



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Tuesday 10 March 2020**

**Session 5**



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Pàrlamaid na h-Alba

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# Scottish Parliament

*Tuesday 10 March 2020*

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

## Time for Reflection

**The Presiding Officer (Ken Macintosh):** Good afternoon. *[Interruption.]* There was nothing sinister in my cough whatsoever. *[Laughter.]* We start proceedings with time for reflection. Our time for reflection leader is the Rev Dr Marjory MacLean, who is the convener of the Chaplains to Her Majesty's Forces Committee of the Church of Scotland.

**The Rev Dr Marjory MacLean (Convener, Chaplains to Her Majesty's Forces Committee, Church of Scotland):** The Hindu festival of Holi began last night and ends today. It is the festival of colours, of spring and of love. It is the day when relationships are mended, laughter is shared and, of course, everyone ends up in a riot of coloured powder. It is the only festival I know of that you do not just "celebrate"—you "play" Holi.

Meanwhile, in the church, we are 13 days into Lent, a period of penitence and reflection that is as far as can be imagined from something you would play. Colour is drained from church buildings, or at least reduced to sombre purple and the grey ash that symbolises Ash Wednesday's quietening of mood. We who follow Jesus are in our time of self-examination and need-naming. When we reach Easter, the joy will burst out of us, because we have been keeping it squashed inside for all these weeks.

Therefore, at one and the same time in our Scottish community, the celebrations of the joyful and the depths of the subdued are mixed together.

In fact, we often have those contrasts within a single community, and no one sees that more vividly than the chaplains who are commissioned in our armed services, both regular and reservist. On a given day, a chaplain might pop in to see children enjoying the facilities in a resource such as the newly refurbished Drumfork community centre in Helensburgh, and an hour later, spend time with someone who is facing a medical board and suffering from combat-related post-traumatic stress disorder. In a Sunday congregation in a training establishment, a padre may look out from the pulpit at a new-entry trainee who is terrified of the unknown dangers that lie ahead in their career, and moments later be baptising the baby of someone from nearby service accommodation.

I suspect that, as our political representatives, you all know about that, too. You are here to enhance the things about Scotland that are worth celebrating, and simultaneously to serve those who most deeply need your voice and your decisions. You try to rejoice with those who rejoice and weep with those who weep, and you will never quite be getting it right for some people.

Know that, as you serve a society full of those tensions, the communities of faith will hold you in our thoughts and our prayers and—most of all—in our thanksgivings.

## Business Motion

14:03

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-21205, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out revisions to this week's business.

*Motion moved,*

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

(a) Tuesday 10 March 2020—

after

2.00 pm Topical Questions

insert

*followed by* Ministerial Statement: Novel Coronavirus COVID-19 Update

*followed by* Ministerial Statement: COP26 - Our Contribution to Global Climate Action

delete

5.00 pm Decision Time

and insert

6.15 pm Decision Time

(b) Wednesday 11 March 2020—

delete

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:  
Environment, Climate Change and Land Reform;  
Rural Economy and Tourism

and insert

1.30 pm Parliamentary Bureau Motions

1.30 pm Ministerial Statement: Independent Inquiry into Mental Health Services in Tayside

*followed by* Portfolio Questions:  
Environment, Climate Change and Land Reform;  
Rural Economy and Tourism

(c) Thursday 12 March 2020—

delete

2.30 pm Ministerial Statement: Independent Inquiry into Mental Health Services in Tayside

and insert

2.30 pm Ministerial Statement: Novel Coronavirus COVID-19 Update—  
[Graeme Dey]

*Motion agreed to.*

## Topical Question Time

14:04

**The Presiding Officer (Ken Macintosh):** The next item of business is topical question time. There is one question today.

### Royal Hospital for Children and Young People

1. **Miles Briggs (Lothian) (Con):** To ask the Scottish Government what its response is to the concerns raised by the former chair of NHS Lothian regarding the new Royal hospital for children and young people. (S5T-02062)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** My short response is that I fundamentally disagree with Brian Houston's reported assertions and accusations.

The events leading to my decision to halt the transfer are set out in the independent assessment of governance arrangements for the project, which was published last autumn. On Thursday 4 July 2019, I took the decision that, because patient safety could not be guaranteed if the hospital were to open the following week, I would instruct a complete halt to the transfer until I could be assured that patient safety in every area of that hospital, including the department of clinical neuroscience, met national standards. For the benefit of members, I advise that, at that stage, NHS Lothian's preference was to attempt to rephase occupation over the following weeks and months, including having the DCN move in as planned and ambulatory paediatric services move in later in the summer of 2019. The subsequent investigations on the issues to be rectified have demonstrated that such an option would not have been feasible or safe.

As a former national board chair myself, I did not take that decision lightly. The safety of patients—not least that of children—cannot be left to chance. The subsequent support for delivering the project, which was provided by the Scottish Government as a result of escalating the board to level 4 for the work, has put Mary Morgan in to oversee the final delivery of the project to the standard required and within the timeline set.

I will, of course, continue to keep Parliament advised on when the hospital will open to serve the people of Lothian.

**Miles Briggs:** In an interview in the *Edinburgh Evening News*, the former chairman of NHS Lothian's board paints a worrying picture in his description of a "toxic" culture, presided over by the cabinet secretary, in which the board has been treated with utter "contempt". His account raises a fundamental question of trust. It says:

“to come out and say she was overruling NHS Lothian was a lie.”

I ask the cabinet secretary whether Mr Houston’s version of events is correct. Will she say whether she actually overruled NHS Lothian?

**Jeane Freeman:** Let me repeat part of what I said in my first answer. On 3 July, the chief executive of NHS Lothian sent the Scottish Government’s director general of health an email that considered four potential options. NHS Lothian considered that option 4—rephrasing the timing of the move into the building to allow a phased occupation over the next few weeks and months—was the best one. I did not consider that it was the best option; I instructed a halt. I think that that is clear.

It is also clear that, from my dealings with boards across the country and my actions in the chamber, I am the least likely person to preside over a toxic atmosphere. I refute that accusation absolutely.

**Miles Briggs:** Everything that the cabinet secretary has outlined suggests that a dysfunctional relationship exists between Scottish National Party Government ministers, our health boards and the Government’s advisers. In the same interview, Mr Houston says that the cabinet secretary threatened that if he did not resign she would fire him. I ask her to say whether that is the case.

**Jeane Freeman:** Let me be clear. I do not accept that there is a dysfunctional relationship between the Scottish Government and national health service boards, or between any NHS directorate staff and NHS boards. I do not believe that Mr Houston’s reported assertions and accusations, which I have clearly said that I refute—I have provided evidence to back up my position—in any way indicate substantive evidence for Mr Briggs’s assertion.

I stress that, on 4 July, I took the decision to halt the move. Mr Houston next met me on 18 July. At no point in the intervening period did he—the chair of a major NHS board—feel that it was incumbent upon him to contact me, as the cabinet secretary, to discuss what might have gone wrong or what should be done next and where the board should be involved. Nonetheless, the director general of NHS Scotland was in contact with the chief executive and such matters were discussed, as they continually are between the director general, our national clinical director, our chief medical officer and our various directors in the NHS. Indeed, tomorrow, I will attend a meeting of the NHS chief executives, just as I regularly attend meetings of the NHS chairs.

I do not accept that there is a dysfunctional relationship in any respect. I accept that it is my

job to challenge and support boards to ensure that we get the best performance for the investment. In relation to whether I said to Mr Houston that I would sack him, I point out that Mr Houston resigned. I have powers under the National Health Service (Scotland) Act 1978 to dismiss chairs, but I did not use those powers in this instance.

**Monica Lennon (Central Scotland) (Lab):** The dominant issue of coronavirus presents a public health emergency, and we are about to hear from the cabinet secretary on that matter. We have all committed to work with the Scottish Government in the public interest, but it is clear that the issue around NHS Lothian and the resignation of Brian Houston is not going away, and we cannot have it swept under the carpet.

Will the cabinet secretary agree to publish all the emails and the minutes of the discussions to which she has referred, and anything else that would help to bring the matter to a close? If we do not get the answers that we need, will she commit to giving a ministerial statement next week, so that all members in the chamber can have more time to explore the issue in full?

**Jeane Freeman:** I do not believe that, in any respect, I am attempting to sweep anything under the carpet. Indeed, it would have been my wish to publish the appraisal. Mr Houston has made it clear in his response that he disputes the appraisal and its conclusions, but the general data protection regulation prevents me from publishing it. GDPR is not something that I made up or can control; it exists, and it prevents me from publishing the appraisal. I am also prevented from doing so because of the critical relationship that I have with board chairs and chief executives, and the relationship that my director general has with those individuals.

I have set out clearly what happened on 3 July, what I did on 4 July and how it took Mr Houston until 18 July to have a conversation with me, which took place only because I visited the sick kids hospital in Edinburgh. I do not know what more Ms Lennon wants to pursue in relation to the matter, but I say clearly that the people who are keeping it alive are Labour and Conservative members. No one from NHS Lothian and no staff member who is involved in the two hospitals has raised any concerns whatsoever with me in that regard. That includes those in the area partnership forum, who represent the staff across all the unions and with whom we have been actively engaged.

I believe that we have acted properly and that I have acted properly. I have set out very clearly why Mr Houston’s accusations are wrong and why I will not publish his appraisal, on which he founds what he has said. If we are genuinely focused on having the right health service for Scotland and on addressing the challenge of coronavirus, this

matter should now be ended by members of the Opposition, who simply want to make political capital out of it.

**The Presiding Officer:** We have had a good exploration of the issue, but six more members would like to ask questions. I would like to get through them, so I ask for brief questions and brief answers, please.

**Angela Constance (Almond Valley) (SNP):** As the MSP for the Almond Valley constituency, I very much appreciate the plain-speaking approach that the cabinet secretary takes in standing up for patients and staff. I recognise that she made the call to postpone NHS Lothian's planned move in the interests of patient safety at a time when, as has now been publicly acknowledged, no decision had been taken by the board. Will she elaborate on what work is now under way to oversee the safe delivery of the new hospital?

**Jeane Freeman:** The board was escalated to level 4 for the work in question. The Government has appointed the director Mary Morgan to work with the health board and to oversee all the work that needs to be done to ensure that the new hospital is safe and meets the standards, particularly with respect to ventilation, electrics and fire safety. We are moving along the timeline, which has not changed from when I first announced it. I am hopeful that we will shortly be able to announce the move of the DCN to its new facilities at the new site. We will then continue the work in order to be able to open the hospital in the autumn of this year.

**Neil Findlay (Lothian) (Lab):** It is our job to hold the cabinet secretary to account on behalf of our constituents, and we will do that whether she likes it or not.

GDPR does not prevent the cabinet secretary from publishing emails, letters, minutes and agendas from any meetings. Will she now publish them all?

**Jeane Freeman:** Of course Mr Findlay holds me to account—he does that with regularity, and I welcome it every time. My point about GDPR related to the appraisal. However, if the member wants to see the email from the board that I quoted from—

**Neil Findlay:** I want to see all of it.

**Jeane Freeman:** —and he wants to see other exchanges around that time, I am very happy to publish those and to make those available to members.

**Neil Findlay:** Excellent.

**Alison Johnstone (Lothian) (Green):** The cabinet secretary does not agree that the relationship between NHS Lothian and the

Scottish Government is dysfunctional, but it certainly appears as though it has been damaged. What action does she intend to take to restore the essential trust that must exist between the health board and ministers? In the light of Mr Houston publicly expressing such serious concerns about the relationship, will she meet him, or others, to explore the concerns, so that we can avoid any future breakdown in that important relationship?

**Jeane Freeman:** Mr Houston's resignation came as a result of the appraisal that he received from the director general of the NHS in Scotland. Appraisals are standard practice. Like others in this chamber, I know that they can sometimes be uncomfortable. Clearly, Mr Houston found that to be the case and did not accept the conclusion of his appraisal.

I do not accept that the relationship between this Government, the health directorate, me, the DG or any of my senior officials and NHS Lothian is damaged on the sole basis of one individual's resignation and their personal decision to go to the press and make a number of accusations and assertions, which I refute. Our relationship with NHS Lothian continues to be productive, supportive and, yes, at times, challenging. That is as it should be.

**Sarah Boyack (Lothian) (Lab):** Has the opening date of the sick kids hospital been confirmed and agreed by NHS Lothian? I ask because we had a recent cross-party briefing from senior staff at which the date was not confirmed.

**Jeane Freeman:** As I said earlier, the timeline that I set out to move the DCN into the new facilities in spring and for the hospital to open in autumn remains on track. Specific dates require to be finalised as we progress the work on the new ventilation upgrade and on other matters. As soon as we have a specific date for both those aspects, I will happily return to the chamber or advise members by email of that.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** The cloud under which all this sits is the reality that a hospital lies empty at the cost of £1.4 million a month, with no patients. Communication has been at the heart of some of the problems that we have discussed today. What confidence does the cabinet secretary have that she is receiving accurate communication from NHS Lothian about the hospital that she can then impart with regularity to the Parliament?

**Jeane Freeman:** The climate that surrounds the situation is not simply that we have a hospital lying empty. We had a hospital that was not safe. That is the fundamental point. It is my job as cabinet secretary to protect patient safety, and that is what I did.



On the provision of information, as I have said, we have Mary Morgan from the Scottish Government working with NHS Lothian. She reports to an oversight board that is chaired by our chief nursing officer, and information from the board about the progress that is being made in order to ensure that the timeline that I have outlined is met is regularly communicated to me.

**Daniel Johnson (Edinburgh Southern) (Lab):** The cabinet secretary did not deny threatening to dismiss Mr Houston. If she did threaten to dismiss him, will she confirm what grounds she had for issuing such an ultimatum?

**Jeane Freeman:** Mr Houston chose to resign; I chose not to use my ministerial powers. As I have said, the situation arose from an appraisal. I also said that we all accept that appraisals can be uncomfortable, but that they are an important part of how we conduct our work with our chief executives and chairs—indeed, we expect our chairs to do them with non-executives.

If Mr Houston does not accept any accountability for the situation that NHS Lothian finds itself in—at level 3 for performance and other matters, despite having significant additional resources and support put into it; and at level 4 in relation to a hospital that had to have its moving-in phase halted, on the grounds of patient safety, days before that phase was due to start—then his idea of the role of chair is different from mine, which is what I acted in accordance with when I was the chair of a national board. That goes broadly for other chairs, too.

What I expect from our chairs is clear. They require our support and our challenge, but they also need to accept their accountability in relation to the performance of the board that they chair. That is the situation that we are in. Mr Houston did not accept that and he did not accept the conclusions of his appraisal. In a situation in which someone does not accept that more work could be done, it is difficult for us to continue to have a productive relationship. In those circumstances, Mr Houston chose to resign.

## Covid-19 (Update)

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a statement by Jeane Freeman on nouvelle—why did I call it “nouvelle”? I am not French—on novel coronavirus Covid-19. The cabinet secretary will take questions at the end of her statement, so there should be no interventions or interruptions.

14:22

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** Covid-19 presents a profound and escalating challenge to countries around the world. The situation is extremely fast moving, but I want to try and keep this chamber as up to date as is practicable.

As of 9 o'clock this morning, there have been a total of 27 confirmed cases of Covid-19 infections in Scotland, which is an increase of four since yesterday. All the cases that have been identified in Scotland either have a relevant travel history or are infections through contact with known cases. Nineteen cases are related to travel to category 2 countries—northern Italy, in the majority of cases—and eight involve infection through personal contact.

We are also carrying out enhanced surveillance in the community, through our general practitioner sentinel network; in intensive care units; and in our acute hospitals. However, to date, no cases have been identified through that means. Therefore, we have no evidence yet of community transmission, which means that we remain in the containment phase.

As I set out last week, following the publication of the United Kingdom-wide coronavirus action plan, it is important that our approach continues to be guided by clear scientific and clinical evidence, routed through the chief medical officers via the scientific advisory group for emergencies, SAGE.

As members will recall, there are three distinct phases to managing any outbreak: containment, which is the phase that we are in now; delay, which involves the steps that need to be taken to flatten the peak number of cases and protect the most vulnerable; and mitigation.

Yesterday, the First Minister and I attended a Cobra meeting at which those matters were discussed across the four nations, and there will be a further Cobra meeting tomorrow. The First Minister has also been chairing our Scottish Government resilience room meetings to ensure that we have a cross-Government response that goes wider than simply the health service and involves all of Scotland's public services and business and tourism sectors.

As I have said, like England, Wales and Northern Ireland, we remain in the containment phase, but we can expect to move relatively soon to the delay phase, when we begin to see cases transmitted in the community. Our goal is to protect life, not least the lives of the most vulnerable in our society. All of our actions—those that we have taken to date, and those to come—are taken with that goal in mind. The timing of moving into the delay phase and judging what measures are the most effective in that phase must be and are driven very firmly by scientific and clinical advice.

Understandably, people will look to the situation in other countries and question why some of the moves that they are taking are not yet being taken in Scotland or in the United Kingdom. No measure has been ruled out, and the actions that we take might develop over time and be added to as we seek to manage the impact of the infection and protect life. If the actions that we take can flatten the infection curve, we will give our national health service the best chance to be able to treat the sickest patients to the very best of its ability. The timing of actions, guided by the scientific evidence, is being tailored to have the maximum impact in flattening the infection curve. Timing is critical: if we take those measures too soon, we will not have the impact that we need; if we take them too late, we will not reduce demand to the level required.

It is no exaggeration to say that continuing with simple measures such as hand washing and sneezing etiquette could help reduce the spread of infections and, as a result, help save lives. Preventing the worst impacts of the virus will need action across not just our Government but our society. However, we all need to be clear that, although the virus will cause mild symptoms for the vast majority, for many it will be a serious illness that is potentially life threatening. I am aware that steps that we might have to take in the coming weeks will have an impact on the normal day-to-day lives that we lead, but anything that we do will be carefully considered, in line with the evidence, and backed with clear guidance and support. The steps will also be clearly explained in the chamber and to the wider public.

Work is already in hand to ensure that the health and social care sector is as ready as it can be for any increase in the number of cases. That includes work to scale up NHS 24 to enable telephone consultation should restrictions be placed on people's ability to visit their GP or practice nurse. We are working with the professional regulators to establish urgent arrangements to allow us to bring back recently retired nurses and others, if they are willing. Work is also in hand to explore how students who are close to finishing their training in nursing and

medicine can be registered temporarily to support our efforts, if that is needed.

We are accelerating our NHS near me provision, with immediate investment of £1.24 million, to ensure that we can support the video consultations that will be essential to help us to reduce face-to-face contact, which will be necessary should there be a significant increase in the need for self-isolation. That is a rapid scaling up of services that have previously been used largely in rural areas but which will now become more common in our urban settings too.

I have also taken the decision to postpone the annual NHS event, not because it is a large event but because our hard-working front-line staff need to be able to focus their collective efforts on responding to the virus. The postponement is simply about not placing an additional demand on our staff.

Again, I put on record my sincere thanks to and appreciation of all the staff in the health and social care sector who have worked and continue to work incredibly hard in responding to the evolving and dynamic situation and who are continuing to discharge the high-quality care that NHS Scotland is renowned for. I also thank all members of the public for their support in following the advice on hand washing and use of tissues, and on contacting NHS 24 or their GP if they have symptoms. They are acting to protect themselves and their families, but they are also acting to protect all of us. The response has to be a societal one.

I am grateful to members for the support that they have shown so far and I will continue to update the chamber as quickly as is practically possible. I am very happy to take any questions.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on her statement, for about 20 minutes.

**Miles Briggs (Lothian) (Con):** I thank the cabinet secretary for providing advance sight of her statement, and for the manner in which she has been keeping Opposition parties briefed on this important matter.

I have two specific questions. First, what further progress has been made in the past week to increase bed capacity in every NHS hospital across Scotland? Secondly, have ministers received any concerns from NHS staff or from unions about equipment or capacity?

**Jeane Freeman:** A lot of work is going on to consider the steps that we might take to increase bed capacity in our health service, not only in acute settings but in secondary and community settings. That includes considering what we need

to do, and what it is possible to do, to increase capacity in our intensive care units.

As Mr Briggs will know, the primary treatment for those who are most ill from coronavirus is high-flow oxygen therapy, which will be administered either externally or through ventilator systems. The evidence from elsewhere appears to be shifting as to the proportion that is needed of one or the other. All of that is being factored in.

The work that is under way directly involves all our NHS boards, and the boards are involving all their area partnership forums. We have been in direct contact with the senior Scottish representatives of all unions that are involved in our NHS, and I co-signed a letter from the chair of the national partnership forum to staff, because it is vital that they continue to be involved.

There will be a need for additional equipment. The scaling-up of the attend anywhere scheme involves the provision of additional equipment, and we have authorised expenditure on that. The additional equipment is a UK-wide issue, so we are looking to address it on a UK-wide basis, and not to get into some kind of competition. The four-nation approach has been effective so far, and we are keen to continue with it.

**Monica Lennon (Central Scotland) (Lab):** I thank the cabinet secretary for providing advance sight of her statement and for her regular updates in and outwith the chamber, which are appreciated.

Concerns have been raised with me about testing for the virus. I have heard that people who have a relevant travel history have presented with symptoms but been told that they are not viewed as a risk and do not need to be tested. Will the cabinet secretary provide further clarity on when people can expect to be tested for Covid-19 and on whether further work is on-going to ensure that testing will be widely available to those who need it and on a consistent basis?

The cabinet secretary will recall that, last week, I asked about NHS 24 capacity, so I appreciate the announcement about scaling up NHS 24. Will she say more about that and whether it will include overtime or redeployment?

What discussions are taking place with the Scottish drug deaths task force and others to look at the particular needs of people who have substance misuse issues, who might be sleeping rough or homeless and who need access to medication and so might struggle to self-isolate?

**Jeane Freeman:** Testing for the virus is a clinical decision that is taken through a conversation between a clinically qualified individual and the person concerned. They go through a number of questions, and the clinician

decides whether the individual's description of their symptoms meets the case definition for Covid-19, at which point testing is instigated. Testing is widely available where those clinical decisions indicate that it is required.

As members know, there are two testing centres in Scotland, in Glasgow and Edinburgh, with Tayside ready to scale up should that be needed. Glasgow has now taken on confirmatory testing, in addition to Colindale down south.

If individuals have concerns, there are two NHS 24 numbers. The first is 111, which is for use out of hours, if a person believes that they may have symptoms and wants to go through that exercise with a clinician at the other end of the line. The other is a free helpline number—0800 028 2816—which is for individuals who are a bit worried or unsure about the best thing to do, as it can be confusing. I will write to all MSPs later today and will include that number in the letter.

The scaling up includes recruiting additional staff as well as working with existing staff to look at working patterns, additional shifts and so on. However, we are mindful that we are in this exercise for the long haul, so we need to take care of our staff as well as them taking care of others.

There are vulnerable groups in a health sense and, as Ms Lennon said, other vulnerable groups. This morning, the Minister for Public Health, Sport and Wellbeing, Mr FitzPatrick, had a meeting specifically with respect to how we get that health reach to those suffering from drug addiction.

**The Deputy Presiding Officer:** Eleven members wish to ask questions and we have about 15 minutes. Everyone deserves to ask their question, so I ask members to be disciplined.

**Emma Harper (South Scotland) (SNP):** Will the cabinet secretary confirm that the experts who are providing the scientific advice to the Scottish and United Kingdom Governments are learning from experiences elsewhere, not least Italy, which is clearly seeing the impacts of a significant infection outbreak?

**The Deputy Presiding Officer:** Thank you, Ms Harper—that is how to do it.

**Jeane Freeman:** Yes. The modelling that I described in my statement last week was, at that point, primarily using data from China. That modelling is a continuous exercise and now factors in more data from Italy and elsewhere in Europe.

**Alison Johnstone (Lothian) (Green):** I previously asked the cabinet secretary what action was being taken to support people who are on insecure contracts and who may receive no payment at all if they are forced to self-isolate. The UK Government has advised that people apply for

universal credit if they find themselves in that situation. However, considering the assessment process that must be completed, not to mention the five-week wait—which the cabinet secretary will be only too well aware of from her previous role—that will not be practical.

**The Deputy Presiding Officer:** Ask a question, please.

**Alison Johnstone:** What further assurance can the cabinet secretary provide that people who are on zero-hours contracts or in insecure work will not be forced to take that course of action and face not being paid?

**The Deputy Presiding Officer:** I do not know whether that is one for you, cabinet secretary.

**Jeane Freeman:** In the Cobra meetings, and with colleagues at that level of the UK Government, discussions have been on-going with the Department for Work and Pensions with specific reference to universal credit and how it can be altered in order to avoid individuals being forced to choose between what is right for their health and that of their families, and their income.

In addition, my colleague Ms Somerville, who is, as Ms Johnstone will know, the Cabinet Secretary for Social Security and Older People, is engaged in active thought along with Social Security Scotland about those benefits for which we are responsible and what additional work can be done there. She is also looking at what more the Scottish Government could do to help to mitigate financial problems for people in relation to the insecure contracts to which Ms Johnstone referred.

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** Will the cabinet secretary say more about how, in the coming weeks and months, the Scottish and UK Governments will maintain regular dialogue on developments with Covid-19, and about how the important information that is discussed in that forum will be communicated regularly to the public?

**Jeane Freeman:** The primary way in which that happens is through the Cobra meetings, which are now chaired by the Prime Minister. Recently, there have been two each week, although the second one is often chaired by the Secretary of State for Health and Social Care, Mr Hancock. That is the primary way in which the two Governments, along with our colleagues in Wales and Northern Ireland, are discussing the issues, based on the scientific and clinical advice, and reviewing what more we collectively believe needs to be done.

In addition, our officials—including our deputy chief medical officer, our chief medical officer, our chief pharmacist and others—are of course in daily contact with their counterparts elsewhere in

the United Kingdom in order to ensure that we are as aligned as possible on the decisions that we take.

With regard to communicating information to the wider public, the chief medical officer, our national clinical adviser, our First Minister and myself are regularly taking up all the opportunities that are offered to us through national broadcast and print media. We will continue to do that, and I will continue to look for every possible opportunity to update the Parliament, members directly and the party spokespeople and leaders, as we have done until now.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Given that Covid-19 seems to affect older people disproportionately, in terms of infection and severity, and that many older Scots live alone without access to the internet and the NHS near me service, what provision for treatment and testing is the Government making for older Scots, who might already be socially isolated, if they become sick?

**Jeane Freeman:** The evidence so far indicates that those who are most at risk of contracting the virus and experiencing a serious illness are people in their 70s and 80s and individuals who have particular vulnerabilities in terms of their health—largely speaking, those who are immune suppressed. As we move into the delay phase, we will set out very clearly what those conditions are and what we are asking people to do.

Scotland's resilience approach includes our regional resilience partnerships, which have now been stood up for some days. They include local government, as well as fire, police and health. Local government is critical in the support that it can offer to older people, as is our third sector. My colleagues Ms Somerville and Ms McKelvie are actively looking at what more we can do to ensure that the necessary steps are put in place to support older people, particularly those who live alone and who are isolated in terms of either their social contact or their geography.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** The cabinet secretary has made clear that people have a vital role to play in helping to contain any outbreak by following the latest health and travel advice. Will she reiterate the best places for the public to access advice on travelling at home and abroad?

**Jeane Freeman:** There are two places that are key to advice on travel and travel restrictions. The Foreign and Commonwealth Office website will keep people up to date on its very specific advice on travel. With regard to our response and a whole range of other questions that people might have, the NHS inform website and the free helpline number are where people should go for

continuously updated advice that also relates to the travel advice from the FCO.

**Brian Whittle (South Scotland) (Con):** I have a constituency issue about a pharmacy that has told me that, when it replenished its stock, it was charged three times the usual cost for medicines such as paracetamol. Is the cabinet secretary aware of other instances like that? What can the Scottish Government do to ensure that ethical practices—if I can put it that way—continue during this crisis?

**Jeane Freeman:** I would be very grateful to know the detail about that instance from Mr Whittle, and about any other such instances that arise, from any member. Mr Whittle and I discussed this morning in the Health and Sport Committee the interrelationship between devolved and reserved powers, which he will understand. Once I have the details, I will make sure that my officials raise them with their counterparts south of the border to see what we can do to ensure that unethical practices—quite disgraceful practices, if that is the case—are prevented, as far as that is possible for us to do.

Presiding Officer, I take this opportunity to factually update the chamber; I understand that the Cobra meeting will now take place on Thursday, not tomorrow.

**David Stewart (Highlands and Islands) (Lab):** Can the cabinet secretary outline the Scottish Government's strategy for the final stage of dealing with the coronavirus, which is the mitigation phase, particularly with reference to intensive care beds, which are in short supply relative to our European neighbours, such as Italy?

**Jeane Freeman:** The number of our intensive care beds is proportionately the same as that across the UK. As Mr Stewart quite rightly identified, the evidence tells us that some of the people who will be more seriously affected are likely to require intensive care beds. Part of the work that we are undertaking to look at bed capacity across the whole estate, which I described to Mr Briggs, aims to double the number of intensive care beds and ensure that we have the right trained staff and the right equipment to be able to do that.

We will continue to look at what more we can do to maximise our capacity to respond, at the same time as we take steps to flatten the peak so that we give ourselves the best possible chance of being able to do so. Nonetheless, all of us must understand that the situation is serious and that although many people will be mildly affected, this will be a serious infection for some and for many it will potentially cause their death.

**Annabelle Ewing (Cowdenbeath) (SNP):** Can the cabinet secretary set out the approach that residential care homes should take to protect residents and staff and the precautions that they should take with visitors?

**Jeane Freeman:** Residential care homes should ensure that visitors, as well as their staff and residents, follow the straightforward public health advice that we have encouraged people to follow as part of the containment phase and beyond. The advice includes hand washing, using tissues and making sure that anyone who has any symptoms that they are concerned about calls a local general practitioner surgery or NHS 24.

Our future planning is undertaken directly with our colleagues in the Convention of Scottish Local Authorities. We are looking, with the residential care sector, at what additional clinical expertise the sector might need in the community and at what additional training staff might need to deliver what I would describe—I accept that this is an old-fashioned term—as barrier nursing. Most people will understand what that means: it is basic nursing precautions to prevent the spread of infection. That work is under way with COSLA and the care home sector, to make sure that we are planning and putting in place what we need at the right time.

**Liz Smith (Mid Scotland and Fife) (Con):** What measures can the Government take to support our more vulnerable adults and young people, who might not be able to read some of the information or comprehend it as other people can?

**Jeane Freeman:** That is an important question. My colleague Clare Haughey tells me that we are looking at the matter, particularly for people with learning disabilities.

We are also, through colleagues elsewhere in Government, reaching out to ensure that carers have the support that they need. This is an anxious time for carers: there is anxiety about those for whom they care as well as anxiety about who will care for the individuals for whom they care if they become ill themselves.

All that work is under way. I intend to come back to the chamber and update members on all of that, as soon as it is possible and practical to do so.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Yesterday, in response to a question on testing at airports, the UK Government health secretary said that the evidence from other countries that have tried temperature testing at airports shows that it is not effective and can actually be counterproductive because it leads to a lot of false positives. Does the Scottish Government's scientific advice concur with that view of airport testing, and is the cabinet secretary

content with the approach that is currently being taken at Scotland's airports?

**Jeane Freeman:** We are content. Only a third of those who are infected by the coronavirus demonstrate that by way of a spike in their temperature. One difficulty with screening arrivals at airports is that people will be missed because they are not showing an increase in their temperature, which then gives false reassurance. That is why, based on the scientific and clinical advice that we have, screening at airports is not the right precaution for us to take.

**Mary Fee (West Scotland) (Lab):** I am grateful for the update on the increase in intensive care beds. Can the cabinet secretary assure us that additional intensive care staff will be in place as bed capacity increases?

**Jeane Freeman:** That is an important question. Although I am not bringing absolute conclusions here, I want members to be assured that that work is going on daily and has been going on for some time. We are looking at the skilled staff that we have who are not intensive care staff but who could, with some additional training, take on some of those roles, leaving our highly specialised intensive care staff to do the things that only they are qualified to do.

In practical terms, that means that, as far as is possible within the bounds of patient safety and good clinical care, the current model for delivering care in an intensive care unit in normal times will have to shift a bit. That will allow us to cope with having more people in intensive care beds with the maximum clinical input and the maximum patient safety.

**The Deputy Presiding Officer:** Thank you. That concludes questions on coronavirus. I thank the cabinet secretary and all members, because we managed to get in all the questions, due to your self-discipline.

## COP26

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a statement by Roseanna Cunningham, on COP26—our contribution to global climate action. The cabinet secretary will take questions at the end of her statement, so there should be no interventions or interruptions.

14:51

**The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham):** The 26th conference of the parties will be a critical moment in the global fight against climate change. Tackling the climate crisis and setting the world on course to net zero emissions within a generation will require a truly international response.

The United Kingdom Government's themes for engaging at COP26 are adaptation and resilience, nature, energy transition, clean road transport and finance. Climate action is central to the work of the Scottish Government and is foregrounded in the aims of business, civil society, academia, industry, youth movements and many others. That inclusive approach is reflected in Scotland's themes for COP26, which are a just transition and people.

In Scotland, we have already demonstrated that we are committed to delivering world-leading action to tackle the climate crisis. Our landmark Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 commits us to a target of 75 per cent emissions reduction by 2030, and net zero by 2045. Those targets are in line with the Paris agreement's requirements for "nationally determined contributions" to reducing emissions by 2030 and beyond.

In building momentum towards COP26, our national endeavour to tackle climate change provides a platform for increased global action. Our budget sets out ambitious new measures to respond to the global climate emergency. It includes investment in low-carbon infrastructure of about £1.8 billion in 2020-21, which is an increase of more than £500 million on 2019-20. Equally welcome is the quarter of a billion pounds that has been committed to restoring peatlands over the next 10 years, which will truly be a game changer.

The year of coasts and waters is an appropriate theme as we journey towards COP26. Communities and businesses across Scotland will showcase our natural environment and wildlife—the elements that are most iconic but are also most vulnerable to climate change.

Last week, we introduced the Heat Networks (Scotland) Bill, which will help us to meet our

climate change targets by regulating heat networks through increasing investor, supply chain and consumer awareness and acceptance. The Scottish Renewables conference in March and the All-Energy conference in May will showcase both Government and industry action to decarbonise the energy sector.

The updated climate change plan will be laid in Parliament by the end of April. That demonstrates the increased intensity and pace of activity that we will need to move us towards net zero. In the same month, we will also host an online international biodiversity workshop that will seek to amplify the voices of subnational governments and ensure that concrete action is taken on the twin challenges of biodiversity loss and climate change.

In May, the Under2 Coalition, of which Scotland is a proud member, will celebrate its fifth anniversary. We plan to work with the coalition during COP26 to showcase the action of subnational governments. We will, in recognition that the increased investment that is needed for the net zero transition is a key part of our action around COP26, seek to capitalise on the opportunities that that brings.

The Scottish national investment bank, with its primary mission of facilitating a just transition to net zero, is an example of innovative green finance. We are also identifying large-scale investment opportunities that are suitable for the global market, thereby helping private sector financing to become an integrated part of Scotland's net zero transition. Last month the independent just transition commission published its interim report, which highlights the requirement to put equity at the heart of policy making. Throughout this year, we will continue to work with the commission to understand how the net zero transition can create jobs and prosperity, reduce pollution and waste, and improve people's wellbeing.

In the summer, we will publish a heat-decarbonisation statement, which will set out the steps that are needed to reduce the emissions that are associated with heating our homes and buildings.

We plan to host an international land reform conference in September. Land use is a fundamental part of tackling the climate crisis, so we are working to ensure that everyone can benefit fairly from Scotland's land.

Scotland's annual climate week will take place from 14 to 20 September, and our climate citizens assembly will meet for the first time in the autumn. The assembly will be an important forum as we consider the far-reaching change that is needed across society. It is an example of how people can have their say on climate action.

COP26 can act as a catalyst to drive forward action by business, industry, local authorities, communities and many others. Our focus is on securing a legacy that puts decarbonisation at the forefront of people's thinking. That has been central to our discussions with Glasgow City Council, and I have discussed directly with the council leader how we might ensure that non-governmental organisations, businesses and wider communities are able to get involved. We encourage all partners to seize the opportunity of COP26 to show the best of what Scotland has to offer.

Our COP26 platform must be inclusive and involve all sectors: it must be an event of which everyone can feel that they are part, and which provides opportunities for engagement for young people, communities and representatives from the global south.

Glasgow has an excellent reputation for hosting large-scale international events, and we are working closely with our delivery partners to ensure that Scotland delivers a world-class safe, secure and successful COP26. The First Minister and I have written to the new COP president offering our support. Although I have not yet met Alok Sharma, I hope to meet him when he visits Glasgow. To demonstrate our commitment to shared working, we have, following initial discussions with the Foreign and Commonwealth Office, welcomed the opportunity to deploy Scottish Government staff in the COP26 blue zone.

There has been significant media coverage of COP-related cost estimates. The estimates will be further refined once the UK Government provides additional information on planning assumptions. As a result of updated information, the Scottish Police Authority has already revised to £180 million its estimate of policing costs. That figure is subject to change to reflect evolving operational planning, and will also be subject to on-going review and scrutiny. Additional information has also reduced the cost estimates for the health, transport and justice systems by about £40 million. I hope that, as more detail becomes available from the UK, it will be possible to refine the costs further.

It is also important that I update Parliament on the partnership with the Glasgow Science Centre that I set out to the Environment, Climate Change and Land Reform Committee on 26 November 2019. That partnership is intended to provide a space where the public, business, universities and non-governmental organisations can engage with delegates on what is happening in Scotland, and learn more about climate action.

In recent weeks, we have become aware that the UK Government wishes to use the Glasgow

Science Centre as the COP26 green zone. At the UK Government's request, we have responded positively to proposals to share the science centre. However, I have learned that in a recent communication with Glasgow Science Centre, the UK Government indicated that the opportunity to share the space is no longer available to us, which placed the centre in a very difficult position and created significant uncertainty. We have no desire for that uncertainty to continue. Our position has always been that the climate emergency and COP26 should transcend politics.

As a consequence, and in the spirit of partnership, today I have written again to the COP26 president to offer to transfer control of the science centre during COP26 to the UK Government. I have made it clear that that offer is provisional on the Scottish Government being offered an appropriate alternative venue in Glasgow to allow us to showcase Scotland. I have urged the UK Government to conclude the matter without delay. We can then continue to collaborate with the UK Government, Glasgow City Council and our partners to showcase Scotland to the world at what will be a pivotal conference.

There have, of course, been questions in recent weeks about the impact of coronavirus on COP26. I assure members that we continue to plan for COP26 to take place. Although advice will evolve, we continue to plan on the basis that COP26 will take place in Scotland. We will, of course, inform Parliament should there be any substantial change in the assumptions.

We want to use the opportunity of COP26 as a catalyst to attract new investment, innovation and sustainable economic growth to Scotland. We will further harness the will and ambition of the Scottish Government and the Scottish people to position Scotland firmly as the world leader that it is in tackling climate change.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on her statement.

**Annie Wells (Glasgow) (Con):** I thank the cabinet secretary for advance sight of her statement. I welcome the work that the Scottish Government is doing to tackle climate change. Scotland and the UK have some of the most ambitious targets in the world and I look forward to working with the cabinet secretary to make sure that those targets are met. In that light, I am glad that the cabinet secretary has offered the use of the Glasgow Science Centre to the UK Government, although I have a few questions about the on-going relationship between Scotland's Governments.

Can the cabinet secretary confirm that the Glasgow Science Centre is the only building over

which there is a dispute between the UK and Scottish Governments? Does the cabinet secretary expect to be offered "an appropriate alternative venue" by the UK Government? Does the cabinet secretary agree that such disputes between Scotland's Governments will not help us to tackle climate change and that we need the UK and Scottish Governments to work together if COP26 is to be a success?

**Roseanna Cunningham:** Of course working together is what will make COP26 a success, and that is what we are endeavouring to do. I did not use the word "dispute"; I would use the word "conversation", and a conversation is taking place about the future use of the Glasgow Science Centre. I hope and expect that the Scottish Government will be able to secure an alternative venue from whatever source one becomes available.

I think that every member in the chamber will accept and agree that there needs to be a venue that the Scottish Government can use to host, and the use of which it can offer to others, in order to ensure that all aspects of the climate change challenge in the United Kingdom and globally are met. That is what this is all about.

**The Deputy Presiding Officer:** I remind members that, if they want to ask a question, they need to press their request-to-speak button. I call Claudia Beamish, to be followed by Sandra White. You have pressed your button, Ms Beamish, so you should not take that personally. [*Laughter.*]

**Claudia Beamish (South Scotland) (Lab):** Thank you, Presiding Officer.

I welcome the Scottish Government's themes for COP26, which are a just transition and people. Those are fundamental considerations for Scotland and for places abroad in the shift to net zero and the global negotiations. Given the themes and the Scottish Labour amendment that is part of the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, which requires ministers to

"support the people who are most affected by climate change but who have done the least to cause it and are the least equipped to adapt to its effects",

I would welcome comment from the cabinet secretary on the following.

Will the cabinet secretary commit today to implementing the just transition commission's interim recommendations in order to prevent any further delay? Will she consider the possibility of further funding for the climate justice fund in the light of the growing scale and depth of the climate impacts on the global south? The mechanisms for innovative green finance are vital both here and globally, as the cabinet secretary recognises. How is the Scottish Government working with the COP



president to ensure equity of influence at COP26 so that marginalised voices have the same lobbying and access opportunities as wealthy industries?

**Roseanna Cunningham:** I thank Claudia Beamish for her questions and for her enduring commitment to those issues, which means that I could have anticipated that she would—quite rightly—go into that area. We are looking at all the just transition commission's interim recommendations and we will return to advise Parliament of our timetable for their implementation or otherwise.

The climate justice funding issue is very important, and we already provide funding for climate justice work. Our continued commitment to doing that exists despite the fact that there is not an easy fund from which to draw that money, but we find it and are increasing it. It is distributed primarily through the climate challenge programme Malawi and the climate justice innovation fund, which funds projects in Malawi, Zambia and Rwanda. We try to keep that very focused, and I hope that the member will accept that, given the relatively modest amount of money that we spend, that continued focus is probably the best way for us to achieve some results.

The issue of climate justice is incredibly important. At the 25th conference of the parties, in Madrid, I was approached by a number of people from what might roughly be termed “the global south” about their desire to become much more actively involved at all levels of the COP proceedings. I have undertaken to try to be at least an amplifier of that demand.

As the member will have heard in my statement, the new president has been in place for only a short number of weeks. I have not had the opportunity to speak directly to him, although, as I indicated, letters have been exchanged. Climate justice is one of the issues that I will want to continue to raise with the UK Government. It will be an important marker for COP26 that those voices are heard.

**The Deputy Presiding Officer:** Eleven members have questions and we have 13 minutes left, so I give my usual mantra of short questions and answers. Sandra White will provide the first example, I hope.

**Sandra White (Glasgow Kelvin) (SNP):** COP26, which will take place in my Glasgow Kelvin constituency, will be one of the biggest events to be hosted in the UK, and many additional resources will be required to deliver a safe and secure event. Has the cabinet secretary had any indication whatsoever that the UK Government will provide Police Scotland with the additional resources that are required?

**Roseanna Cunningham:** As the member will be aware, that does not lie entirely in my portfolio, but there have been serious discussions in respect of Police Scotland. As I understand it, some of the policing support will be brought in under existing agreements. Police from other parts of the UK will be brought in to reinforce and support what is happening. Our view has always been that the decision to hold the COP in Scotland was a UK decision so its core costs should be borne by the UK Government, and that must include funding for the police.

The most important thing for us to do is to deliver a safe, secure and successful event, and that extends to fire and ambulance services as well. I welcome the assurance that there is a process in place to scrutinise the financial costs, and I expect that to be on-going. It will evolve as we get closer to the COP and we understand more clearly what will be required.

**Mark Ruskell (Mid Scotland and Fife) (Green):** Previous summits have been heavily sponsored by fossil fuel corporations while delegates from countries on the front line of the climate emergency, such as Malawi, have struggled to attend. Will the cabinet secretary commit to finding a way to directly support delegates from the global south to come to Glasgow, while also committing to not sharing platforms with corporations and lobbyists who want only to slow down action on climate change?

**Roseanna Cunningham:** We will continue to talk to the UK Government about the necessity of providing assistance to ensure that people can come to COP26, if that is what is required. I will of course continue that conversation.

On oil and gas and other fossil fuel companies, we recognise that that sector has an important role to play in supporting the transition to a net zero emissions economy. It is important that we continue to ensure that those companies are part of the conversation and are not locked out of it. We need them to help to design the diverse energy system that we need for the future, which will include options such as hydrogen production and the development of floating wind and marine energy. It is important that we continue to engage with the sector and make sure that it is part of the transition that we require to make over the next 10 years, as well as until 2045.

**The Deputy Presiding Officer:** I have to ask members to speed things up a bit.

**Bill Kidd (Glasgow Anniesland) (SNP):** Scotland has a strong and specialised third sector that works in climate change, climate resilience and international development. What strategies does the Scottish Government have in place to encourage the engagement of climate and

international development NGOs in the creation of COP26 events?

**Roseanna Cunningham:** As has been indicated, we recognise the important contribution of those NGOs in tackling the global climate emergency and meeting sustainable development goals. In recognition of that, we have been meeting our stakeholders and international NGOs regularly to co-ordinate activities for a successful and impactful COP26. We look forward to continuing to do that work until COP26 in November and for the legacy thereafter.

**Liam McArthur (Orkney Islands) (LD):** To follow on from Claudia Beamish's question, when will the cabinet secretary be able to update members on the implementation of the recommendations from the just transition commission's interim report? Will she ask her officials to engage directly with the Speaker of the National Assembly of Malawi, who last week indicated to me and Mark Ruskell her determination to see that Assembly fully engaged with COP26?

**Roseanna Cunningham:** I whole-heartedly agree with the second part of that question. My answer to the first part is "soon".

**Bob Doris (Glasgow Maryhill and Springburn) (SNP):** I am disappointed by the UK Government's petulance over the use of the Glasgow Science Centre. Will the cabinet secretary look at the bigger picture and provide more information on how the Scottish Government intends to showcase Scotland's work on climate change, whether at the Glasgow Science Centre or elsewhere?

**Roseanna Cunningham:** Our intention is to host a programme of events for people and community groups around the summit to ensure that Scotland as a whole can show its support for climate action, and to showcase aspects of mitigation and adaptation that Scotland is very ambitious about. When we entered into our agreement, the Glasgow Science Centre had received no other requests for exclusive hire of the venue during COP26. The centre was therefore entirely and wholly available. Obviously, our recent understanding of the UK Government's completely changed view has changed the conversation about that.

I reiterate that COP26 must transcend politics. I hope that the offer that we have made to the UK Government will conclude the matter without delay.

**Finlay Carson (Galloway and West Dumfries) (Con):** Agriculture has already shown its willingness to step up to the mark and do its bit. "Stability—The Platform for Change" suggests that an additional £100 million is required for transition.

The Committee on Climate Change suggested that industrial clusters could be developed around sources of renewable energy, many of which are in rural areas. How does the cabinet secretary intend to rural proof policy to ensure that rural areas share the benefits and not just the burdens of climate change policy?

**Roseanna Cunningham:** Has Finlay Carson met my colleague Fergus Ewing? He will absolutely be ensuring that the rural economy can benefit very much from the changes. I would not want to step into the agriculture conversation in case I inadvertently said something that my colleague was not happy with. I am sure that I would not do so, but I want to be on the careful side. However, I respectfully point out to Finlay Carson—he probably knows this is coming and is ahead of me—that the enormous, game-changing money commitment to peatland restoration will have a massive benefit for the rural economy as well as for emissions reductions and biodiversity.

**Sarah Boyack (Lothian) (Lab):** What opportunities will there be at COP26 to showcase some of the inspiring best practice from our local councils and public sector organisations, such as our national health service, and our communities? What access will such groups have to the summit?

**Roseanna Cunningham:** On the first question, we are having serious conversations about COP26 and what might and might not be appropriate to go on right across the board. I know that a number of local councils are very keen to showcase their work, as one would imagine the public sector more widely is. I recently met Orkney Islands Council to discuss that and the conversation is on-going.

On the second question, there is a conversation to be had with the UK Government about the extent to which it will allow the doors to be open to other actors and ensure that they are also able to showcase what they want to showcase.

**Annabelle Ewing (Cowdenbeath) (SNP):** How will the Scottish Government ensure that the holding of COP26 maximises sustainable economic opportunities for Glasgow and for Scotland, while minimising disruption to the working life of the city and its residents?

**Roseanna Cunningham:** As the member will expect me to say, a considerable amount of work is being done on the logistics that will require to be put in place to manage COP26 in the centre of a very busy city in Scotland in November. There is no doubt that there are challenges, but a lot of work is going into ensuring that that happens.

With respect to COP26 being used to attract sustainable economic opportunities to Scotland, it will be the largest event of its nature ever to be held in the UK. We welcome the opportunity to

showcase the exceptional landscape, venues, hospitality and culture of Scotland, and to ensure that visitors experience the very best of Scottish welcomes. As I indicated in my statement, we will use it as a catalyst to attract new investment, innovation and sustainable economic growth for Scotland. I hope that that is the message that will go out globally from Scotland as a result of COP26.

**Maurice Golden (West Scotland) (Con):** We all want Scotland to be a world leader in tackling climate change and meeting our targets. Will the Scottish National Party meet its target of recycling 60 per cent of household waste by the time that COP26 comes around?

**Roseanna Cunningham:** I will get back to Maurice Golden on that, but—gently and with the best possible intention—I suggest that he might want to think a little more strategically about COP26 and find a way to rise above an attempt to simply make petty party-political points.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Will the cabinet secretary outline how young people will be encouraged to be involved in COP26?

**Roseanna Cunningham:** We are speaking to a wide range of people, including young people. We want COP26 to be an inclusive event, in which all voices can be heard. Obviously, young people have been instrumental in bringing the issue to public consciousness in the past few years.

We are working with partners to develop a programme of activities and events for community and civic engagement for before, during and after COP26. I also remind people that a parallel youth COP will be run in Italy, although I am not 100 per cent certain how that will be managed. There is an active youth COP strand to the work that is being done.

I hope that what we do will deliver a legacy of climate change awareness in Scotland. Very detailed, serious and consistent conversations about activity related to COP26 are taking place regularly, within the Scottish Government and with our stakeholders.

**Colin Smyth (South Scotland) (Lab):** Does the cabinet secretary agree that COP26 needs to involve all of Scotland? Will she therefore ensure that proposals to host delegate visits or affiliate events from communities outwith the central belt, such as Dumfries and Galloway—a region that is aiming to become carbon neutral by 2025—are backed, so that we can showcase the carbon reduction assets of that region, while making sure that people from across Scotland are involved in the conference, even if they do not travel to Glasgow?

**Roseanna Cunningham:** That is an important question. We have been asking about doing that, particularly in areas such as Orkney and Dumfries and Galloway. There are two sides to the question: the ability of those areas to present to COP26 the good news of what they do, and the possibility—which we are trying to explore—of encouraging some of the visitors to COP26 to go to some of those areas and see for themselves the good work that is being done.

I know that Orkney Islands Council is keen on the idea. I would be very happy to speak to any local authority that has particular ideas on how doing that might be managed. It is not necessarily in our gift to do so, but it is an idea that needs to be explored as we move towards November. I initially raised it as a possibility in order to put a more Scottish stamp on COP26 that would encourage people to think about what was available for them to see when they came to Glasgow and not always to stay just in Glasgow.

**The Deputy Presiding Officer:** That concludes questions on COP26. I thank members and the cabinet secretary for asking and answering all the questions. There will be a short pause before we move on to the next item of business.

## Local Government Finance (Scotland) Order 2020 [Draft]

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a debate on motion S5M-21170, in the name of Ben Macpherson, on the Local Government Finance (Scotland) Order 2020.

15:20

**The Minister for Public Finance and Migration (Ben Macpherson):** The purpose of the debate is to seek Parliament's approval for the guaranteed allocations of revenue funding to individual local authorities for 2020-21; it also seeks agreement to the allocation of additional funding for 2019-20 that has been identified since the 2019 order was approved at this time last year.

The delay to the United Kingdom Government's budget means that we still do not know the total budget that will be available to Scotland next year. We have therefore had to make assumptions around Barnett consequentials, use provisional economic forecasts and take decisions on devolved tax policy without knowledge of future UK tax policy. That position is not of our choosing, and it creates unnecessary challenges.

Under challenging circumstances, the 2020-21 budget delivers a fair settlement for local government. It is a funding package that provides local government with a real-terms increase in both revenue and overall funding to invest in our public services. In 2020-21, the Scottish Government will provide councils with a total funding package that is worth £11.4 billion, which includes revenue funding of £10.7 billion and support for capital expenditure of £778 million.

The order that is before the Parliament seeks its approval for the distribution and payment of £9.9 billion out of the revenue total of £10.7 billion. That £9.9 billion is a combination of general revenue grant of £7.1 billion and the distributable amount of non-domestic rates income, which has been set at £2.8 billion. The Scottish Government continues to guarantee each local authority the combined general revenue grant plus non-domestic rates income. That means that any loss of non-domestic rates income resulting from adverse impacts of Brexit or Covid-19 will be compensated for by increased general revenue grant.

For clarity, the remainder of the funding package will be paid out as specific grant funding or other funding that will be distributed at a later stage in-year, once it has been agreed with the Convention of Scottish Local Authorities.

**Andy Wightman (Lothian) (Green):** The additional £95 million of revenue funding that was

secured in the budget deal with the Scottish Green Party does not appear to be mentioned in the order, given that the individual figures for each local authority are the same as those in annex L to the settlement letter that was sent on 6 February. Will the minister clarify where that £95 million is being allocated, and when?

**Ben Macpherson:** I thank Mr Wightman for his timeous intervention. I was about to say that the overall funding package for 2020-21 includes an additional £95 million of revenue funding to further support spending on day-to-day services, as announced on 27 February, during the stage 1 debate on the Budget (Scotland) (No 4) Bill. It also includes £100 million for investment in health and social care and mental health services that are delegated to integration authorities; £156 million for the teachers' pay award and £97 million for teachers' pensions; and £201 million of revenue and £121 million of capital to support the expansion of early years education and childcare to 1,140 hours by August 2020. There is also £88 million to maintain the pupil teacher ratio and to secure places for all probationers who require them. The flexibility for local authorities to increase council tax levels by up to 3 per cent in real terms is worth an estimated £135 million.

**Graham Simpson (Central Scotland) (Con):** Will the member take an intervention?

**Ben Macpherson:** I am keen to make some progress.

The 2020-21 settlement from the Scottish Government provides local government with an increase in spending for local revenue services of £589 million, or 5.8 per cent. Taken together with the potential to raise council tax income, that means that councils had access to up to a total increase in spending power of £724 million, or 7.2 per cent, to support local authority services.

All local authorities have now set their council tax levels for next year. It should be noted that, had all councils taken up the opportunity to increase council tax revenue by 3 per cent in real terms, a further £8.3 million would have been available for local services. It is clear that those councils that have not taken up their full council tax flexibility consider that they have a fair settlement.

There remains a further £51.9 million of revenue funding that will be distributed once the necessary information becomes available, and that funding will be included for approval in the 2021 order. The amounts involved, which were agreed with local government, are as follows: £37.6 million in respect of the 2020-21 teachers induction scheme; £11.9 million in respect of the balance of the discretionary housing payments; £0.5 million in respect of mental health school counselling

services; £0.4 million in respect of implementing the Barclay review of non-domestic rates; and £1.4 million in respect of the customer first top-up.

In addition to the revenue funding that is contained in today's order, there is specific revenue funding that is paid directly by the relevant policy areas under separate legislation, which amounts to £709.7 million. That includes £120 million of pupil equity funding, £86.5 million for criminal justice social work funding, £487.3 million of funding for early years expansion, £11.5 million of additional support for northern ferries and £4.4 million of Gaelic funding.

The order also seeks approval for changes to funding allocations for 2019-20 of £327.3 million, which have been added to fund a number of agreed spending commitments. The full list of changes, which can be found in the report to the 2020 order, include the provision of £141 million for teachers' pay; £60.1 million for teachers' pensions; £37.5 million to support the 2019-20 teachers induction scheme; £29.5 million for free personal care for the under-65s; £15 million for additional support for learning; £12 million to provide counselling services in schools; and £2.1 million to allow free access to sanitary products in our schools.

In summary, the total funding from the Scottish Government to local government next year amounts to £11.4 billion. The funding proposals continue to deliver a fair financial settlement for our partners in local government, which will be strengthened by continued joint working to improve outcomes through first-class public services.

I move,

That the Parliament agrees that the Local Government Finance (Scotland) Order 2020 [draft] be approved.

15:28

**Graham Simpson (Central Scotland) (Con):** I tried to intervene on the minister because I did not think that he had fully answered Mr Wightman's question. The minister might want to return to it, because the question was this: where does the extra £95 million appear in the order? If it does not appear, it does not appear, so the minister might want to reflect on his response.

This is a technical debate about giving local government the money that it needs. On that basis, it would be remiss of us not to support the motion because, clearly, local government needs to be funded. That does not mean that we have to like the settlement. However, it is the settlement, and we need to pass that money to the councils so that they can provide the services.

Indeed, we do not like the settlement. In the various budget debates in the past two weeks, we have said what we think about it. We think that this year's settlement—like the one last year, the year before, the year before that and so on—does not provide proper or fair funding.

I recall having a debate with Kate Forbes's predecessor at the Local Government and Communities Committee last year—and indeed with Kate Forbes herself—about what the definition of "fair" is. My view is that, if all councils in Scotland are having to make cuts, that is hardly fair.

**John Mason (Glasgow Shettleston) (SNP):** I agree that defining what is fair is not always easy. Does the member think that the national health service has had too much money and he would cut that to give more to local government?

**Graham Simpson:** I always regret letting in John Mason, because he makes the most obscure points. This is a debate about local government funding. Is he saying that the settlement is fair? I do not think that it is, because we are still ending up in a position in which every one of Scotland's 32 councils is having—

**Stuart McMillan (Greenock and Inverclyde) (SNP) rose—**

**Graham Simpson:** Here comes Mr McMillan. I may as well let him in, too.

**Stuart McMillan:** Is Mr Simpson seriously saying to the chamber that, prior to this Parliament, when the Conservatives were in power in London, no cuts were ever made to local authority budgets in Scotland?

**Graham Simpson:** I am not saying that at all. I am dealing with the settlement that is in front of us today, which delivers cuts to every single one of Scotland's 32 councils.

That is not fair. It has left councils on the brink. A series of leading councillors from across the political spectrum—Alison Evison, who is COSLA's president, Steven Heddle, and Gail Macgregor, my good friend who leads on finance for COSLA—have said that in the past few weeks. There may even be the odd SNP council leader who—privately—does not like what is going on there. Scotland's council leaders are disappointed. *[Interruption.]*

I hear Mr Lyle chuntering away, as he often does. If he has anything worth while to say—not his usual, "Oh!" from a sedentary position—let us hear it; I will let him in. *[Interruption.]* If Mr Lyle has something positive to say, he can say it. It appears as though he does not.

Council leader after council leader has said that the settlement fails to restore any of the significant

cuts to local government core funding in previous years. They say that it represents a 2 per cent, or £205 million, cut in real terms in revenue funding for local government. In addition, they say that what is needed is an extra 2 per cent funding for inflationary pressures and 3 per cent for the restoration of previous funding cuts, and the restoration of the £117 million cut to the capital allocation. That is what is needed, and that is what this settlement does not provide.

**Shona Robison (Dundee City East) (SNP):** Will the member give way?

**Graham Simpson:** No. I have taken a couple of interventions. I was hoping that Mr Lyle would intervene, but he has not.

We have a situation in which revenue is going down. It will take £300 million just to stand still. That is not being delivered.

The proper funding of councils matters. It matters when we want to tackle child poverty, for example.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Will the member take an intervention?

**Graham Simpson:** Oh, here is Mr Lyle—we have got him to intervene.

**The Deputy Presiding Officer:** I ask that it be a quick intervention, please.

**Richard Lyle:** Does the member agree with me that the Tory party has severely cut councils in England? The cuts there are greater than the cuts that Scotland's councils have had to suffer.

**Graham Simpson:** My word—we have the old English excuse. This is the Scottish Parliament, and in the Scottish Parliament we are cutting money to Scottish councils. I would have thought that Mr Lyle, who represents North Lanarkshire, would have been concerned about that. He should be jumping up and down about what is happening in North Lanarkshire, not about what is happening in England. He seems to be more concerned about what is going on over the border than he is about what is happening on his own doorstep. What a position that is! Mr Lyle needs to explain to his constituents why he is taking that view. What an absurd position!

COSLA's children and young people's spokesman—*[Interruption.]*

**The Deputy Presiding Officer:** I ask members to calm down. Mr Simpson, could you come to a close fairly soon?

**Graham Simpson:** I would be delighted to come to a close.

This settlement does not add up for local government. It leads to cuts across the board.

However, councils need the money, so we will support the motion, albeit begrudgingly.

15:35

**Sarah Boyack (Lothian) (Lab):** As it gives councils a third of the money that they need to deliver Scottish Government promises, to carry out their obligations and to provide the services that their communities need, the local government settlement is nothing to celebrate. I want to make three points, focusing on the disproportionate cuts to local government by the Scottish National Party, the Government's increased control over the money that local government is allocated, and the impact that those two factors have on our communities and constituents.

The Scottish Parliament information centre has noted that, since 2013-14, the Scottish budget allocation from the UK Government has increased by 2.6 per cent, yet the Scottish Government has reduced allocations to local government by 3.8 per cent. As I observed in the main budget debate, the settlement falls against a backdrop of almost £900 million-worth of cuts to non-ring-fenced revenue funding since 2013-14; the loss of 10,000 full-time-equivalent jobs, which translates to 33,000 redundancies; a slashed capital budget that has left councils needing to borrow for funding for vital projects, which takes that money out of their revenue spend; and the curtailing of services, which hits those who need them.

Last week, SNP ministers made great play of the fact that there would be no tax increases for people on low and middle incomes. However, they passed on the difficult decisions to councils. Grappling with gross underfunding, councils have to use the levers that are available to them to balance the books: raising council tax and increasing charges for services. We have long argued—and, I understand that the SNP has recognised this, too—that council tax is a regressive tax, as it is those who are least able to pay who are hit the most. Data from SPICe shows that, even after the relief schemes, the lowest 10 per cent of earners pay 17 per cent of their income in council tax, compared with the 1.5 per cent that those in the top 10 per cent pay. If we add to that increased charges for services that councils provide, we can see that lower-income households will be priced out of services that they are already struggling to access.

There is also the issue of comparing this year's level of local government funding with last year's. There has been a reduction in capital but an increase in ring-fenced capital allocations. There has been a reduction in the general revenue grant but an increase in specific resource grants.

The minister told us today that COSLA agreed with the decisions to ring fence core expenditure, but I believe that, this year, the Scottish Government has gone too far. In the days before the Parliament was established, we used to have a Scottish Administration, with its policy and funding set at a UK level. What an irony: we now have a Scottish Government that, increasingly, is turning local government into local administration.

**James Dornan (Glasgow Cathcart) (SNP):** Does the member recognise that there is much less ring fencing now than there was under the previous Labour-Liberal Democrat Government?

**Sarah Boyack:** That was happening at a time when, through Gordon Brown's interventions, the money was being doubled. We are talking about a reverse in approach. We now have a Scottish Government that is turning our local government colleagues into administrators, leaving them all the tough decisions. That approach gives the Scottish Government little pots of money to allocate throughout the year, which is much better for photo opportunities, but it means that our constituents suffer.

We need to pay attention to the human stories behind all of this. Take social care as just one critically important example of a council service that is facing cuts. I want to share the struggle of one of my constituents who is trying to get a basic care package to enable them to go about their daily life. My constituent was assessed as having a care need in May last year. They came to me for help in November and, this week, I have found out that, still, no appropriate care and support is being offered, as there is no agency to provide the care, and there have not even been any basic safety measures installed. It is a case riddled with lack of resources and high staff turnover, demonstrating the crisis in social care in our local authorities.

That is not the only such case; we know from statistics that such problems are widespread. The cuts to local government are now so severe that even statutory services such as care and education are at a breaking point and under huge pressure. That is the human cost of underfunding local government. Waiting six months for a care package is unacceptable, no matter how the Government spins it, as is the pressure on the staff who are trying to provide services, who we know are having to take sick leave.

It is clear from the order that is in front of us that our councils do not have the resources that they need for the long term. Lack of investment in our communities ultimately costs all of us. It increases poverty and undermines our communities, so it is time for change. What we need are bold, transformative policies to deliver real results by creating jobs, ending poverty and tackling climate change. Sadly, that is not what the order is about.

15:40

**Andy Wightman (Lothian) (Green):** As members have said, this is an important debate about allocating more than £9.8 billion to local government, but giving it an hour barely does it justice. Nevertheless, as members will know from my previous contributions in the chamber, the Greens believe that it is fundamentally

“better for all of us if decisions about”

local authorities' finances

“are taken by the people who care most about”

that local authority—that is, the people living in the local authority.

Alert members will recognise that that turn of phrase was used in the yes campaign for the 2014 independence referendum. What is argued by some to be a right for Scotland should also be a right for local authorities. Thus, it is a matter of regret that so much of the capital and revenue allocations for councils continues to be determined by the Scottish Parliament.

While that remains the case, the Greens will continue to do all that we can to ensure that the funding settlement is adequate. We have secured hundreds of millions of pounds in extra revenue over the past few years, although I freely admit that the settlement before us is not one that we would seek to secure if we were in government. For one thing, despite the historic decline in ring fencing, the financial settlement continues to be bedevilled by ring fencing and by terms such as “protected funds” that are still not clear and that compromise the scrutiny of the budget that we in the Local Government and Communities Committee have been able to make.

That is true to the extent that this year's additional commitments were not even fully funded, despite a Government commitment to that effect, which is why filling the £95 million hole was an important achievement in this year's budget. I would be grateful if the minister could provide extra clarity in his closing remarks as to when that £95 million will be delivered and why it is not in the order. As I understand it, the order was laid on 19 February and we had the stage 1 debate on the budget on 27 February, when we reached agreement on that quantum of £95 million.

Despite differences of opinion on the sums of money that are outlined in the order, we should all vote for it tonight, as it provides the legal basis on which the Scottish Government can transfer substantial sums of money to councils, which rely on it to deliver vital public services. The decisions on how that money is spent are made by councils. One of the interesting things in recent years, following on from a Green initiative in the City of Edinburgh Council, is that citizens now have the

opportunity not only to scrutinise council budgets but to be actively involved in the process, through participatory budgeting. By law, from 2020-21, at least 1 per cent of council budgets will be subject to participatory budgeting, which directly involves the public in how money is spent. We do not believe that 1 per cent is enough, but it is worth noting that it is more than the percentage of the Scottish budget that is allocated by any participatory budgeting, because that percentage at the moment is zero. The Scottish Government should consider participatory budgeting in future.

It is long past the time to increase the fiscal autonomy of local government. That is why we are pleased to have secured longer-term reforms, including the important commitment to a fiscal framework: a rules-based framework that provides clarity and predictability for the funding settlement and that, I hope, will take some, if not all, of the political dynamics out of it in future years. Earlier this week, I was interested to receive a letter from Gail Macgregor, COSLA's spokesperson for resources, which I am sure other parties have received and which outlines COSLA's thinking on how the fiscal framework might operate. I was interested in particular to note a reference to article 9 of the European Charter of Local Self-Government, as I will shortly introduce a member's bill to incorporate the charter into Scots law.

If local government does not have the autonomy that it needs, it can serve its citizens no better than this Parliament could if it did not have sufficient powers. In turn, lack of agency erodes trust between citizens and the local state. I do not feel comfortable sitting in this Parliament voting on how much money local government should receive. However, we are where we are, so we will support the order at decision time.

15:44

**Willie Rennie (North East Fife) (LD):** I am grateful to SPICE and the financial scrutiny unit for giving members the detailed breakdown of the allocations to local authorities.

I am sure that you will remember, Presiding Officer, that we have been debating these matters for some time and, in particular, the shortfall for Aberdeen City Council, Aberdeenshire Council and the City of Edinburgh Council under the local government financial settlement. Previously, those councils did not get anywhere near the level of grant that other local authorities receive, so the SNP Government pretended to listen and enacted the 85 per cent rule to ensure that every local authority got at least 85 per cent of the average. That did not work either, because councils such as Aberdeen, Aberdeenshire and Edinburgh often still did not meet the rule.

**John Mason:** Will the member give way?

**Willie Rennie:** Not just now.

Each of those councils was deprived of millions of pounds every year. It was not untypical for Aberdeen to lose out on £20 million in one financial year, but SNP MSPs from Aberdeen, such as Kevin Stewart and Maureen Watt, still voted for that.

To get round that embarrassment, ministers changed the rule. They did not increase the funding; instead, they changed the rule. It had been based on the average of all councils in the country, but it was changed to include all councils except Orkney Islands Council, Shetland Islands Council, Western Isles Council, Argyll and Bute Council, West Dunbartonshire Council and Inverclyde Council—so it was all the councils, except not all the councils.

However, that still did not quite work. Taking out a fifth of the councils was not enough, so the Government changed the formula again and lumped in council tax revenue on top of Government grant. Finally, the jiggery-pokery worked: all councils met the rule, but without receiving one single penny more in funding. The City of Edinburgh Council only just meets the 85 per cent rule, even though it is still millions of pounds short. Therefore, the big question this afternoon is: will Ben Macpherson stand up for his city, in the way that Maureen Watt and Kevin Stewart did not? Will the minister stand up for Edinburgh or will his city get the same treatment as Aberdeen?

**John Mason:** Will the member give way?

**Willie Rennie:** Not just now.

Can Ben Macpherson explain why he is short-changing Edinburgh through the Government's formula? The difference is worth £116 per person, which would amount to £60 million across the city. When we look at how the SNP council in Edinburgh is cutting teacher numbers in nursery schools and threatening support for community policing, we wonder why the Government is not taking the issue much more seriously. The council estimates that it will have to make savings totalling £100 million by 2022-23.

Aberdeen City Council is used to that. It has been kept at the bottom of the table for a decade, without its SNP MSPs lifting a finger to help. This year, it is the same again. The council is £57 per person below a true 85 per cent floor, which means that it is almost £13 million short.

Let me go back to what Ben Macpherson is going to do this afternoon. Will he stand up for his Government and its rigged formula, or will he stand up for his city?



**The Deputy Presiding Officer:** We now move to the open debate.

15:48

**James Dornan (Glasgow Cathcart) (SNP):** I am delighted to speak in the debate which, thankfully, comes at the end of a budget process.

I put on record my sincere admiration for how Kate Forbes, our new Cabinet Secretary for Finance, along with her team, steered the Government through difficult budget negotiations.

**Richard Lyle:** Hear, hear.

**James Dornan:** Sorry, I woke Richard Lyle up.

Kate Forbes and her team secured an agreement that boasts support for young people, police, climate action and local government.

Despite being set against a background of heightened uncertainty and risk that has been created by the Tory Government, following its decision to delay the UK budget until only this week, the Scottish Government's budget provides local government with a substantial funding package worth £11.4 billion in total.

I know from my local authority, Glasgow City Council, that local government faces financial challenges. So does central Government—from continued Tory austerity and cuts to our budget.

Chancellors, including the last one, Sajid Javid—who, by the way, did not manage to produce even a single budget—promised an end to austerity in 2018 and again in 2019 and failed to deliver. I do not hold out any hope for an end to austerity tomorrow, either. To be honest, does any member?

Scotland's discretionary resource budget allocation in 2020-21 will be 2.8 per cent or £840 million lower in real terms than it was in 2010-11. That obviously has a knock-on effect on central and local government finances. Nonetheless, the relative protection that we have been able to provide means that our council budgets are under considerably less pressure in Scotland than those of councils in England where, despite their wanting to hide it, the Tories are in government.

This year's local government finance settlement, which delivers the highest annual revenue budget increase since this Administration came into power, will boost day-to-day spending for local services by £590 million in cash terms, which is a real-terms increase of 3.9 per cent.

The settlement will allow councils such as Glasgow City Council to deliver on the expansion of free early learning and childcare provision; to protect the most vulnerable in our communities; to ensure improved outcomes with the integration of

health and social care services; and to maintain the pupil teacher ratio. On that last point regarding teacher numbers, Labour's budget in Glasgow would have cut 200 teachers from our schools at a time when we are making huge progress on overcoming our poverty-related attainment challenges. As I have admitted, there are—of course—pressures on our finances; however, whether it is central Government or local government, Scottish Labour's priorities continue to be all wrong.

Despite our challenging financial situation, in addition to protecting our local councils, we remain in a position to protect our council tax payers, too. In 2019-20, the average charge for all property bands—including E, F, G and H—is between £330 and £499 lower in Scotland than it is in England. The average band D council tax bill in Scotland this financial year is £1,251 compared to £1,750 in Tory-run England and £1,591 in Labour-run Wales. Furthermore, we are also able to maintain the UK's most competitive business rates regime.

**Bob Doris (Glasgow Maryhill and Springburn) (SNP):** It is reasonable to ask for more money for local government; however, in so doing, one must say where that money will come from. Did any of the parties on James Dornan's committee suggest how much more councils should get and where that money would come from?

**James Dornan:** To be honest, it was—

**The Deputy Presiding Officer:** Excuse me.

**James Dornan:** My apologies, Presiding Officer.

**The Deputy Presiding Officer:** Please speak through the chair instead of having conversations with each other, even though you are standing so close to each other.

**James Dornan:** Bob and I are always close, Presiding Officer.

That question was asked of almost every witness who was in front of the committee. None of them could give a positive answer as to how they would raise the money for the extra costs that they asked for, and no members of other parties could come up with a fully costed plan either.

Furthermore, we are able to maintain the UK's most competitive business rates regime with the lowest poundage and a relief package, including the small business bonus and the business growth accelerator, that is estimated by the Scottish Fiscal Commission to be worth £744 million. Scotland's poundage will be 49.8 pence, delivering a below-inflation increase for the second consecutive year. Limiting the increase to 1.6 per cent will ensure that 95 per cent of properties in

Scotland pay a lower poundage than is the case in other parts of the UK.

Before closing, I add that our local councils will be key players in how, as a country, we tackle the coronavirus outbreak. I therefore hope that in tomorrow's UK budget we will see additional resources to help us deal with such pressures and to end austerity. I am sure that we will all be waiting with bated breath.

As I outlined, it is absolutely clear that, despite on-going pressures from Tory austerity, this Scottish Government continues to treat local government very fairly, enabling them to provide high quality front-line services that improve outcomes for people and communities right across Scotland. I will be delighted to vote in favour of the finance order this evening.

**The Deputy Presiding Officer:** Right—we are already over time in this debate. Unless others are very tight in their timing, I will have to take the time off the closing speeches.

15:53

**Jeremy Balfour (Lothian) (Con):** I, along with my colleagues on this side of the chamber, will vote for the order. However, I will vote for it with a deeply heavy heart as a result of the lack of ambition from the Scottish Government. We see, in not only this financial settlement but previous financial settlements, the SNP's clear lack of prioritisation of council funding. We have seen cuts, we have seen services affected and we have seen council taxes rise.

**John Mason:** Will the member take an intervention?

**Jeremy Balfour:** In a moment.

We sit here and quote at each other figures that, to be honest, are beyond the average person. I will give the minister an example of an individual in his constituency here in Edinburgh. This is what she wrote to me earlier this week:

"I am the parent of a child attending ... a Primary school nursery in Edinburgh ... Our excellent nursery teacher does an incredibly valuable job of laying the foundations for school years and has my full support. I was shocked to hear she could lose her post this summer and I believe that the removal of the teacher post would disrupt early years learning"

in the school

"and the development of our children next year."

I ask the minister in his summing up to apologise to that lady and the many others in this city who are losing teachers because of the settlement that he is proposing.

**James Dornan:** Will the member give way?

**Jeremy Balfour:** No, I will not. The minister said in his opening remarks that he thinks that this is a "fair settlement". How is it fair for that child to lose their teacher? The minister will say that it is his SNP cronies at the council who are making those decisions, but they are doing so because it is his Government that lacks ambition for our children and older people and cuts the funding to councils, not only here in Edinburgh but across Scotland. In his summing up, the minister should apologise to the people of Edinburgh for that shocking cut.

**Bob Doris:** Will the member give way?

**Jeremy Balfour:** Absolutely.

**Bob Doris:** My question to Jeremy Balfour is the same as the one that I put to Mr Dornan. It is very easy to ask for money for councils, but he must put a sum on that and say where the money will come from. Will Jeremy Balfour put a sum on it and say, today, where the money will come from?

**Jeremy Balfour:** Yet again, the SNP does not seem to understand what we are debating. We are not debating the budget; the budget happened last week and we voted against it. The SNP got the Barnett bonus and it has simply misused it. It has not given the money to local government and the people of Scotland are waking up to that. *[Interruption.]* All the shouting from the SNP seats sums up a deep and uncomfortable feeling among SNP members.

**The Deputy Presiding Officer:** There is no time for further interventions.

**Jeremy Balfour:** I conclude with the words that I started with: we will vote for the motion with a heavy heart, but the message when we vote for it tonight will be that this Government and this SNP Party do not care about local communities or local funding. They are cutting local government and they should be ashamed of it.

15:57

**Rhoda Grant (Highlands and Islands) (Lab):** The debate focuses entirely on the work of local government and highlights that it has borne the brunt of cuts. We all know that those cuts fall disproportionately on the poor and on women.

As Sarah Boyack said, non-ring-fenced revenue funding has been cut by £898.8 million in real terms between 2013-14 and this budget. That is the money that councils use to react to differing circumstances in their areas; it is their discretionary spend. They fund such things as economic development and provide services that meet the needs of their communities. That cut shows that councils have no discretion at all.

Details of the impact of those new cuts are only now coming to the fore. Councils such as Moray are having to increase burial charges and charge for music tuition in schools; I fear that music tuition will soon be available only to those who can afford it, to all our detriment. Moray is also cutting funding to Women's Aid. Falkirk Council is having to remove Christmas lights, close public toilets and withdraw the taxi card budget. The taxi card helps people with disabilities who cannot use ordinary buses to travel in taxis at a reduced fare. Those cuts show that the most vulnerable in our communities are losing out.

An increasing issue in my postbag is the availability of assistance for children with additional support needs. That is being cut and young people who require support are losing out at school. Those young people already face challenge, which is being made worse by those cuts. Parents are unable to work because they are constantly on call for their child's school. I have cases in which police are called regularly to deal with distressed children. Other young people who are deemed less of a priority, despite being assessed as needing assistance, are receiving little or no support at school. Again, it is the most vulnerable who are being affected.

Because of the underfunding of local government, community care also suffers. That is despite the setting up of integration joint boards, which appear not to have improved problems such as delayed discharge at all. They need investment, which our councils, in the face of cuts, cannot do. Some of the saddest cases are due to a lack of care at home. People are forced to live and die in hospital against their wishes and their needs. Cuts drain the compassion out of society.

Councils are increasing council tax to the maximum that the SNP Government will allow. It was clear from the minister's opening statement that that is an expectation, not a suggestion. People are frustrated by seeing services being cut by councils while their council tax increases.

The SNP Government came into power promising to abolish the regressive council tax, yet over a decade later it is still there and increasing faster than inflation. In last year's budget deal, the Greens were promised talks about its abolition. Those are on-going but are making no progress. Despite pleas for change, the only information that the Scottish Government presents to the cross-party talks is on the impact of tinkering with bands and revaluation. That is not the work of a Government committed to the abolition of the council tax.

When our communities complain about rising council tax bills and falling services, it is not to their local councillors that they should complain. Their complaints should be voiced to the SNP

Government. That Government has imposed the cuts and the council tax rises. Councillors are merely doing the dirty work of the SNP Government, one that refuses to invest and that is too timid to make real change.

16:01

**John Mason (Glasgow Shettleston) (SNP):** Once again, we are dealing with another aspect of the budget, although most of the decisions were made last week. COSLA made it clear that it needed an extra £95 million, which has been found with the help of the Greens. In Glasgow, that seems to have been enough to save the Blairvadach outdoor centre, which is very welcome.

I am sure that we all agree that local government could do with more money, and it is asking for more money. The problem is that we have a fairly fixed amount of money available—in fact, even that amount will not be entirely clear until after tomorrow's budget at Westminster. We might have been able to raise a little more income tax, but that would probably only have been marginal, and we made that decision last week. As we said then, we cannot have too much divergence from the UK on income tax. Our powers over income tax are limited, and we have no control at all over VAT, corporation tax, inheritance tax or national insurance. It makes it much more difficult to create a joined-up tax system when we have control over the few but not the many.

That means that more money for local government would inevitably mean a cut to the national health service budget. I accept that the NHS budget has been better protected than most sectors' budgets in recent years, but we must acknowledge that the health sector faces rising demand, greater expectations from the public and particular uncertainty at this time.

No sector has all the money it could do with, so everyone has to do the best that they can with the budget they have. It may be worth mentioning that members must be careful about increasing their own budgets—for example, for staffing—beyond inflation when others are not able to do so.

As well as the size of the local government cake, there is the question of how it is divided up between councils. Glasgow City Council feels that it gets a raw deal, as its needs are more severe than those of other councils and it feels that that is not properly taken into account. At the same time, other councils may—and do—argue that they get less per head, even if their needs are not so great.

That formula and the related "floor" could perhaps be improved, but that would require

agreement from COSLA and local authorities, which is never likely to be easy to achieve.

**Andy Wightman:** That formula, which Willie Rennie referred to, is agreed by the Scottish Government and COSLA. Does the member agree with me that the fact that there is no parliamentary scrutiny of it makes it very difficult to challenge some of its elements?

**John Mason:** I do not know the details, but I would have thought that the Local Government and Communities Committee could have looked at the formula and investigated it. I am not sure whether it has tried that, or whether it has not been able to do that. Everyone has said that they are open to changing the formula, but the reality is that, if Aberdeen City Council is going to argue that it needs more money because it has more people and Glasgow City Council argues on the basis of need, it is difficult to reach an agreement.

I agree with Mr Wightman that we need a radical overhaul of local government financing, which will involve deciding how local government should be funded in the longer term. Most of us agree that council tax is far from ideal, but there seems to be no agreement on what would be better. Local income tax and land valuation tax both have their drawbacks.

Again, councils are being limited as to how much they can raise council tax, which some would think is too restrictive. However, many members remember when Labour raised council tax in Glasgow dramatically year after year, and we do not want to go back to times like that.

There has been progress, and councils will have powers over the tourist tax and the workplace parking levy. I would certainly like to see local authorities being much more financially independent of central Government than they are, and that could be built into a future Scottish constitution. However, that is more a hope for the medium to longer term.

Once again, we are having to choose priorities. We would all like to give more to everyone, but this is a reasonable settlement for local government given the tight restraints.

**The Deputy Presiding Officer:** We move to the closing speeches. We are really tight for time.

16:05

**Sarah Boyack:** This is a very short debate. We have discussed some of the key issues in previous weeks, during the main budget debate, so I will highlight some of the briefings that we received in advance of the debate, because they have not been referred to much.

I was grateful for the Unison briefing, and I hope that all members will read it. Unison has been interviewing its members and looking at the pressures in local government. The briefing stresses that cuts to local government impact on the capacity of staff to deliver. In addition to the pressures that are experienced by our communities, pressure is being experienced by hard-working council staff, who are trying to fill service gaps and help constituents who are increasingly stressed and suffering from increased inequalities and ill health. Unison's most recent front-line briefing on social work vividly illustrates the impact of cuts on staff, the challenges that they have to deal with and the impact on their health and on staff absences. That issue has not come to prominence in the debate, but it will be a key issue for our local authorities in the future.

I acknowledge the work of my Labour colleagues in different council areas, who are doing their best to work with underfunding—as a direct result not just of this year's budget but of budgets since 2013. My colleagues have worked hard to say no to privatisation and compulsory redundancies and to make sure that council staff are being paid the living wage.

Over the past few weeks, we have also received briefings from COSLA. Its arguments have been incredibly powerful, and they have not been addressed in this debate. COSLA has highlighted the profound impact of underfunding right across local government services—on education, transport, social care and investing to deliver the climate transformation that we need. In all those areas, our local authorities are not just deliverers of services; they are also key leaders in their areas. They have the capacity to make the changes, but underfunding is forcing them to go back to core services and not deliver the range of services that are absolutely critical.

My colleague Rhoda Grant mentioned Women's Aid, taxi card budgets and music tuition—a whole raft of councils are beginning to charge for music tuition, and some already do. Those savings will hit us in the long term, because they mean that young people are not getting the opportunities, skills and experiences that they should have.

I will turn briefly to the fiscal framework, which was mentioned by Andy Wightman. I thought that his speech was very well judged and that he was honest in saying that this is not the budget that we need; it is the budget that is in front of us. We would have wanted it to be better, which is why we do not think it is worth supporting.

The key principles in the fiscal framework should focus our minds. We have not seen parity of esteem—if we had, local authorities would be getting not only the additional £95 million but other money to deliver core services. We should be

looking at the real-terms costs and at the presumption of subsidiarity, recognising its importance—the principle that devolution should go further than the Scottish Parliament and that that should be the norm. We should also prioritise the principle of essential services being at the core, for the benefit of our communities. Would that the order delivered on those principles, but it is clear that it does not.

I say to SNP colleagues that they need to do a harder job in pushing their Government, not just in public but behind the scenes.

**James Dornan:** Will the member take an intervention?

**Sarah Boyack:** No, I do not have time in my closing remarks.

Having been on both sides of the chamber, I have experienced the pressure to make a difference that comes from colleagues, and it is absolutely critical. The Local Government and Communities Committee took evidence from a range of stakeholders, and a lot of people do not like to criticise the Government, because it provides the funds.

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

**Sarah Boyack:** That is a key issue for us, as MSPs. We have the privilege of speaking straight to the Government, whether we are in government or in opposition, and we can say what the reality is. I hope that the Scottish Government reflects on what we have said today and thinks about that for future budgets.

16:10

**Alexander Burnett (Aberdeenshire West) (Con):** Like my colleagues Graham Simpson and Jeremy Balfour, I intend to support the motion. As has been pointed out, it is a technical motion that allows councils to receive their funding. We will support the motion so that the annual process can happen, but only on the basis that it is to show our support for local authorities receiving proper and fair funding. As has been said, this settlement for our local authorities is not fair, and we will continue to call for better funding for our struggling councils across Scotland.

**The Deputy Presiding Officer:** Excuse me a minute, Mr Burnett. Mr Lyle, please do not have your back to the chair.

**Richard Lyle:** I am sorry, Presiding Officer.

**Alexander Burnett:** My colleague Graham Simpson made a good point when he said that this is not a wellbeing budget for local government. I am not sure how a Scottish Government that spoke about how its budget would ensure the

wellbeing of this country thought that reducing local government's total capital budget in real terms by more than 30 per cent—or nearly £335 million—would benefit anyone's wellbeing.

**Bob Doris:** Opposition members have consistently called for more money for local government. That is a valid thing to do. However, no Opposition member has put a number on that or said where the money would come from. Will the member be the exception and say where the money would come from, or are we just hearing false promises?

**Alexander Burnett:** I think that we have always made the point that, if we focus more on growing the economy and raising revenue, there will be more money to spend. If Scotland had had the same economic growth as the rest of the UK, there would be £0.5 billion more to put into all services, whether in local government or in the national health service.

My colleague Jeremy Balfour made the valuable point that we have a duty to ensure that the next generation and vulnerable people are being cared for. More money from increased income would help that no end, too.

The rest of the debate has been relatively consensual in that most members agree about the severity of the cuts that the order makes. Sarah Boyack highlighted the issue of ring fencing and the fact that decision making on the cuts is being passed from the Scottish Government to councils. Andy Wightman and the Greens may now be wondering whether the £95 million in the order actually exists. The minister has been asked three times in the debate to address that, so I hope that he will be able to do so in his closing remarks.

Willie Rennie made an extremely valuable contribution and, importantly, highlighted how councils in the north-east, such as Aberdeen City Council and Aberdeenshire Council, are further short-changed under the funding formula.

**Mike Rumbles (North East Scotland) (LD):** I am genuinely puzzled as to why the Conservatives support the order. It is not a good order. If we vote against it, all that the Government has to do is bring back a better order and our constituents in the north-east will benefit.

**Alexander Burnett:** I take on board the member's point, but our view is that, if we do not support the order, councils will get nothing.

James Dornan had plenty to say on Kate Forbes and even Sajid Javid but rather less to say about his colleague Derek Mackay, who actually wrote the budget.

Rhoda Grant touched on how the impacts of the order will materialise, from Moray, which will see

increases in burial charges, to Falkirk, which will see cuts to Women's Aid.

John Mason felt that the £95 million satisfies COSLA's requirements, but, unfortunately, he thinks that everything in this debate has been a choice between local government and the NHS. As I pointed out, if more time was spent in focusing on growing revenues through a growing economy, perhaps we might have the answer.

We will support the motion, but let it be known that we are not happy about doing so. Like councils across the country, we are being pushed into a corner to make this decision.

16:14

**Ben Macpherson:** I will reflect on a number of the points that have been made. First, however, it is important to reiterate that the order for which I seek parliamentary approval is to guarantee payment of £9.9 billion in revenue support to Scotland's 32 local authorities, to enable them to provide the people of Scotland with the full range of services that they expect and deserve.

I will address points that have been raised by members. First, Andy Wightman made a reasonable point about a figure of £95 million. I clarify that the figures that have been presented for approval today include that £95 million. The order that was laid previously was withdrawn, then a new order was laid on 4 March. The £95 million is included in schedule 1 of the order—£45 million in revenue support grant and £50 million in non-domestic rates income. I hope that that gives the clarity that was requested.

A number of members mentioned ring fencing. It is worth noting that local authorities have complete autonomy in allocation of more than 91 per cent—£10.4 billion—of the funding that is provided by the Scottish Government, and in allocation of all locally raised income.

**Andy Wightman:** Will the minister take an intervention?

**Ben Macpherson:** I am pressed for time, but I will.

**Andy Wightman:** I hope that the minister will write to me with clarification, because the figures that are in the order are exactly the same as the figures that were in the settlement letter of 6 February. I have no doubt that the £95 million exists, but will the minister write to me with clarification?

**Ben Macpherson:** I give Andy Wightman the undertaking that the money does exist, but I will write as soon as possible after the debate with clarification.

A number of members mentioned the fiscal framework. Officials from the Scottish Government and the Convention of Scottish Local Authorities will meet this week to continue to discuss it. The points that Willie Rennie made—apart from their having been personal—should be seen in the context of the overall local government settlement being distributed in full using the needs-based formula that has been agreed with COSLA. As John Mason rightly pointed out, the Scottish Government is open to considering changes to the formula, but proposals must come through COSLA, which is the right forum for that.

**Willie Rennie:** Will the minister give way?

**Sarah Boyack:** Will the minister give way?

**Ben Macpherson:** No, thank you.

It is also important—

**The Deputy Presiding Officer:** Excuse me, Mr Macpherson.

Mr Dey, will you stop having private conversations with your back to the chair? Mr Rumbles, will you stop encouraging them all?

**Ben Macpherson:** Thank you, Presiding Officer.

Jeremy Balfour's speech was also slightly personal. He raised a constituent's enquiry, which is perfectly right and legitimate. On what he said, I point out that the settlement includes on-going funding of £88 million to maintain the pupil to teacher ratio. In 2020-21, the City of Edinburgh Council will have an additional £66.1 million—an 8.8 per cent increase—over what it got in 2019-20. I also subtly point out that I do not need Jeremy Balfour to relay to me the fact that I need to take constituents' concerns seriously. I have held two open advice surgeries in the past four days—more than the neighbouring Edinburgh Central member has held in four years.

Although today's order distributes £9.9 billion, that is not the whole story. It does not cover the £709.7 million of specific revenue grants, which includes funding for early learning and childcare, criminal justice, pupil equity funding and additional support for ferries. That represents real money for vital local services, and should not be discounted in making funding comparisons. That funding means that next year the Scottish Government will provide local authorities with a total funding package that is worth £11.4 billion. That will deliver a real-terms increase of 3.9 per cent for vital day-to-day services for all councils.

There will also be further Scottish Government support of almost £580 million to be paid outwith the local government finance settlement. That includes funding for the attainment Scotland fund, the schools for the future programme and the city

region deals. It will be paid to local authorities and brings the Scottish Government's total payment to more than £12 billion.

For context, despite Scotland's discretionary resource budget allocation being £840 million lower than it was in 2010-11, the Scottish Government has continued to protect Scotland's local authorities. The 2020-21 settlement will provide local government with an increase of £589.4 million for day-to-day revenue spending for local services. Taken together with the potential to raise council tax by 3 per cent, that means that councils have the potential to spend about an extra £724.4 million in 2020-21.

As Andy Wightman pointed out, Opposition members should note that failure to approve the order will result in Scotland's local authorities—and, as a consequence, all our communities—being deprived of £589 million in additional Scottish Government investment. I am grateful to the Greens and the Conservatives for being responsible and for stating that they will vote in support of the order.

I encourage Parliament to support the Local Government Finance (Scotland) Order 2020, which will ensure that our local authorities can continue to deliver vital local services, and will finalise the significant funding package to be provided by the Scottish Government.

**The Deputy Presiding Officer:** That concludes the debate on the Local Government Finance (Scotland) Order 2020. Before we move on to the next item of business, we will take a moment or so for members to rearrange themselves.

## Business Motion

16:21

**The Presiding Officer (Ken Macintosh):** Our next item of business is consideration of motion S5M-21173, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Scottish Biometrics Commissioner Bill.

*Motion moved,*

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

Groups 1 to 3: 35 minutes

Groups 4 to 7: 1 hour 10 minutes.—[*Graeme Dey*]

*Motion agreed to.*

## Scottish Biometrics Commissioner Bill: Stage 3

16:22

**The Presiding Officer (Ken Macintosh):** We turn to stage 3 proceedings on the Scottish Biometrics Commissioner Bill. Members should have with them the bill as amended at stage 2, the marshalled list and the groupings of amendments.

As normal, the division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, the period of voting for the first division after a debate will be one minute.

Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as I call the group.

I turn to the bill and the marshalled list.

### Section 2—Functions

**The Presiding Officer:** Amendment 19, in the name of John Finnie, is grouped with amendments 23 to 26.

**John Finnie (Highlands and Islands) (Green):** As we know, the pace of technological change in the field of biometric technologies is rapid. That is why it is vital that biometric technologies are expressly mentioned in the bill.

I thank the Cabinet Secretary for Justice for working with me to refine my stage 2 amendments. My amendments now make it clear that biometric technologies are as much a part of the commissioner's scrutiny arrangements as biometric data, as I shall explain.

Amendment 19 requires that, when reviewing the law, policy and practice relating to biometric data, or promoting public awareness of powers and duties that relevant policing bodies have in relation to biometric data,

“the Commissioner is to have regard to the technology used or capable of being used for the purpose of acquiring, retaining, using or destroying biometric data.”

The phrase “capable of being used” is very important, as it includes technology that is available for use but not yet deployed, such as facial recognition technology. The legal and ethical use of technology by Police Scotland is, of course, a matter that I and other members view as being of great importance, given its impact on human rights, such as the right to privacy. It is therefore important that the new commissioner is able to provide views on such matters through reviews,

the code of practice, reports and recommendations.

With that in mind, amendment 23 makes it explicit that, in a report that is issued under section 15, the commissioner may make a recommendation in relation to technologies that are used or are capable of being used to collect, retain, use or destroy biometric data.

Amendment 24 provides that, where such a recommendation is made, the commissioner “must” rather than “may” impose a requirement to respond on the relevant policing body. That is important for promoting transparency and accountability.

The amendments work with the existing provisions in section 16 so that the person on whom a requirement to respond is imposed must provide a written statement to the commissioner that sets out the action that they are taking or not taking in response to the recommendation. Thereafter, the commissioner is required to publish the written statement and lay it before Parliament, as is already provided for in section 17.

Amendment 25 clarifies that, where a recommendation that is issued under section 15 does not relate to biometric technologies, the commissioner can choose whether to impose a requirement to respond.

Amendment 26 is a minor consequential amendment associated with amendment 24.

Taken together, the package of amendments will make for stronger scrutiny arrangements and greater transparency around the use and potential use of biometric technologies.

I move amendment 19.

**The Cabinet Secretary for Justice (Humza Yousaf):** At stage 2, John Finnie agreed to work with me to refine his intended amendments, which aimed to make explicit reference in the bill to biometric technologies. I am pleased that we have been able to build on Mr Finnie's original amendment to make it even more effective in its coverage and relevance as far as the commissioner's general functions are concerned. I particularly highlight the fact that, as Mr Finnie has just explained, amendment 19 now covers both technology that is in use and—this is important—technology that is capable of being used. Mr Finnie has already referred to facial recognition technology, which is not currently deployed by Police Scotland but certainly will be available for use and could be deployed by it in the future. The commissioner could include guidance on facial recognition technology in the code of practice or carry out a review of the law that relates to the use of that technology.



I very much support this group of amendments and I urge other members to support them, too.

**The Presiding Officer:** Does John Finnie wish to add anything further?

**John Finnie:** I have nothing to add.

*Amendment 19 agreed to.*

**The Presiding Officer:** Group 2 is on minor and technical amendments. Amendment 20, in the name of the cabinet secretary, is grouped with amendments 21, 9, 22, 12, 27 and 28.

**Humza Yousaf:** The amendments in the group in my name make minor and technical changes to the bill. Amendments 20 and 21 adjust section 2(7), to move the definition of “children and young persons” from after the definition of “vulnerable persons” to before it. That simply allows the list to be arranged alphabetically—we know that civil servants love ordering lists alphabetically. The definition itself remains unchanged, and the amendments are for tidying-up purposes.

In a similar vein, amendments 22 and 27 make minor adjustments to references to the code of practice at various points in the bill.

Amendment 28 adjusts paragraph 11 of schedule 1 so that the commissioner must obtain the consent of the Scottish Parliamentary Corporate Body in relation to the number of staff that the commissioner may appoint. The amendment provides a means for the SPCB to manage staff numbers to assure the efficiency of the commissioner’s office.

Amendments 9 and 12, in the name of Liam Kerr, are technical amendments that I am happy to support. Section 6A lists a number of issues that the commissioner is to have regard to in preparing the code of practice. Those matters are currently termed “principles”, but they are not framed as principles. Therefore, amendments 9 and 12 replace the reference to “principles” while ensuring that regard is to be had to the importance of those matters. The amendments also remove the reference to revised codes of practice so that revised codes are dealt with in a consistent way in the bill, as provided for by my amendments 22 and 27.

I thank Liam Kerr for agreeing at stage 2 to work with me and my officials on the amendments and for getting to a very constructive space in that regard.

I move amendment 20.

**The Presiding Officer:** I call Liam Kerr to speak to amendment 9 and the other amendments in the group.

16:30

**Liam Kerr (North East Scotland) (Con):** I thank the cabinet secretary for indicating his support for amendments 9 and 12 in my name. As the group title suggests, they are technical amendments that refine my stage 2 amendments to section 6A.

At stage 2, I inserted a requirement for the commissioner to “have regard to” certain important, high-level principles when preparing a code of practice. New section 6A was inserted into the bill as a result. Through amendment 12, I propose to change the opening words in section 6A so that it provides that, when preparing

“a draft code of practice, the Commissioner must have regard to the importance of”

the matters that are listed in that section—instead of referring to those matters as “principles”. That is because I recognise, as the cabinet secretary has said, that the matters that are listed in that section are not actually framed as principles.

Amendment 12 preserves the importance of the matters that are listed, including

“promoting and protecting human rights”

and

“ensuring the safety of individuals and communities”,

and it still requires the commissioner to “have regard to” them when preparing a code of practice.

**John Finnie:** The member will recall that at stage 2 we amended the bill to replace the phrase “have regard to” with the phrase “comply with”. He will remember all the arguments about strengthening the bill in that regard.

I am not persuaded that moving to a situation where we have

“regard to the importance of”

matters is anything other than a downgrading of a principle. It might just be about semantics, and I do not mean to be pedantic with the member on the issue. However, it seems to me that protecting human rights and the individual’s right to privacy are core principles, rather than matters that someone should simply have regard to. Will the member clarify that, please?

**Liam Kerr:** Yes, of course. Section 6A, as originally drafted, spoke to “principles”; it stated that the commissioner had to

“have regard to the following principles”.

However, the items on the list of matters that were designated as principles were not in fact framed as principles. Amendment 12, which redrafts the section, sets out that what follows are not to be considered to be principles—because they are not. It is a semantic point. They are, in fact,

statements of what must be complied with. Does that make sense to Mr Finnie? Have I explained that reasonably well?

**John Finnie:** Yes—to a point. However, surely it is a sound principle that we should all be promoting and protecting human rights, rather than having

“regard to the importance of”

them. I am genuinely trying to understand this, because I want the process to be consensual.

**Liam Kerr:** I am grateful to Mr Finnie, because this is an important point. Section 6A originally referred to the commissioner having

“regard to the following principles”,

but the matters referred to in subsections 6A(a) to (d) are not in fact principles; they are not in the form of principles as such. It would, therefore, be semantically wrong to keep referring to them as “the following principles”, because they are not principles. It is entirely a semantic point. Amendment 12 tidies that up so that, in preparing

“a draft code of practice, the Commissioner must have regard to the importance of”

the following things, which are not principles, because they have not been drafted as principles. I guess that I am asking Mr Finnie to trust me on this one.

The reason for the change is a semantic one. As drafted at stage 2, the provision referred to “principles”, which are not principles. We will see whether Mr Finnie goes with me on this one.

Amendment 12 also deletes the specific mention of revised codes in order to allow them to be dealt with in a uniform way across the bill, as the cabinet secretary proposes. Crucially, however, it remains the case that regard must be had to the importance of matters that are set out in section 6A when a revised code of practice is being prepared.

Amendment 9, on the other hand, is a consequential change. Because the reference to “principles” would be removed from section 6A, the reference to “principles” in section 6(1) would also be removed.

I thank the cabinet secretary for working with me to refine the provisions. I ask members to support amendments 9 and 12.

**The Presiding Officer:** I call the cabinet secretary to wind up on this group.

**Humza Yousaf:** I have no further comments.

*Amendment 20 agreed to.*

*Amendment 21 moved—[Humza Yousaf]—and agreed to.*

## Section 5—Duty to comply with directions

**The Presiding Officer:** Group 3 is on an advisory group. Amendment 6, in the name of Liam McArthur, is grouped with amendment 18.

**Liam McArthur (Orkney Islands) (LD):** I hope to continue the generally consensual tone of previous contributions. Amendments 6 and 18 seek to put the advisory group on a statutory footing. The recommendation to do so was unanimously supported by the committee, as well as by many of the stakeholders and witnesses who gave evidence, yet it appeared nowhere in the bill as it was originally drafted—an omission that the Scottish Human Rights Commission described as “regrettable”. At stage 2, the cabinet secretary committed in principle to putting the advisory group on a statutory footing if work could be done to revise the relevant wording. I accepted that proposal, and amendments 6 and 18 reflect our collaborative work.

New section 22A will allow the commissioner to make decisions on the governance, remuneration and membership of the group, with the consent of the SPCB where appropriate. It will also allow for the group to provide advice on all matters relating to the commissioner’s functions. I believe that that better reflects the bill’s approach in recognising the need to respond to the rapidly changing biometrics environment, which John Finnie mentioned.

I thank the cabinet secretary and his officials for their assistance in coming to this point. I look forward to any further debate, and I encourage members to support my amendment.

I move amendment 6.

**The Presiding Officer:** No other member has indicated that they wish to speak, so I invite the cabinet secretary to respond.

**Humza Yousaf:** At stage 2, Liam McArthur agreed to work with me and my officials to refine the proposal in his amendment 6, the aim of which is, as he said, to establish an advisory group to provide the commissioner with advice on legal and ethical issues relating to biometric data and technologies. I am pleased that we were able to make constructive adjustments to the stage 2 amendment to simplify how the membership of and remuneration and governance arrangements for the group will be determined. They also allow for greater flexibility in the group’s remit.

I have always supported the setting up of such a group and I recognise the importance of the commissioner being provided with advice that is not only independent, which is crucial, but also well informed. My concern was that, in committing that to legislation, we would risk losing flexibility, but Liam McArthur’s amendment 18 ensures that

matters will be kept as open and flexible as they can be. It also removes the opportunity for Scottish ministers to steer the operation of the group and instead places the responsibility for decision making with the commissioner, which is exactly as it should be. It is vital to the credibility of the group that it should remain—and, of course, be seen to be—impartial.

I also agree that there should be a role for the Scottish Parliamentary Corporate Body in overseeing and approving the appointments process, the number of members and the remuneration and allowances of the group, in order to ensure transparency and value for money.

I thank Liam McArthur for the constructive way in which he has approached amendments 6 and 18. We were pleased to come to a resolution on them, and I hope that members will support them.

**The Presiding Officer:** Does Liam McArthur wish to make any concluding remarks?

**Liam McArthur:** No, thank you, Presiding Officer.

*Amendment 6 agreed to.*

### **Section 5A—Complaints procedure**

**The Presiding Officer:** Group 4 is on a complaints procedure. Amendment 7, in the name of Margaret Mitchell, is grouped with amendment 5.

**Margaret Mitchell (Central Scotland) (Con):** Amendment 7 replaces in full the amendment that I lodged at stage 2, which required the commissioner to put in place a procedure by which a person might make a complaint to the commissioner about the handling of their biometric data. My intention was to ensure that members of the public had the ability to complain directly to the commissioner if they believed that such data had not been dealt with properly by police bodies that fall within the oversight of the commissioner. That remains my intention. However, I have listened carefully to the concerns that were expressed by both the Cabinet Secretary for Justice and the Information Commissioner's Office that it should be clear that complaints that are made via that procedure are to relate to breaches of the code of practice. I have worked with the cabinet secretary so that the provisions now make that clear.

The remainder of amendment 7 is very similar to my stage 2 amendment and it broadly achieves the same aim, as I shall explain. Amendment 7 requires the commissioner to "provide for" a procedure so that it is clear that they are not only to establish a procedure, but to retain it. The procedure is to allow an individual or their representative to make a complaint about a breach of the code of practice in relation to that

individual's biometric data. The procedure is to apply to complaints in respect of any body that is subject to the code of practice under section 7(1). That flexibility will allow the provision to cover any additional bodies that might be made subject to the code later by means of regulations under section 7(4). The procedure is to be available whether or not the individual has already instigated a complaint through the complaints mechanism of the body that they are complaining about.

In determining the procedure, the biometrics commissioner is to consult various persons, including the Information Commissioner. The provision recognises the importance of the Scottish biometrics commissioner and the Information Commissioner's Office working together to ensure that complaints are directed to the appropriate commissioner. The procedure that is put in place by the biometrics commissioner will deal with complaints regarding failures to comply with the code, while the Information Commissioner's Office will continue to deal with complaints about infringements of data protection legislation. Amendment 7 therefore sets out comprehensive arrangements to enable individuals to raise complaints relating to the code directly with the commissioner.

Amendment 5 moves section 5A so that it will appear after section 10, among the sections that deal with the code of practice. Given that the complaints procedure will now clearly be about complaints relating to a breach of the code of practice, that is a more suitable location.

I move amendment 7.

**James Kelly (Glasgow) (Lab):** I support the amendments in the group. If the biometrics commissioner is to have the confidence of the public, it is important to have in place appropriate processes that will underpin the commissioner's work. One of the gaps in the bill as introduced was the lack of a complaints procedure, but stage 2 amendments addressed that. I acknowledge the work that has been done with the cabinet secretary's team, and the stage 3 amendments that Margaret Mitchell lodged refine and clarify the complaints procedure so that it will be clear which complaints will go to the Information Commissioner's Office and which will go to the biometrics commissioner. The overall package of amendments at stages 2 and 3 makes the bill stronger in that area.

**Humza Yousaf:** As members might know, I did not support the amendment that Margaret Mitchell lodged at stage 2 that required the biometrics commissioner to set up a complaints procedure. At that time, I was concerned that it could lead to duplication or disagreement between the Information Commissioner's Office and the

Scottish biometrics commissioner in relation to complaints about biometric data, because the amendment did not delimit the role of the biometrics commissioner and it would have allowed them to deal with complaints about breaches of data protection law that should properly be dealt with by the Information Commissioner's Office.

I am pleased that Margaret Mitchell not only took my concerns on board but worked constructively with me and my officials and took on board the concerns of the Information Commissioner's Office as set out at stage 2. Her stage 3 amendments limit the complaints procedure, quite rightly, to breaches of the code of practice. The amendments in the group also fix a number of technical points. I thank Margaret Mitchell for working with me to refine the amendments at stage 3. I will support amendments 7 and 5 and I urge others to do so, too.

**Margaret Mitchell:** I welcome the cabinet secretary's endorsement of the amendments, and I thank him and his officials for working collaboratively with me to improve them. I think that we all agree that there should be a clear process for individuals to complain about breaches of the code of practice that directly affect them. Happily, the amendments that I lodged do precisely that.

*Amendment 7 agreed to.*

*Amendment 5 moved—[Margaret Mitchell]—and agreed to.*

### **Section 5B—Review of the Commissioner's functions and powers**

16:45

**The Presiding Officer:** Group 5 is on post-legislative scrutiny. Amendment 8, in the name of Liam McArthur, is the only amendment in the group.

**Liam McArthur:** Amendment 8 follows my stage 2 amendment allowing for a process of review. Amendment 8 fine tunes what was agreed to at stage 2 by making minor drafting changes and altering the timing requirements so that the reviews can be linked to the commissioner's strategic plan. If a review is considered unnecessary, my amendment would also require a statement to be made to set out the rationale for that.

As I said at stage 2, new biometric technologies are being developed at a pace that primary legislation cannot match. It is therefore essential to put in place a framework and mechanisms for reviewing and updating. Amnesty Scotland, the

Law Society of Scotland, the Open Rights Group and the Scottish Human Rights Commission all raised concerns about the commissioner's scope in their evidence. That may need to be revisited in due course. For now, I am, again, grateful to the cabinet secretary and his officials for working with me to put in place measures that will at least allow reviews to happen.

As the Law Society said in its briefing, the reviews should be seen not as a drain on resources but as

"necessary checks to ensure the high degree of transparency of the role which is required."

However, I accept that the most important thing is that the reviews are capable of responding to circumstances. In some cases, that may mean that a review is not required.

I move amendment 8.

**Humza Yousaf:** At stage 2, Liam McArthur agreed to work with me to refine his amendment to require the Scottish ministers to undertake a review of the commissioner's remit and functions at recurring intervals.

As I said at stage 2, post-legislative scrutiny is, of course, extremely important. I also said that I do not think that the bill needs to provide for it and that that is a matter better left to ministers and Parliament to determine without being tied to predetermined periods. However, I recognise that the Parliament wants to legislate on that aspect. I respect that, and I was keen to revisit the amendment to ensure that it works sensibly and in a way that achieves the most effective scrutiny possible.

In adjusting the original amendment, I am pleased that Liam McArthur recognises the benefit of linking the timing of the first post-legislative review to the end of the first strategic planning period rather than two or three years after royal assent. That allows the examination of the commissioner's functions to be more meaningful and to consider whether the commissioner has been able to achieve all that they set out to achieve.

Amendment 8 also recognises that there may be times when it is not necessary to conduct subsequent reviews, in which case the Scottish ministers will be able to publish a statement to that effect and to lay that before Parliament. The amendment allows for a commonsense approach while retaining the need for transparency, as Parliament would be able to question ministers about their decision not to conduct a review.

I support Liam McArthur's amendment 8, and I urge all members to do likewise.

**The Presiding Officer:** Does Liam McArthur want to make any concluding remarks?

**Liam McArthur:** I thank the Government for its support. I press amendment 8.

*Amendment 8 agreed to.*

### Section 6—Code of Practice

*Amendment 9 moved—[Liam Kerr]—and agreed to.*

**The Presiding Officer:** Group 6 is on the code of practice and retention periods. Amendment 10, in the name of Liam McArthur, is grouped with amendment 11.

**Liam McArthur:** Amendments 10 and 11 are, again, a revised version of amendments that I pressed at stage 2. They have been proposed in recognition of the fact that there is a gap in the regulation of retention periods of biometric data.

Although DNA and fingerprints are regulated under the Criminal Procedure (Scotland) Act 1995, photos and other forms of biometric data are not. During the passage of the bill, research by the Scottish Liberal Democrats found that, since 2014, more than 375,000 images had been supplied to the police national database from Police Scotland's criminal history system. Those images were uploaded without a clear legislative requirement for their deletion in the event of the person pictured being found innocent.

I recognise that facial recognition could be valuable for modernising how the police investigate crime but, unregulated, it represents a potentially serious threat to human rights and civil liberties. I consider that my provisions will provide a safeguard for those liberties and the necessary framework to allow for proportionate and legitimate use of the technologies.

The Ada Lovelace Institute found that

“People fear the normalisation of surveillance but are prepared to accept facial recognition technology when there is a clear public benefit, provided safeguards are in place.”

In evidence to the Justice Sub-Committee on Policing, Duncan Sloan, the temporary assistant chief constable, said that the current rules on what the police can do with images of the public are “not so clear” as the rules on fingerprints and DNA. He added that new governance arrangements

“would be valued and welcomed.”—[*Official Report, Justice Sub-Committee on Policing*, 16 January 2020; c 4, 5.]

Mr Sloan's colleague, Detective Chief Superintendent Sean Scott, also supported the independent advisory group's recommendation on a presumption for deletion of biometric data as a

central part of the oversight system that is established by the bill. He stated that

“one of the IAG's nine recommendations was about the retention periods and a presumption of deletion, and that is absolutely right.”—[*Official Report, Justice Committee*, 29 October 2019; c 13.]

There needs to be enough flexibility to allow for specific circumstances to be taken into consideration. However, putting retention periods in black and white will strengthen not only privacy rights but public confidence in the use of such technologies. For public authorities, that provides a much better basis on which to deploy those technologies.

I move amendment 10.

**Humza Yousaf:** As members might be aware, I have committed to conducting a review of retention periods once the new commissioner is in place. Therefore, I was interested in the amendments that were lodged by Liam McArthur at stage 2 that require the code of practice to provide for a presumption of a fixed three-year retention period for all biometric data.

I had a number of concerns about that, as I set out in detail at stage 2. That is why I welcome Liam McArthur's new and more flexible amendment on retention periods, which I believe allows more nuanced rules to be provided for. In particular, it will allow different periods to be specified in different cases and will avoid our having to settle now on the period that must be specified.

The new amendment will also ensure that the provision that the code of practice is required to make will be focused only on cases where there is an existing legislative gap. That will help to avoid the risk of contradictory legal provision being made, as it will avoid the code being required to set out rules on retention periods for types of biometric data that are already suitably covered by our legislation.

I support Liam McArthur's amendments 10 and 11, and I urge members to vote in favour of them.

*Amendment 10 agreed to.*

*Amendment 22 moved—[Humza Yousaf]—and agreed to.*

*Amendment 11 moved—[Liam McArthur]—and agreed to.*

### Section 6A—Code of practice: principles

*Amendment 12 moved—[Liam Kerr]—and agreed to.*

### **Section 15—Reports and recommendations**

**The Presiding Officer:** Group 7 concerns reporting on failures to comply with the code of practice. Amendment 13, in the name of Liam McArthur, is grouped with amendments 14 to 17.

**Liam McArthur:** Amendments 13 to 17 would mean that, under section 15, the commissioner would be required to “prepare and publish” reports about failures by relevant bodies to comply with the code of practice.

At stage 2, the cabinet secretary maintained that the bill’s strength can be found in the coercive powers of naming and shaming, and he observed that the power of reputational damage should not be underestimated. That always seemed to me to open up too much of a risk—one that some people might be willing to take. I am grateful that Humza Yousaf has come around to that view. In turn, I accept that the reports might be amalgamated, if appropriate, and should certainly recognise a de minimis threshold—not least in order to avoid an undue burden being placed on the commissioner.

I am pleased that the amendments strike a proportionate balance.

I move amendment 13.

**Humza Yousaf:** As Liam McArthur has already said, this group of amendments in his name will require the commissioner to prepare and publish a report about failures to comply with the code of practice, and will remove the discretionary power to prepare and publish such reports.

It has always been expected that monitoring and reporting compliance with the code of practice will be a key aspect of the commissioner’s role. Therefore, I have no issue with the amendments. I am pleased that, as Liam McArthur has noted, a practical approach is built into them, whereby the commissioner can choose not to report on a failure that involves a minor infraction, and can produce combined reports on failure to comply by more than one person, such as when there is a common theme. I support those provisions and thank Liam McArthur for working constructively with me and my officials to refine the amendments for stage 3. I hope that members will support them.

**Liam McArthur:** I thank the Government again for its co-operation. I suspect that the workings of the proposed provisions might be reviewed in the future, depending on the evidence that is forthcoming. I very much welcome the support that the Government has given in order to get us to this point.

*Amendment 13 agreed to.*

*Amendments 14 to 16 moved—[Liam McArthur]—and agreed to.*

*Amendment 23 moved—[John Finnie]—and agreed to.*

### **Section 16—Requirement to respond to reports**

*Amendment 24 moved—[John Finnie]—and agreed to.*

*Amendment 17 moved—[Liam McArthur]—and agreed to.*

*Amendments 25 and 26 moved—[John Finnie]—and agreed to.*

### **Section 22A—Ethics Advisory Group**

*Amendment 18 moved—[Liam McArthur]—and agreed to.*

### **Section 24—Interpretation**

*Amendment 27 moved—[Humza Yousaf]—and agreed to.*

### **Schedule 1—The office of Scottish Biometrics Commissioner**

*Amendment 28 moved—[Humza Yousaf]—and agreed to.*

**The Presiding Officer:** That ends consideration of amendments. As members will be aware, at this stage in proceedings I am required, under standing orders, to decide whether any provision in the bill relates to a protected subject matter; that is, whether it will amend the franchise or the electoral system for Scottish parliamentary elections. In my view, no provision in the bill will do any such thing, so the bill does not require a supermajority for it to be passed at stage 3.

## Scottish Biometrics Commissioner Bill

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a stage 3 debate on motion S5M-21174, in the name of Humza Yousaf, on the Scottish Biometrics Commissioner Bill. I call Humza Yousaf to speak to and move the motion.

16:58

**The Cabinet Secretary for Justice (Humza Yousaf):** I am delighted to open this stage 3 debate on the Scottish Biometrics Commissioner Bill. I thank my officials for drafting the bill and for working so constructively with members of the Opposition. I also thank members of the Opposition for taking a similarly constructive approach. I have been involved in introducing legislation in Parliament as a minister for just over seven and a half years, but I do not think that I have ever had a bill passed with so much consensus and with no member voting against a single amendment at stage 3. It has taken me only seven and a half years to get there, but I am delighted to have got there on an issue that has been, understandably, quite contentious and often quite controversial.

However, what we have now is an important piece of legislation that speaks to some of the key societal issues of our time, and touches on human rights and ethics as they relate to police use of very personal information. It is a hugely topical issue and one on which, I suspect, members from across the chamber have often been approached by members of the public in their constituencies

The origins of the bill go back a number of years. I take this opportunity to thank John Scott and his independent advisory group on the use of biometric data for shining a spotlight on biometric data in policing and criminal justice. The group's report in 2018 was very much the inspiration for, and genesis of, the bill.

I also thank the various parliamentary committees that scrutinised the bill and its accompanying documents—in particular, the Justice Committee and its convener, Margaret Mitchell.

The bill has rightly attracted interest from a wide range of organisations and individuals. I am grateful to those stakeholders for the considered views that they offered to the Scottish Government during the preparatory phase of the bill, and to the Justice Committee once the bill had been introduced in Parliament.

I was pleased by the broad consensus in January to agree the general principles of the bill.

However, the Justice Committee made a number of detailed recommendations in its stage 1 report; I am pleased to have been able to work with members to address those concerns during stages 2 and 3 in order to get to this important stage today. I welcome the cross-party support for the bill, and the very positive engagement that I have had with parliamentarians to ensure that the new legislation will do what we want it to do.

The bill will go a long way towards delivering greater transparency and accountability in how the police use biometric data, in recognition of how important that is to building and maintaining public trust.

I cannot stress enough how important it is that we equip our police officers with the necessary technology to ensure that they can keep us safe. However, I stress equally how important it is that the public have absolute confidence in those technological advances, and in how their data will be collected, retained and disposed of. The legislation, the new independent commissioner and the code of practice will, I hope, provide members of the public with the reassurances that they require.

I will focus on some key areas of the bill and what we want to achieve through it. First and foremost, the bill will make sure that our approach to biometric data, including from new technologies—such as facial recognition software, which was mentioned in the debate on amendments—is effective, proportionate and, crucially, ethical.

The bill creates an independent commissioner to advise on those issues, and to review the relevant law, policy and practice. The commissioner will oversee Police Scotland, the Scottish Police Authority and the Police Investigations and Review Commissioner. The bill includes a power for ministers to add at a later date, should it be required, more bodies that operate in the context of policing and criminal justice. Policing—the police bodies in particular—is the right place to start, because we know that collection and retention of data for policing purposes can be different to collection and retention of personal data or biometric data by any other sector.

The commissioner will also prepare a statutory code of practice that will set out the mandatory standards that those bodies must meet, and the responsibilities that they must undertake, with the aims of ensuring good practice, driving continuous improvement, and enhancing accountability.

The content of the code has deliberately not been specified in the bill. That allows for flexibility and future proofing—we are all aware of how fast technology can move—and will preserve the

impartiality of the commissioner, which is crucial to allowing the commissioner to use his or her own judgment in the future. The commissioner will also be able to draw on expertise from the statutory advisory group.

The draft code of practice will be the subject of consultation of specified bodies and will be subject to approval by Parliament before it can come into effect. The code will be published so that everyone can see the standards that are expected of the bodies that are mentioned in the bill.

The commissioner will have powers to obtain information and to make reports and recommendations. I expect that the relationship between the bodies that are subject to the code of practice and the commissioner will therefore be predicated on transparency and accountability. We heard from the biometrics commissioner for England and Wales at stage 1, during evidence gathering, how important that dynamic is.

There will be a complaints procedure, as we heard in the debate on amendments, so that members of the public can raise concerns with the commissioner about failures to comply with the code of practice.

The commissioner will also have substantial powers—they will have teeth—and can report to Parliament failures to comply, as well as issuing compliance notices to require that concerns be addressed. In the most extreme cases, the commissioner can, ultimately, report failures to comply to the Court of Session.

Finally, but importantly, the commissioner will play a major role in raising public awareness about rights, responsibilities, and standards that are used in relation to biometric data and technologies. Given the rapid increase, in recent years, in use of biometric data and technologies, it is absolutely vital that we promote clearer understanding of the issues in our communities, especially among young people and vulnerable people.

Biometrics is evolving rapidly and offers great potential in detection, prevention and prosecution of crime, which will keep our communities safe. However, use of biometric data and technologies also raises ethical and human rights considerations. Therefore, I want to ensure that use of biometric data, including from new technologies such as facial recognition software, is effective, lawful and ethical.

The bill creates a biometrics commissioner whose powers and duties are focused on rights, accountability and responsibilities. Since the bill was introduced, there has been a lot of discussion here in Parliament about biometric data. However, now is absolutely the time to have a national discussion about the ethics and human rights

issues that are associated with police use of biometric data, and for the new commissioner to lead that discussion from the forefront.

If Parliament agrees to pass the bill today, that will place Scotland at the forefront of driving forward transparency, accountability and improvement in relation to biometric data for policing and criminal justice purposes.

I thank members once again for working extremely constructively to get us to this stage.

I move,

That the Parliament agrees that the Scottish Biometrics Commissioner Bill be passed.

17:06

**Liam Kerr (North East Scotland) (Con):** I am very pleased to open the stage 3 debate on the Scottish Biometrics Commissioner Bill on behalf of the Scottish Conservatives. I confirm that we will vote to pass it at decision time tonight.

The underlying principle of the bill is to address ethical and human rights considerations in Scotland in relation to the collection, use, retention and disposal of biometric data in the context of policing and criminal justice. It seeks to do that by establishing the post of a Scottish biometrics commissioner, who will draw up a code of practice governing how biometric material should be used, gathered and so on. That is a significant role.

The bill also seeks to underpin public trust in how the police use biometric data. That trust is recognised in the bill's policy memorandum, in which being seen to promote the confidence of the public is essential in relation to the commissioner's functions. It requires that

“governance arrangements for the Commissioner must be, and be seen to be, transparent, accountable and free of any undue influence.”

We all, no doubt, hope that that can be achieved. Ultimately, whether or not it is will, at least partly, be around the resourcing. As the Law Society of Scotland said:

“resources need to include funding for research, public consultations, marketing and legal advice ... Promoting and knowledge of the Commissioner's role is going to be very important”.

The committee's report was stark. It stated:

“Other SPCB supported officeholders have faced resourcing issues as a result of changes or expansion to their role and powers over time, or as a result of growing demand for activity.”

Given that, the committee's conclusion that

“the Financial Memorandum may not sufficiently estimate the resources which may be needed to support the delivery of the Commissioner's functions”



remains a concern—not least because, as I read with interest, the supplementary financial memorandum projects an extra couple of hundred thousand pounds due to the stage 2 amendments. Although I note what section 22 says about the preparation of an annual report, it does not mandate an explicit requirement to report on the adequacy of resources. That remains a concern, and I hope that we see the commissioner going wide in the interpretation of section 22 to include those issues of resources.

The code of practice, which is set out in section 6, is fundamental. It has been a major area for amendment—and rightly so. During the process, the cabinet secretary amended the bill to provide greater parliamentary scrutiny of the first code of practice by ensuring that the commissioner must lay a copy of the first—draft—code before Parliament for representations. That is a good development, which should help towards the desired public trust and accountability.

The committee agreed that the promotion and protection of human rights, privacy, public confidence and community safety are crucial within that code of practice. Noting that, I inserted at stage 2 a requirement for the commissioner to have regard to those factors when preparing a code of practice. I am very pleased that Parliament agreed to my further amendments earlier this afternoon and that John Finnie trusts me that the section is as tight as it can be. On that note, Liam McArthur's points on his amendments around the code of practice retention periods were particularly well made, and the greater nuance that we built in this afternoon is welcome.

At stage 1, many committee members raised concerns about the need for a complaints mechanism and the possible impact on public confidence of not having one. Initially, the bill did not contain any provision whereby a member of the public could raise concerns about the use of their biometric data by the police or a breach of the code of practice with the commissioner. The committee therefore recommended that a complaint mechanism be included in the bill.

Margaret Mitchell amended the bill to include a complaints process, which we have further amended today. She will talk in greater detail about it later, but I believe that it is welcome that the commissioner is required to establish, and retain, a complaints procedure that allows people to make a complaint to the Scottish biometrics commissioner about a breach of the code of practice. The amendment also states that the commissioner is to publicise the procedure, which will help to raise public awareness of their rights relating to the use of biometric data by the police and the justice system.

It is trite to say that biometric data is developing all the time and changing. None of us can possibly know what the category “biometric data” will comprise in the future; therefore, building in future proofing with regard to the commissioner's role and functions is essential. That is why Liam McArthur's section 22A amendment at stage 2, regarding an ethics advisory group, was welcome. He has, of course, further amended that today to create an advisory group that will allow the commissioner more flexibility.

At stage 2, Mr McArthur inserted section 5B, which will allow the powers and functions of the commissioner to be reviewed three years after the bill receives royal assent and at the end of five years after a review under that section. His amendment today, which tightened that provision up and linked it to the publication of the commissioner's strategic plan, makes sense and should be welcomed.

This is a good bill that has been subject to considered and sensible amendments throughout the legislative process, following extensive and exhaustive evidence taking at the committee stage. There followed reflective and collaborative working, which was mentioned by the cabinet secretary, and what has emerged is a strong piece of legislation that achieves its stated aims:

“to establish the office of Scottish Biometrics Commissioner and to provide for its functions in relation to the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes.”

For that reason, we shall support it at decision time this evening.

17:12

**James Kelly (Glasgow) (Lab):** I am pleased to open the stage 3 debate on behalf of Scottish Labour, and I confirm that we will support the bill at decision time. I have enjoyed this afternoon's very consensual proceedings.

With regard to the advance of technology, John Finnie was right to separate out technology and data when he spoke earlier on one of his amendments. There have been dramatic advances in technology that have ensured that much more data can be collected and that data can be held more easily. That is of great advantage in the criminal justice system, and it helps the police and prosecutors to do their jobs in bringing people to justice and giving victims reassurance when they have suffered unjustly as a result of crime.

However, the other side of the advance is an ethics and human rights aspect, as the cabinet secretary said. A lot more data is being held, and we have to ensure that the ethics that underpin that situation are robust and that people's human

rights are not undermined. Against that backdrop, the objectives of the bill are absolutely correct in setting up a biometrics commissioner to oversee the collection and retention of biometrics data.

The process has been interesting. The Government has worked collaboratively with all parties and with the committee, and we have seen the bill strengthened as it has gone through stages 2 and 3. That is how the parliamentary process should work. With regard to compliance, in particular, the original draft of the bill stated that people need “to have regard to” the work of the biometrics commissioner. The committee members had a great debate about whether “have regard” was strong enough; I certainly argued that there should be stronger compliance than “have regard”. Amendments on that theme were agreed to at stage 2, which has made the compliance aspect much stronger.

There was a gap in the original drafting of the bill regarding the complaints process. It was well intentioned, as it was felt that the Information Commissioner could deal with any complaints. However, as a number of members have said, it is important to ensure public confidence. That could have been undermined by the lack of a process for complaining directly to the biometrics commissioner if people felt there were issues about how their data was being held. The amendments that were addressed at stage 2 and refined at stage 3 build in a proper complaints process and give clarity about which complaints would be relevant to the Information Commissioner and which would go to the biometrics commissioner.

The advisory group is also important. The Law Society said in its submission that

“future proofing in this area is very important to take account of new developments in technology, and it is important to be able to draw on relevant expertise.”

Setting up an advisory group will make that process much more robust. Being able to keep all of that under review, including the issue of resources, will also ensure that all those issues are taken into account.

The process has been a good and positive one for the Parliament and for the Government, which has taken the bill through Parliament and has built on the discussions and evidence. The end product is a robust one, which Parliament and the public will have confidence in.

17:17

**John Finnie (Highlands and Islands) (Green):** I am sure that there will be a lot of similarity in what we are all going to say. I agree with the cabinet secretary about the good work that has been done by John Scott QC and his committee to

get us to this point. I hope that we are going to pass—the Scottish Green Party will certainly support it—a piece of legislation that will establish a new biometrics commissioner.

The explanatory note is very specific. It says that the commissioner will

“support and promote the adoption of lawful, effective and ethical practices in relation to biometric data in a policing and criminal justice context,”

by keeping

“under review the law, policy and practice relating to the acquisition, retention, use and destruction”

of data.

As others have said, public confidence in our criminal justice system is vital. The bill started as a sound enough piece of legislation and there has been extremely positive engagement, which—dare I say it?—was a fine example of how the committee system can work. The engagement with the cabinet secretary and his colleagues was appreciated, and the bill is stronger as a result.

The policy memorandum talks about a rapidly evolving area of work. It is right to strike a balance and to say that it offers

“great potential in the detection, prevention and prosecution of crime”.

We all see that. We know that, in the past 30 years, DNA testing has been central to solving serious crimes such as murder and sexual offences. In that period, we have seen laptops, phones, CCTV, security cameras, road cameras and automatic number plate recognition collecting, storing and using large volumes of biometric data. The Justice Committee was right to say in the stage 1 report that the legislation is “timely and necessary”.

There will be oversight of facial recognition, which has been referred to, but also of facial search technology; gait and movement recognition technology; eye, iris and retinal identification; voice recognition software; and data from social media. All of those things are capable of providing biometric sources to the police—I am advised that they are known as “second-generation biometrics”.

It is important that that commissioner functions independently, as was said in the report, with no perception of overt influence from policing-related bodies.

The amendment at stage 2 that brought in a requirement to comply is significant. I had a look at what the police told us, and they were relaxed about the phrase “have regard to”. They said that that was similar to recommendations from Her Majesty’s Inspectorate of Constabulary in Scotland, which they generally work to implement. There cannot be discussions about that. These

are very important matters, and one of the bill's objectives is to improve the accountability of the police.

I am pleased that the bill will cover the British Transport Police and that the Police Investigations and Review Commissioner is involved, given its pivotal role in policing in Scotland. The independent advisory group talked about having a complaints mechanism in the bill, and I support our convener in the important amendments that have been made in that regard.

Liam McArthur's amendments on putting the advisory group on a statutory footing are important, as is the advice and information resource that the group can provide.

The Scottish public is under heavy surveillance and it is important that we get things right. I particularly thank the Scottish Government for working with me on the technology amendments. This is a good piece of legislation, and we will support it at decision time.

17:21

**Liam McArthur (Orkney Islands) (LD):** I echo the comments of others in confirming that the Scottish Liberal Democrats warmly welcome the bill and will support it at decision time. I thank all those who helped the committee during our scrutiny of the bill. Like the cabinet secretary and John Finnie, I pay particular tribute to John Scott QC and his colleagues in the advisory group for their work in laying the foundations.

I also thank the cabinet secretary for the constructive approach that he adopted in relation to the bill. Given how combative our exchanges on policing can get in the chamber, it is nice to have had that experience.

The case for establishing a biometrics commissioner to oversee the collection, use, retention and, importantly, deletion of biometrics is well made and widely accepted. Biometrics is an area of policy that is complex and highly technical, and one in which technology and its use are evolving at an astonishing pace. A robust regulatory framework and the specific expertise to oversee it are non-negotiables if we are to retain public confidence, while allowing our police and the justice system to have access to the tools that they will increasingly need.

Thanks to legislation that was passed in 2006 and 2010, we already have a legal framework governing the use of DNA and fingerprints. In 2015, however, it emerged that pictures of 330,000 Scots who had been taken into custody had been made available to users of the police national database. Many of the individuals concerned had done nothing wrong. That

prompted my colleague Alison McInnes to spearhead a campaign for effective regulation of biometrics. She wrote to the First Minister at the time to demand a review of facial recognition technology, which led to HMICS undertaking an assessment.

During consideration of the Criminal Justice (Scotland) Act 2016, Alison McInnes lodged amendments to make biometric information subject to the same rules as DNA and fingerprints. She recognised the importance of consistency, including around the timely deletion of images. Although unsuccessful, her efforts paved the way for my own amendments, which Parliament agreed to this afternoon. Those amendments achieve a consistency that is in the interests of not only individuals and the wider public but the police, who have been clear about their belief in the need for both consistency and clarity, albeit with some flexibility to deal with specific circumstances, as the cabinet secretary mentioned earlier.

I acknowledge the support from the Scottish Government for those changes, as I do its support over moves to put the proposed advisory group on a statutory footing. As I said in moving my amendments, putting that on the face of the bill sends a strong signal about the importance of the group's work in helping to underpin all that the commissioner does. That better reflects the recommendations of the independent advisory group, and I hope that it addresses what was described by the Scottish Human Rights Commission as a "regrettable" omission from the bill as introduced.

Likewise, we have made progress on the question of enforcement powers. I appreciate that some stakeholders may wish that we had gone further, while the Government argued that the threat of naming and shaming was sufficient by way of a deterrent. However, by agreeing to ensure that breaches are made public by the commissioner—save for in the most minor of circumstances—I believe that we increase the likelihood of encouraging good practice and reduce the risk of individuals or organisations seeking to chance their arm.

The final area in which I think that an important step in the right direction has been taken today relates to the way in which we ensure that the legislation keeps pace with the development of biometrics. Putting in place a robust regulatory framework is essential, as is ensuring that that framework is overseen by those with the necessary expertise. However, there is no getting away from the fact that biometrics are rapidly evolving. We need to make sure that reviews are built in so that the public can have confidence that the framework and safeguards remain fit for purpose. Again, I welcome the support of the

Government and the Parliament for my amendments to allow for such a review mechanism.

The Metropolitan Police Commissioner, Dame Cressida Dick, observed that although the police should take advantage of new technology to improve policing, it is not for the police service to draw up the rules by which that technology is used. She is right, but so, too, is Amnesty International, when it warns that

“use of biometrics has the potential to breach human rights such as the right to privacy, freedom of association and the right to peaceful assembly”.

That is why we need a robust regulatory framework and a biometrics commissioner with the necessary powers. I believe that the bill gets us much of the way there. On that basis, the Scottish Liberal Democrats will support the bill at decision time.

17:25

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** As deputy convener of the Justice Committee, I am glad that we have reached the final stage of this important bill in, as the cabinet secretary said, a largely consensual way.

I thank the clerks and the bill team for their hard work, and the many excellent witnesses for helping us with their expertise in this field. A lot of work and a lot of listening have gone into getting the bill to a stage where, thankfully, we have achieved cross-party support. I agree with Liam McArthur that it is now a much better, more balanced bill.

The bill will ensure that the use of biometric data in policing and criminal justice is effective, lawful and ethical. It is vital that the public have confidence in the bill and that the ethics—the human rights aspects—of the bill have been addressed. The scope of the bill covers the acquisition, use, retention and disposal of biometric data, including fingerprints, DNA and emerging techniques such as iris recognition.

The ultimate goal is to keep communities safe while respecting the rights of the individual and improving the accountability of the police. Those are important elements in maintaining public confidence in police use of biometric data. Biometrics are hugely important in the prevention and detection of crime, and in prosecuting crime.

Of course, the use of biometric identification by police is not a new phenomenon. In Scotland, police services have been using criminal history photographs and fingerprints for more than 100 years. Over the past 30 years, the use of human DNA testing has become a central tool in detecting and prosecuting crime, particularly in the case of

serious crime such as murder and sexual offences.

The need for a commissioner who is independent of Government, the police and the criminal justice system was a key recommendation in both the 2016 HMICS review and the 2018 independent advisory group report. The proposal to create such a role was widely welcomed by all witnesses who gave evidence to the committee.

The Commissioner for the Retention and Use of Biometric Material, Professor Wiles, stated that the bill places Scotland at the forefront of legislating for the oversight of biometric data in the field of criminal justice. He said:

“Many other countries are quite interested in what Scotland is doing, because they are all aware that they have similar issues.”—[*Official Report, Justice Committee*, 24 September 2019; c 2.]

Important amendments were made at stage 2, and the Government has worked with members across the chamber to incorporate their requests to shape the bill in the best possible form. Much of what I will say has already been said, but here is a sample of some of the amendments that were agreed to at stage 2.

The bill was amended to enable the Scottish ministers to change or clarify the meaning of “biometric data” by regulations. That will allow Parliament to scrutinise any changes that Scottish ministers propose as technology advances at pace. The committee also agreed to an amendment to allow for further process in the approval of the first code of practice, with that being done by Parliament, as recommended by the committee.

Importantly, Parliament agreed at stage 2 to add the PIRC to the list of bodies that are subject to the commissioner’s oversight. The committee also agreed to amendments to require the commissioner to set up a complaints procedure and to operate an advisory group. As we have heard, the complaints procedure has featured strongly in discussions, and I am pleased that the convener’s amendment was agreed to.

The committee also accepted Scottish Government amendments to enhance the powers of the commissioner to deal with failures to comply with the code of practice.

The bill has now been amended to establish an advisory group, which was another issue that the committee felt strongly about. The Scottish ministers’ role has been removed and instead the commissioner will be allowed to make decisions about the group’s administration, procedures, membership and remuneration, with the consent of the Scottish Parliamentary Corporate Body. The intention is that that approach will make for a more

impartial group, whose remit and membership are tailored to the commissioner's requirements.

This important bill ensures that the Parliament has future proofed and locked in all the necessary safeguards to enable Scotland to deal with the evolving technology that is now necessary for the detection, prevention and prosecution of crime.

17:30

**James Kelly:** I am pleased to close the debate on behalf of the Scottish Labour Party. We will support the passage of the bill at decision time, which comes up shortly. It has been a useful example of a good way for a bill to progress through Parliament and the discussion this afternoon has been consensual. There were differences of opinion at the earlier stages, but they were exchanged in a collegiate manner. I am glad to say that on a lot of the differences of opinion a consensual way forward has been worked out, which is to the credit of the cabinet secretary, the Opposition spokespeople and the Justice Committee for the way that the process has been conducted.

I was struck by John Finnie reeling off all the different technologies that are now available to police and prosecutors for collecting data. It took me back to the first job that I had, which was with Greater Glasgow Health Board in 1982. When I joined, there was only one computer in the whole office. John Finnie reeled off what is now available, with laptops, mobile technology, voice recognition and, of course, the advent of facial recognition technology. The police have a lot more at their disposal, which is good for investigating crime and bringing people who have committed crimes to justice. However, it means that the challenges in relation to ensuring that ethics and human rights are not compromised are greater. From that point of view, the bill has a very important role to play. As Liam Kerr stressed, getting that right is important for winning public trust, and if the public are going to have proper confidence in biometric data, the role of a biometrics commissioner can help. I cannot stress enough that the powers that the police and prosecutors have to collect and retain data is of great advantage to the victims of crime, but they must use them properly and responsibly to ensure that they have public trust.

The cabinet secretary emphasised the importance of expertise. Some of the changes that have been made as we moved through the process will allow us to draw on that expertise. The setting up of an advisory group and the passing of the amendments that Liam McArthur lodged at stages 2 and 3 will help. The bill, which we will shortly consider at decision time, has been enhanced by the introduction of greater

compliance measures. The introduction of a proper complaints process that is streamlined along the proper routes for the biometrics commissioner and the Information Commissioner is helpful. As Liam Kerr pointed out, the issue of resources is important and should be kept under review. The review process that is built into the bill will help in that regard.

I am pleased to support the passage of the bill at decision time. The process has been good and we now have a more robust bill in place that the public will have confidence in.

17:34

**Margaret Mitchell (Central Scotland) (Con):** I welcome the Scottish Biometrics Commissioner Bill. Digital technology has advanced considerably over the past 25 years, and biometrics is one of the most rapidly developing technologies.

Biometric data is both highly sensitive and intrusive. It has evolved from first-generation biometrics, such as fingerprints and DNA, and second-generation technology such as facial recognition software, which presents opportunities and challenges. There is a need for balance between ensuring that the police have the tools that they need to keep the public safe and protecting individuals' privacy. I thank the justice clerks for their sterling work in assisting the committee to achieve that balance.

The bill provides that the commissioner has several different functions. One is the general role to

"support and promote the adoption of lawful, effective and ethical practices"

in the use of biometric data by the police and criminal justice system. That includes how biometric data is acquired, used, retained and destroyed.

The bill also tasks the commissioner with keeping under review the laws, policies and practices relating to the use of biometric data by Police Scotland, the Scottish Police Authority and the Police Investigations and Review Commissioner. Furthermore, the commissioner must prepare, promote and monitor compliance with the code of practice, and promote public awareness and understanding of the biometric data powers and duties of Police Scotland, the SPA and the PIRC. The commissioner's powers ensure that they are able to hold the police and criminal justice system to account for its use of biometrics.

The bill's code of practice governs the collection, use and retention of the public's biometric data by the police. After hearing the evidence presented at stage 1, the Justice

Committee deemed that the inclusion of a complaints mechanism was essential to ensure that any member of the public could raise with the commissioner concerns about police compliance with, or possible breaches of, the code of practice.

I thank the cabinet secretary for his positive response to my amendment that put in place the complaints procedure and for the collaborative nature in which the Scottish Government and its officials have worked with me to amend and improve that provision. The commissioner will be required to publicise the complaints procedure, which should increase awareness among the public of their rights and bolster their confidence in the use of biometrics by the police.

In its stage 1 report, the committee stressed that the bill needed to be strengthened in order to ensure that the commissioner is able to provide robust oversight. Other improvements were made by John Finnie's amendments, which future proofed the use of new technologies and provided that Police Scotland, the SPA and the PIRC have a duty to comply with the code of practice. Liam McArthur's amendments introduced a presumption in favour of the deletion of biometric data after a prescribed minimum retention period and provided for the creation of an independent advisory group, which will have open and flexible oversight.

The Justice Committee's scrutiny of the Scottish Biometrics Commissioner Bill has been an example of effective collaborative and co-operative working between the committee and the Scottish Government, which has ensured that the legislation is fit for purpose. It is one of the best examples of how this Parliament can work effectively to get the best legislation possible. The Scottish Conservatives will have much pleasure in supporting the bill this evening.

17:39

**Humza Yousaf:** I am grateful to members for their contributions in what has been a very constructive and consensual debate.

As I said in my opening remarks, the bill has enjoyed strong cross-party support from the start. Members have alluded to the fact that that does not happen by accident; it happens because of the open-mindedness of Opposition members. I hope that they recognise the Scottish Government's open-mindedness.

I thank those whom we do not often hear about or do not often see at the forefront: the Justice Committee clerks; the officials, who were ably led by Elaine Hamilton, David Scott, Laura Barrie from the parliamentary counsel office and David Murdoch from the Scottish Government legal directorate, and the whole team behind them. On getting cross-party support, I make a special

mention of that much-maligned political creature, the special adviser, or SPAD. John McFarlane, who is very well known to each of the Opposition spokespeople, has done an excellent job in working with my officials and me and Opposition members to get the bill to a place at which every single amendment at stage 3 was agreed to by every member. That was a really positive place for the bill to be in.

I take Margaret Mitchell's point that the bill is not just about consensus, although I am pleased that we have consensus; it is also about effective scrutiny. We saw effective scrutiny by the Justice Committee. There was a range of views from stakeholders, some of which continue to challenge us. The Scottish Human Rights Commission, for example, continues to challenge us, and it will no doubt continue its engagement once the independent biometrics commissioner is appointed.

I will focus on some remarks that members made. Liam Kerr focused his remarks on public trust, which is, of course, hugely important. We can all think of examples of data breaches and leaks and, as I said in my opening remarks, many of us have undoubtedly been approached by members of the public with concerns about data privacy. Public trust must, therefore, be at the forefront of what we do. Having an independent commissioner with oversight of biometric data will help to give reassurance and ultimately strengthen public trust in policing. Whenever I speak to anybody who is involved in policing, particularly the chief constable, they always refer to the fact that the police get their consent from the people. The police do not get consent from the Government or the Parliament; the consent for and legitimacy of policing come from the people. That can happen only when there is public trust. Liam Kerr made that important point.

Liam Kerr also asked about finances and resources, as did James Kelly in his closing remarks. I reiterate what I have said before. It is, of course, right that the Government keep under review any representations that are made by the SPCB, for example, with respect to the resourcing provision of the office of the commissioner as part of the annual budget-setting process. I am confident that the costings in the financial memorandum and the supplementary financial memorandum are comprehensive and represent the best estimates at present. Clearly, however, the commissioner—he or she—will produce the code of practice and we will therefore have to keep that under review. That is important.

James Kelly made some excellent remarks about our having a stronger bill because of collaboration and a stronger commissioner because of the changes to the bill. He referred to

the important change that we have made from the policing bodies having regard to the code of practice to their having to comply with the code of practice. I agree that that has led to a stronger bill and I hope that the changes will lead to a stronger commissioner and a stronger regulatory framework around biometrics.

John Finnie was absolutely right to say that the legislation is timely and necessary. I know that, to his credit, he has often been at the forefront in relation to human rights. He pushed the Government very hard on those matters in the committee in particular. I hope that we have met not just his expectations but those of many of the human rights organisations throughout the country.

John Finnie was also right to mention the pace at which technology changes. Dare I say it, but when he first became a police officer in Lothian and Borders Police in 1976—at the age of only five, I should say—and then a dog handler in Northern Constabulary, he could not have envisaged the pace at which technology has advanced. Police officers are now faced with that. That is a really important point.

As the chair of the serious organised crime task force, I know that the police always want to ensure—and they invest to ensure—that they keep pace with criminals. Criminals in serious organised crime gangs do not have to worry about ethics. They do not have to worry about procurement rules. They do not have to worry about legislation. They procure the technology that they require to make criminal transactions through the black market. It is essential that we allow the police the ability to invest in technology in order to keep pace with, or be ahead of, criminals, and at the same time ensure that the public are reassured about their data, about privacy and about the ethical considerations. John Finnie made that important point.

Liam McArthur was also right to reference human rights considerations. It is important to be reminded that the bill did not materialise out of thin air but resulted from a lot of hard work. Much of that was done by John Scott, but Mr McArthur was also right to reference his colleague Alison McInnes. I sat beside her at the Justice Committee many moons ago, where she often kept me right. Like many other members, she was a champion of human rights. The conversations that Alison McInnes had in this Parliament when she was an MSP, right through to the good work that John Scott has done, have meant that the bill represents a cumulative effort by a lot of different actors from a lot of different political parties, including people who are external to the Parliament. We have got to a very strong place, indeed.

Rona Mackay made excellent remarks about the independence of the commissioner. Through the process of the legislation, we have strengthened that independence, for example, with regard to the appointment of the advisory group.

Margaret Mitchell made some excellent points about the complaints process, which she has championed and led on in relation to the bill. She was right to make the point that the Scottish public will look to the Scottish biometrics commissioner when it comes to potential breaches of any code of practice. Therefore, having it in the bill that the complaints process will be a function of the biometrics commissioner is an excellent place for us to be.

We have an excellent bill. I thank all the Opposition spokespeople and the officials who have been involved in getting us to this stage. There has been a very constructive and collaborative approach.

More important than that approach, though, is that we will have a biometrics commissioner with a code of practice that I hope will give members of the public an absolute assurance that, although we want the police and those who are involved in policing to invest in technology in order to keep our streets safe, people's biometric data will have a regulatory framework around it that will protect their rights and that takes on board the ethical considerations.

I am delighted to commend the bill in my name, and I hope that it receives unanimous support in a few seconds' time.

**The Deputy Presiding Officer:** That concludes the debate on the Scottish Biometrics Commissioner Bill.

## Auditor General for Scotland

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of motion S5M-21153, in the name of Bill Bowman, on appointment of the Auditor General for Scotland.

17:47

**Bill Bowman (North East Scotland) (Con):** As a member of the cross-party selection panel that was established by the Presiding Officer under our standing orders, I speak to the motion in my name to invite members of Parliament to agree to nominate Stephen Boyle to Her Majesty the Queen, for appointment as the Auditor General for Scotland.

The Presiding Officer chaired the selection panel. The other members were Keith Brown, Alison Johnstone, Jenny Marra, Mike Rumbles and Shona Robison.

As members will be aware, the role of Auditor General is a very high profile and important role. The Auditor General is responsible for auditing spending of £50 billion of public money. The Auditor General reports to the Scottish Parliament, through the Public Audit and Post-legislative Scrutiny Committee, on the financial management and performance of public bodies. The auditor also reports to other committees to discuss key findings of their reports. The Auditor General works closely with the Accounts Commission and is supported by staff from Audit Scotland.

In the year when Audit Scotland celebrates its 20th anniversary, it will have a new Auditor General. The panel's nominee, Stephen Boyle—who is sitting in the gallery and is known to many of us who sit, or have sat, on the Public Audit and Post-legislative Scrutiny Committee—is a qualified accountant and a fellow of the Chartered Institute of Public Finance and Accountancy. He joined Audit Scotland in 2013 as an audit director, having previously held senior roles in Glasgow Housing Association, Cube Housing Association and the Scottish Housing Regulator. The panel believes that Stephen will bring to the post professionalism, independence and integrity. I am sure that members will wish him every success in his new role.

I would also like to mention the current Auditor General, Caroline Gardner, who will demit office on 30 June this year. Caroline has achieved a significant amount during her eight-year term in office. She has successfully led and influenced Audit Scotland, which is recognised as a world-class audit organisation. I am sure that members will want to wish her, as I do, all the very best for the future.

I move,

That the Parliament nominates Stephen Boyle to Her Majesty The Queen, for appointment as the Auditor General for Scotland.

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

I am minded to accept a motion without notice to bring forward decision time to now. I invite the Minister for Parliamentary Business and Veterans to move such a motion.

*Motion moved,*

That, under Rule 11.2.4 of Standing Orders, Decision Time on Tuesday 10 March be taken at 5.50 pm.—  
[Graeme Dey.]

*Motion agreed to.*



## Decision Time

17:50

**The Presiding Officer (Ken Macintosh):** There are three questions to be put as a result of today's business. The first question is, that motion S5M-21170, in the name of Ben Macpherson, on the Local Government Finance (Scotland) Order 2020, be agreed to. Are we agreed?

**Members:** No.

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

### For

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 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)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 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)  
 Greer, Ross (West Scotland) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Harris, Alison (Central Scotland) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 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, 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)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 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)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Against

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McNeill, Pauline (Glasgow) (Lab)  
 Rennie, Willie (North East Fife) (LD)  
 Rumbles, Mike (North East Scotland) (LD)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wishart, Beatrice (Shetland Islands) (LD)

**The Presiding Officer:** The result of the division is: For 88, Against 23, Abstentions 0.

### *Motion agreed to,*

That the Parliament agrees that the Local Government Finance (Scotland) Order 2020 [draft] be approved.

**The Presiding Officer:** The next question is, that motion S5M-21174, in the name of Humza Yousaf, on the Scottish Biometrics Commissioner Bill at stage 3, be agreed to.

Because the question is on a bill at stage 3, we must have a division. Members should cast their votes now.

**For**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 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)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Harris, Alison (Central Scotland) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lamont, Johann (Glasgow) (Lab)

Lennon, Monica (Central Scotland) (Lab)  
 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)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Mason, Tom (North East Scotland) (Con)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 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)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caitness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Smyth, Colin (South Scotland) (Lab)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, David (Highlands and Islands) (Lab)  
 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)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 110, Against 0, Abstentions 0.

*Motion agreed to,*

That the Parliament agrees that the Scottish Biometrics Commissioner Bill be passed.

**The Presiding Officer:** The motion has been agreed to, therefore the Scottish Biometrics Commissioner Bill is passed. [*Applause.*]

The final question is, that motion S5M-21153, in the name of Bill Bowman, on the appointment of the Auditor General for Scotland, be agreed to.

*Motion agreed to,*

That the Parliament nominates Stephen Boyle to Her Majesty The Queen, for appointment as the Auditor General for Scotland.

**The Presiding Officer:** I offer my congratulations to Mr Boyle on his nomination. [Applause.]

## **Blind and Partially Sighted People (Access to Health Information)**

**The Deputy Presiding Officer (Linda Fabiani):** The final item of business is a members' business debate on motion S5M-20919, in the name of Stuart McMillan, on "Communication Failure? Review of the accessibility of health information for blind and partially sighted people in Scotland". The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes the contents of the RNIB Scotland report, *Communication Failure?*, launched on 17 February 2020, highlighting what it considers communication failures of NHS boards regarding people with sight loss or visual impairment; considers that the actions of each NHS board, including NHS Greater Glasgow and Clyde, which covers the Greenock and Inverclyde constituency, are putting blind and partially sighted people at risk of missing treatments and potentially leading to increased ill health due to inaccessible health information; believes that patient confidentiality is being breached due to individuals relying on carers, relatives or friends to read appointment letters on their behalf; understands that 170,000 people in Scotland have significant sight loss, and therefore considers that the need for accessibility is high, and notes the view that every NHS board should engage with organisations that deal with sight loss to provide a more person-centred approach to communicating with such people.

17:55

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I thank every member who signed the motion and those who will speak in the debate. I also thank Laura Jones of RNIB Scotland for her excellent work in producing the report, "Communication Failure? Review of the accessibility of health information for blind and partially sighted people in Scotland". For the purposes of the debate, I will refer to it as "the report". Some members of RNIB Scotland are in the gallery this evening: I am glad that they are here.

I have convened the cross-party group on visual impairment since my re-election in 2011. The cross-party group has discussed a wide variety of issues and has written to the Scottish and United Kingdom Governments, as well as to local authorities and, previously, to European parliamentarians. Our cross-party group has never been shy about attempting to find a solution to an issue or about thanking public bodies for their progress. For example, we recently wrote to the City of Edinburgh Council to thank it for banning A-boards from the streets of our capital. Any activity that the cross-party group has undertaken has

been about making Scotland more accessible and fairer for people who are blind or partially sighted.

On 17 February, RNIB Scotland hosted an event in Glasgow on publication of its report. The room was full, and contained people who are blind or partially sighted and it contained health professionals. During my contribution that day, I said that I would seek to obtain a members' business debate, because the issue needs first to be acknowledged and then to be addressed. I will provide a few suggestions that would help, because that is the correct manner in which to take further the findings of the excellent report

First, I will touch on some of the report's findings. The report is the second such report that RNIB Scotland has published on the subject. In 2010, it produced the report, "Accessibility of health information for blind and partially sighted people", which found a lack of recognition within the health service of the specific additional needs of blind and partially sighted people. The report showed that blind and partially sighted people did not experience the same patient confidentiality as sighted people experienced, because they were often forced to rely on others to give details of appointments, diagnoses and patient advice.

The Patient Rights (Scotland) Act 2011 and its accompanying "Your health, your rights: The Charter of Patient Rights and Responsibilities" set out that people

"can expect to be given information about your care and treatment in a format or language that meets your needs".

Therefore, the new report, which has been published a decade later, should have shown major improvements.

RNIB Scotland's report highlights four key findings and seven key recommendations. The first key finding is that patient confidentiality is being breached; the second is that

"Individuals are being put at risk";

the third is that

"Some individuals were told that they could cope without an accessible format"

of their information; and the fourth is that some people

"did not feel 'worthy enough' to make requests and/or complain to their health service."

I am sure that every one of us in the chamber will be disappointed by those findings and would like to thank the people who took part in the research.

The helpful briefing from Royal Blind has provided the following quotation:

"People with sight loss who access our services have complained about receiving self-testing kits (e.g. for bowel cancer) that are not visual impairment-friendly. This breaches patient confidentiality, as individuals must rely on

carers or relatives to assist them with tests that should be taken in private."

The briefing goes on to say that

"We have had feedback that private companies—such as telecommunication companies or utilities providers—are often better at accessible formatting by default than healthcare providers."

Clearly, no matter how we look at the situation, every patient is of equal value and every patient not only deserves but should expect information to be available to them.

I welcome the report's recommendations, and acknowledge that some of them are being delivered in part. Although that is welcome, it proves that there is still more to do, and that all health boards need to up their game. A more consistent approach across all health boards would be extremely useful.

I return to suggestions, as I said I would. I am aware that the report has been sent to every health board. I personally handed over copies—including CD and Braille versions—to NHS Greater Glasgow and Clyde on the afternoon of the report's publication.

I congratulate the health boards that engaged with the research for the report. However, I am disappointed that five did not. That might well have been an oversight; nonetheless, blind and partially sighted patients deserve better.

My first suggestion is to encourage health boards to engage with RNIB Scotland—even at this stage—to inform them of how they communicate with blind and partially sighted patients.

Secondly, I consider that a short-term working group including the NHS and the wider patient health communication sector would be advantageous. I am sure that that would provide an opportunity for the health boards to understand fully the challenges that blind and partially sighted patients face. The group need not have a cast of thousands, but it should be focused and have key staff involved. It could include health boards that did not engage and boards that did.

Thirdly, it might be worth NHS boards considering contracting in communication services from any one or some of the organisations that can provide information in Braille. A number of organisations can do that. The work could even be undertaken on a trial basis to determine how effective—or otherwise—it is.

Ultimately, every patient wants to obtain correct and proper information in a timely fashion. Obtaining little or no information is unacceptable in this day and age.

Younger blind and partially sighted people are increasingly using smart phones because accessible technology is in-built. However, for some older people, Braille would be the first form of communication that they would use. The population as a whole growing older, and the blind and partially sighted community will be very much part of that community. There are 170,000 such patients in Scotland who require better information about their healthcare. I am sure that solutions can be found using the range of available technologies—at very little cost—to enable 170,000 people take more accurate decisions about their healthcare.

Once again, I thank everyone who has helped to make the debate possible. I again thank Laura Jones of RNIB Scotland for producing an important report. It clearly highlights that our NHS, although it undertakes lifesaving and world-leading research, and constantly challenges itself as new medicines, technologies and illnesses develop, still needs to address some more fundamental issues.

I hope that all NHS boards read the report, understand the issues, listen to today's debate, engage with external organisations that might be able to assist, and see this as an opportunity to deliver improved outcomes for Scotland's 170,000 blind or partially sighted people.

18:03

**Jeremy Balfour (Lothian) (Con):** I thank Stuart McMillan for securing this important debate and for raising awareness about the RNIB "Communication Failure?" report, which considers the accessibility of health information for blind and partially sighted people in Scotland.

In 2019, RNIB Scotland produced a report on the accessibility of health information for blind and partially sighted people. The report found a

"Lack of recognition of specific additional needs of blind and partially sighted people within the health service."

It showed that people with visual impairment do not experience the same patient confidentiality as sighted people and that, on many occasions, they are forced to rely on others to give them details of appointments, diagnosis and patient advice.

The Patient Rights (Scotland) Act 2011 required the establishment of the charter of patient rights and responsibilities, which sets out that

"You have the right to be given information about your care and treatment in a format or language that meets your needs".

"Communication Failure?" follows almost a decade after the passing of that legislation and is based on interviews with people with sight loss and information from various health boards.

The case studies that are featured in the review make for depressing reading, with interviewees referring to an inability to receive documents in an accessible format; a lack of awareness among national health service staff about the services that are offered by the NHS to improve access to documents; online processes that are inaccessible to people with sight loss; and people with sight loss reporting that they were made to feel not worthy.

Like Stuart McMillan, I was disappointed to note that a number of health boards did not reply to the RNIB's request for information, which suggests that they are failing in their responsibility to adhere to NHS Scotland's accessible information policy.

Screenings, doctor appointments and medical tests are an unavoidable part of life—they are how we stay healthy, and they must be accessible. Many of us may have experienced anxiety and worry when making a general practitioner appointment or when waiting for the results of a medical test. For many people with sight loss, that anxiety and worry will be significantly worse, and healthcare staff should know how to support the needs of blind and partially sighted people, both physically and emotionally. Currently, that does not appear to happen consistently across our health boards.

As we have heard, the review makes a number of recommendations relating to accessing healthcare information, accessible care, empowerment and helping people to get full control of their healthcare needs.

More than 170,000 people in Scotland live with sight loss, and, as the population of Scotland continues to age, it is likely that that number will increase. Without accessible health information, people with sight loss face growing exclusion, which will place an even greater burden on the NHS.

No person with sight loss should feel that they are not worthy when asking for accessible information from the health service. I therefore urge the minister to ask health boards across Scotland to consider the recommendations in the report, take a consistent approach to the availability and format of accessible information and take seriously their duty as outlined in the charter of patient rights and responsibilities.

18:07

**Annabelle Ewing (Cowdenbeath) (SNP):** I congratulate Stuart McMillan on securing the debate. I know that he is assiduous in raising issues that impact on the lives of those who are blind or suffer from partial sightedness and that he progresses those issues in a determined manner

as the convener of the cross-party group on visual impairment.

As has been stated, this debate is focused on the most recent RNIB Scotland report, "Communication Failure?" At the outset, I commend RNIB Scotland for the comprehensive work that it has carried out in assessing where matters currently stand for those with visual impairment in terms of access to information about their healthcare.

Where matters stand is evidently not satisfactory. It is clear that the patient confidentiality of those with visual impairment is being breached. In fact, as we have heard, they have to rely on carers, relatives or friends to read on their behalf their confidential correspondence from the NHS. As Stuart McMillan noted, the briefing from Royal Blind and Scottish War Blinded in advance of the debate put the issue in focus when it mentioned that, of course, such correspondence would include test kits for conditions such as bowel cancer, which the patient would have to get someone else to read to them. That is not acceptable.

We have heard about the breach of the underlying legislation and the charter of patient rights and responsibilities. Further to those, people with a visual impairment have a right to be given information about their care and treatment in a format that meets their needs. It is beyond question that individuals are being put at risk of missing appointments and treatments and of seeing a deterioration in their health, which is unacceptable.

In their interactions with the NHS, it is surely not for those with a visual impairment to start to kick up a fuss and campaign; rather, the onus must lie with the relevant health board to get things right. In that regard, RNIB Scotland has set forth a number of recommendations, which include calling on each health board to review its procedures to ensure that it has policies on accessible health information, to tackle the very serious concerns that have been flagged up. RNIB Scotland also calls for appropriate training for healthcare staff to be provided.

I very much hope that that work will now proceed as quickly as possible. As the MSP for the Cowdenbeath constituency, I will write to the chief executive of NHS Fife, because it is one of the NHS boards that did not respond to the RNIB Scotland survey. I will ask the chief executive to explain why that is the case and what NHS Fife will now do to ensure that the concerns that have been flagged up by RNIB Scotland are met.

Here, in Scotland, we have a real opportunity to lead the way in ocular care, given our commitment to free eye examinations. It is vital that those with

visual impairment have access to the health information that they need, which includes information not only about ocular care but about other healthcare needs. Health boards must do better in that regard.

I ask the minister to clarify, in her winding-up speech, what steps the Scottish Government will now take to ensure that health boards discharge their responsibilities in this matter.

18:11

**Monica Lennon (Central Scotland) (Lab):** I thank Stuart McMillan for highlighting the important report by RNIB Scotland and bringing it to the chamber, and for his on-going commitment in this area through the cross-party group on visual impairment's important work. As others have said, Laura Jones and RNIB Scotland deserve to be congratulated on the work that has gone into the report. I am also grateful to Royal Blind and Scottish War Blinded for their work to support people of all ages and those who have served in our armed forces, and for the briefing that they provided ahead of the debate.

I am proud to have recently become a patron for Disability Equality Scotland—I refer members to my register of interests in that regard. Disability Equality Scotland works to make Scotland inclusive for all, but reports such as RNIB's highlight just how far we still need to go. Not accounting for the needs of blind or partially sighted people, particularly when it comes to medical needs and health records, is not only discriminatory but potentially dangerous, particularly if people miss important appointments. We have heard about the potential for huge breaches of patient confidentiality, but the margin for error when it comes to people missing treatments because they are not receiving proper communication is worrying. Annabelle Ewing was right to say that that is not acceptable, particularly in the example that she gave of self-testing kits for bowel cancer screening. That is a huge issue of not only privacy but dignity. I hope that the debate will result in some change happening very quickly, as what has been described should not be happening in 2020.

Like Annabelle Ewing in her constituency, I will take up the matter with the health boards in my parliamentary region, and I hope that members across the chamber will do the same. The report is a useful tool to enable MSPs to raise issues with local health board representatives. As the Scottish Labour health spokesperson, I hope to work collaboratively with ministers on what we can do at a national level to support health boards and ensure that the needs of partially sighted or blind people are being fully met. However, I believe that it cannot be left to individuals and individual

charities to champion the issue, as it is also a human rights issue. Royal Blind and Scottish War Blinded made that point in their briefing, and we should all be guided by that.

I had the pleasure of visiting the excellent guide dogs team that is based in Hamilton, in my local area, and doing a blindfolded walk there that involved having to navigate street furniture, including A-boards, to understand the challenges that blind and partially sighted people face.

As I have experienced through my work in supporting Disability Equality Scotland, a lack of access panels locally can inhibit the work that we do in our planning system to make sure that people's different accessibility needs are taken fully into account. The report shows that that is not only about the physical, built environment but about communication tools as well. We are talking about a community that already faces significant challenges in navigating daily life also having to fight for access to their own medical information. We can and must do better.

I am concerned at the lack of progress. RNIB Scotland flagged up the issue in 2010, in previous research, so I will be interested to hear from the minister why we are a bit stuck and what we can do to help health boards to make some progress. Will there be some nationally co-ordinated action?

We all have constituents who would benefit from real progress. Hopefully, tonight's member's business debate could be a real turning point, so that we can realise that progress.

18:16

**The Minister for Mental Health (Clare Haughey):** I am pleased to respond on behalf of the Scottish Government. I add my thanks and congratulations to Stuart McMillan for bringing the motion for debate, and I pay tribute to his long-standing work.

We all share the goal of improving access to assessment, care and support for people with visual impairment. The Government is absolutely clear that blind and partially sighted people in Scotland should be able to get the information that they need in accessible formats.

We welcome the report from RNIB, which is one of the UK's leading sight loss charities and the largest community of blind and partially sighted people. It is an inspiration in the field and has worked very closely with us to influence and progress the recommendations in the Scottish Government's see hear strategy, which closely align with the recommendations in the report. The strategy, which launched in April 2014, provides a framework of recommendations with which to

improve services and opportunities for people in Scotland who have a sensory impairment.

We have created a network of see hear leads, and we have allocated almost £4 million of funding to support their local partnership and to develop and deliver initiatives and services. Progress includes funding 200 sensory champions to receive training in different communication types, languages and equipment in order to support people who have a hidden or undiagnosed sensory loss—for example, people with a learning disability or a condition such as dementia or stroke. The champions take the training back to their workplaces, which might be care homes, and share the learning with their colleagues.

We have also developed and introduced accessible training resources for professionals and agencies in the form of e-learning modules on sight awareness and deaf awareness. Those modules are available to health professionals on the NHS training platform, and they are also available to the general public.

We have developed see hear kit bags, which are available to all social work teams in adult and older people's services and occupational therapy. They are also held in seven Police Scotland bases across Fife. They include a signature strip to support visually impaired individuals to sign their name; an amplifier, which is controlled by the adult and allows them to hear conversations and engage in discussion; and a magnifier, which helps individuals with visual loss who may need to have print enlarged to allow them to read.

We know that those actions make a positive difference to people's lives. Promoting the rights of disabled people must be central to everything that we do, and tackling inequality is one of the Scottish Government's top priorities. We must ensure that disabled people benefit from all that we are doing to improve the lives of the people of Scotland, as they continue to experience inequalities and barriers to independent living. My heart warmed to hear the cross-party support and encouragement for that. That is why the charter of patient rights and responsibilities is such a useful tool—it summarises what people are entitled to when they use NHS services and receive NHS care in Scotland.

The charter makes clear our expectation that everyone should be given information about their treatment and care in a way that they understand and in a format or language that meets their needs. When the charter was revised, last summer, the Government wrote to NHS boards to remind them about its obligation under the Patient Rights (Scotland) Act 2011 to make copies available, without charge, to patients, staff and members of the public.

Let me be clear: this Government takes very seriously the rights of everyone who uses the NHS in Scotland. Creating a fairer and more equal society is a priority, and our ambition to achieve equality for all goes hand in hand with our ambition for a strong economy. We believe that a fairer Scotland can be realised only when we secure equal rights for everyone. We recognise that effective solutions to the problems and barriers that are faced by disabled people must be drawn from the lived experience of disabled people, as is highlighted by the experience of those with sight loss who were interviewed for RNIB's report. The case studies in the report make it absolutely clear how important it is that information is available in many ways that take into account everyone's differing needs, as patient confidentiality is breached when individuals have to rely on carers, relatives or friends to read appointment letters on their behalf.

The Scottish approach to service design means that people will be engaged in co-designing products and services that will meet their needs and deliver sustainable and fit-for-purpose service models. We therefore committed to working with disabled people to develop the policies and approaches that are required to solve problems and dismantle barriers. We have high ambitions for the change that we want to see—and disabled people have the right to nothing less. Indeed, the report highlights lots of good examples of systems that work and that have solved problems. We want to learn from those examples and see solutions embedded consistently across the country, with all boards engaging with sight loss organisations to provide a more person-centred approach.

I welcome the report and accept the recommendations, as there are clearly improvements to be made. I have instructed my officials to write to boards again in order to remind them of their duties under the Equality Act 2010 and their responsibilities as summarised by the charter of patient rights and responsibilities. Officials will ask health boards to review the policies that they have in place to support people with sight loss, to protect patient confidentiality and to make websites accessible for all. In addition, through the work of the national network of see hear leads, we will work across authorities to support boards to determine how to address the barriers that blind and partially sighted people currently experience; to raise awareness of the rights that people with sight loss have; to improve access to healthcare facilities; and to provide accessible health information.

I thank everyone who participated in the debate in such a collegiate way. It is good to see such cross-party support for the report. I also thank RNIB for its comprehensive and informative report, and I reaffirm this Government's commitment to

improving access to information, care and support for people with sensory impairments.

*Meeting closed at 18:23.*



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

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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