issue. I

will certainly look at Sarah Boyack's suggestion about providing a further breakdown of the trafficking figures—perhaps we can do that through the national referral mechanism—and will get back to her on the detail of what is possible in that regard. The more detail we can give in the figures, the better that will be for local action.

**Sarah Boyack:** I very much welcome that commitment. I understand that for people who have been trafficked, the absolute priority is to get somewhere safe and to get some support. For people who have been through the experience of being trafficked, particularly if the traffickers have employed them in this country and they are vulnerable, not just because of the journey but because of their new experience, access to affordable housing in another part of the country might be the first part of the way forward. Therefore, could the cabinet secretary look at the issue of policing by locality and the follow-on issue of safe housing, which would release people from a horrendous and miserable experience?

**Humza Yousaf:** Again, I would not disagree with any of what Sarah Boyack has said. I have taken part in a number of conversations and round-table discussions on human trafficking. Migrant Help and TARA will work closely with local authorities on such issues. Although much of their support will be in and around dealing with the psychological trauma, which can be vast, they will also work closely with local authorities on housing. I will speak to the Minister for Local Government, Housing and Planning, Kevin Stewart, on the housing issue. If there is more that we can do on the housing side with our local authority partners, in getting the victims of trafficking into a safe place, we will do all that we can.

**Angus MacDonald (Falkirk East) (SNP):** From guidance for health workers and businesses to help them to identify signs of human trafficking and a proposed legal duty on public authorities to notify the police about suspected human trafficking, to increased support for organisations that support victims and the imposition of serious crime prevention orders on individuals who are involved in such organised crime, does the cabinet secretary agree that the Government's message is clear: Scotland rejects the horrific crime of human trafficking and we must do everything to support the victims of this appalling abuse of their human rights?

**Humza Yousaf:** Yes, of course I agree with that. I am pleased that there is a strong cross-party consensus on tackling the abhorrent crime of human trafficking. Those of us who have talked to members of the public about modern-day slavery, as I have done, will know that they think that we are talking about countries on another continent. We are not. We know that such slavery and

exploitation, which includes commercial sexual exploitation and labour exploitation, happens right under our nose on our very doorstep. Therefore, we will continue with our initiatives.

The important point to make, which is clear from Angus MacDonald's question, is that there is no single measure or magic bullet that will be a panacea in tackling the problem, but we are taking a range of measures to address it. We are certainly not resting on our laurels. Last week's horrific tragedy has shown that the threat is all too real and that we must redouble our efforts to make sure that not a single person is exploited in that way.

**Jenny Marra (North East Scotland) (Lab):** We heard it reported on the news on Saturday that one Vietnamese woman or child victim was making her way to Glasgow to be met by friends. The cabinet secretary will know that I have been asking about the entitlement to guardianship for unaccompanied children who arrive in Scotland that exists under section 11 of the Human Trafficking and Exploitation (Scotland) Act 2015, which the Parliament passed four years ago. Can he commit to inclusive implementation of that by 1 April 2020? What consideration is the Scottish Government giving to a Scottish national referral mechanism, which would take identification and decision making out of the hands of the Home Office and its hostile environment?

**Humza Yousaf:** There are two parts of that question; I will take the last one first and come back to the first part. We are working closely with the United Kingdom Government on this. I cannot confirm whether those reports are true but certainly, going by the example that Jenny Marra gave, it is important that we continue co-operation with the UK Government and of course other Governments and police forces across the UK and internationally.

We are working with the UK Government to ensure that reforms to the national referral mechanism lead to an NRM that works for Scotland and reflects our distinct systems and, indeed, our distinct legislation.

If, from the resulting conversation, it appears that there should be a separate NRM and that that would make sense for the victims of this tragic and abhorrent crime, we will of course be open minded to that. In some respects, because of the nature of human trafficking, and with the example of the terrible tragedy that has unfolded in Essex, it may make sense to continue as part of the UK NRM. However, I do not dismiss what Jenny Marra says.

On the first part of the question, I pay credit to Jenny Marra for her work on human trafficking, in particular her support for the victims of child trafficking. She and I had a meeting on that issue,

along with the Minister for Children and Young People, Maree Todd. Our timelines are absolutely the same as they were then—they have not shifted. In terms of the Scottish guardianship service, which I mentioned in my answer to Sarah Boyack, there is no gap in provision for young people who may be victims of child trafficking. If there is an update, I will provide that after the consultation has closed.

### **Degenerative Brain Disease (Former Professional Footballers)**

**2. Kenneth Gibson (Cunninghame North) (SNP):** To ask the Scottish Government what its response is to the University of Glasgow research finding that former professional football players are three and a half times more likely to die of degenerative brain disease than the general population. (S5T-01851)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** This important Scotland-based study strengthens our understanding of lifelong health outcomes in former professional footballers, in particular in the areas of dementia and neurodegenerative disease. It is crucial that all adults and children can participate in football safely and a range of actions have already been taken in Scotland, which was the first country to produce national guidance on dealing with concussion in sport. We remain in close contact with experts at the sportscotland institute of sport and the chief medical officer at the Scottish Football Association and we will work with partners, including the Professional Footballers Association Scotland, to carefully consider the study and any action that is required.

**Kenneth Gibson:** This was a robust study of 7,676 male ex-professional footballers in Scotland born before 1977. Although not assessed specifically, heading footballs is assumed to have had an impact, with 1.7 per cent of ex-footballers having died of neurodegenerative disease compared with 0.5 per cent of the general population.

Does the cabinet secretary share my view that, in banning the heading of balls by under-12s, which is likely to happen from next year, the Scottish Football Association has taken a welcome step forward, joining the United States Soccer Federation, which is currently the only organisation in the world to take that positive decision?

**Jeane Freeman:** The survey, which included goalkeepers as well as outfield players, does not confirm whether heading footballs is to blame for the increased incidence of neurodegenerative disease among former professional footballers compared with the general population. The study talks about factors in that increased incidence;

head trauma, for example, may also be a factor. Nor are its findings highlighting any unique issues with football in Scotland. It is only the start of understanding the relationship between football and neurodegenerative disease, and further research is required before we have definitive answers. However, the SFA is considering whether to reduce heading training for younger players and, although no decision has yet been taken, I agree with the member that the SFA has responded positively to this important piece of work.

**Kenneth Gibson:** The study also found that former footballers are less likely to die of other common problems, such as heart disease and some cancers, and that they live on average three and a quarter years longer than those in the general population. Does the cabinet secretary therefore agree with Dr Carol Routledge, the director of research at Alzheimer's Research UK, when she says that the benefits of playing football outweigh the disadvantages and that

“good heart health is the best way to keep the brain healthy, so when played safely,”

football

“is still a great way to stay mentally and physically active”?

**Jeane Freeman:** That question highlights one of the important approaches that we need to take to what is an important study, and that is to recognise that we are talking about how football can be played safely. Mr Gibson is right to point out that the study confirmed the benefits of physical activity for other aspects of life, particularly the reduction in heart disease and some cancers. Football remains an excellent way for people to stay mentally and physically active. Many members across the chamber will have seen its value for some of our older citizens, including those suffering from dementia, through some of the work of community football trusts. There are benefits to people of all ages—boys and men, and women and girls—from participating in the game. Our role is to consider, with the stakeholders that I mentioned, how we can achieve more safety in the way in which the game is played and, in particular, how young people are engaged and trained to be football players.

**Kenneth Gibson:** Malcolm Steele is a 56-year-old Aberdonian who, four years ago, received the shock diagnosis of Alzheimer's disease. He is an Aberdeen fan who played street football from the age of five or six and who wanted to play every day. He began playing in his primary school team and continued subsequently at amateur level. His advice to others with dementia is

“just to keep going, and never give up”.

How can we protect not just professional players but the many amateur players from possible neurodegenerative disorders?

**Jeane Freeman:** That is an important point. The study looked at professional players, but many people play football outwith that purely professional role. My response is similar to the one that I gave to Mr Gibson's first question: we need to look carefully with those key stakeholders that I mentioned at all the outcomes of the study and what more might need to be done across football playing as a whole and not just in the professional arena. We must consider any additional steps that need to be taken so that people can continue to play football and gain the enjoyment and other benefits from that physical activity but in a way that gives increased protection and safety, if that is what is required.

**Brian Whittle (South Scotland) (Con):** As well as the welcome research by the University of Glasgow, there has been significant research in the United States by the United States Soccer Federation, which Kenny Gibson alluded to, showing that soccer is the third-biggest contributor to accelerating neurological conditions, behind American football and ice hockey. Does the cabinet secretary agree that, in deciding how to approach the issue, it is important that we take into account the evidence in its entirety? In the USA, consideration is being given to banning heading footballs among those under 14.

**Jeane Freeman:** Yes, I agree. I am grateful to Mr Gibson and Mr Whittle for their reasoned approach to this important issue. We have the University of Glasgow research as well as the international evidence, particularly from the United States. We want to find a way in which people can continue to engage in this physical activity, which has significant benefits, but in a way that increases their safety, so that the activity is preventative while also producing benefits. We need to take time to work with sportscotland's institute of sport, the chief medical officer of the SFA, our partners in PFA Scotland and others to consider what additional steps they might sensibly take and where we in the Government can assist them in doing that.

**Mary Fee (West Scotland) (Lab):** What guidance and support could be given to physical education teachers in schools to raise awareness of the potential risk and to reinforce the important role that schools play in keeping young people fit?

**Jeane Freeman:** Schools play a critical role in keeping young people fit. The introduction to physical activity that they gain at school stays with them, in one way or another, throughout the rest of their lives. I have to confess that my own introduction was remarkably poor and I have been working against that ever since. However, it



makes a big difference for many people. As members will know, all sorts of physical activity now take place in schools. The guidance that we might give to schools at this point in relation to this study will be informed by the further work that we need to undertake with sportscotland and the other organisations that I have mentioned. However, Mary Fee is right to say that it is a critical area of work and to pick up on the point that was made earlier that, in this context, we are not talking solely about professional football players.

### Prison Conditions

**3. Liam McArthur (Orkney Islands) (LD):** To ask the Scottish Government what changes it will make in light of the recent report by the Council of Europe's committee for the prevention of torture and its finding of an "emergency" in Scotland's prisons. (S5T-01848)

**The Cabinet Secretary for Justice (Humza Yousaf):** The Scottish Government published its response to the committee's recommendations earlier this month. Since the committee's visit in October 2018, many of the issues that it raised either have been or are in the progress of being actioned, including the treatment of women with mental health issues.

I have been clear that recent increases in the prison population are having an impact on our prisons and, in particular, on the conditions at HMP Barlinnie. The Scottish Government has provided additional funding for the Scottish Prison Service in the current financial year and has been working with a range of agencies. The Scottish Government and the SPS are currently looking at interim measures to address conditions at HMP Barlinnie ahead of its replacement.

**Liam McArthur:** The cabinet secretary mentioned mental health. The CPT concluded that the solitary confinement sections of Cornton Vale, including in Ross house, are

"totally inappropriate environments for holding seriously mentally ill women".

The stories are nothing short of horrific. The report said that

"One woman had bitten through the skin and muscle of her arm down to the bone",

while another

"sat in isolation surrounded by blood and faeces on the wall"

and a third

"set fire to her own hair in-cell".

In the words of the CPT, these women and others

"should not have been in a prison environment, let alone segregated for extended periods in solitary confinement".

My former colleague Alison McInnes warned the Scottish Government about the situation more than five years ago. Why is it still happening?

**Humza Yousaf:** I thank Liam McArthur for raising those important issues. I read the CPT's report in full. Christina McKelvie and I also met the members of its delegation when they came here, and we were as shocked as Liam McArthur would be at some of the very graphic case examples that we were given. To give him some level of reassurance, I say that the Scottish Government is adopting progressive justice reforms that it hopes will reduce the number of women in our prisons full stop. I know that he is a supporter of such reforms, including the presumption against short sentences. Some 90 per cent of women in our custody are there for 12 months or less, so, first and foremost, we hope to reduce the number of women coming into our prisons.

We take mental health extraordinarily seriously, through our mental health strategy and the announcement of further funding. I confirm that there has been a further increase in the number of mental health workers in our prisons, which I hope will give Liam McArthur further reassurance. He will also be aware that the Cabinet Secretary for Health and Sport, who is sitting on my left, is reviewing the delivery of forensic mental health services in Scotland, which will very much include the provision in prisons. That review is expected to report by the end of June 2020. Of course, I will work closely with the cabinet secretary to consider any recommendations that the review might make for people in prisons.

Members should be in no doubt at all that the Scottish Government—and I, as Cabinet Secretary for Justice—take the CPT's report very seriously. I hope that the actions that I have outlined will make a drastic difference to the women who are in our care.

**Liam McArthur:** I thank the cabinet secretary for his response. The CPT found people being segregated for months "and occasionally years", with people becoming institutionalised to solitary confinement. Effectively, reintegration does not happen. Governors sign off orders, made under rule 95 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011, to remove prisoners from the general prison population for 72 hours. Such extensions are signed off by the SPS in the justice secretary's name. The CPT also found that some prisoners were being given minutes to appeal, and were informed only by slips of paper being put under their cell doors. Is the cabinet secretary comfortable with how separation and reintegration units are being used, and will he confirm his precise role in the process?

**Humza Yousaf:** I will write to Liam McArthur with further detail, but one of the actions that we

decided to take on the back of the CPT report was to look at the very element that he has talked about.

It is important to put the CPT report into a bit of context. It was a very critical report. There is no getting away from that and I am certainly not taking away from it, but it is worth saying that the majority of prisoners stated that they were treated correctly, and the delegation received no allegations of deliberate ill-treatment of prisoners by staff. The CPT was very encouraged by the progressive policy changes that were under way, particularly around female offenders, which Liam McArthur touched on.

On his specific points, I am sure that we can give him a copy of our response to the CPT report. If I cannot give him it in full, I will certainly give him a summarised version, and I am happy to have further dialogue with him on the specific issues that he raised.

**The Presiding Officer:** I apologise to Liam Kerr and James Kelly, who have waited patiently through all the questions, as I am afraid that there is not enough time available for me to call them.

## Fireworks

**The Presiding Officer (Ken Macintosh):** The next item of business is a statement by Ash Denham on promoting safe and appropriate use of fireworks in Scotland. The minister will take questions at the end of her statement. I encourage all members who wish to ask a question to press their request-to-speak buttons.

14:26

**The Minister for Community Safety (Ash Denham):** I welcome this opportunity to update Parliament on the actions that the Government will take to promote safe and appropriate use of fireworks. I begin by acknowledging the positive role that fireworks can play in bringing our communities together. Attending a display in a safe environment can be a wonderful experience, and can add magic to any celebration. I enjoy fireworks displays—as, I am sure, do many of my colleagues across the chamber.

My message today is about keeping people safe and ensuring that fireworks are used responsibly, at the right time and in the right place. In order to achieve that, the Scottish Government is keen to work with the fireworks industry, partners and communities to support promotion of, and access to, well-run organised displays.

For the second year, a list of organised public events across Scotland has been published by the Scottish Fire and Rescue Service on its website. I encourage anybody who is looking to enjoy fireworks over the coming weekend and on 5 November to do so at one of those events.

However, it has, in recent years, become increasingly clear that our relationship with fireworks is not all positive. There have been reports of antisocial behaviour on and around bonfire night and of attacks against our emergency services, and there have been disturbing and distressing accounts from individuals about inappropriate use of fireworks. That has been happening in our constituencies across the country, and has meant that public services across Scotland have had to dedicate large amounts of time and resources to keeping people safe.

We are now exactly one week away from bonfire night: I could not overstate the huge amount of pre-planning and preventative activity that has been undertaken at national and local levels. Earlier this month, I met senior commanders from Police Scotland and the Scottish Fire and Rescue Service, who provided reassurance that all that could be done is being done in preparation for bonfire night, and that robust multi-agency systems are in place across the country. They include multi-agency command

centres in Edinburgh and Glasgow, and a national co-ordination unit that will review and command activity across the rest of the country.

Following experiences last year, resources will be targeted at communities in Glasgow, Edinburgh and West Lothian. A significant amount of work has been undertaken with those communities and local partners in recent months. The line is clear from our police, our prosecutors and our courts: they will deal robustly with anyone who offends. People who are charged with attacks against our emergency services workers can expect to face up to life imprisonment, or an unlimited fine, or both.

I am sure that all members will join me in giving our support to the emergency services, and in applauding the significant amount of work that they put in at this time of the year, each and every year.

Of course, prevention is better than cure, so the importance of community engagement in the run-up to bonfire night to share messages and to clarify the rules and regulations continues. Our emergency services, along with a number of partners, have been delivering campaigns on those matters, and the Scottish Government has this year worked with Crimestoppers to run a targeted campaign in key communities. I attended one such area—Pollokshields, in Glasgow—just two weeks ago, where I saw local police and Glasgow City Council engaging positively with young people to highlight the impact and consequences of fireworks misuse on their communities.

As members across the chamber will be aware, earlier this year I launched a national public consultation to gather the experiences, ideas and views of the people of Scotland. The consultation ran for 14 weeks, and 16,420 responses were received—more than 7,000 within the first 24 hours of its going live. I am sure that Parliament will agree that there is a significant level of public engagement on the issue. The responses clearly demonstrate that the sale and use of fireworks are of interest to people across the country. The public consultation was supported by 29 public events; I take this opportunity to extend my thanks to everyone who was involved in those discussions for sharing their views and experiences.

What did we learn from the consultation? We learned that, overwhelmingly, people want change. Almost all those who responded to the consultation—94 per cent—said that they would welcome increased controls on sale of fireworks, and many called for an outright ban on their sale to the general public. Most of those who responded—92 per cent—felt that there should be more control over use of fireworks.

We recognise that consultation responders are self-selecting, so in order to ensure that the 16,420 views could confidently be presented as the voice of Scotland, a separate but complementary statistically representative opinion poll was undertaken. It told us much the same thing: 71 per cent of people want more control over the sale of fireworks, 68 per cent support more controls over how they are used, and 58 per cent would support an all-out ban on their sale to the general public. Taken together, the results are conclusive: people in Scotland want change.

We heard about the distress that can be caused to animals, which often leads to their being injured. The Scottish Society for the Prevention of Cruelty to Animals told us that animals panic—they flee at the sound of fireworks' loud bangs, which can result in injury to those animals and, sometimes, in road traffic accidents.

We also heard how the noise of fireworks often results in anxiety and stress to people with noise sensitivity, including people with autism. It was described as an “onslaught of noise” that

“can cause difficulty for some people, especially autistic people”.

We heard that bonfire night can also be a difficult time for our armed forces veterans, with the lights, loud bangs and strong smells causing considerable anguish to many of them.

We also heard strongly about the need to remain cautious of the real danger that fireworks can pose if they are not used safely and appropriately. It is a fact that most fireworks-related injuries occur at private displays, such as those in our back gardens. Also, it is our young people who are most at risk of injury.

The sale of fireworks is, of course, a reserved matter. I should, therefore, say that if we had the relevant powers, I would seek, in reflecting the majority view of the public in the consultation and the national survey, to implement tougher curbs on firework sales, including a potential ban on their general sale.

In the meantime, I have been writing to the United Kingdom Government regularly over the past year to keep it updated on the consultation. I wrote at the start of October, and recently received a positive response from Kelly Tolhurst MP, who is the Minister for Small Business, Consumers and Corporate Responsibility. I will pursue the matter, and look forward to further discussions with Ms Tolhurst. I want Scotland to lead the way, so I would welcome the opportunity to start a discussion with the UK Government about how Scotland can be given the power to introduce comprehensive changes on the sale of fireworks in our country.

On 7 October, I hosted a round-table event with representatives of the fireworks industry, the emergency services, local authorities, the national health service and other key stakeholders, at which I heard strong willingness to work together to implement any changes.

With that approach in mind, I have published today "Fireworks Action Plan: Promoting the safe and appropriate use of fireworks in Scotland". The action plan sets out a number of short-term, medium-term and longer-term activities that will implement change in our relationship with fireworks. Those actions include the following: communication campaigns to be run across Scotland, such as I mentioned earlier; development of advice and guidance for points of sale; support for communities that are considering organising displays; and support for and direct engagement with communities that are most affected by antisocial behaviour involving fireworks.

However, let me be clear: although they are vital, information and advice alone will not be enough to deliver a transformation in the use of fireworks in Scotland: I intend to introduce legislative change. I therefore confirm that I will establish a fireworks review group, and I am delighted to announce that it will be chaired by Alasdair Hay, who is the former chief officer of the Scottish Fire and Rescue Service.

The group will be invited to consider a range of options, including the opportunity to introduce restrictions on use of fireworks on private property, the opportunity to tighten up the dates and times when fireworks can be set off, and the opportunity to introduce "No fireworks" areas or zones. It will also be able to explore any other ideas that arise from its consideration. I will agree the final remit and membership of the group with Mr Hay, but I anticipate that it will include key stakeholders, including the fireworks industry. The group will operate for up to nine months, and will present its final recommendations to me in summer 2020. I will be delighted to report back to Parliament at that stage on the group's recommendations.

In closing, I pass on my personal gratitude to each and every member of our emergency services, to our public and third sector services, and to the people in our communities who volunteer their spare time.

I wish everyone a safe and enjoyable bonfire night, but I also make it clear that the Government intends to change our relationship with fireworks. I believe that the action plan that I have published today will help us in working towards achieving that aim.

**Maurice Corry (West Scotland) (Con):** I thank the minister for advance sight of her statement.

The Scottish Conservatives agree that a balance must be struck between the safe enjoyment of fireworks and robust regulations to prevent antisocial and illegal behaviour. We will work with both of Scotland's Governments to seek consensus on the further steps that should be taken. I also join the minister in paying tribute to our brave emergency services, and give credit to my colleague Liam Kerr, who has campaigned tirelessly for better support and protection for our emergency services workers.

Will the minister give us an update on the calls that he made last year for further roll-out of body-worn cameras, and for closure of the gap in the law that prevents police from searching for and seizing fireworks?

Because of my longstanding interest in the wellbeing of our veterans in Scotland, I also ask the minister to provide further details of how the Scottish Government plans to support our former armed forces personnel in relation to antisocial use of fireworks.

Finally, can the minister provide further detail on the content of the Scottish Government's advice and guidance around point-of-sale material?

**Ash Denham:** I am glad that the Scottish Conservatives agree with our proposals, and am grateful to have their support with regard to consideration of how we can move forward.

There is quite a complicated relationship between what is reserved and what is devolved, but we can all agree that the public support tighter restrictions on the sale of fireworks. If the Scottish Conservatives are willing to work with me on that, we will need to speak to the UK Government, but I am committed to driving forward the change that we need in order to change Scotland's relationship with fireworks. I want to keep people safe.

I mentioned the impact on veterans in my statement, so I am glad that the member also mentioned it in his question. I am keen for Scotland to lead the way on this important issue, which affects many of our communities.

Maurice Corry mentioned attacks on our emergency services. Any attacks on our emergency services with fireworks or with any other weapon are completely unacceptable. I am committed to driving forward any necessary action to ensure that our emergency services are kept safe. Parliament brought in the Emergency Workers (Scotland) Act 2005, and we extended its provisions in 2008. That includes important protections in criminal law for emergency service workers. I remind Parliament that those protections were opposed at the time by the Scottish Conservatives.

I am grateful for the Conservatives' support on the issue. I am glad that they are getting behind us and thank them for that.

**James Kelly (Glasgow) (Lab):** I thank the minister for advance sight of her statement. We welcome it and the setting up of the fireworks review group. The minister is right that fireworks displays, when they are properly organised, can be excellent community events that people can turn up to and enjoy. However, over recent years, there have been increasing incidents of disorder, which have caused anxiety and fear among the general public.

On emergency services workers, it is of particular concern that we have seen a rise in attacks on firefighters in four regions in Scotland. In Glasgow in particular, there have been 23 attacks in the past year. It is completely unacceptable that people who are turning out to protect the public are subjected to attacks. In the run-up to November 5, what specific actions will be taken to protect firefighters and other emergency workers?

**Ash Denham:** James Kelly has raised a number of important points. I am grateful to him for welcoming the review group. He is right to point out the increase in incidents of attacks on our emergency services workers, and I note his specific mention of firefighters. In part, such attacks are what has driven my interest in looking at this issue and in holding the consultation to gain the views of the people of Scotland and to let their voices be heard.

The action plan lays out a number of actions, including short-term and medium-term actions. The review group falls into the category of longer-term actions, which would include the creation of a legislative framework that would change our relationship with fireworks.

In the short term, we are coming up to the bonfire season, and I have heard that, in some constituencies, antisocial behaviour has already begun. We have undertaken targeted interventions in certain areas. As members have mentioned, such activity is much more prevalent in some areas. We have taken note of that.

I met senior members of Police Scotland and the Scottish Fire and Rescue Service to discuss planning in advance of bonfire night. It is, clearly, one of the busiest nights for the emergency services, and they have assured me that they have put in place planning and targeted interventions, including preventative activity. We are also running awareness campaigns.

The targeting of emergency services workers is not acceptable, so we want to ensure that anybody who is involved in such activity over the coming period is dealt with robustly.

**Tom Arthur (Renfrewshire South) (SNP):** I thank the minister for her statement, and I welcome the publication of the action plan. I also thank all the emergency services workers who will be working to keep my constituents in Renfrewshire South safe over the coming week.

In her statement, the minister said that "prevention is better than a cure".

To that end, she will be aware that, recently, a number of supermarkets have either banned the sale of fireworks in their stores or restricted their sales to low-noise fireworks. Does the minister welcome that, and does she agree that it is a step in the right direction with regard to keeping our communities safe from fireworks misuse?

**Ash Denham:** I welcome the move by Sainsbury's to stop selling fireworks in all of its 2,300 UK stores this season. I know that the reason for the move was confirmed as being commercially sensitive by Sainsbury's, but I want to pass on my support to the company, especially if any part of its decision was based on themes that came out of the consultation—the safety of communities, the impact on animals, and so on.

I am also keen to meet Sainsbury's and other supermarkets and retailers to discuss the issue and how we will move forward, and to share some of the messages that came out of the consultation.

**Liam McArthur (Orkney Islands) (LD):** I thank the minister for early sight of her statement. I welcome the establishment of the review group, and commend the appointment of Alasdair Hay as its chair.

The minister talked about the prospect of introducing legislation. Can she inform Parliament whether she expects that to happen in the course of this session? In considering new controls, does the minister envisage those being given to councils, so that the decisions can be made closest to the communities that are directly affected?

**Ash Denham:** I am glad that Liam McArthur has welcomed the setting up of the review group. I think that we can all agree that some of the work that is done by local authorities in the run-up to bonfire night is extremely important. I have seen some of the important prevention and diversionary work that they undertake; they put a lot of effort into it.

On the timing, which the member mentioned, every member would agree that we would not want to rush the creation of an appropriate legislative framework. We want to take our time to make sure that we get it right. I am pursuing a dual-strand approach. The review group will consider the options that are available to the Scottish Government and come back with

recommendations around next summer. The other option that I am pursuing involves discussing with the UK Government whether it will work with me to devolve powers to Scotland, so that I can pursue tighter regulations on the sale of fireworks. Given issues around the timing of both options, it is unlikely that I would be able to progress legislation in the next year of this parliamentary session. I will, of course, keep the member updated on the timetable.

**Shona Robison (Dundee City East) (SNP):** During the first session of the Parliament, I tried to bring forward a member's bill using the slogan, "Bombs by another name". The bill would have done some of the work that the minister has announced today, which is very welcome. Is the minister thinking of introducing some sort of licensing system? What would local government's role be within that?

**Ash Denham:** Shona Robison puts it very well when she calls fireworks "Bombs by another name", because, in many cases, that is exactly what they are. If she is referring to a licensing system as a way to control the sale of fireworks, I would certainly consider it and would be interested in talking to the relevant UK Government minister about it—I have already started to do so. If that responsibility could be devolved to Scotland, we would certainly consider doing that, and it would go a long way towards developing a legislative approach to creating an environment that would change the relationship with fireworks and lead to a more responsible use of fireworks.

**Alexander Stewart (Mid Scotland and Fife) (Con):** I note from the statement that a firework review group is to be established, which will be chaired by Alasdair Hay, who is the former chief fire officer of the Scottish Fire and Rescue Service. I welcome that appointment. Will the minister clarify when the group will meet, what its remit will be and who will make up its membership?

**Ash Denham:** The review group will begin meeting as soon as possible. I envisage that it will meet for the first time in the next month or so, and that it will exist for approximately nine months. We have not finalised the exact number of people who will be on the group, but I imagine that it will involve all the stakeholders who have already shown an interest and have expertise in the area, which includes animal charities, the NHS and emergency services and representatives of the fireworks industry. All interested stakeholders can take part. I am pleased that the former chief officer of the Scottish Fire and Rescue Service, Alasdair Hay, has agreed to chair it. I expect it to report back to me with its recommendations next summer, and will be happy to come back to Parliament after that to discuss the issue further.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I welcome the minister's statement and the overwhelming response to the Scottish Government's consultation. The minister has mentioned her positive engagement with the UK Government on the issue. Does she share my view that the relevant powers should be devolved to the Scottish Parliament as soon as possible, following the consultation responses calling overwhelmingly for stronger regulations on fireworks?

**Ash Denham:** I do. I have written regularly to the UK Government to make sure that I kept it informed about what we have been doing in Scotland. I have ensured that the Minister for Small Business, Consumers and Corporate Responsibility, Kelly Tolhurst MP, has been kept up to speed on the consultation and its outcome. I last received a reply from her on 15 October, and I am keen to meet her to discuss how we will move forward, perhaps early in the new year.

That said, the UK Government has made it clear that there is limited appetite—it is fair to characterise it as that—for changing the legislation on the sale of fireworks. That suggestion was dismissed a couple weeks ago by Jacob Rees Mogg in the House of Commons in response to a question from Alison Thewlis MP. We probably do not want to replicate that approach in Scotland. I am keen that Scotland addresses the issue head on, and that—as usual—we lead the way.

**Rhoda Grant (Highlands and Islands) (Lab):** Restrictions on firework sales, however welcome, put pressure on staff working in retail outlets that sell fireworks. What support is the Scottish Government giving to workers who face abuse when challenging under-age purchasers and when promoting best practice?

**Ash Denham:** That is a very good point. Obviously, we rely on retailers to uphold the law and not to sell fireworks to under-age people. It is deplorable that people are being attacked while carrying out their normal duties: we do not accept that behaviour. There is already legislation that covers such behaviour. Perpetrators will be dealt with robustly by the courts. If Rhoda Grant has any ideas or suggestions for how we might do more to support retail staff, I would be glad to meet her to discuss that further.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** The minister highlighted in her statement that it is widely known that fireworks can cause distress to people with autism. Does the minister agree that the research has shown that the distress that is caused is simply unacceptable and must be addressed as soon as possible?

**Ash Denham:** Rona Mackay has made a very important point. It certainly came through very

strongly in the themes of the consultation that, for people with autism and people with mental health issues, as well as for veterans and animals, fireworks' loud noises and the conditions that they can create can be very frightening. One of the things that we are doing is running an awareness-raising campaign to highlight that even when people use fireworks in an appropriate way, that can have a large impact on the communities around them. We want people to consider that when they use fireworks.

I am committed to ensuring that the views of people with autism continue to be reflected, including in the review group, so we will ensure that they have representation as we progress through consideration of options. We also hope that their views will be reflected in recommendations, as we move forward.

**The Presiding Officer:** I apologise to Bill Bowman and Stuart McMillan, as we do not have enough time this afternoon to get through all the questions. If I were to take their questions, we would run into the time for the next debate.

## Social Security (Disability Assistance)

**The Presiding Officer (Ken Macintosh):** The next item of business is a debate on motion S5M-19577, in the name of Shirley-Anne Somerville, on improving disability assistance in Scotland. I call the Cabinet Secretary for Social Security and Older People, Shirley-Anne Somerville, to open the debate.

14:52

**The Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville):** There has been clear and positive progress in the delivery of Scotland's newest public service. From having no Scottish social security system, we now have in excess of 400 staff working for Social Security Scotland; we have the Scottish Commission on Social Security to review our regulations and publish the benefits take-up strategy; and we have co-produced the groundbreaking social security charter.

The Scottish Government has successfully introduced seven new benefits: the carers allowance supplement; the three elements of the best start grant; best start foods; the funeral support payment; and, most recently, the young carer grant. We are on track to complete the first phase of benefits, with the job start payment due to begin in the spring, if we get the United Kingdom Government's co-operation. This financial year, we expect to put £350 million into the hands of those in Scotland who need it most. I am proud of that achievement and very proud that we have changed the narrative surrounding the provision of social security in this country.

When people use words such as "humiliating", "degrading" and "inhumane" to explain the current UK Government system, that tells me that there is something fundamentally wrong. Time and again, I have heard from individuals who live in fear of the dreaded Department for Work and Pensions brown envelope dropping through the letterbox. That is why we have taken a different approach and embedded the values of dignity, fairness and respect into the design of our social security system. That is not just rhetoric; it is already bringing about real change and a move away from the stigma of benefits to recognising that they are an investment in our people. That is our vision for social security, and it is embedded in the principles of the Social Security (Scotland) Act 2018 and in our response to the consultation on disability assistance, which we published yesterday.

The significant response that we received to the consultation from individuals and a wide range of

organisations reflects the level of interest in our ambition to build a new and different social security system. Our response sets out how we will use the responses to further develop our proposals for disability assistance and ensure that we design a system with disabled people that meets their needs.

My priority is to ensure that we deliver changes in a way that is safe and sustainable and, most important, one that protects the interests of disabled people without risking existing entitlements to passported benefits—for example, severe disability premiums in the employment and support allowance. I do not underestimate the scale of the challenge and the complexity of the task before us. We need to disentangle a complex social security system and simultaneously build a new system from scratch.

The current social security system touches the lives of one in 10 people living in Scotland—around half a million people—in respect of disability benefits, so it is critical that we get our processes right. Much will depend on the co-operation of the Department for Work and Pensions. I want a seamless transition for people who receive benefits, and the UK Government must do its bit to ensure that that happens. There is no getting away from the fact that this is a joint programme of work between two Governments. I have said before and reiterate today that, for the first time, the two Governments must have two systems that work seamlessly together, and our shared priority must be to ensure that people get the right money at the right time.

Our approach to designing disability assistance is simple. We will co-design it with people and organisations with lived experience of the current system. I make it clear that the proposals that are set out in our response to the consultation are the start of our ambitions, not the end of them. They, along with the commitments that we have already made, will revolutionise how people are treated when it comes to disability payments.

The next phase of delivery for social security payments is the delivery of the most complex payments in our programme to date. It is clear that that is a challenge, but it is also an opportunity to build trust in a decision-making process that takes account of the details of a person's condition or disability and how it impacts on their life, and to ensure that those who apply for disability payments are treated with dignity and respect at every step of the process and feel supported, not stigmatised.

Our next steps will be guidance for Social Security Scotland's staff and the formulation of regulations, starting with regulations on disability assistance for children and young people, which will be published before Christmas.

I turn to some of the details in our response to the consultation.

A person-centred approach is one of the cornerstones of our new social security system and was thoroughly endorsed by respondents. A crucial part of the commitment to that approach is ensuring that we are transparent about our decision-making criteria. We must provide clear and accessible guidance to clients so that they understand what information the agency needs to make a decision about their entitlement. That might sound obvious, but our stakeholder research has shown that the current system is largely impenetrable. Therefore, we are making a groundbreaking commitment.

In another significant departure from the current system, in many cases, case managers—those who make the decisions on entitlement—will seek only one source of formal information that broadly supports the daily living and mobility needs that the individual has described. That information could come from a range of professionals who are involved in the life of the individual, such as a physiotherapist, a teacher or a support worker—whoever can provide insights into the impact that the individual's disability has on their life. Many respondents told us about the insight that an individual's informal support network can provide. If that insight is provided, it will be considered on its own merits. Consultation respondents showed significant support for that approach, which no longer involves a hierarchy of supporting information.

We are all well aware of just how awful many disabled people's experiences of claiming the current personal independence payment have been. Our dramatically different approach means that we will carry out face-to-face assessments for Scotland's replacement benefit only where there is no other way of getting information, which means that we will significantly reduce the number of such assessments that are needed.

Our commitments include the following: face-to-face assessments will be delivered by Social Security Scotland, fully supported by public sector healthcare professionals; assessors will be suitably qualified; clients will have more choice and control over the time and location of their assessment; and, to improve transparency, there will be audio recording of assessments as standard.

**Mark Griffin (Central Scotland) (Lab):** The cabinet secretary will remember that I raised a point about the audio recording of assessments and British Sign Language users, which she said that she would come back to me on. Has any progress been made in relation to visual as well as audio recordings to support BSL users?



**Shirley-Anne Somerville:** I am very keen that we work on that in general as part of our inclusive communication commitment around social security. As we move forward with the design of the assessment process and what it will entail, I will ensure that Mark Griffin is kept fully up to speed as that detailed work goes on, in order to ensure that he is satisfied that we have taken the issue seriously. I certainly take it seriously, and I give him that commitment today.

Another area where we will go further involves the informal observations that are made about individuals by assessors in the DWP system. That element of the assessment process is particularly at odds with our ethos of dignity, fairness and respect. Given the responses to the consultation and the advice from the disability and carers benefits expert advisory group, all clients will be told during the assessment process if an observation about them has been made. The client or the person with them will therefore be given an opportunity to respond to an assessor's observations. Gone will be the days of disabled people fearing that assessors are trying to catch them out or that they are being watched for any signs that they are not as disabled as they say that they are.

**Jeremy Balfour (Lothian) (Con):** If an individual asks for a home visit rather than having to go to an assessment centre, will that be given automatically?

**Shirley-Anne Somerville:** We have made the commitment that we will look very carefully at home assessments, should a person require one, to ensure that we can provide it. However, if it is not a home assessment but an assessment closer to home that is required, that can also be looked at. I consider it to be a staged process: do people want something in their home or something closer to home than is available under the current system? Depending on what the person wants, there is a myriad of different ways that we might be able to satisfy them. However, a requirement for a home assessment will certainly be considered favourably.

Moving on to the PIP descriptors, the majority of respondents agreed with our proposal to use a points-based system to determine eligibility. Although some people suggested moving away from such a system entirely, that simply cannot be done if we are to replace the benefits on time, early in 2021. Some people also raised concerns about certain descriptors. However, I am acutely aware of the risks of making changes to the current descriptors, which could create a two-tier system during transition and jeopardise entitlement to passported benefits. Put simply, if we decided to change eligibility thresholds, the DWP would be within its rights to refuse

passport benefits to any or all new claims that are assessed under those rules. That is why it is important to work with stakeholders to determine what they want to see, and to be frank with them if that threatens other payments that people depend on.

That does not mean that things will stay as they are—they certainly will not. In balancing those complex and sensitive issues, work is under way to explore what can be changed, with a particular focus on the guidance for case managers to fully capture the impact of living with mental health conditions, other fluctuating conditions and learning disabilities. That is why Social Security Scotland case managers have the training and guidance that they need to properly consider the needs of all individuals, no matter what type of condition or disability they have. The agency will work with stakeholders to develop that training to ensure that it reflects individuals' lived experience, and to develop case studies that demonstrate how the descriptors should be applied to each and every condition or disability.

A proportion of specialist advisers, who are health and social care professionals, will have expertise in mental illness and learning disabilities and will be able to provide advice and support to case managers.

From the start, we have taken the approach of listening to those with lived experience. Whether in relation to changing our views on redeterminations through the consultation process or in relation to looking seriously at other changes that we can make, we will continue to listen.

Our system will not only look and feel different; it is and will be different. We will continue to listen, learn and make changes, to ensure that our social security system reflects our ambitions for a human rights-based approach to help people secure the financial support to which they are entitled.

I move,

That the Parliament is committed to improving the provision of disability benefits in Scotland, built on a new human rights-based social security system for the people of Scotland; notes the publication of the independently produced report, *A Consultation on Disability Assistance in Scotland: Analysis of Responses*; considers that the report highlights agreement on the provision of social security payments for disabled people based on dignity, fairness and respect; notes that the Scottish Government is co-designing this approach with people who have lived experience of receiving social security payments, and agrees that it is essential that the needs of disabled people are at the heart of Scotland's social security system.

15:05

**Jeremy Balfour (Lothian) (Con):** I remind members that I am in receipt of PIP. I welcome this afternoon's debate, but with a caveat: we have

been here before. We have debated this issue on a number of occasions. Although I acknowledge that the Government has made progress, that progress is slower than most organisations in the third sector and those in receipt of benefits would want it to be. What comes out of the consultation responses and the briefing papers that we have received from many organisations in the third sector is that people welcome the warm words, but they want action and movement by the Government. The Conservatives want that, too.

I acknowledge the progress: some of the benefits are up and running and we have a new social security agency. However, the benefits that are most difficult to deal with are still to come, and they will be a real challenge for the Government.

In our amendment, we ask that there be no more delay and no more pushing back of the benefits that have not been fully taken over or the regulations that have not yet been laid before Parliament by the Government.

There has been delay—in particular, there has been a major delay to PIP. I am slightly confused about what the Government's position is on the new Scottish PIP. In one sentence, the Government says that it will be different from the DWP benefit, but in the next sentence, we hear that the descriptors will be exactly the same.

**Shirley-Anne Somerville:** I point to my letter to the Social Security Committee, which talked about the model client journey that we will go through and all the differences that there will be between the Scottish and UK systems. The number of pages in the application form alone demonstrates how there will be real change, and people are already experiencing that change in the benefits that we are providing.

**Jeremy Balfour:** The cabinet secretary is referring to the process, including how many pages a person has to fill out and whether someone will receive an assessment. With respect, we are not hearing from the Government about whether the descriptors and what people will get will be any different from the current DWP system. The Government has spent the past three years criticising the DWP and everything to do with PIP, but it is now saying that it will not change the descriptors and they will stay the same.

I appreciate that the process will be different, but what people who get PIP are to be assessed on seems to be no different from what they are assessed on at the moment.

The Government talks about those whose conditions vary, which I welcome. I again ask the cabinet secretary to look at epilepsy. Those who suffer from that condition struggle to meet the criteria and descriptors for PIP. I would welcome the cabinet secretary saying in her closing speech

whether the Government will look at issues relating to epilepsy in particular, because they need to be looked at differently.

I have sympathy with the Labour amendment, but we will not support it because it says that we should get rid of the 20m rule while, at the same time, saying that we should consult doctors, the third sector and others to see what they think. That consultation needs to take place before we say whether we need to get rid of the 20m rule completely. The amendment recognises that distance is one of the things that should be looked at when determining whether someone should get the higher rate of PIP, but it misses the point that time and manner of walking are also important. We need to look at things holistically, rather than just picking up on the headline 20m rule. The Scottish Government needs to come forward with its thinking. I am interested in whether the cabinet secretary thinks that that will be one of the descriptors that will change in any way or whether it will be lifted from the DWP as it is. We need to look very carefully at the number of people who are getting cars.

The Conservative amendment talks about a transition period, and I am pleased that the cabinet secretary mentioned that in her opening speech. However, there is still some concern about how the transition period will work in practice. I echo the cabinet secretary's remarks that the Westminster and Scottish Governments need to work together on the system, and progress has been made in that regard. Both parties are trying their best, and I hope that that will continue, because we need to make it absolutely clear—there is cross-party support for this—that when people who are already on a benefit are transitioned, the right money arrives in their bank account at the right time. That will require work from both the DWP and the Scottish Government.

As I said, we are at the stage at which we need to see firm working from the Scottish Government, not just warm words. I appreciate that the Government keeps talking about consulting, listening and taking people with it, which is absolutely right. However, Opposition parties and the Parliament should urge the Government to produce something on where it is with regard to its working, so that we can have a better debate.

I move amendment S5M-19577.1, to insert at end:

“, and calls on the Scottish Government to commit to no further delay to any of the devolved disability assistance benefits and to provide an absolute guarantee for transitional protections for all claimants involved in the case transfer.”

15:12

**Mark Griffin (Central Scotland) (Lab):** I am grateful that the cabinet secretary has brought the debate to the chamber, so that we can continue to discuss the detail of what Scottish social security will look like for disabled people.

In the eight months since we debated uprating for carers and received consultation proposals, hundreds of people have pored over the possibilities of the new system and asked eagerly for more detail. This will have been a welcome process for people with lived experience of PIP, disability living allowance or attendance allowance, although quite a lot of people might feel that they have answered some questions a couple of times before.

On the reduced redetermination timescales, clear feedback has produced clear results. On the naming proposals and indefinite awards, some details definitely still need to be tied up. In that sense, the consultation—the co-design approach that the Government refers to in its motion, which we will support—has achieved welcome results.

In anticipation of the debate, helpful briefings from Child Poverty Action Group, Citizens Advice Scotland, the MS Society, Marie Curie, Inclusion Scotland and others have proven essential. Every one of them called for an end to the 20m rule, as did some of the submissions that were made to the consultation, and that is the basis for Labour's amendment. Our amendment does not specify reinstatement of the 50m rule but, in keeping with the approach that is celebrated in the Government's motion, it says that replacement must now be delivered through deliberation and discussion.

The 20m rule was described as "ludicrous" by someone who has multiple sclerosis. Another person described it as a rule that would put them

"in pain all the time I'm on my feet"

and said that

"the whole experience would make me completely knackered".

Inclusion Scotland pointed out that 172 out of the 173 organisations that replied to the UK Government's PIP consultation advised against using the rule, and Citizens Advice Scotland volunteers have had to witness case upon case in which someone has lost their higher-rate mobility benefits and, as a result, their mobility car. Indeed, it is the very issue that gave rise to the "serious concerns" that are mentioned in the Government's consultation.

I am wholly aware of the Government's concerns about creating a two-tier system and putting passporting at risk, as well as its concerns

about cost and the risk to a safe and secure transition.

Those concerns are abundantly clear when it comes to extending mobility benefits for older people. However, a safe and secure transition cannot in itself be the force that stops change. There is a wealth of clear feedback and lived experience that underlines how the change that we propose would give dignity and respect to disabled people.

Yesterday, the cabinet secretary said in a press release that she wants a "sea change" and

"A new system designed from the ground up—together with users themselves—that puts people first."

The change that we propose will do just that, if she backs it. The use of her powers to benefit Scotland's disabled people must not be in tension with her ambition for a safe and secure transition. I urge the Government to accept the Labour amendment. As the Health and Social Care Alliance pointed out in its submission, the extension of children and young people's entitlement to the age of 18 is a clear example of a departure from the current system that does not risk the transition or create such tension.

Five years after Smith, hundreds of thousands of people are still at the mercy of the DWP, because the transition has barely started. Now is the time to make the decision.

Last year, the Parliament agreed that the system must be built on a rights-based approach. Clarity on that is urgently needed. As the Child Poverty Action Group and the Alliance point out, if we are to have a safe and secure transition, existing significant details—the rules about eligibility and the meaning of important words, as established in case law—have to be included in the disability assistance regulations. Anything less will risk people having fewer legal rights than they currently have under the reserved benefits system.

For example, the definitions of "safely" for the purposes of PIP, "continual supervision" for the purposes of DLA and attendance allowance, and "day" and "night" have come from decades of case law and regulations that will not automatically apply to the Scottish system. To rebuild through case law the rights that have been won in that regard would lead to years of tortuous challenges and appeals through the tribunal system. I ask the cabinet secretary to say, in her closing speech, whether she can set out the level of detail that will be included in the regulations.

One in three organisations called for an end to the 20m rule. The rule was the most frequently mentioned descriptor in the consultation, because it has harmed people financially, it has risked social isolation and it has hurt people's quality of

life. A Scottish social security system that replicated that rule would be the antithesis of a system that is built on dignity and respect. I ask members today to end the rule when disability assistance for working-age people is introduced.

I move amendment S5M-19577.2, to insert, after “respect”:

“; agrees that the 20-metre rule must be scrapped when disability assistance for working-age people is introduced, and replaced with an appropriate alternative designed in partnership with disabled people, charities and healthcare professionals”.

15:19

**Alison Johnstone (Lothian) (Green):** The devolution of disability benefits is one of the most significant developments in Scotland’s devolution journey, and it is appropriate that we are debating the future of disability benefits in Scotland in this Parliament’s 20th anniversary year.

This is a precious opportunity to improve the lives of so many of our constituents. Around 540,000 people claim one of the disability benefits that are being devolved. As we heard, that is around one in 10 Scots.

Too many of those people have been subjected to a system that is cruel and inhumane. People have been called into face-to-face assessments, which in many cases are simply not needed. What is worse, we know that those assessments can be hugely detrimental to their health and wellbeing: 79 per cent of respondents to a disability benefits consortium survey reported that the stress and anxiety caused by assessments had worsened their condition.

That issue is particularly concerning for those with mental health issues. The charity Rethink Mental Illness has published the poignantly titled “It’s broken her” report, which provides case studies of people whose mental health has dramatically worsened as a result of the PIP process. The contempt that the DWP shows for some of the people it is there to help is breathtaking. In other parts of the benefits system, people can be sanctioned for being just minutes late for an appointment, yet the DWP imposes no time limit at all on itself for deciding internal appeals. The average waiting time is now 69 days. People have to spend all that time waiting for a decision that is overturned by tribunals in more than 70 per cent of cases.

Although some people gain from PIP, in almost half of DLA to PIP reassessment cases, people lose out: 25 per cent of people who previously had an award have been rejected entirely, and 22 per cent have had their award reduced. In many cases, that is a loss of thousands of pounds.

Turning to the evaluation report that is mentioned in the motion, I note the widespread support for reducing unnecessary assessments and reducing travel times to assessments when they are needed. Dragging people halfway across the country to go to an assessment that they do not always need must end. That was the message that came from the consultation, with the report noting that a majority

“regarded face-to-face assessments generally as inappropriate, with many saying medical evidence or reports should be key to decision-making.”

In many cases, we already have the information that we need.

In response to changes in the law that were made by Greens, the Scottish Government has committed to significantly reducing the need for face-to-face assessments to the “minimum possible”—the cabinet secretary made that pledge to me in February.

In its submission, the Scottish campaign on rights to social security argues that a fall in the rate of face-to-face assessments from 90 per cent to 30 per cent might be possible, and I would be grateful if the cabinet secretary could outline in her closing remarks what work has been done to establish what an appropriate minimum might be and how it could be ensured. Citizens Advice Scotland has expressed concern that the Government’s draft criteria for when a face-to-face assessment would be needed for working-age disability assistance might have been drawn too broadly, and I ask the cabinet secretary to respond to that concern.

Green amendments to the Social Security (Scotland) Bill ensured that ministers must consider the distance that a person needs to travel when an assessment is necessary. The evaluation report clearly states:

“A consistent viewpoint was that the assessment should be local to where the client lives.”

I invite the cabinet secretary to outline how the Government will commit to that.

Among respondents, there was overwhelming support for scrapping the 20m rule. The Multiple Sclerosis Society’s report, “PIP: A step too far”, shows that 65 per cent of people who were surveyed reported that losing their entitlement made their MS worse, with 39 per cent having to use general practitioner services more as a result. The 20m rule was a cynical attempt to reduce spending at the expense of people’s needs and it must end. Therefore, Greens welcome the Labour amendment to the motion.

It is clear that the current way of determining eligibility is simply not working. As well as the 20m rule, many consultees called for an end to the 50

per cent rule, which means that people with conditions that cause serious but infrequent symptoms, such as seizures, might not qualify. I very much welcome the reference that the motion makes to the Government co-designing the new system with people who have lived experience of social security and to putting the needs of disabled people at its heart. Those are very welcome aspirations, and they will have major consequences for how the system will develop. For instance, the current system clearly fails to recognise the needs of a great number of people—there would not be so many successful appeals if that were not the case.

Ensuring that those needs are recognised and met will require not just a better system of assessments but additional funding, as that more responsive system will inevitably lead to more and higher awards. That is absolutely the right outcome, but it will require Government and Parliament to ensure that it is properly funded. We have still not had a proper national conversation about the level of social security that we want to have, and therefore the levels of funding that we need, if we are to call ourselves a compassionate country. That needs to happen soon, so that the new system has the public, political and financial support that it clearly needs.

Although PIP has worked for some people, for too many people it has been an absolute disaster. I know from the casework that comes through my office that it has ruined people's lives. Rebuilding a system that is compassionate, works smoothly and is appropriately funded will be one of devolution's biggest challenges, and it is one to which this Parliament must rise.

15:25

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I am grateful that we are having this debate; the cabinet secretary and I share the same values in relation to this agenda and I am grateful for the distance that her Government has moved it. I ask from the outset, though, that she reflect on the sequencing and timetabling of the agenda. The Government published its response to the consultation on disability assistance only last night so I am not sure that that afforded enough time to stakeholders preparing briefings for this debate. Nevertheless, we were well served by briefings; organisations such as CAS, Marie Curie and the Child Poverty Action Group have been mentioned already.

We each carry stories from our casework files that show that the current system is not serving our constituents as it could; indeed, it is undermining already vulnerable lives. It does not contain the humanity that we in this chamber

would recognise as being the hallmark of an adequate social security system.

On Monday, I was having coffee with a friend of mine who has autism; he was telling me about the cases of two people in his family, including himself, who were struggling with anxiety over the continuance of their disability claims. His gran had just lost her Motability car and other parts of her benefit claims due to a reassessment that found against her by just one point, and he was advised that he was about to be reassessed on the functionality of his autism. He confessed to me in a whisper that he felt that last time, his assessor had taken pity on him and up-tariffed him from seven points to eight so that he could get the benefit. He was worried that if it was not the same assessor, he might lose out this time; his world has been clouded by this ever-present threat that his ability to sustain himself could be taken from him. He is a guy whom I have a lot of time for, and I am trying to mentor him; he has really struggled to hold down full-time employment. Given the anxiety that has resulted from his autism and his particular support needs, we as a society need to provide him—and many others like him—with a safety net to allow him to live a thriving life.

The current assessment regime struggles with hidden disabilities as well. MS has been referenced and I am grateful to the MS Society for its briefing. I have another constituent who, on diagnosis, had an aggressive form of MS that hit pretty suddenly and without any warning, so he started to understand what life was going to look like for him. He went for assessment, but unfortunately, the assessment took place on what he defines as "a good day". Anyone who has friends or family with relapsing-remitting MS knows that they can have good days and bad days. The assessment is taken as a snapshot, like an opinion poll before an election; it does not tell us what it will mean for the person at the centre of that assessment. The system is therefore flawed in that respect as well.

As Jeremy Balfour said, the system is not really geared up for people with epilepsy; there is no real means of assessing what impact those catastrophic events that people can have in their brains as a result of epilepsy can mean for their functionality and their ability to sustain a job. We cannot be certain that that will be manifest in any way during an assessment. Neither does the system recognise what autism can do to the size of somebody's social universe. They may have ambulation and they may be able to get about, but the reality of their condition may mean that they never, ever leave the house.

It is regrettable that the delay in the introduction of the new system means that many will have to go through the existing system again; it is an

assessment regime that is both flawed and wrong. That is empirically verifiable from the fact that of the 84 per cent of decisions that are upheld on mandatory reconsideration, 65 per cent are subsequently overturned by tribunal. Clearly, something is broken in the current assessment regime.

They are deeply personal, high stakes and often humiliating experiences for already vulnerable people. We all know the horror stories from our constituency casework bags about those people who are called in again and again, sometimes when they have profound impairment from which they will never, ever get any better.

I am therefore grateful to the Government for taking on the matter—it feels like we have made some progress. However, I agree with the Labour amendment. Citizens Advice Scotland rightly points out that, when the walking assessment distance was cut from 50m to 20m, that was a deliberate exercise in trying to cut costs and reduce the number of successful claimants. I ask the Scottish Government to consider working with stakeholders to achieve the end of abolishing that kind of assessment altogether.

I very much welcome the fact that, in the face-to-face assessments that have to take place, the assessor will declare when they are logging an observation about the person's capabilities. That will mean that people are not on tenterhooks throughout an already traumatic experience and are made aware of what is being recorded in real time as it is happening. I agree with the organisations such as Citizens Advice that say that we should shift the system away from those inhumane face-to-face assessments and build a more comprehensive picture of each claimant based on those who know them and the professionals who work with them.

The Scottish campaign on rights to social security said in its briefing that, once the assessment has been conducted, each person should have the right to access independent advocacy if they wish to pursue any form of appeal. I fundamentally agree with the Child Poverty Action Group that there needs to be a mechanism for claimants to trigger a review of their claim and what they currently receive. Everybody knows that people's conditions can deteriorate rapidly and that things may change.

I support the Government on the issue. The Liberal Democrats will support the motion and both the amendments at decision time.

**The Deputy Presiding Officer (Linda Fabiani):** We move on to the open debate. We are a bit pushed for time, so speeches should be no more than six minutes.

15:31

**Bob Doris (Glasgow Maryhill and Springburn) (SNP):** I begin by giving a clear example of just how unfit for purpose the current DLA and PIP system is for my constituents, as Alex Cole-Hamilton did.

I am currently representing a constituent in relation to a PIP case. In April this year, my constituent phoned the DWP to ask about his current PIP award, which he knew would run out in November 2019. He was told not to worry and that he would be sent a form to fill in around the middle of August, so there would be no disruption to his PIP. All good, so far.

When no form arrived in August, my constituent was again reassured that he had nothing to worry about and that he would shortly be sent a review form to return to the DWP. However, he has now been told that his PIP will come to an end in November without any reassessment, and that he will have to make a new application.

Here is what my constituent told me about the impact on him:

"I am very concerned that despite being told repeatedly that I'd get a review form and my award would not be interrupted ... I am now facing another Christmas with no PIP, a loss in the severe disability premium on my ESA and the significant stress this will cause me.

For the last 5 years I have had disruption to either ESA, PIP or DLA as they'll continually review my applications even though my diabetes, depression, neuropathy, chronic pain, arthritis in my knees, high blood pressure, carpal tunnel syndrome and problems with my sight doesn't get any better.

It's a constant uphill battle and it is really getting me so down".

It is clear for all members to see that my constituent has been badly let down by the DWP. That is why the transfer of powers over disability assistance to the Scottish Parliament and Scottish Government is so vital, and why it is vital that we get it right.

The work that the Scottish Government and Social Security Scotland have carried out in partnership with people who have direct and lived experience of receiving social security benefits gives me confidence that in Scotland we will have a far more respectful and fit-for-purpose social security system for people who live with disabilities. The Scottish Government is seeking to co-produce much of the process, and the protocols and principles that underlie it.

One key aspect of our new system will be the significant decrease in the number of face-to-face assessments. Where clear evidence is available of a person's condition and circumstances, why does the UK Government system needlessly put people through the ordeal of assessment and

reassessment? The Scottish Government will introduce rolling awards for disability assistance of up to 10 years for clients who have conditions that are unlikely to change. That new way of doing things makes me think in particular of the constituent to whom I just referred.

It is welcome that the Scottish Government will not use private sector contractors to deliver disability assessments, and that it will ensure that the people who conduct assessments have the appropriate skills. I especially welcome the Scottish Government's acknowledgement that our new system must better capture the needs of people who have fluctuating conditions or mental health issues, and the intention to empower the professionals who are best placed to confirm the existence of such conditions and to be aware of their impacts.

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

**Bob Doris:** Yes—a brief one.

**Jamie Greene:** I am interested in what Bob Doris has to say, and have some sympathy with the proposals. Can he confirm, if the assessments are not outsourced to a third sector organisation or another third party, who will perform them? Does he accept that there will still be a need for some form of assessment for certain types of claimant?

**Bob Doris:** I do not think that that was a brief intervention. I hope that, in making it, Jamie Greene accepts that the current system is not working.

I look forward to the regulations on disability assistance for younger people being laid in December, when we will be able to scrutinise them. I hope that the approach that is to be taken by relevant health and other professionals will be outlined in them. We should come together in a spirit of consensus to see whether there is a better way of doing things in Scotland than the approach that is taken in the rest of the UK.

I commend short-term assistance, which is a new form of support that will ensure that people whose existing entitlement is withdrawn following an assessment will continue to get financial support, should they decide to appeal that decision. That will be important in preventing a financial cliff edge for people who have done absolutely nothing wrong.

I broadly support the Scottish Government on disability assistance, although I chair the Parliament's Social Security Committee, which will want to scrutinise in great detail the regulations for the first wave of disability benefits, when drafts are published in December. The Scottish Commission on Social Security will also want to do that. The committee will, of course, also want to look

carefully at the guidance on terminal illness. I wholeheartedly support the principles that underpin the Scottish Government's intention, but the committee will have to scrutinise the details rigorously, as members would expect us to do. The Social Security Committee will want to look at the time to appeal—in particular, the time that it will take for appeals to be heard. We will also want to look at the 20m rule and various other aspects of the system.

However, I also want to ensure that best practice will be used in the new system: I want to make the cabinet secretary aware of recent good practice in Glasgow. In the spinal injuries ward at the Queen Elizabeth university hospital there used to be a fast-track application process for PIP, whereby a consultant neurosurgeon would provide evidence to the DWP and the patient would receive their PIP within eight weeks. That system ran successfully for three years, but centralisation of such processes to England means that it has been scrapped by the DWP. The waiting time is now up to 30 weeks, which is not appropriate for anyone.

A couple of weeks ago, I had the opportunity of having a constructive conversation on a variety of matters with the new Secretary of State for Work and Pensions, Thérèse Coffey MP, for which I thank her. I raised with her that specific issue, on which Councillor Allan Gow has been leading in Glasgow. I ask the cabinet secretary whether she will also raise the matter with Dr Coffey. That system is an example of good practice that can drive down waiting times and allow people who are in most need to receive their benefits quickly.

There is good practice in Scotland just now. Let us make sure that it percolates throughout the new Scottish social security system for people who receive disability assistance for their needs.

15:37

**Alexander Stewart (Mid Scotland and Fife) (Con):** I am delighted to be able to take part in the debate on improving disability assistance.

Given the devolution of disability benefits to the Scottish Parliament, it is timely that we consider how, as a society, we should help people who live with disabilities. Although we should be aware that individual circumstances vary greatly, disabled people face a higher average cost of living each month. They are also less likely to gain degree qualifications and are almost twice as likely to be unemployed as people living without disabilities. There remains a disability pay gap, with disabled people who are in work earning on average £1.50 per hour less than those who are not disabled. That situation is not acceptable; it should be looked at and improved.

It is clear that individuals who live with disabilities face significant barriers and challenges in their everyday lives. We should have a benefits system that does not add to them. It is therefore clear—and right—that we support disabled people financially through the benefits system.

The Scottish Conservatives believe that we should prioritise the needs of disabled people, so we have taken a number of steps to ensure that that is the case. I pay tribute to my colleague Jeremy Balfour, who chairs the Parliament's cross-party group on disability, for all that it has achieved.

We have also lodged a number of amendments to recent bills, to protect disabled people. We sought to amend the Transport (Scotland) Bill to exempt people who claim disability living allowance from having to pay the workplace parking levy. We were successful in adding a provision to the Planning (Scotland) Bill to ensure that more facilities for changing adults in the toilets of public buildings are made available, and that their provision will be made a requirement for gaining planning consent. Those are good new measures that improve provision of support for disabled individuals.

The UK Government has done much to improve the lives of disabled people, and spends about £50 billion a year to support them. It has also listened to feedback—as we know, there has been criticism of the system. For example, disabled pensioners will no longer face regular benefit reassessments. It is right that there is dignity and respect, and that they will no longer face reassessments.

The UK Government has made tackling loneliness a key priority, with the launch last year of its dedicated strategy to combat loneliness. I pay tribute to the Scottish Government for what it is trying to achieve in that field. About half of disabled people in the UK say that they feel lonely, so it is important that we embed ways of tackling loneliness in our policies across Governments and portfolios.

It is clear from the speeches of members who have already spoken—I am sure that this will continue as the debate proceeds—that there is a shared ambition to improve support for disabled people. Assurances were given by the then Minister for Social Security that all the new devolved benefits would be introduced by the end of the current session of Parliament in 2021, but we now know that that will not happen and that there will be an extension to 2025. That means that it will be almost a decade since the powers were received before all the benefits are transferred to the new Social Security Scotland. The Scottish Government has had to consider severe disablement allowance, which might well

be handed back in order to avoid unnecessary disruption.

The decision to fast track the Scottish child payment, which is the Scottish Government's new child poverty benefit, has pushed back progress on other devolved benefits, including disability assistance for older people and the Scottish carers allowance. Social Security Scotland has said that it is under a lot of pressure, and there will be some real challenges for it to deal with in the coming years.

Audit Scotland has also raised concerns, and has stated that Social Security Scotland has routinely been operating with 30 per cent of its posts unfilled, which has led to its using a high number of contractors. If we are to have the new system, it is important that we have in place the individuals who are needed to promote and support it. I look forward to seeing them come forward. The vacancy rate has dropped, which is good, but we still need to ensure that we have enough people to process applications.

I welcome the opportunity to debate, scrutinise and improve disability assistance for individuals across Scotland. The devolution of the benefits provides opportunities for us to shape our own system that reflects our needs and priorities. However, some significant challenges remain. Scottish Conservatives will continue to play our part, because we believe that by playing a constructive role we can ensure that there is progress. We want consensus that all individuals in Scotland should be treated with dignity and respect and get the benefits that they are entitled to.

**The Deputy Presiding Officer:** Before we move on, I remind members that the acoustics in the chamber are rather good and that private conversations are not always as private as members think. Thank you.

15:43

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** Today's debate is a timely intervention for us all, I am sure, because it provides an opportunity to focus on the day job of this Parliament, which is to advocate for and improve the lived experiences of all our constituents.

The Government's response to the analysis of the consultation on disability assistance in Scotland states:

"The ... purpose of Disability Assistance is to provide financial assistance to mitigate some of the increased costs that people incur as a result of having a disability or long term condition. Disability Assistance helps ensure that disabled children and adults are more able to secure the care and mobility support they need, reducing barriers to



their full participation in our communities and improving life opportunities.”

It also notes that

“many disabled people and their families have found the current system complicated to navigate”,

and, as the cabinet secretary mentioned, it suggested a preference for a person-centred system that moves away from the one-size-fits-all policy that has been advanced by the UK Government.

I am sure that we have all had examples of constituents who have been sanctioned, those who have amassed rent arrears because they missed the bus to their appointment, or those who have fallen through the cracks of the UK Government’s welfare system, often through no fault of their own. Those are real lived experiences, as exemplified by the film “I, Daniel Blake”. For disabled people, the complicated landscape presents even more challenges.

Today’s motion notes that the Scottish Government is co-designing its approach to disability assistance

“with people who have lived experience of receiving social security payments”.

I want to tell the story of one of my constituents—Connor Beveridge, who is 24 years old and comes from Thornton in Fife. Connor suffers from Friedreich’s ataxia—FA—which is a recessive genetic disease that causes difficulty in walking, a loss of sensation in the arms and legs and impaired speech that worsens over time. People may also become completely incapacitated in the latter stages of the disease. Ahead of today’s debate, I asked Connor about his experiences of the benefits system. This is what he told me:

“I was unable to deal with the news of my disability at 16. I shut it out and I used all my energy to focus on my studies. After school, I went on to study a degree in accountancy at my local college, which helped deflect from the haunting diagnosis of Friedreich’s ataxia. My involvement with the welfare system came once I graduated, and the realisation of my condition and my inability to work began to sink in.

My PIP assessment—although degrading—was relatively straightforward. However, my transfer from jobseekers allowance to the employment support allowance was a different story. I was on JSA for over a year before somebody at the job centre suggested that ESA would be more suitable for me. I always remember how the lady appeared to be given a telling off by her manager for advising me about ESA, however that lady was moving jobs the following week, so she wasn’t bothered about following the rules. She wanted to be fair with me.

Once I applied for ESA, I soon received a letter that I was being put on a waiting list for an assessment. Whilst on the waiting list I was put on a reduced rate of payment. I was on this waiting list for 15 months. I was financially able to deal with this because I still live with family and don’t have any significant bills. However, there is currently no

medical treatment for Friedreich’s ataxia and I rely on physiotherapy, food supplements, and vitamins to be in the best shape I can be. This all had to be cut right down as I simply couldn’t afford them.

Friedreich’s Ataxia is a degenerative, muscle-wasting disease, so the impact that this period had on my health cannot be recovered. I was eventually assessed for ESA. It was backdated for nine of the 15 months I was on the waiting list—a total of £3,500.

Why people with terminal and degenerative conditions like mine need to be put through this process will always beggar belief to me. A fairer social security system will only ever be put in place when people realise that and they stop the finger pointing.”

Alexander Stewart was quite right to point to the disability pay gap. As reported by the Disability News Service in July this year, figures from the Department for Work and Pensions, which were obtained through a freedom of information request, show that disabled people claiming jobseekers allowance are more likely to have their benefits sanctioned than non-disabled people are. The figures show that, when the JSA sanctions system was at its most discriminatory—in 2009 and 2013—disabled people claiming jobseekers allowance were about 50 per cent more likely in 2009, and a third more likely in 2013, to have their benefits sanctioned than were non-disabled people who were claiming the same benefit.

The UK Government system enshrined discrimination against people with a disability; it enshrined unfairness for those in our society who are most in need. According to researcher Anita Bellows, it still does. Commenting in response to a UK parliamentary inquiry in July this year, she said:

“It is not surprising to learn that disabled JSA claimants are being disproportionately sanctioned, as it has been a constant feature in the benefit system that some people, including disabled unemployed people, are seen as soft targets by the DWP.”

Therefore, we have a duty to do things better in Scotland. Although the consultation is not the end product, it is the next step in a wider programme that will allow the Government to build a system that is informed by evidence, through listening to the views of the people with lived experience.

We all have a responsibility to be part of that process and to contribute to creating a system that is based on dignity, fairness and respect—to set the right tone—and which, as today’s motion notes, puts the needs of disabled people

“at the heart of Scotland’s social security system.”

As Connor Beveridge put it,

“A fairer benefits system goes hand in hand with a fairer society for all.”

15:49

**Pauline McNeill (Glasgow) (Lab):** This is one of the biggest moments for Scotland's new social security system, because disability assistance, which we are discussing, involves an area that attracted the most controversy under the DWP system and involved misery for many people, as other members have outlined.

When the second wave of benefits are devolved in 2020-21, that will create a huge opportunity to provide a better system of support for disabled people in Scotland. As others have said, there are also significant challenges, so we must make sure that we provide detail and clarity.

This is also an exciting time. Organisations and the Social Security Committee have been able to shape the new social security system, but we really need to get into the detail of operation of the agency itself.

It is worth emphasising that disabled people in Scotland are more likely than other people to be living in poverty. Almost a quarter of families with a disabled member—24 per cent—live in relative poverty, compared with the figure for families who have no disabled members, which is 17 per cent. It is, therefore, critical that there be a smooth transition to the new system. That goes without saying.

Inclusion Scotland has noted that

"There is obviously a real concern amongst disabled Scots about potential delays in the transfer to the new system".

It also said that

"There is ... an issue with raised expectations of receiving a better system of support from those who are losing support under the current system."

It is important to manage those expectations, and to ensure that there are no delays and that expectations of a better and fairer system are met.

I will address a couple of specific issues. Redeterminations were a focus of the committee's work during the passage of the bill. There is a difference between the new system and the DWP's system. I have welcomed redeterminations from the very beginning, but I also welcome the Government's movement on the timescale for requests for redeterminations, which has gone from 31 calendar days to 42. That is a positive change. However, I am concerned—my concerns are shared by Inclusion Scotland—about the time that will be taken to decide on redeterminations. I fully appreciate that we need to get it right the second time when there has been a challenge, but eight weeks is too long. Will the minister consider exploring whether six weeks would be more appropriate?

During the passage of the bill, the committee spent a great deal of time examining what would

happen in the event of overpayment. The Government's position is clear and helpful: if the overpayment is the Government's fault, it is not recoverable from the applicant. However, the detail of how overpayment will be recovered is critical for when the applicant is to blame for it. Repayments must not be set too high or over too short a period, which is what happens under the current system. Weekly repayments being set too high can cause acute financial hardship and can have unnecessarily dreadful results. There are reports of people having had to resort to food banks and suffering intense stress because of that. It is also important to acknowledge that some disabled people should not be expected to notice overpayments—for example, people who have learning disabilities. It would be helpful if the minister could say something about that.

Members have expressed concern about the assessments that are used to determine mobility payment eligibility. I agree with Inclusion Scotland that there should be a substantial cut in the number of face-to-face assessments, because they can cause unnecessary stress and anxiety. The Scottish Government should be commended for making that commitment. Face-to-face assessment is difficult for many people who have conditions including multiple sclerosis and arthritis, in which symptoms fluctuate. A paper-based report from a medical professional could remove stress that could be caused by face-to-face assessments, and could deliver a more accurate appraisal of the person's condition.

In the Labour amendment, Mark Griffin has highlighted that it is vital that the 20m rule be changed. That was a reduction from the previous 50m requirement, although all but one of the 173 organisations that responded to the UK Government's consultation on PIP advised against it. We would like that to be explored further.

We have reached a critical stage in delivery of Scotland's new social security system. Our ability to deliver on the detail will be the test of whether we can keep the promise to have a system that includes dignity and respect for those who rely on it. There is a lot more work to do, but working together with the Government, we can create a good social security system for the people of Scotland.

15:54

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** As Pauline McNeill has just said, the creation of Social Security Scotland, which has responsibility for at least part of the benefits system in Scotland, provides us with an opportunity to do things differently from how they have been done, and from how they are often still done in many parts of the social security system

for which Westminster retains responsibility. The failings of the UK-controlled parts of the system are only too obvious, and are a regular subject in the Social Security Committee's scrutiny. An obvious example is the implementation of universal credit.

However, I will stick to benefits that relate specifically to disability and fitness for work. Like many other members—Bob Doris and Alex Cole-Hamilton have beaten me to this—I have constituents who, many years ago, were given a disability-related benefit for life, in acknowledgement of a lifelong or degenerative condition, and who now find themselves being subjected to reassessment to verify, in the words of one my constituents,

“whether miracles have taken place in the meantime.”

More and more disability-related benefits will come under Scotland's control over the next two years, and an important principle has already been laid down—namely, that dignity must be at the heart of our approach. We are seeing that principle being embedded in Scotland's new social security system.

By 2021, the Scottish Government will roll out three new programmes for disability assistance: disability assistance for children and young people, which will replace the disability living allowance for children; disability assistance for working-age people, which will replace personal independence payments; and disability assistance for older people, which will replace the attendance allowance.

The Scottish Government's focus has been on overseeing a smooth transition, as Social Security Scotland begins administration of the benefits. As the Cabinet Secretary for Social Security and Older People, Shirley-Anne Somerville, has said:

“Our new social security system is the largest piece of public sector delivery since devolution and we are making real progress. By the end of this year Social Security Scotland will be delivering seven benefits, and these plans demonstrate the progress being made as we get ready to take responsibility for disability payments next year.”

As we have heard, The Scottish Government has made a number of commitments, so it is right that we examine them and look for detail. However, it is important to look at what they are. One commitment is to “inclusive communication”. Another is that

“Disability Assistance will not be means-tested”

and that, in line with that,

“a person's employment status will have no influence in relation to their entitlement.”

Another commitment is that there will be

“a holistic, person centred approach”,

and yet another commitment is that

“Social Security Scotland staff involved in making decisions about eligibility to Disability Assistance will undergo robust training”

in order to

“reflect the agency's values of dignity, fairness and respect.

However, I want to concentrate briefly on one area in which Scotland can aim to do things differently—how the system treats applicants who have mental health problems. The briefing that the Scottish Association for Mental Health sent last week to all MSPs said:

“The current assessment and decision making process for PIP is not working for people with mental health problems”;

that

“the current assessment process, particularly the face to face medical assessment, is contributing to peoples' distress and does not adequately assess the impact of mental health problems or other fluctuating conditions”;

and that

“One of the most significant issues contributing to the problems of the current PIP system is assessors' lack of understanding of or expertise in mental health.”

SAMH's words are echoed in similar comments from Mind, which is its sister charity in England.

All of us broadly welcome—as has SAMH—the proposals from the Scottish Government on disability assistance assessments, as outlined in the Government's “Disability Assistance assessments: policy position paper”. I hope that the needs of applicants with mental health problems are but one consideration among many in building a new system. However, I believe that it is an important one that is worth concentrating on today.

Last week, we saw a bit of a media debate on views about poor people and social security, which the Conservative social security spokesperson saw fit to share on social media. I accept that we all click the wrong button on Facebook from time to time: I am sure that that is all it was. By way of contrast, however, I hope that, by putting rights front and centre now, we are all giving a clear signal about what kind of social security system we want to build in Scotland.

15:59

**Jamie Halcro Johnston (Highlands and Islands) (Con):** It is vital that this Parliament and the Scottish Government get support for people with disabilities right. With that in mind, it is perhaps worth reflecting on the extent of the powers over disability support that have been devolved to the Parliament in recent years.

Disability support is just one of many areas in which further devolution has taken place under the Scotland Act 2016, and the process is far from over. Often, the powers that have been newly devolved are still bedding in, and the change that they represent to our devolution settlement is not to be underestimated.

It is no secret that the Scottish Government has been critical of the UK Government's approach to disability benefits. It now has the power to do things differently, but it also has the associated responsibility that that brings. It is unfortunate that the transition has been fraught with delays; those have been well publicised and I will not rehash the details now. However, it would be useful if Scottish National Party ministers did not underestimate the challenges of taking on those benefits or the complexity of the decisions that have to be made. Today, the Conservatives seek commitments to avoid further delays and to ensure that transitional guarantees are provided to recipients.

However, that is only part of the equation. As my party's spokesperson on skills and employability, I have been very impressed by the work done by Government, employers and the third sector to support independent living and improve access to work for people with disabilities. In my region, a number of third sector bodies do excellent work in those areas. I outline that as a reminder: when we are dealing with social security, it is important that, at all stages, we remember that benefits should be a gateway to independence rather than a solution in themselves. Most people with disabilities want to live independently, to succeed in the lives that they have chosen for themselves and to overcome challenges. The primary role of Government should be to help people achieve their ambitions, to support them with their aspirations and to allow everyone in our communities an equal chance to reach their potential.

Schemes such as access to work have changed the lives of thousands of people with disabilities who are accessing the labour market. The combined efforts of Government, business and the third sector have brought major changes, with an additional 1.2 million people with disabilities in work—with all the expertise, effort and enthusiasm that they bring—changing the shape of the UK labour force extensively in the past six years alone.

That approach reflects the principles that the Scottish Government has pointed to for social security support: independence, dignity and fairness. I have spoken about getting the principles behind support and benefits right, but it is also important that this Parliament has further opportunities to scrutinise the detail of the Scottish Government's proposals and that the

administrative hurdles in devolving benefits are dealt with. For example, we know of the issues around building the new Social Security Scotland agency hub in Dundee. That again suggests that Government planning for the devolution of benefits has simply not been thorough enough, despite the years that have elapsed since the Smith commission and the Scotland Act 2016 and the beginning of serious bilateral work between the UK and Scottish Governments.

The analysis of responses that has been published by the Scottish Government shows the extent of the new powers. Ministers are now in a position to direct transformational change, if that is what they are seeking. In several cases, there is no clear consensus on the way forward. The Scottish Government will have to outline its approach in due course, although we can, of course, look to the Scottish Government's past record to see how similar issues have been handled. For example, we continue to monitor the progress of the new employability schemes that are still in their early stages, having replaced the transitional arrangements. I have raised a number of early concerns about how effective those have been for people with disabilities.

It is worth remembering that we still have a significant disability employment gap in Scotland, with the employment rate for people living with a disability nearly half of that for the non-disabled population. We also know from the figures that were produced by the Scottish Government in "Scotland's Wellbeing" this summer, that there is an equally significant pay gap. A person with a disability in Scotland can expect to earn, on average, £1.50 an hour less than a non-disabled person. That is particularly concerning when the higher costs of living with a disability are taken into account. An effective welfare system will provide support in those areas, but there will always be circumstances in which the full costs of disability are unpredictable and difficult to meet. They are not universal, but individual.

For example, we often find that people with disabilities face additional challenges, particularly in the remote and rural parts of my Highlands and Islands region. Transport and even access to public services can be problematic, and greater numbers of small businesses might have less experience of supporting customers and employees with disabilities. That is where some of the work that is being carried out by the Jobcentre Plus network through the disability confident scheme has started to make a significant difference. It is important that disability is considered across the work of the public sector in Scotland.

There is a great deal of agreement across the chamber on the principles behind disability

support. The real challenge for the Scottish Government is to convert those principles into a coherent system that works for people with disabilities. Given the Scottish Government's previous attacks on the UK Government's record in this area, it has raised expectations that it has serious ideas that can make a real difference. With that in mind, it is perhaps surprising that one of the main findings of its analysis is a perception that its proposals are relatively timid. In any case, it is high time that the Scottish Government formulated proposals rather than just principles and acted to bring them forward sooner rather than later.

16:05

**George Adam (Paisley) (SNP):** We are at the beginning of a new challenge for our Scottish Parliament, as Pauline McNeil said. The fact that we are moving even further down the road on disability issues is emotional for me because my wife has multiple sclerosis and I have worked with disabled groups throughout my political life.

I am trying not to get stuck into the Tories—I do not want to do a cut-and-paste effort from previous speeches on the issue. I am trying to be a better and bigger person, but the Tories do not make it easy. They come here trying to treat the Scottish Government differently from their own UK Government—the playing field is different. They defend one way and say that there are difficulties and challenges with other ways, but they do not see the different challenges that we have.

As many of my colleagues have already said, Westminster's DWP system has been an unmitigated disaster in our communities.

**Jeremy Balfour:** Will the member take an intervention?

**George Adam:** I will finish my point and then I will let Mr Balfour in.

The UK Government has been putting its ideals ahead of the people whom we represent. I could say that this is about the past, the present and the future, given that we are almost at Christmas and it is almost time for "A Christmas Carol". The past is about the heartlessness of the Tory regime, but the present is about the importance of our learning from the mistakes of the past and getting it right now. However, we must take our time to get it right. I think that some members think that there is a big red button somewhere that we press and the money suddenly and magically appears in people's accounts and everybody is okay. The future is all about dignity and respect, which is where we should be coming from in this debate.

**Jeremy Balfour:** I accept that the process might be different, but does Mr Adam believe that once everything is up and running in Scotland

more people will get PIP than get it at the moment—yes or no?

**George Adam:** Mr Balfour has missed my point, which is that people in Scotland with disabilities will be treated for the first time with dignity and respect and their personal situation will be taken into account, as opposed to what happens in the current system, which is just a number-crunching exercise. The individual does not come into it—ultimately, the individual is not considered. It is just a case of reducing the number of people who claim benefits. It is an absolute disgrace for a Conservative member to ask that question of me when the Conservatives know fine well exactly what has been happening with their Westminster Government.

On the system for the future, Shirley-Anne Somerville said that she had heard from too many ill and disabled people who currently know only stigma, stress and anxiety when it comes to the assessment of welfare support, and who fear the dreaded brown envelope from the DWP. That is what we are dealing with here: the dreaded brown envelope. That is the real-life situation, not the debating society ideal that we are maybe discussing in the chamber. We are talking about real people living real lives, and what they dread is that brown envelope.

A system that is based on dignity and respect provides an opportunity from day 1. Members of the Social Security Committee know that dignity and respect are the foundation of the system that we have been setting up.

It has been really good to hear so many members talk about multiple sclerosis. My wife Stacey, who has MS, constantly says that not enough of us talk up the good work that the MS Society does or talk about how MS affects people in Scotland. One of the problems is that no two people with MS have the same condition. Things are not the same for every individual. That is why the Scottish Government has said that there will be a person-based system. Such a system is more important than the one-size-fits-all process that people currently go through. People are not like that. Humanity is not like that. We have to deal with things on a person-by-person basis.

MS is one condition, but I could mention many others. Yesterday, I was at the Scottish Huntington's Association. People with Huntington's disease have different symptoms. There should not be a one-size-fits-all approach to everything. That was one of the faults in the previous system. People just said, "Here's a social security system. We'll just put this forward and take it from there." The approach has to be person based, and people need to be at the heart of it.

That is why I am glad that the Scottish Government is looking at and listening to people who live with disability. As I have said, it is about real life and people who live with their situation. We can talk about it for hours on end, but it is about delivering—and not just about delivering and that is that but about delivering properly. There is far too much at stake, and we need to take our time and get it right. It would be 10 times easier if the Scottish Government had been given all the social security powers. It could then have designed something from the start. However, it does not have all those powers, and we have to deal with what we have and navigate it.

First and foremost, let us all remember that we are not important in this debate and that the people whom we serve and the people who claim benefits are.

16:12

**David Stewart (Highlands and Islands) (Lab):**

I welcome this timely debate. The devolution of social security is, of course, a great opportunity to create a greenfield site that reflects our key core principles. We need to end the adversarial nature of the current system and restate that social security is the bedrock of the welfare state.

We need to go back into our history and look at the Beveridge report of 1942, which aimed to slay the five giants of want, disease, ignorance, squalor and idleness on the road to reconstruction. That, of course, led to the Attlee Government's world-leading creation of our national health service and social security system.

We need to get the philosophy right. Social security is an investment in our communities, not a drain on the Exchequer. It is a step up, not a handout. It is a universal human right, and it is reflected in legislation across Europe and beyond.

Irrespective of our party and irrespective of who has spoken today, we as politicians all have the responsibility to ensure that those with the greatest need are targeted with the most urgent help. Of course I understand that any new system needs to be efficient, but efficiency does not have to mean being bureaucratic, uncaring or remote. The 20m rule comes to mind.

I support the Scottish Government's intention to include a new benefit take-up campaign. I remember the first-class work that welfare rights teams across Scotland carried out in the 1980s, particularly in Strathclyde and Lothian, to raise the take-up of benefits by those with disabilities.

I congratulate Citizens Advice Scotland and independent advice centres across the country on the current work that is being done on disability benefits. Will the cabinet secretary confirm in her

closing remarks whether existing case law will be incorporated into regulations, as CAS, the Child Poverty Action Group and others, including my colleague Mark Griffin, have called for?

I want to focus on three words in the Government's motion: "dignity, fairness and respect". Is it not shocking that in Scotland in 2019, there are so many people who do not receive all or even any of those three characteristics every day from a system that is reportedly there to help? According to the findings of Inclusion Scotland's recent consultation,

"Disabled people have told us repeatedly, and clearly, that that they are not treated with 'dignity and respect' within the current UK benefits system. Instead disabled people are mistrusted, scapegoated and suffer from the erosion of levels of payment, conditionality and sanctions. They also describe being subjected to a never-ending series of intrusive, inadequate, inaccurate, and degrading assessments."

I restate that people living with disabilities deserve dignity, fairness and respect every single day. At a time when they do not have that, particularly when it comes to much-needed disability assistance, it is time for all of us to take a serious look at ourselves in the mirror.

I welcome the Scottish Government's proposal to implement a person-centred approach to decisions around disability assistance, which—as I have heard from several sources—is all too often missing in the current applications process. The symptoms of particular disabilities can differ day by day, so if an assessor visits on a good day it can mean that someone misses out on the benefits that they need for all the many bad days. That was reflected in Alex Cole-Hamilton's contribution. Not only does the current overreliance on face-to-face assessments for PIP fail to take that into account, the pressure of an assessment can mean increased fatigue, stress, anxiety and other mental health pressures for people who are already dealing with complex health issues.

We had an excellent briefing from the MS Society, and I thank George Adam in particular for his personal account, which was very illuminating on the issues around MS. He will know much better than I do, through feedback from the MS Society, that it is a very complex condition that includes many invisible symptoms such as pain, fatigue and cognitive issues as well as sensitive aspects such as bladder and bowel problems.

A key aspect of Scottish Labour's motion is our call for the scrapping of the 20m rule. Mobility is such an integral part of living—in relation to access to services and basic as well as social needs—that just being able to make it to 20m is no sign that disability assistance is not needed. Without adequate support for mobility, people can

become housebound, which massively reduces their quality of life and is likely to reduce their physical health and increase their chances of depression and loneliness.

As we heard earlier, it is clear from the responses to the Government consultation that the condition of

“whether a person can stand and move more than 20 metres”

is

“overly simplistic and lacks consideration of scenarios individuals will encounter in their everyday life.”

It was the issue that attracted the highest number of calls for change across all the responses, including from one in three organisations. We must look at it as an issue of urgency, which is why we, on this side of the chamber, focused our amendment on it.

I am conscious of time, Presiding Officer. We should be taking full advantage of the devolution of social security to the Scottish Parliament to redesign a disability assistance process that makes dignity, fairness and respect a reality for those who need to access benefits. We need to remove the barriers that prevent people with disabilities from participating fully in society. As Robert Hensel said,

“my disability has opened my eyes to see my true abilities.”

16:18

**Joan McAlpine (South Scotland) (SNP):** I am particularly pleased to speak in the debate, because I was a member of the Welfare Reform Committee of this Parliament that reported in 2015 on the priorities for a new social security system for Scotland.

The evidence that we took in the committee back then was heartbreaking, and members across the chamber know from their casework that the situation is heartbreaking. The Welfare Reform Committee’s report made it clear that the Westminster model was broken, and that thousands of the most vulnerable people in Scotland were being let down.

People with disabilities told us that the DLA and PIP processes were cumbersome, difficult to navigate and judgmental. As DLA transferred to PIP, cost cutting meant that people had their benefits cut or lost them altogether. Most shocking was the way that the evidence of professionals was dismissed, and how people who clearly had life-limiting conditions—such as major strokes or serious musculoskeletal conditions—were denied the support that they deserved.

We argued in that committee report that the devolution of some social security powers meant

that we had an opportunity to claw back the dignity, fairness and respect that were missing from the UK model. I am very pleased that the Scottish Government has grabbed that opportunity with both hands.

Some 10 per cent of our population requires assistance to overcome the barriers that disability has put in their way. I am pleased that the Government has worked closely with those people via experience panels and other means, and has committed to embed dignity, fairness and respect at the heart of the disability assistance plans for Scotland.

The analysis of the disability assistance consultation provides additional material to help build the fair and transparent system that everyone in the country wants. I am pleased that a number of clear changes in approach have been taken as a result of the consultation. In particular, I welcome the proposal for a simplified application form; the enhanced role for carers and professionals in the provision of evidence; the greater choice and control over the timing and locations of assessment, with home-based assessments provided where required; and the reduction in face-to-face assessments, which we all know have been humiliating for many people.

I very much welcome that audio recording of assessments will be provided. That will make a material difference, because we all know of cases in which people have been treated in a degrading way. I had a dreadful case in my region of a young person with a severe form of epilepsy who cannot be left alone because they have several seizures a day. The assessors appeared to doubt the severity of the condition when that young person went to see them with her parents. It was clear that they were completely ignorant and insulting towards her, which resulted in the family walking out of the assessment and doing without the needed financial support. If that assessment had been recorded, I think that the outcome would have been very different.

I welcome the Government’s commitment that profit-making companies will not be involved in carrying out assessments for disability payments. That was a recommendation of the Welfare Reform Committee.

I was pleased to hear that people with long-term and lifelong conditions will not have to undergo the indignity of repeated assessments. We have all helped constituents who have experienced that. I also have experience of that in my family. Several years ago, a close relative with a congenital chromosomal condition causing serious learning disability was moved from DLA to PIP, meaning that the family had to complete the complicated 35-page form and get lots of supporting letters arguing that a face-to-face assessment would be

deeply damaging and inappropriate. It was a long, complex, tiring process, but we got through it. Then, 18 months later, we were told that my relative was being reassessed, because the award was for a limited period only.

I argued the case at every level, pointing out that even UK Government ministers had stood up in Parliament and given commitments to stop the mandatory reassessment of those with lifelong conditions. None of the people whom I spoke to wanted to know; indeed, they seemed to be completely ignorant of the fact that chromosomal conditions were named as being among the conditions that did not require reassessment. The situation brought home to me the lack of training and expertise, which I hope the Scottish Government will address in its proposals.

I had to go through the whole process again and fill in the 35-page form. That wasted a lot of my time, but perhaps much more important was the fact that all the medical professionals, social workers and other support workers all had to be contacted again to provide their written evidence, so their precious time was wasted.

At the end of the process, after I had filled in the form, I never heard anything again from the DWP. It did not even have the courtesy to get back in touch and tell me what the outcome was. That encapsulates the lack of respect towards claimants and their families that is embedded in the system. Consequently, the Scottish Government's commitment to case manager training is so important.

I echo others' points that the system must take into account fluctuating conditions. I also commend MS Society Scotland's briefing on that area of concern, which goes into detail about how MS can fluctuate, as others have outlined. That certainly came across in 2015 in the evidence that we took from people with a variety of conditions. The fact that conditions can fluctuate did not seem to be taken into account by the system at all.

I welcome the Scottish Government's new system, but it would be better if we had control of all social security powers in Scotland, so that we could design a system that works for everyone. However, I have no doubt that the system that we design will be a material improvement on what people are enduring at the moment.

16:25

**Tom Mason (North East Scotland) (Con):** As further powers over welfare are devolved to the Scottish Parliament, it is important that we take the opportunity to discuss how best to incorporate them into the Scottish welfare structure, and I welcome the chance to do so today.

Disability assistance benefits are some of the most important that we can legislate for, given that the people who rely on them are most likely to be unemployed and less likely to be economically active than people without a disability. The three welfare payments that are under discussion will replace key benefits that are currently delivered by the Department for Work and Pensions. Although there is not sufficient time to touch on all the consultation responses, I hope to mention as many as I can.

Disability assistance for children and young people replaces disability living allowance, with a view to extending provision up to the age of 18 for people who are able to receive it at the age of 16 and continue to meet the relevant criteria. I understand that the consultation responses were broadly supportive of a number of the ideas that the Scottish Government intends to put in place. The change in provision to the age of 18 was well supported, although some respondents felt that provision should be extended further, perhaps to the age of 21. I sound a note of caution here, because I think that someone at that age should be considered to be of working age, so that their disability can be assessed in that context.

Concerns were raised in relation to winter heating assistance, such as the need for a blanket payment, the possibility of means testing and the difference in the criteria proposed for it and winter fuel payments for older people. I hope that the Government will reflect further on those points.

Disability assistance for working-age people, as opposed to the current PIP system, seemed to attract much more varied responses, with a significant body of opposition to a points-based assessment system. I see the merits in such an approach, but I hope that the system will be designed with sufficient flexibility to ensure that it reflects the variance in circumstances that people face.

A second theme that appeared to develop was the concern about how mental health is viewed in relation to assessment for disability benefits. It is, of course, the case that the focus on mental health has rightly made that issue more prominent in recent years than perhaps was the case previously. Therefore, an holistic approach that reflects both physical and mental health should be at the forefront of our thoughts.

Disability assistance for older people, which will replace attendance allowance, is the third benefit that will be devolved. Unfortunately, the consultation was not as thorough on that point, but the responses are still valuable, particularly those concerning Motability, which was also raised in discussions on working-age support. Such ideas merit further reflection over the coming months, and I hope that they will prove to be positive steps.



However, I feel that I should mention some concerns, one of which is the delay to the introduction of the Scottish carers allowance, which has now been pushed back to 2022. Through my family, I have seen at first hand the effect that disability has not just on the individual but on all those around them. It is important that we ensure that the message that comes from the Parliament is that we value all those who care for people, but I am afraid that some of those affected might look at such delays and assume otherwise.

The wave 2 benefits will undoubtedly put more strain on Social Security Scotland, and I cannot say that it has been easy going for our new welfare agency up til this point. In May, Audit Scotland identified that more than 30 per cent of posts at SSS had been left empty. The cabinet secretary has indicated that that percentage has now dropped, but the situation speaks to a lack of advanced workforce planning in an organisation in which that simply should not be the case. It is not as though the changes snuck up on anyone unexpectedly.

Debates about the provision of devolved benefits are important. We all want those benefits to be delivered in the best possible way. The subject is emotive—there is no doubt about that—and we should be prepared to engage in good faith and work together where consensus can be found.

With that in mind, I hope that progress can be made in scrutinising and improving disability assistance in Scotland. I look forward to further opportunities in that regard in the months ahead.

16:30

**Bill Kidd (Glasgow Anniesland) (SNP):** We have come together today to thoroughly debate different aspects of the devolution to the Scottish Government of disability assistance. I highlight again the importance of a rights-based approach, which puts the needs of people living with disability first and has dignity woven throughout it.

We have the opportunity to build and shape a new system, which creates trust and reflects our comprehension of how crucial disability benefits are to the healthy functioning of a democratic and wealthy nation of people. The devolution of disability assistance allows us to create a system that works for people and not against them and that presumes, first and foremost, that the people who benefit from assistance are in need of help and are not just trying to cheat the system.

The undeniable context of this debate is the growing international concern about the treatment of disabled people in the UK as a whole, particularly in light of Brexit and recent UK Government welfare reforms. Although I want to

look to the future and consider how we can make things function better now that the matter is in the hands of the Scottish Parliament and the Scottish Government, it is important that we recognise that damaging policies have made life harder for the one in five adults in the UK with a disability.

In October last year, the Equality and Human Rights Commission reported to the United Nations on the erosion of the rights of disabled people in the UK. In “Progress on disability rights in the United Kingdom: UK Independent Mechanism update report to the UN Committee on the Rights of Persons with Disabilities”, the EHRC cited “deeply concerning” evidence that nearly 14 million disabled citizens across the UK are seeing their lives worsen. More disabled people than non-disabled people live in poverty, and disabled schoolchildren experience more bullying. The commission said that disabled people have been harder hit by welfare reform and that they experience increasing barriers to finding work and are paid less when they do.

Those facts matter to people, especially in the context of a discussion about rights-based disability assistance, as such a system is developed for Scotland.

The Office of the United Nations High Commissioner for Human Rights says that, across the world:

“Persons with disabilities face discrimination and barriers that restrict them from participating in society on an equal basis with others every day”,

and a

“disproportionate number of persons with disabilities live in developing countries, often marginalized and in extreme poverty.”

What that means for the Scottish Parliament is that we must ensure that we build a system that responds to the unique barriers that face the one in five adults who lives with a disability. We need to build a system that is fair and that allows people to participate in society as fully as possible, accessing all their rights.

In the context of our ability to encourage positive change, I am pleased that the process is already being informed by the social security experience panels. I am also pleased that the Scottish Government has incorporated recommendations of the disability and carers benefits expert advisory group, which is independent of the Scottish Government and is comprised of experts who champion the needs and rights of disabled people.

I welcome the proposed changes to face-to-face assessment, in a move away from DWP practice. The frequency of such assessments will be dramatically reduced, so that they happen only when absolutely necessary. In addition, a person

of the applicant's choice will be allowed to be present at an assessment.

I support the recourse to as many supporting documents as possible in the context of applications, initial assessments and subsequent reviews, with such evidence incorporated and accorded weight when a final decision is made after a face-to-face assessment has been required. Such an approach will do away with unnecessary interviews and minimise stress. We know that stress exacerbates physical and mental health conditions, and the last thing that we want to do is to make the review process harder or more taxing than it needs to be.

We can put an end to financial cliff-edge moments if we create a more dignified, tailored, and rights-based system. To put it simply, we can make disability assistance part of a system that is there to help. Together, here in Scotland we can build a new way of delivering benefits, through a rights-based approach that respects human beings.

**The Deputy Presiding Officer (Christine Grahame):** We move to the closing speeches. We have a little time in hand, so the closing speakers will be glad to know that they have an extra minute.

I call Alex Rowley to close for Labour; you have seven minutes or thereabouts, Mr Rowley.

16:35

**Alex Rowley (Mid Scotland and Fife) (Lab):** I was pleased that a number of members, including Bob Doris, Jenny Gilruth, Bill Kidd and Joan McAlpine, highlighted much of what is wrong with the DWP system that is in place at the present time. We should remember that that system and the changes that have been made to it have been ideologically driven. George Adam said that he did not want to have another go at the Conservative Party, but it is right that every time we discuss social security and the systems that are in place, we make it clear that the actions of the Tory Government at Westminster and its welfare reform process are causing widespread poverty across Scotland. All the evidence points to the fact that people with disabilities have come off worst. I really cannot understand how Jeremy Balfour can accuse the Scottish Government of warm words when the damage that the Tories are doing to the most vulnerable people in society is visible in every community across Scotland.

**Jeremy Balfour:** I put the same point to Mr Rowley that I put to Mr Adam. The process might change, but does the Labour Party believe that more people will be on PIP once the Scottish Government has introduced what is proposed? Surely that is the key question.

**Alex Rowley:** The answer to that is probably yes. However, the issue is the damage that is being done to people's lives right now. When we look at what the Tory Government at Westminster has done, we see that the case can be made for more of the DWP's powers to come to Scotland. I honestly do not understand how the Tories can justify what the Westminster Government is doing and challenge what is being done in Scotland; we could hardly do worse than Westminster is doing, but we are doing much better.

That said, a number of the briefings that members have received today have demonstrated that although most organisations in Scotland welcome the way in which social security is being developed, a lot more can be done, and it can be done now. A good example of that is provided in the conclusion of the briefing from the MS Society Scotland, which I would like to quote, because it makes an important point in a balanced way. It says:

"It is too easy to be critical at a time of such a massive undertaking as the devolution of existing and creation of new benefits. That is not our intention so we wish to recognise the positive changes that have been proposed:

- to reduce the number of face to face assessments
- to introduce longer term awards
- to reduce complexity of the assessment form
- the introduction of a new Short Term Assistance".

In others words, it welcomes those steps by the Scottish Government. However, it goes on to say:

"That said we believe there is still much work to be done to ensure that the commitment to treating people with 'dignity, fairness and respect' becomes a daily reality for people living with MS who are engaging with the Scottish social security system.

We believe the Scottish Government's intentions are genuine and we had hoped that the early rhetoric would be translated into more extensive positive change. However, in too many examples that hasn't been the case. Failure to make significant changes to the 'replacement' benefit for PIP—such as removing the 20m rule for mobility assessment—will leave the Scottish Government open to the challenge that it is simply introducing PIP in a kilt."

I hope that the minister will respond to that point. That is why Labour's amendment addresses that issue. As Mark Griffin said, we have not said that we should go back from the 20m rule to the 50m rule that was in place; we have said that we need to recognise that this is an issue. It is an issue that every briefing and every organisation has raised and we leave it open to the Government to consult on how best we can move away from the 20m rule that is clearly criticised by all those organisations. I hope that the minister will respond to that point and indeed support Labour's amendment, which recognises that that is an issue.

This has been a good debate. As I say, I cannot quite get over the nerve of the Tories and their cheek to come in here and criticise a system that is far, far superior to the ideologically driven attacks that have taken place on the most vulnerable communities in Scotland, including the disabled and the elderly. Let us work together—it is widely acknowledged that the Government has made good progress, but a lot more needs to be done.

16:41

**Michelle Ballantyne (South Scotland) (Con):**

The consultation on disability and the Scottish Government's response make interesting reading. There are some good points in there, and there is some good debate around what we can deliver. It is an excellent starting point for developing the regulations that the Scottish Government will, I hope, introduce next year.

In summing up, I will pick up on some of the key points that have been made. It has been an interesting debate; it deteriorated slightly towards the end, but some valuable points have been made. It is probably one of the most challenging areas that has been devolved to the Parliament.

Few would disagree that devolution of disability assistance offers an opportunity to build a bespoke system for Scotland. I think that it is fair to say that everybody in the chamber is rooting for that to be a success. The cabinet secretary has outlined again today that Social Security Scotland is now delivering benefits. We welcome that.

However, as many members have highlighted, wave 2—devolution of disability assistance—will be most challenging for the new agency. It behoves us all—to echo David Stewart's point—not to be overly adversarial about that, because a lot of people are depending on us, as a Parliament, to get it right. Therefore, we should make sure that when we are exploring the regulations, our scrutiny is focused on getting them right. It is not my intention to oppose anything for opposition's sake, because that would be neither helpful nor encouraging in respect of ensuring that we get a good social security system.

In his amendment, Jeremy Balfour calls for a commitment from the Scottish Government to there being “no further delay” to devolution of disability benefits. The cabinet secretary has acknowledged that the creation of a new system is challenging, and that safe and secure transition is an important priority. It is a priority that we certainly support. The cabinet secretary talked about the need to work closely and effectively with the DWP to ensure a smooth and timely transition.

At the risk of sounding a bit like a broken record, I raise again the issue that the then Secretary of State for Work and Pensions raised in August—provision of assessments for PIP and its replacement for Scotland by the DWP under the current arrangements is potentially time limited. The cabinet secretary has previously indicated that the introduction and acceleration of the Scottish child payment would not impact on the timetable for devolution of disability benefits. However, the Auditor General in her most recent report expressed concerns about some operational weaknesses at Social Security Scotland, in particular around case management.

Additionally, a quick look at the Work for Scotland website, where the Scottish Government posts its vacancies, shows that a raft of key roles, in particular finance and policy manager posts, have not been filled. In May, the Auditor General warned of a lack of trained financial staff at Social Security Scotland. Six months on, many of those roles are still not filled. The Scottish Government's position papers tell us that it expects to have to train and bring on board large volumes of new staff to deliver the Scottish child payment. I would, therefore, be grateful if the cabinet secretary would update members on where we are with the timetable and what, if any, risks exist. We need proper understanding of that. That is not to give the cabinet secretary a hard time; it is about ensuring that we understand, so that we can work with the Government wherever possible to ensure that none of the issues becomes a problem.

Mark Griffin explained clearly why he lodged his amendment, and he gave a good account of it, which was echoed in Alison Johnstone's contribution. There is no doubt that the majority of consultees and organisations support the proposition that we should get rid of the 20m rule. However, as my colleague Jeremy Balfour said, although we in the Conservative group absolutely have sympathy with that view, we feel that the question of the 20m rule needs to be considered as part of the design of the overall system rather than in isolation. At the moment, we do not know what the regulations will look like, and it is always dangerous to pre-empt the design and to make decisions in a debate such as this when we do not know what the whole package will look like. We are not saying that we do not support what people have said, but we feel that the issue needs to be considered as part of the design of the package.

Mr Griffin raised an important and interesting question about how UK case law will be dealt with in the design of Scotland's disability benefits system. I have no doubt that the cabinet secretary will look at that and that it will be high on the Scottish Government's agenda to ensure that its proposals will not face legal challenge.

Everyone in Parliament believes that there is scope to improve how we assess disability entitlement, whether it is done through paper-based evidence or face-to-face assessments, particularly in relation to fluctuating conditions and mental health issues. A number of members highlighted that with stories about individual cases. Bob Doris spoke about the reality that one size does not fit all. I am sure that we could all find examples of where that approach has gone wrong.

A person-centred approach is the prize that everyone hopes to deliver in the new social security system. However, that will come with significant challenges, as the Scottish Government introduces its regulations. It is not easy to ensure that the individual's needs are clearly understood, and to have a minimal amount of intrusive questions or complicated questionnaires. Quite a lot of thought is required about how to balance the need for freedom in decision making for the person who looks at the case with the need to ensure consistency of assessment.

My colleague Jeremy Balfour raised a couple of challenges about what the proposals will actually mean for people, and whether they will be better off and will get more benefits. I suppose that, at the moment, we do not know the answer to that question, although we know that there is a limited budget under the transfer of moneys from the UK Government. That challenge will be faced when we look at the issue.

The issues about support for disabled people are not just about benefits; they are wider and are about access to facilities and engagement in society. Alexander Stewart and Jamie Halcro Johnston touched on that in calling on us to remember, as we design disability benefits, that they should be a gateway to independence rather than a solution in themselves.

I will end by returning to Bob Doris, who said that the good intentions are not in doubt, but the devil is always in the detail. Like others, I look forward to seeing the regulations and working with my colleagues on the Social Security Committee to scrutinise the proposals. I hope that, at the end of the process, we will be able to sign them off with confidence that they will deliver a positive system.

16:49

**Shirley-Anne Somerville:** I thank members from across the chamber for their contributions to the debate. I am sure that they will join me in thanking all the people and organisations who took the time to respond to the consultation or to attend one of the Scottish Government's engagement events. We have received invaluable insights, and I am sincerely grateful to all those people for

sharing their experiences, some of which were very personal and difficult to speak about. I have listened to those experiences and will continue to listen, to respond and to engage with people to ensure that we transform disability assistance and make it work for everyone in Scotland.

When we asked people what they thought of the current UK system, they said that it is stressful, complicated and often inhumane. That message has been reflected in many of the responses to the consultation. I am sure that members will also recognise such feedback from their own surgeries and direct discussions with constituents—and it is just not right.

I am encouraged by the support for the majority of our consultation proposals and am committed to giving some areas further consideration in the light of the feedback that I have mentioned. That is why we have said that those responses will continue to inform our thinking about our replacement for PIP in particular, including our consideration of the most criticised aspects of the system, such as the mobility descriptors, face-to-face assessments and supporting information. We have also listened to consultation responses and made changes to our proposals on redeterminations, short-term assistance, award durations and overpayments.

I turn to some of the messages that have come through very strongly in the debate. Quite rightly, the Government has been challenged on whether it has made enough change to the system. I strongly refute any accusation that there has been none. I again point to the client journey that we have published today and to the comparisons that have been made with the UK systems. Those speak very directly to every step of a person's journey, which in the future will look, feel and be very different. Our approach should be not just about how we make decisions but about how we interpret and implement them. All those aspects will be very different under the new system.

However, we must bear it in mind that changing the system in certain ways will sometimes have implications, so I will continue to have full and frank conversations with stakeholders about any that might arise from our changes. Jeremy Balfour was one of several members who raised that issue. Earlier this year, he visited Victoria Quay to meet Scottish Government officials, from which, I hope, he got a sense of the work that is already going on on disability assistance packages. The completion of the discovery phases is an important step, and the development of the online application form is well under way. Therefore a great deal of work is already going on to design the system and to ensure that we do that in conjunction with those with lived experience.

Mr Balfour made an important point about epilepsy. In his contribution, Alex Cole-Hamilton

also raised the issue of fluctuating conditions, but in relation to MS. Policy officials in Government and those in the agency are working with stakeholders on how we ensure that—as opposed to what happens currently—we have a system that genuinely works for anyone with such a condition, or with a mental health condition or a learning disability. That is an important change from the current system that will happen under the devolved one.

Mark Griffin spoke about a number of issues, and I will try to pick up on a couple of those in detail. He mentioned case law. We are developing an entirely new system for social security up here, which is why we will develop our own regulations and guidance. However, we are closely considering case law and will engage with stakeholders on that specific issue. I can say categorically that the Scottish Government does not intend to—and will not—build a system that results in fewer rights for people. The challenge for us is how, in conjunction with Scottish Labour members, stakeholders and the Social Security Committee, we might look at it in the round. We must continue to look at both what is wrong with the current system and what works—because there are some aspects that we will want to pick up, including some from case law—to ensure that we get the balance right. I extend a serious invitation to Mr Griffin and others to work with us on how we might do so.

Mark Griffin spoke about the Labour amendment, of course, and about mobility. There is no unanimity on what should happen about mobility, but I absolutely welcome the tone of the comments in his speech, Alex Rowley's closing speech and other Labour members' speeches in relation to that issue and working together to try to make the system better.

We have already committed to considering what changes can be made to the “moving around” mobility rule. That is specifically why we asked about the subject in the consultation and drew that out as a descriptor. As is highlighted in the Scottish Government's response, we will continue to consider how that activity and the associated descriptors can be amended to better assess mobility. It is clear from responses to the consultation and from our work that there are a number of issues, and not just with the 20m rule. Significant problems are caused by how assessments are undertaken and how guidance is applied to that decision making. It is a complex area, and it would not be appropriate to scrap one element of mobility in isolation without first identifying a robust alternative that can be tested to ensure that there are no unintended consequences.

**Mark Griffin:** I appreciate that the cabinet secretary has said that there is not unanimity on what should be the replacement. That is why our amendment leaves it open. As there is near unanimity on our proposal that the 20m rule be abolished, I ask the Government again to consider it seriously.

**Shirley-Anne Somerville:** I have absolutely given an assurance that I will consider that seriously. It is in our consultation response that that descriptor in particular needs to be looked at. I just do not think that it would be advantageous to scrap one part of what happens around mobility while not taking into account anything else around mobility and not having in place a plan for what we will replace it with. As with all the aspects, we want to work with people to find the best solution and take it forward with them. As I said, I am more than happy to work with members from across the Parliament to see how that can be developed, but we need to do it in an holistic manner rather than through what is proposed in the Labour amendment.

A number of important aspects were raised by other members. Alison Johnstone mentioned the crucial issue of significantly reducing face-to-face assessments. We are taking a person-centred approach and the system is being designed to eliminate any unnecessary face-to-face assessments. I do not have time to go into detail on that today, but I am happy to discuss what we are building into the system to ensure that we do that at every level.

Many members, including Bob Doris, Jenny Gilruth, Alasdair Allan and others, spoke about the effect that the current system has on people. It is important that we always bear that in mind.

Pauline McNeill talked about the time that the agency will have to make a decision on redetermination and expressed concern that it is too long. It will be the agency's responsibility to collate the information for a redetermination. We do not want to move slowly, but not every aspect of that will necessarily be in our gift. Again, I am happy to work with Pauline McNeill and others to see whether we are getting the balance right, but the intention is to ensure that we move as speedily as possible. A great deal of work is also going on to ensure that no repayments will be asked of people that will cause hardship, because I absolutely recognise the point that Pauline McNeill rightly made on that important issue.

As I said at the start of the debate, we need and will continue to need the co-operation of the UK Government, which has to do its bit to ensure that the process of devolution works smoothly. We enter the process in a co-operative spirit and we are putting the needs of clients first. We will share those clients with another Government, and our

priority is to make sure that people get the right money at the right time. That is why I want to take the necessary time to work with stakeholders to review mobility—in particular—and the other areas and ensure that we replace PIP with something that is fit for purpose.

I am sorry to say that I will not support Labour's amendment because it is too prescriptive in its nature and it ignores the fact that this is a complex issue that cannot be fixed by considering one aspect in isolation. I will support Jeremy Balfour's amendment. I have set out a clear timetable for the delivery of disability assistance and I remain absolutely committed to our timetables. As Aileen Campbell set out in June, we have pushed back by a few months the replacement for attendance allowance in order to accommodate the Scottish child payment. To bring in a brand-new benefit to tackle child poverty head on is the right thing to do. We are absolutely on track to deliver that, and that includes the work within the programme and the agency to ensure that people are recruited on time when they are required.

I am happy to reiterate my existing commitment to protect clients when they transfer to Social Security Scotland. We will protect existing awards and award durations, and ensure that awards are paid at the same rate.

I am sure that members would agree that we are taking a sensible, measured approach to social security. We are delivering at pace, but always in a way that protects the payments that people rely on, while ensuring that we take the time to learn and test everything that we do. We need to ensure that we get our systems and processes right, and that should, quite rightly, be driven by evidence.

We will continue to engage with those with experience of the UK system and with stakeholders, just as we have done throughout the process, to ensure that we get things right for the people of Scotland.

## Point of Order

17:00

**Jenny Marra (North East Scotland) (Lab):** On a point of order, Presiding Officer. I raise a point of order under rule 13.5 of the standing orders, on written questions.

I submitted two questions on 1 October that were due to be answered by 4 o'clock today. Holding answers came in at 4 pm asking for more time, which is strange, as I submitted the questions a whole four weeks ago and they pertain to a letter that was written to the Cabinet Secretary for Health and Sport in April of this year—which has never been acknowledged, let alone afforded a reply—and an official right to reply submission that was submitted to Healthcare Improvement Scotland, also in April, which has never seen the light of day.

Both the letter and the right to reply submission are about the very serious matter of the breast cancer service in Tayside. In April, a review from Healthcare Improvement Scotland shocked the Parliament by reporting that dosages of chemotherapy are lower in Tayside than they are throughout the rest of Scotland. The oncologists responsible for that care strongly defend their care of their patients and the fact that there is no set regimen for docetaxel levels across Scotland. Their defence was contained in their right to reply submission to the HIS report, which was submitted in April, but it has never been published or seen the light of day. Healthcare Improvement Scotland is refusing to publish the doctors' side of the story.

The letter to the cabinet secretary was from the head of mathematics at the University of St Andrews, who set out the scientific case for the treatment regime that Tayside was conducting. He believes that there is sound scientific evidence—and many people agree with him—and that the doctors have been hung out to dry. The cabinet secretary has not afforded the eminent professor either an acknowledgement or a reply.

I am confused by the delay. It is our job in the Parliament to shed light and get to the truth of all matters of public interest. The public in Tayside, families who have been affected, and those who will develop breast cancer in the coming months deserve a full account of what has gone on so that we can begin to restore confidence in our local breast cancer service.

I am disappointed that the cabinet secretary has not used the opportunity of my questions to publish the right to reply submission, and I hope that she will now instruct her officials to do so, and to reply to Professor Chaplain, so that we can start to shed a bright light on this very serious issue.

**The Presiding Officer (Ken Macintosh):** I thank Ms Marra for letting me know, ahead of my coming to the chamber, her intention to raise a point of order. I am disappointed that Ms Marra has only received a holding response after four weeks, but a holding response does meet the requirement under our standing orders to offer a reply within that timeframe.

However, I am sure that the Government will also be disappointed not to have given a substantive response, and I am sure that it does not need my encouragement to offer one as soon as possible. The point is therefore noted.

## Business Motion

17:04

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-19610, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a revision to Wednesday's and Thursday's business.

*Motion moved,*

That the Parliament agrees to the following revision to the programme of business for—

(a) Wednesday 30 October 2019—

delete

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:  
Health and Sport;  
Communities and Local Government

and insert

1.30 pm Parliamentary Bureau Motions

1.30 pm Ministerial Statement: Impact of the Proposed New EU Exit Deal on Scotland

*followed by* Portfolio Questions:  
Health and Sport;  
Communities and Local Government

(b) Thursday 31 October 2019—

after

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions:  
Social Security and Older People

insert

*followed by* Ministerial Statement: First Instalment of £80 Million of Convergence Funding to Scottish Farming

and after

*followed by* Scottish Government Debate: Centenary of the 1919 Forestry Act

insert

*followed by* Legislative Consent Motion – Birmingham Commonwealth Games Bill

*followed by* Legislative Consent Motion – Sentencing (Pre-consolidation Amendments) Bill

*followed by* Legislative Consent Motion – Domestic Abuse Bill—[Graeme Dey]

*Motion agreed to.*

## Decision Time

17:04

**The Presiding Officer (Ken Macintosh):** The first question is, that amendment S5M-19577.1, in the name of Jeremy Balfour, which seeks to amend motion S5M-19577, in the name of Shirley-Anne Somerville, on improving disability assistance in Scotland, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The second question is, that amendment S5M-19577.2, in the name of Mark Griffin, which seeks to amend motion S5M-19577, in the name of Shirley-Anne Somerville, on improving disability assistance in Scotland, be agreed to. Are we agreed?

**Members:** No.

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

### For

Baillie, Jackie (Dumbarton) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Lamont, Johann (Glasgow) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Rennie, Willie (North East Fife) (LD)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)

### 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)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Carlaw, Jackson (Eastwood) (Con)

Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 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)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Greene, Jamie (West Scotland) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Derek (Renfrewshire North and West) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Mason, Tom (North East Scotland) (Con)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Tomkins, Adam (Glasgow) (Con)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 Whittle, Brian (South Scotland) (Con)

**The Presiding Officer:** The result of the division is: For 28, Against 80, Abstentions 0.



*Amendment disagreed to.*

**The Presiding Officer:** The final question is, that motion S5M-19577, in the name of Shirley-Anne Somerville, on improving disability assistance in Scotland, as amended, be agreed to.

*Motion agreed to,*

That the Parliament is committed to improving the provision of disability benefits in Scotland, built on a new human rights-based social security system for the people of Scotland; notes the publication of the independently produced report, *A Consultation on Disability Assistance in Scotland: Analysis of Responses*; considers that the report highlights agreement on the provision of social security payments for disabled people based on dignity, fairness and respect; notes that the Scottish Government is co-designing this approach with people who have lived experience of receiving social security payments, and agrees that it is essential that the needs of disabled people are at the heart of Scotland's social security system, and calls on the Scottish Government to commit to no further delay to any of the devolved disability assistance benefits and to provide an absolute guarantee for transitional protections for all claimants involved in the case transfer.

## Asda Walmart (Contract Imposition)

**The Deputy Presiding Officer (Linda Fabiani):** The final item of business is a members' business debate on motion S5M-18479, in the name of Pauline McNeill, on Asda Walmart contract imposition. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes reports that Asda Walmart is seeking to impose new contracts on its predominately female supermarket workforce, under threat of dismissal; understands that the new contracts remove provision for paid breaks, reduce night shift premiums, reduce holidays and introduce a new flexibility clause giving the employer the ability to alter days, hours, rota start and finish times, with corresponding salary change simply reflective of rising legal minimums; notes the view of GMB Scotland that Asda Walmart's actions run counter to all principles of the Scottish Government's Fair Work agenda and that it should seek to address whatever business case it has for making such cuts to terms and conditions by negotiation with GMB Union, and that, if this is not possible, Asda Walmart's next step should be mediation under the auspices of ACAS, not the imposition of detrimental changes of terms and conditions on the thousands of working class women in Scotland employed in its supermarkets; understands that the backdrop to Asda Walmart's actions is the long-running issue of equal pay for supermarket workers, and notes the calls from across the political spectrum in Scotland for Asda Walmart to take the threat of dismissal off the table for all of its staff who decline to sign up to a new contract that they fear will make them poorer.

17:08

**Pauline McNeill (Glasgow) (Lab):** I declare an interest as a member of the GMB union.

I begin by welcoming to the public gallery Robert Deavy, who is a union organiser for GMB, and all the Asda workers who have come here to represent the workers.

Asda Walmart is one of the United Kingdom's largest supermarket chains. We all know "Asda price" and George low-cost fashion; I am sure that we have all shopped at Asda at one time or another. Asda's corporate web page describes the company as a company of "pioneering people" and says that

"From checkout to boardroom, our colleagues are the heroes".

They certainly are.

The website goes on to say:

"Every one of us shapes the character of this company."

The character of those men and women means that they have stood firm against Asda's blackmail, which seeks to enforce poorer terms and conditions against their will. We in Labour admire that, and we stand in solidarity with those workers.

I put on the record my thanks to the members of the Scottish National Party and the Green Party who signed my motion, and to Chris Stephens, the SNP MP for Glasgow South West, who has lodged a similar motion in the House of Commons. The First Minister herself has called on Asda to get around the table to agree a positive resolution.

Asda is in dispute with its mainly female workforce over the enforcement of dramatically inferior terms and conditions. It may look like an ordinary dispute that may seem to be none of our business. However, every part of it is our business. It is our business because it is significant to any politician who cares about fairness at work and protecting quality jobs.

At the heart of this dreadful dispute is a female workforce who feel discriminated against, as the mainly male distribution workers have not been affected by the dispute. Women workers have been the backbone of the company. They are less likely to be organised in the same way as the distribution workers. They are likely to have caring and parental responsibilities and they are probably balancing their family commitments with their working lives.

Two years ago, Asda Walmart offered its workers a voluntary contract known as “contract 6”, with new conditions for an hourly increase of £1 an hour. After the contract’s introduction, the pay differential was only 63 pence, and only 15 per cent of the workforce accepted it. I wonder why.

On 15 April, Asda removed the choice from its workers and threatened them with dismissal if they did not sign up to the terms of the contract. As I speak, thousands have still not signed up and face the sack—they have a gun to their heads. Some have obviously signed the contract because they are thinking about their families.

Asda intends to remove provisions for paid breaks, reduce night-shift premiums and holiday entitlement and, crucially, create a new flexibility clause with a right to alter the workers’ days, hours and shifts. Above all else, I want to say to Asda that it has failed to understand that it has removed the certainty that workers who are carers and parents need. People who are facing the reorganisation of their lives to accommodate altered hours of work have been given a significant burden.

For most people, night shifts affect their health. They are unsociable and should attract a premium rate. Is it any wonder that only 15 per cent signed up for an extra pound an hour when there is a reduction in holiday entitlement at a time when Britain should be expanding its holiday entitlement?

The introduction of more flexible working hours at short notice is the key point. That is exactly the pernicious aspect of low-paid employment that serves no company well. It leads to an unstable workforce and, in the end, is costly because companies lose staff—there is evidence to show that. Workers need and are entitled to security in their working lives. Those who do not accept Asda’s conditions face dismissal at midnight on 2 November, which is shocking.

A significant number of the staff concerned are older workers who have been with the company for a long time. I have met many of the workers over the past few days, including outside the chamber today. Some of them have been with Asda for 25 or 26 years. They value the routine—they value the company. In the past, Asda has been an excellent company—as a former GMB organiser, I know that to be true.

The GMB has won commitments and there have been some improvements, but they do not go far enough. In a recent ballot, 93 per cent of those who participated rejected the terms. The GMB union believes that thousands of workers face the sack as we get closer to the deadline.

The fear and alarm created by managers who have been leafleting staff and displaying notices saying that the changes will be forced on them have unfortunately created very poor working relationships with the workforce, as members would expect. That is a casualty of the dispute.

Let me give a typical example. A male worker works days and his wife works night in the same store so that they can look after their 16-month-old baby. They have now received termination notices from Asda. Their lives have been turned upside down and they both face losing their jobs.

Members might think that Asda is in financial trouble and that that is perhaps why it is doing this, but that is not so. In September, Asda announced a jump in profits of £92 million and bonuses all round for its mostly male directors. The company does not even have a good reason for saying that it will enforce these dramatically inferior conditions.

The new contract represents another step on the road to eroding hard-fought-for terms and conditions. By engaging with the GMB and offering decent conditions, Asda can help to maintain the bar that has been set for good-quality employment.

This is not just about Asda and a dispute; it is about what we care about for working people across the country. If we lose to companies such as Asda, which thinks that it is acceptable to treat its workforce in this way, that will set the bar for other companies to do the same. We must stand firm for that reason.

I implore Asda to work with the GMB and its dedicated workforce to find a way forward and to value the men and women who have helped to make the company what it is today. *[Applause.]*

**The Deputy Presiding Officer:** I ask people in the public gallery to refrain from showing appreciation or otherwise, no matter how strongly they feel. We now move to the open debate, with speeches of up to four minutes.

17:15

**Richard Leonard (Central Scotland) (Lab):** I refer members to my entry in the register of members' interests and to my membership of the GMB trade union.

I thank Pauline McNeill for securing this important debate. The message that we are sending out from Parliament tonight is that, in this battle between low-paid, long-serving and—let me spell it out—predominantly women workers, and a company that is owned by the richest billionaires on the planet, we are taking sides. We are on the side of the workers. We are not debating tonight whether we support them or not; we are getting right behind the union and these working women and men in their hour of need in their struggle for justice.

In so doing, we are making a clear and unequivocal statement. When we in the Labour Party talk of a redistribution of wealth and power, this is precisely what we mean and why we need it. It cannot be right that a dynasty of power and wealth is able to deny industrious working people the simple right to a fair day's pay for a fair day's work. It is not just about the price of labour; it is about the dignity of labour.

When we talk of the need for an economy that works for the many, not the few, this is what we mean, and why we need it. When we explain the urgent need to halt rising economic inequality between the idle rich and the working poor, this dispute at Asda Walmart is a perfect example of what we mean and why we need to act. When we in the Labour Party call on all workers to join trade unions, this is precisely why. We are stronger when we stick together; we can have all the employment rights and all the laws in the world but, unless there is a trade union to enforce them, they are just words on a page.

The actions of Asda Walmart amount to industrial blackmail. Threatening those thousands of workers with the sack if they do not agree to work longer hours for lower wages with shorter breaks and fewer holidays is not a choice—it is the bullying of workers by an employer and it should be outlawed once and for all. As the GMB has said:

“The choice of signing up for a cut in terms and conditions of employment or no job is no choice at all”.

I cannot help wondering: would Asda Walmart have imposed the same ultimatum on a group of workers who were predominantly male, rather than a group who are predominantly female?

I have been inspired by the workers. They have stood up and spoken up for themselves, which is why I joined them on their protest at Toryglen, why I joined their demonstration at the Parkhead Forge store a couple of weeks ago and why I met the delegation to Parliament earlier this afternoon. It is also why I say that what is happening makes us in the Labour Party even more determined that we must create not an economy that works just for billionaires at the top, but an economy that works for all. That is the vision of the future that we offer people. It is a vision of the future that we believe is worth fighting for.

17:19

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I thank Pauline McNeill for bringing this very important issue to the chamber.

I will speak specifically about a local angle in the overall debate, which is the impact on my constituents who are Asda employees, some of whom arranged to meet me in mid-August. We have had an Asda in Coatbridge for decades now and it is keeping the old High Street afloat almost single-handedly, because other businesses tend to go to the nearby Faraday Park. The Asda store is a place with some good memories for me as I had my first job there. I was still at school at the time but was working on the check-outs and have fond memories of that. I have to say that that was, unfortunately, around 1998. I tell members that not to give away my age but to make the point that some of the workers who met me a couple of months ago have been with the Asda store since I worked there. Pauline McNeill and Richard Leonard also highlighted that point about the workers' long service.

We can debate all day long whether what the Asda workers have been offered is a good deal or a bad deal—I am sure that there are points for either argument. However, a consistent theme is that many of the people, like those who came to me, who are highlighting the issue to their union representatives share some of the same history. I know that others have said this, but it is worth stating again that most of those people are long-term, loyal workers who have not moved elsewhere. It was women who came to see me and remembered working with me in 1998—the vast majority of those Asda workers are female and they often have caring responsibilities for their own children or grandchildren, or elderly relatives.

Asda has always been seen as a good place for working-class women to be employed and balance their life around their job. However, what I picked up in my meeting with the workers was a shared feeling about not being treated with respect or as part of the Asda family, rather than a feeling about the deal not being a great one. It was sad for me to hear that and I did not recognise from what was said the place that I worked in all those years ago. There are therefore concerns around equality and it is our job here to address them head on. It is about fairness, which is why I decided to speak in the debate.

Following the meeting that I referred to, I wrote to the manager of Coatbridge Asda, with whom I have a very good relationship. Asda does a lot of great community work locally through its green token scheme and in other ways. I am grateful for the support that Asda has given to a lot of charitable organisations in Coatbridge and Chryston. The manager wrote back to me quickly and addressed some of the points that I had raised. He talked about an increase in the hourly rate to £9 an hour, through a consultation with the GMB and others; minimising the impact of unpaid breaks; no one being expected to work all bank holidays; the holiday on 2 January remaining a bank holiday; and, what is probably important, trebling the length of the transitional payment period from six months to 18 months.

The Asda management also said that it did not agree with the GMB's view that it was forcing the new contract on people. However, I come back to the management on that today and say that it might not agree with the GMB, but that is clearly what people feel. The people who came to meet me feel that, as do the people who Pauline McNeill and others have met. Surely Asda, given its size and its responsibility to its workers, needs to address that concern, even if it feels that it has not done what is causing the concern.

Like others, including the First Minister, I call on Asda to get back round the table with the GMB, which is quite a simple request. I ask Asda not to put on the line, because of the new contract, its good reputation from all the good work that it does in the community. I ask it to get back to speaking to its workers.

17:24

**Anas Sarwar (Glasgow) (Lab):** I refer members to my declaration of interests. I am a member of the GMB MSP group.

I thank Pauline McNeill for introducing the debate, and I would echo all the words of Richard Leonard.

I thank the GMB because it has, in the Diageo dispute in the past four weeks, through forceful

action in representing its members and a public campaign, got Diageo back at the table in order to get a fairer deal for its workers. As in that dispute, it has, in order to get fairness and justice for Asda workers, spoken truth to power and brought together people across the wider labour movement.

The debate is really all about speaking out in favour of Asda employees who face the most appalling attitude and behaviour from their employer. To put things in context, Asda turned over £22 billion in 2018 and reported a profit of more than £800 million. That profit was possible only because of the hard work of each and every single one of its employees, but those same employees who helped to generate that profit now face accepting new contracts with poorer terms and conditions being imposed on them, or being threatened with the sack.

As other members have said, Asda has stated that any workers who are unwilling to agree to or accept the poorer terms and conditions will be sacked. It is a choice: a cut in pay and conditions, bank holiday premiums going, long-service holidays being lost, the night window being shortened, which will lead to poorer pay, and a flexible contract that delivers flexibility only for Asda but not for the employees, or no job at all. That is no choice. We know that, the 12,000 affected employees know it, and Asda executives know it, too.

It is important to set the context that we are in the lead-up to Christmas. To make people—people who are worried about Christmas, about putting something on the table for their family and about having the joy that Christmas brings in reaching out and supporting other family members—choose, at that difficult time, between carrying on and losing their terms and conditions and losing their job altogether, is unacceptable and disgusting. However, even now, Asda is trying to drive through the change, despite more than nine out of every 10 employees having rejected it in the consultative ballot.

Concessions have been hard won, thanks to the GMB's efforts in the face of intransigence from Asda. I wrote to Asda to express my concern about the imposed changes. Its response utterly failed to acknowledge the serious concerns that have been raised by the GMB union and individual employees, who related concerns directly to me.

The picture that Asda is now presenting to employees, the GMB, members of the Scottish Parliament and the public is very different from the image that it seeks to present to the communities in which it is based. At every turn, it seeks to show that it is committed to those communities; it seeks to show a company that is rooted in supporting worthy causes and charities. Fulton MacGregor

rightly mentioned the green token scheme. I did a search. In the past three years, 190 motions have been lodged by MSPs to congratulate Asda on its community work. It is important to recognise that that community work was hard work and effort by employees, rather than by executives elsewhere.

If Asda wants us to continue to celebrate its positive activities in its communities, and wants us to continue to help it to give positive public relations messages in Parliament and our communities, it has to give justice to its workers. It has to get back round the table, as the GMB is willing to do, and provide for those loyal long-serving and dedicated staff, who have made it the company that it is.

17:28

**Jamie Halcro Johnston (Highlands and Islands) (Con):** The UK's retail sector has been fast evolving in recent years, and it has seen big changes. Companies have been taken over by other companies and, in some cases, that has led to empty units and redundancies, or individual branches being lost. However, in some of the worst and most damaging cases, we have seen businesses disappear entirely from our high streets. Great established names including Woolworths, Thomas Cook recently, and others, have been lost because those businesses failed to adapt to changing times.

There is, of course, more positive news, with new competitors entering the marketplace, but Scotland's retail sector remains in a precarious position, largely because consumers are changing how they consume. In a number of retail stores, particularly in the groceries sector, there has been a significant rise in the number of transactions that are carried out through automated checkouts. There has also been a growth in online shopping. Some companies have focused on smaller community stores, where shoppers shop for the immediate present and not for the longer term. All those things are because consumers are changing how they shop, and retailers have to respond. Unfortunately, but not surprisingly, those changes have led, in some cases, to losses in the number of positions in retail.

In communities such as those in my region of the Highlands and Islands, the supermarkets can be among the largest private sector employers. They also contribute to the wider economy as well as involving themselves with the local society and organisations through their charitable work, as we have heard.

However, let us look at the current issue that brings us here today. I am grateful to both Asda and the GMB for the information that they provided. The issue revolves around an on-going

dispute between the GMB union, in particular, and Asda, which resulted from the company bringing to an end its legacy contracts, and bringing six different contracts into one. Asda argues that similar changes have occurred across supermarket chains in the UK in recent times, that it is the last major supermarket to have held out on legacy contracts, and that the vast majority of its staff are signed up to the new contract.

I understand that a consultation took place, which involved the GMB union as well as Asda's national colleague-voice representatives, and that those discussions brought about a number of important changes to the contract. What were the changes that Asda made? They include transitional payment arrangements that provide additional protections to—for example—night-shift workers, who might otherwise, as has been mentioned, have been affected by changes in unsociable hours provisions. The changes also include provisions in the flexibility clause and changes to do with issues around breaks and bank holiday working.

Of course, there are still outstanding issues. The GMB union has made that clear, and I have asked Asda to respond to a number of the GMB's concerns. It does not sound like a business that is not willing to listen to or act with the union.

Of course, it is absolutely right that trade unions focus on the outcomes for employees, and that they meet their responsibility to work on behalf of their members. However, in any such dispute, it is important that they also listen to the business—to the employer.

**Pauline McNeill:** Will the member give way?

**Jamie Halcro Johnston:** Unfortunately, I do not have time.

It is also important to ensure that the common interest in the sustainability of jobs and the wider competitiveness of the company—which should interest both the business and the union—is taken into account.

Despite the current dispute, the GMB union said that Asda has “traditionally” been seen as “a source of decent employment”

for its colleagues, particularly for those who have family commitments or other jobs. I also understand that employee satisfaction in the business has generally been high.

Of course, there is a fairness issue around legacy contracts. If six different contracts are in place, people will be working in stores and other facilities, doing the same job, but under different conditions. To me, that sounds inherently problematic.

The GMB expressed concern about the flexibility of the work. It is, of course, down to Asda to provide it with the reassurance that workers' interests and circumstances will be reflected under the new contract. The business has stated that it will always take those circumstances into account before it changes working patterns or departments, and it has given what it termed "a clear commitment" not to use flexibility provisions in the new contract in order to reduce working hours. If it is maintained, that commitment will address some of the concerns that have been raised by the GMB about flexibility being used to reduce hours, thereby offsetting the pay rise that is part of the new contract, and will instead benefit colleagues. However, the company's management must, of course, build trust with their colleagues on those points.

Ultimately, this is a dispute between employers and a trade union. Asda is seeking to adapt to changing conditions, and the GMB is looking to ensure the best conditions for its members. It is right that they continue to engage and consider their priorities.

In any negotiated process, neither side will get entirely what it wants. However, I have seen some of the additional assurances that have been given, and I believe that they are positive steps.

**The Deputy Presiding Officer:** You must come to a close, please.

**Jamie Halcro Johnston:** I hope that the assurances can provide some way forward for both, and for some real progress to be made.

17:34

**Sarah Boyack (Lothian) (Lab):** I thank Pauline McNeill for raising the issue and securing the debate.

Listening to the past four or five minutes of the debate has made me angry, because this is about decent conditions—not the best working conditions in the universe, but decent conditions so that people can sustain part-time employment, continue to look after their kids and have caring responsibilities, and work hard for a company that some have been loyal to for decades. The workers have been told to sign up to something that puts their lives and their capacity to work for the company at risk or to leave. That is not much of a choice, is it?

For many women, retail jobs are crucial. They are reliable jobs in our community. Shift working can provide flexibility, enabling people to work part time while having other responsibilities. However, there is all the difference in the world between people having flexibility in their working terms and

their having uncertainty in their shifts, being told what to do and not being able to negotiate.

We have to look at the wider picture. Last year, I attended a fantastic briefing by the Joseph Rowntree Foundation when it published a report on how to reduce poverty. One of its key conclusions was that, for women in particular, jobs with decent, reliable salaries and terms and conditions that they can predict are a crucial aspect of their being able to work part time and be loyal to their company.

In the gig economy, uncertain working conditions and low wages are leading to more poverty. People who have worked hard throughout their lives and who want to earn money to support their families and pay the bills are being pushed into poverty.

As others have said, a large supermarket company such as Asda is a key part of our retail sector and should be expected to lead the way on fair employment and decent pay for its staff. The briefing that we have for the debate says that Asda is moving to pay the living wage next year. I have heard companies say that before. They say that they are moving to pay the living wage, but they then say to the staff that they will have to work more hours for fewer holidays, so the terms and conditions are worse. That is not what we expect of decent employers who are looking to pay the living wage.

It is the 11th hour—the terms are being imposed on 2 November—but there is still time for the company to negotiate and change course. Any changes should not apply to only one or two people; Asda should look at the terms and conditions and accept that they are not right. There is still time to take pressure off people, who have no alternative employment in the run-up to Christmas.

We need to acknowledge that even minor changes to jobs and salaries can have negative impacts. It is not just about having less money to pay bills or having sustainable employment; it is also about the potential issue of part-time workers who are entitled to benefits and have had stability but who end up in the maelstrom of universal credit. People can lose the benefits to which they have been entitled previously, so this is more than just an internal issue for Asda.

I thank the GMB and its members, who have lobbied us over the past few weeks. It was great to meet people outside Parliament this afternoon, in the bitter cold, to hear what the changes will mean for them. They will lose a 15-minute break when they are working for hours on their feet, and they have found out that their night-shift entitlement will no longer start at 10 pm and finish at 6 am, but will start at midnight and finish at 5 am. This is the

21st century, and those are not acceptable conditions. None of us in here would accept them, and nobody should have to accept them. We are talking about Walmart, one of our biggest retail conglomerates. It is deeply disappointing to see it push terms and conditions down.

Like many colleagues, I welcome the briefings that we get on the good charitable work and environmental initiatives that Asda does, but what a way to reward the loyal staff who deliver those initiatives. A company such as Asda has the chance—no; it has the responsibility—to lead best practice, not start a race to the bottom.

I accept that there are challenges in the retail sector. More needs to be done to ensure fairness across the sector in relation to online suppliers, and there needs to be more support for our town centres and for regeneration. I ask Asda to take a step back, listen to its staff and their representatives and think about the loyalty, commitment and hard work that should be acknowledged across the company. I ask that it does not just look at the short-term bottom line, which, by the way, is doing well at the moment.

**The Deputy Presiding Officer:** You must come to a close, please.

**Sarah Boyack:** Let us have fairness; let us have a change of heart.

**The Deputy Presiding Officer:** Speeches are starting to go quite far over the four-minute mark. I ask members to take a bit of care, please.

17:39

**Ross Greer (West Scotland) (Green):** I thank Pauline McNeill for bringing this outrageous attack on workers for debate. I have been genuinely inspired by most of the contributions to the debate so far, but I am left wondering how long it took Walmart's public relations team to write Jamie Halcro Johnston's speech for him.

It is an affront to basic dignity that those who have worked so hard to make Asda an incredibly profitable company now face being sacked unless they sign up to terms that are worse than those that they are currently on.

Without its workers, Asda would be nothing. No shelves would be stacked, no sales would be processed and no customers would be assisted. However, the largely female workforce now faces the removal of paid breaks, a requirement to work more bank holidays and the loss of regular shift patterns. On the other hand, Asda's bosses have been enjoying the fruits of their workers' labours. The bonuses have certainly been flowing around the directors' table.

Anyone with caring responsibilities knows how important regular shifts, in particular, are. Time and effort go into planning life and balancing work and home commitments—never mind leisure time—and those plans face disruption for the benefit of an employer. That is even more the case for single parents or for families in which both parents work for Asda.

To threaten staff with the sack if they do not accept the new contracts is not just disrespectful but an open display of contempt for those whose work has meant that Asda could report a rise in profits of almost £100 million just last month. It is a case of worse conditions for workers being imposed with the threat of sackings, and rewards for bosses. That is the worst type of corporate behaviour, but it is far from rare.

The GMB has done a great job in fighting for workers. I might have some significant differences with the union in other areas, but I must credit it for first-class organising in this instance. It has organised its members, negotiated some concessions and made this a national issue in Scotland and across the UK, adding public and parliamentary scrutiny to the actions of Asda's directors. Regardless of how the dispute ends, it has been another powerful example to workers in retail and across every other sector that the only way to effectively defend pay and conditions is to do so collectively through trade unions.

The behaviour of Asda's bosses begs the question why this is even tolerated in this country. The very nature of corporate greed and the capitalist system means that bosses will push to worsen working conditions in pursuit of more profits for themselves. However, the ability to issue very real threats of sacking staff who do not acquiesce is not inherent to capitalism; it is a feature of UK employment law, which includes some of the most hostile provisions in Europe. Intentionally weak protections against dismissals and decades of legislation that was designed to undermine trade unions have led us to this situation. After all, the issue is not restricted to Asda. Plenty of employers are using unscrupulous tactics against their workers right now—just look at the bogus self-employment that is rife across the construction sector and which has been made so high profile recently by companies such as Deliveroo. If we want an economy that works for everyone and in which fairness is embedded as a central principle, we need a transformation in workers' rights and labour relations.

In August, the Scottish Greens launched our green new deal, which weds the urgent need to tackle the climate crisis with restructuring our economy by redressing the current imbalance between workers and bosses. Those are two sides of the same coin. The corporate greed that seeks

to drive down working conditions is the same corporate greed that is stripping the planet of its natural resources and literally burning our home before our eyes. That is why we need to reform how corporations are run. We need to ensure that workers are represented properly on boards and in decision-making processes—a demand that would preferably be part of a transition to more radical forms of employee and co-operative ownership. We must ensure that corporations such as Asda cannot simply choose to end negotiations with unions whenever it pleases them, and that we expand collective bargaining across sectors, strengthening the hands of often divided workforces. We need to ensure that workers are involved in the formation of industrial and economic strategy, ensuring investment in everyone's living standards and quality of life.

The resistance of Asda workers to the contracts is admirable; they certainly have the Greens' support for their campaign. However, until the law in this country changes, we will be here time and again. That would be a terrible disservice to the workers and unions here today, who are fighting so hard for their rights and their dignity.

17:43

**James Kelly (Glasgow) (Lab):** I thank Pauline McNeill for securing tonight's debate, which allows us to send the message, loud and clear, that parliamentarians who represent constituencies and regions across Scotland will not accept the tactics that Asda is employing.

The imposition of contracts on the 12,000 workers, a number of whom are in the public gallery, is disgraceful. As many members have said, Asda's tactics have been disgraceful, but we should point out that they have been employed against mainly women workers. We must expose the way that Asda is operating—taking away paid breaks, reducing holiday entitlements and ending night-shift premiums. During all this time, Asda has been holding a gun against people's heads by keeping to the deadline of 2 November. Those are the actions of cowboys. They take us back to the dark ages. They are not what we expect from a modern, responsible employer in 2019.

That is why there is such anger, not just in the Parliament tonight but throughout communities. At stores in places such as Blantyre, Toryglen, Parkhead and Govan, not just affected staff members but the public are standing against the proposals.

A loyal Asda employee in my area, Cathy Murphy, from Cambuslang, has worked for the company for 44 years and is coming up to retirement. Cathy has done so much for Asda and has been such a positive worker, but she is being

threatened with being sacked if she does not accept the changes. What a way to treat a loyal worker! What a disgrace! Asda should be ashamed of itself.

It is time for Asda to take a hard look at itself. It is time for it to reverse its position and come back to the negotiating table, to negotiate responsibly and treat its workers with respect.

I pay tribute to the GMB, as other members have done, for the role that it has played, which shows the importance of trade unions in standing up for workers. We should bear it in mind that rights have been won through tough negotiations over the years, so if we lose rights now we are losing a fight for the people who will come into the Asda workforce in the future. The GMB is to be commended for standing up for workers' rights.

I have to say that I am really disappointed in Asda. The Blantyre store, for example, goes back 40 years. It has a good reputation locally and is well supported by the community. It has good links to the community and has provided a lot of good employment over the years, but it has dissed its good reputation in trying to force workers to accept disgraceful contract changes. I am really disappointed that Asda has done that.

This is an excellent campaign and we have had an excellent debate. This is what members' business debates should be all about: bringing to the fore the views and feelings of workers such as the Asda workers who are in the gallery.

However, our efforts will come to fruition only if Asda listens to what we have said, loud and clear: what it is doing is totally unacceptable and it should listen to the workers and ditch the contract changes immediately.

17:47

**Jenny Marra (North East Scotland) (Lab):** I am a member of the GMB and, over the years, I have been very proud to stand beside GMB members on many campaigns, especially in Dundee, as they tried to save their jobs and protect their terms and conditions.

There are three Asda stores in Dundee. The one at Myrekirk is quite new; it opened six years ago. I went there yesterday to meet Asda officials and challenge them on the despicable and Dickensian way in which they are treating their loyal workforce.

I was told that, across Dundee, 400 Asda workers had been asked to sign up to the new contract and that 360 had done so, leaving 40 still to sign. I got the impression that the Asda management is quite pleased with that result and thinks that the 360 people who have signed up to the new contract think that they are getting a good



deal and an attractive contract. The management fails to remember that when the Myre Kirk store opened six years ago, there were 8,000 applications for the nearly 300 jobs at the store—according to reports in the local press—many of which were part-time jobs.

Eight thousand applications—that shows how much people need and value their jobs. Asda has convinced itself that 360 people in Dundee wanted to sign up to the new contract, which is absolutely fanciful. People need their jobs, which is why they have been forced into that situation.

One of the defences that Asda offered yesterday was to do with competitiveness. I was told that the new contracts will bring Asda's practices into line with those of other supermarkets. I asked why other areas of the business, such as the company's logistics chains, could not be targeted for cost savings rather than its loyal workforce. Today, the GMB told me that Asda was not interested in the industry standards across supermarkets when it came to last year's pensions negotiations. When GMB members made the case for better pensions at Asda, the Asda officials did not admit that other supermarkets' pension deals were much better. Industry standards seem to be cited when it suits Asda but not when it does not.

A point that has not been made in this evening's debate but which I found sickening relates to the stories that I heard about Asda withholding sick pay from workers who were on notice to sign up to the new contract. When I raised that issue with Asda officials yesterday, they told me categorically that that was not happening, but I have been told by the union, and I believe it, that some workers had their sick pay withheld and GMB members were able to appeal that and get it back. However, it is quite possible that those people who are not union members and who did not know about that appeal are still having sick pay withheld. That is a despicable aspect of this whole situation.

I do not want to get too political about this, but I believe that Asda workers are bearing the brunt of a race to the bottom. In addition, the present political culture that we have across the UK is such that Asda knows full well that the Tory Government at Westminster will not bat an eyelid when Asda tries to impose such new contracts on its workers. The changes are Dickensian—workers are being asked to sign away their terms and conditions or be sacked.

Today, I have written to Asda officials to ask them to drop the threat of sacking on Saturday night from 40 workers across Dundee who have not signed the new contract, and I really hope that they drop that threat.

17:52

**The Minister for Public Finance and Digital Economy (Kate Forbes):** I thank Pauline McNeill for securing the debate, and I agree with James Kelly, who said that the debating of such subjects was exactly what members' business debates should be used for. In debating such matters, we turn our rhetoric, which is so often heard in the chamber, into the reality of individuals who are very worried at the moment and we put a face on things.

Such issues are hugely important, because no organisation or business can achieve anything without long-term loyal workers. An organisation is only as good and as strong as its employees. The profits that Asda has made over the past few years have been mentioned; those profits have been earned by the individuals who work for Asda day in, day out, and they deserve our support and our thanks. They certainly deserve respect. I welcome those of them who are in the gallery this evening.

The debate is important, too, because it allows members to defend—with passion—their constituents. I note the number of members who have supported the motion.

It is important to state at the outset that the Scottish Government has a clear vision for employment, which is one of fair work. We believe that fair work improves people's lives and strengthens businesses so that everybody can share the benefits of a stronger, growing and more inclusive economy. We recognise that, in growing a more inclusive economy, an appropriate balance must be struck between workers' needs and organisational demands. It is clear from listening to members that the debate illustrates that we need to work closely with employers and workers where we can show that fair work practices drive the productivity and the growth that are critical to the success of Scotland's economy.

I note the work that the GMB has done over the past few weeks in particular in seeking concessions and changes to the contracts. That demonstrates the point that Ross Greer made about the importance of the unions and their being protected by law. Trade unions are key social partners in delivering our economic and social aspirations. We vehemently opposed the UK Government Trade Union Bill and will continue to call for the repealing of the Trade Union Act 2016, which presents a direct threat to the fundamental rights of workers and to Scotland's collaborative approach to industrial relations.

I will list some of the changes that have been made because of the GMB's work. The GMB asked for a commitment to a further pay increase. Asda gave that commitment, but it has only today

announced the rate: the basic hourly rate will increase to £9.18 in April 2020. However, fair work is not just about pay; we can see that quite clearly in these negotiations.

Alongside the pay increase, the GMB talks about the concessions that it has been able to get on non-festive bank holidays, for example. The maximum number of non-festive bank holidays that colleagues will have to work next year has moved from five to three, and the Scottish bank holiday of 2 January will continue to be classed as a bank holiday in Scotland. The minimum notification on flexibility, which was originally proposed to be three weeks, is now four weeks, and those who lose out will have 18 months of transitional payments, which is an increase.

However, there are still quite clearly concerns about elements of that. In particular, as others have talked about, the introduction of the 4-week flexibility clause is an area of concern. As I said, fair work is not just about pay; it is about far more than that. The issue is not just about allowing time for workers to make alternative arrangements. Should workers have caring responsibilities, alternatives might not be available or might come at a cost, which means that somebody then has to question and reconsider their role.

As a Government, we would not support any measures that have the potential to indirectly discriminate against a particular staff group. Asda says that it will always consider personal circumstances before asking any employee to change their department or working pattern. We expect it to uphold that commitment and to note concerns about those changes to flexibility. Asda has also made a commitment not to reduce employees' working hours through the flexibility clause. Again, we would expect it to hold true to that. However, expectations are not enough; there needs to be that element of security in a contract as well.

Others have mentioned—it would be remiss of me not to mention this area, which falls into the portfolio of the minister for both fair work and business—that it is a tough time for employers in such a competitive climate and, in business terms, there are growing competitive pressures within the retail sector. The retail sector currently employs 225,000 people in Scotland, accounting for 9 per cent of all jobs. In the light of that, it is all the more important to ensure that employees are treated with dignity and respect and have the security that they need.

Fulton MacGregor and Anas Sarwar have both said that Asda does a lot of good work supporting worthy causes and charities, and it has received 190 motions of congratulation. However, again, all that good work is only as good as the sense of security and—for want of a better word; I do not

mean to be trite in saying this—happiness among employees as they go to work. At the end of the day, Asda, like any other organisation, is only ever going to be as strong as its employees are.

I whole-heartedly agree with the First Minister's approach, which she outlined at the Scottish Trades Union Congress conference: we need to have a race to the top based on innovation, productivity, skills and quality of work. That is why we work with unions on skills issues and why we are establishing the new manufacturing institute and the Scottish national investment bank.

We have to use all the levers that we have at our disposal to embed fair work in all Scottish workplaces.

**Pauline McNeill:** I know that there is not a lot of time left, but I want to reduce the issue to one point. Although changes to all companies are necessary—we understand that, as do the workforces—do we really want to live in a Scotland in which the way to negotiate with the workforce is to hold a gun to their head and say that they must accept something? I hope that, as a Government minister, the member will put it on the record that we do not want to live in a Scotland where employers think that that is the way to negotiate.

**Kate Forbes:** I agree with that sentiment, as I hope I have made crystal clear in my contribution. The debate is important, because it provides accountability and transparency in relation to the issues that we are discussing. I firmly believe in the notion of inclusivity when it comes to growth, as difficult as that is to define. There is no value in widening the gulf of inequality, which is already far too wide in this country. There is a responsibility on the Government, but there is also a responsibility on major employers to ensure that they support their workforces, not just when it comes to the top level of pay but at all levels of pay and in relation to terms and conditions.

**Jenny Marra:** Will the minister take an intervention?

**The Deputy Presiding Officer:** The minister is just closing.

**Kate Forbes:** I have gone over my time by a considerable amount, Presiding Officer, so I will just close with that point.

*Meeting closed at 18:00.*

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

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