



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Tuesday 5 May 2020**

**Session 5**



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Pàrlamaid na h-Alba

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# Scottish Parliament

Tuesday 5 May 2020

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

## Time for Reflection

**The Presiding Officer (Ken Macintosh):** Good afternoon. Before we begin, I remind members that social distancing regulations are in place throughout the chamber and the Parliament building. I ask that members stick to the same seat and to be careful, when entering and leaving the chamber, to continue to observe the 2m rule.

The first item of business is time for reflection. Our time for reflection leader is the Rev Jonathan Fleming, who is the minister at Cumberae parish church and at St John's parish church in Largs. He is joining us via live audio link. *[Interruption.]* We will give Mr Fleming a few minutes.

Well, colleagues, we are used to new ways of working and new technologies sometimes letting us down.

**The Rev Jonathan Fleming (Cumberae Parish Church and St John's Parish Church, Largs):** Presiding Officer and members of the Scottish Parliament, thank you for the opportunity to address the Scottish Parliament today, albeit from the west coast.

I do not know about you but, in the midst of all our current anxiety and uncertainty, I continue to be amazed daily as people come up with creative and beautiful ways to show that they care. From kids using rocks as a canvas on which to paint messages of love and hope to people using 3D printers to make personal protective equipment for care workers, and from the painting of rainbows on windows to volunteers working around the clock to ensure that people have food and medicine, our nation is beaming with love and compassion.

When people hear the word "commandment", many think of the 10 that are listed in the Old Testament of the Bible, but in both the Old Testament and the New Testament, we are also told that we must love our neighbour as we love ourselves—something that Jesus goes on to describe as the greatest commandment.

When we look back upon our nation's response to Covid-19, what words will be brought to your mind? Yes, we started with panic buying, but that soon settled down. Some might remember social distancing—something that might very well have become part of our new normal—but the words that ring in my ears the most from the last few weeks are "thank you".

People are standing on their doorsteps weekly to either clap their hands in gratitude for our front-line workers or stand in silence to give thanks for the lives of loved ones who have died. Windows, billboards, vehicles and driveways are adorned with messages of gratitude from John O'Groats to Land's End, all in the name of love.

As part of the Millport support group and of a tremendous ministry team that has kept the congregations of St John's in Largs and Cumberae connected in the midst of lockdown through Zoom, social media and telephone, I read, hear and witness how powerful love can be when it is in action. Each day, our Largs-based project the Living Room offers a listening ear by telephone to those who are struggling, but only thanks to the dedication of our team of volunteers. That is love in action.

Friends, I firmly believe that love wins. May we continue to love our neighbours, to give thanks and to keep safe. Thank you.

**The Presiding Officer:** Thank you for that contribution.

## Business Motion

14:05

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-21662, 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 the following revisions to the programme of business for:

(a) Tuesday 5 May 2020—

delete

5.00 pm Decision Time

and insert

6.00 pm Decision Time

(b) Wednesday 6 May 2020—

delete

2.45 pm Parliamentary Bureau Motions

2.45 pm First Minister's Questions

*followed by* Stage 3 Proceedings: Consumer Scotland Bill

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.30 pm Decision Time

and insert

12.30 pm Parliamentary Bureau Motions

12.30 pm First Minister's Questions

2.30 pm Stage 3 Proceedings: Consumer Scotland Bill

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.00 pm Decision Time—[*Graeme Dey*].

*Motion agreed to.*

## Topical Question Time

14:05

**The Presiding Officer (Ken Macintosh):** We now turn to topical questions. Our first question this afternoon is from Alison Johnstone.

### Covid-19 (Testing in Care Homes)

1. **Alison Johnstone (Lothian) (Green):** To ask the Scottish Government whether it plans to regularly test all staff and residents in care homes for Covid-19. (S5T-02138)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** Since the weekend of 2 and 3 May, enhanced outbreak investigations are being carried out in care homes where there has been a confirmed case of Covid-19. In such instances, all residents and staff are offered testing whether or not they are symptomatic. The enhanced outbreak investigations include other homes if that facility is part of a group or chain. As part of our surveillance work, sample testing is also done in care homes where there have been no cases.

All of that is an advance on the previous position, where symptomatic residents were tested and, from 22 April, all admissions were tested with the exception of people who had been discharged from hospital to the care home having been in hospital with the virus, in which case they would had to have given two negative tests before discharge.

**Alison Johnstone:** The outbreak of Covid in a care home on Skye is having a tragic impact on residents and staff, and my heart goes out to all those who are affected. I commend the efforts that are being made by all who are caring for the residents.

In Parliament last week, Professor Hugh Pennington said:

“the only way we can stop problems in care homes is to stop the virus getting into them in the first place because, once it gets into them, it is out of control.”—[*Official Report, Health and Sport Committee*, 28 April 2020; c 9.]

The Government's job now is to ensure that everything is done to prevent further outbreaks. There is no doubt that regular routine testing alongside adequate personal protective equipment is a key to achieving that. Imperial College London published research concluding that weekly testing for at-risk workers such as carers could reduce the spread of Covid by one third. Can the minister confirm whether the Scottish Government accepts that conclusion? If so, why is it yet to introduce regular testing even though our daily testing rates continue to fall well below the capacity that we have?

**Jeane Freeman:** Every incident in a care home is a tragic event. Members are, of course, particularly focused on Skye after this weekend, but we have had outbreaks elsewhere. In that respect, at least, Professor Pennington is absolutely correct about the key being first to stop the virus getting into care homes, then to ensure that transmission routes inside the care home are broken. That is why on 13 March we issued clinical guidance to all care homes, requiring them to ensure that residents were looked after in their own rooms and that there was appropriate infection prevention and control, which is a requirement of their Care Inspectorate registration; and it is why we stepped in when there were difficulties, as we continue to do to ensure the supply of proper PPE. In addition, visits to care homes were stopped as they were to hospitals.

Unlike our national health service, 70 per cent of care homes are run by private providers, 20 per cent by independent providers and around 10 per cent by local authorities. Our capacity to intervene directly is therefore limited, although we have done much more of that through the instruction to directors of public health to provide the additional clinical wraparound for our care homes. That work is under way, and some of it might appear in the emergency legislation that is yet to come before Parliament.

On regular testing, where asymptomatic individuals are tested or where test results come back as negative, although there is some debate around how often to continue testing, the accepted practice—broadly speaking—is that we would test twice a week until we concluded that there was no point in continuing testing. We will continue to do that with those care home residents and care home staff. Where the results come back negative, we will nonetheless continue to keep testing so that, should a positive result appear, we are alert to it straight away and not reliant on the care home advising us and are therefore able to act.

**Alison Johnstone:** We know that asymptomatic and pre-symptomatic people can be infectious, which is why regular routine testing is so important. The predominantly female and low-paid social care workforce deserves every protection that we can give it. We are all aware of how those dedicated staff have gone above and beyond the call of duty throughout this crisis to support those whom they care for. However, Unison tells us that the workforce is terrified about passing on the virus between patients. Regularly testing those workers would ease anxiety, reduce the spread and prevent unnecessary isolation. Testing capacity continues to go unused every day; this week alone, thousands of tests that could have been taken up have gone unused. Why is

the Government so reluctant to address this issue?

**Jeane Freeman:** I need to make two points. It is correct, as Ms Johnstone asserts, that we know that asymptomatic individuals shed virus, but the level of virus is not clear at this point. At the start of the pandemic about 130 to 140 days ago, we did not know that asymptomatic individuals shed virus; at that point, it was clear from the scientific advice that asymptomatic people did not shed virus.

Our approach to how we handle the pandemic has to be evolutionary as our understanding—based on the scientific and clinical advice that we receive and on our understanding of how the virus is progressing elsewhere in the world—is evolutionary. We understand more as we go and we change our strategy and our implementation of it as we go. I am therefore not ruling out the regular testing of health and social care staff if the advice that we receive indicates that doing that more than we are doing in care homes at the moment is the right thing to do.

In relation to Unison's position, we of course discuss issues through our leadership group with all the unions in health and social care—I think twice a week—including the British Medical Association, the Royal College of Nursing, Unison, Unite, and GMB. I am due to have a discussion with Unison this week—I think that it will be tomorrow—at which I am sure we will pick up that point.

**Rhoda Grant (Highlands and Islands) (Lab):** Like Alison Johnstone, I am deeply distressed for the residents and staff at Home Farm care home on Skye. A constituent who has a relative in the home told me that she raised concerns with senior management of the company about the lack of PPE for staff, and about temporary staff being taken in from other homes without a period of isolation.

I have written to the cabinet secretary and I have submitted a written question—on behalf of another constituent—about a protocol for care homes during the pandemic, to which I have had no response. When will there be a protocol available for care homes to prevent tragedies such as the one on Skye?

**Jeane Freeman:** I assume that the first part of Ms Grant's question is the one that we were asked by, I think, Sky News just a couple of days ago. It is a situation that we were unaware of, because, until today, Ms Grant had not advised me of it.

In relation to Ms Grant's other question, I think that the answer to her parliamentary question will be with her shortly. [*Interruption.*] If I know the details of the constituent and the question that they raised, I will be happy to pursue that.

I am not sure what Ms Grant means by “a protocol”. The guidance to care homes is really clear. That guidance is that residents should be looked after in their own rooms; that there should be no communal socialising or meal times; that visits should be stopped; and that there should be no transfer of staff from one care home to another. All of that is about breaking the transmission route. I think that that is a type of protocol, but if Ms Grant wants us to add other areas into that, I will be happy to consider including additional areas.

However, I make the point that I have made previously: many of the issues that members are raising are about private care home providers—the majority of the outbreaks are in private care homes—which, in some instances, have not appeared to follow the guidance that we require them to follow. That is why the Government is now taking a more direct intervention route in those cases.

**Rhoda Grant:** I will provide a little clarity: there are two separate constituents. One, who has a relative in Home Farm care home, told me that she has raised her concerns with the management repeatedly and has not been heard. The management have not dealt with the situation and her relative is very sick at the moment.

I also wrote on behalf of another constituent to request a protocol and was given a holding answer. If no protocol was available, why was I given a holding answer rather than an answer?

**Jeane Freeman:** Rhoda Grant will have an answer to her PQ. With regard to her constituent’s question and their concerns about the management in a particular care home, if she tells me which one it is, I will intervene directly with that care home and get an answer to the question that her constituent rightly raises, because the management should be dealing with those concerns.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** The cabinet secretary will be well aware of the particular circumstances that Inverclyde faces—population decline, a growing older population and 15 care homes. Following the publication of two sets of data by National Records of Scotland, we now have the unenviable figure of three times the level of Covid-19 deaths than any other part of Scotland. What additional actions and resources will the cabinet secretary introduce to help to reduce the level of deaths in my constituency and provide a focus on care homes, their residents and their staff?

**Jeane Freeman:** As I said earlier, national health service directors of public health have now been given the authority to intervene directly in care homes in their locality. That will ensure that primary care is directly engaged with those care

homes. If the care home providers agree, the NHS will provide staff to ensure that the right clinical interventions are made, and to help care home staff, who might want more training on infection prevention and control. In addition, checks will be carried out on the levels of personal protective equipment and to ensure that all the guidance from 13 March onwards is being followed.

All the directors of public health in all our territorial health boards are involved in that process. They have made contact with all 1,083 care homes and are paying particular attention to, and staying in constant touch with, those care homes that have active cases to ensure that the testing that I mentioned earlier is under way, if not completed. They also need to pay attention to those care homes that do not yet have active cases, because we need to shield those homes and make sure that they have everything in place to prevent an active case in as much as that is possible. If additional measures are required in Inverclyde or any other area, the directors of public health have the authority to introduce those.

I am happy to put specific questions to the director concerned in Mr McMillan’s constituency and to ask him to provide me with additional information for the member on exactly what the board in question is doing with the care homes in the Inverclyde area .

**Mike Rumbles (North East Scotland) (LD):** I understand that the reactive testing in our care homes is absolutely necessary. If I understood the cabinet secretary correctly, she talked about random sampling. If random sampling is taking place in places where there are not yet any instances of Covid-19, has that produced any positive cases?

**Jeane Freeman:** Mr Rumbles is correct. Testing is undertaken in care homes that have no active cases at this point, providing that the residents and the staff agree—in that sense, it is randomised, because not everyone agrees to it. I do not have the information to give a direct answer to the member’s question about whether any positive cases have been uncovered as a consequence, but I am happy to look out that information and to provide it to him.

However, I know that in instances in which testing is under way and individuals have initially had negative test results, repeat testing has produced positive test results. In those instances, there are two additional ways in which we can support care home providers with regard to staff: one is to ensure that, if they are content with the arrangement, NHS staff are offered to supplement the staffing rotas in a care home; the other is through the 2,200 or 2,300 returners from our exercise in March and April, all of whom have experience in social care. We have already



deployed some of those returners, and others are waiting to be deployed to care homes, should care homes ask for that to happen.

**Neil Findlay (Lothian) (Lab):** I am asking this question on behalf of the families and care staff in my region who have contacted me about cases that they have been involved in, and I declare an interest, as my mum is in a care home.

From the outset, the system of testing has been one of the greatest failings of the strategy to address the crisis. When so many non-Covid hospital wards are vastly underutilised—some are empty at the moment—why are we sending elderly and vulnerable people from hospital to care homes when their Covid status has not been determined, thereby risking their wellbeing and the wellbeing of other residents and the staff?

**Jeane Freeman:** I will say two things. First, our hospital occupancy rate is growing as the work that we have done to remind people that the NHS is open for urgent care as well as Covid care becomes more successful. Secondly, we need to keep a degree of unoccupied capacity in our hospitals, because we cannot be confident at this point that we are past the highest number of Covid cases. The reproduction number that I, the First Minister and others refer to is under 1, but the results around the number are fragile and it is not sufficiently under 1 for us to release too much capacity at this point. However, that is one of our considerations as part of the work that we are undertaking to identify whether there can be any easing of the current lockdown restrictions.

In addition, we all know that the longer a person—particularly an elderly person—stays in hospital when they no longer require the clinical treatment of that hospital, the less mobile, less able and more open to other infections they become.

The guidance that we have put in place for admissions to care homes is very clear. If the person has been in hospital for Covid, if possible, they will need to give two negative tests before discharge. If that has not been the case, if it is possible to test before admission, that should happen; otherwise, they should be admitted to the care home and isolated for 14 days, but tested on admission. The test results come back from our NHS laboratory within between 12 and 24 hours, so we know very quickly whether an individual has Covid-19. If they do not have it, the degree of isolation and barrier nursing around them can be lessened. I think that that is a well-proven way of protecting both the individual and those who are caring for them. Like all residents in a care home, the individual should not be mixing with the other residents in any respect—that was a critical part of our 13 March guidance.

**The Presiding Officer:** There are other questions on this matter, but we have to move on.

### **Social Distancing (Older People's Health)**

**2. Monica Lennon (Central Scotland) (Lab):** To ask the Scottish Government what assessment it has carried out of the impact of the lockdown on the mental and physical health of older people, in light of the views of the British Medical Association and Royal College of General Practitioners that age alone should not determine social distancing rules. (S5T-02133)

**The Minister for Mental Health (Clare Haughey):** The framework, “COVID-19—A Framework for Decision Making”, which was published on 23 April 2020, is clear that the current lockdown measures are absolutely essential right now. However, we acknowledge that they have damaging consequences of their own for physical and mental health, including that of older people, for our economy and for our living standards.

We recognise the challenges that many older people face and we have provided a range of support, such as the national helpline and the £350 million funding package, to help local authorities and voluntary organisations assist where required.

Looking ahead, it is important that there are clear criteria to guide decisions on whether to maintain, tighten or relax the lockdown. As a Government, we will listen to the best scientific advice and to the people of Scotland as we make our judgments.

**Monica Lennon:** Does the minister accept that, in many cases, older people are well placed to make their own judgments on how best to shield or distance themselves while maintaining a healthy balance to protect their mental health and combat loneliness? Other countries have ruled out legally enforcing age-based restrictions. As decisions on the next phase are made, is it the Government's view that age-based restrictions are discriminatory?

**Clare Haughey:** We have to differentiate between those who are shielding and the vulnerable groups that we are asking to adhere to the guidance that the general population is asked to adhere to, which includes washing hands frequently, staying at home and not socialising with people who are not part of one's household.

The research so far shows that mortality from the disease is higher for the over-70s and that a large proportion of those suffering from the disease are in that age group, even when pre-existing conditions are taken into account. Although the risk is hard to quantify, we know that diseases that make people immunosuppressed,

obesity and respiratory diseases all worsen outcomes.

We know that age matters with this infection, which is why we have taken the precautionary step of asking the over-70s to be particularly careful about physical distancing, hand washing and not mixing with other households.

I appreciate that this is a difficult time for everyone, and particularly for those of an older generation. My parents are in that age group and they find it really difficult not being able to spend time with their children and grandchildren. However, this is about protecting and saving lives and keeping our national health service safe.

**Monica Lennon:** As we go into the next phase, people want to understand whether the guidelines will be advisory or legally enforceable.

I turn to a related point. The minister will be familiar with the seniors together project, which represents older people in South Lanarkshire. Helen Biggins, the project chair, told me that the group is concerned about elder abuse, which can be physical, mental or financial in nature. She fears that it could become much worse as older people are stuck behind closed doors.

What is the Government doing to actively protect and support older people who are feeling more vulnerable and alone as a result of lockdown and who would feel more confident if they could have contact with people who they trust?

**Clare Haughey:** I am sure that Monica Lennon agrees that elder abuse is not acceptable. If anyone feels that they are vulnerable or that they have experienced abuse, help is there for them and they should reach out to get it. Domestic violence services and other abuse services are still available during lockdown; it is really important that we get that message out there.

We all have a responsibility to look after our communities. Right around South Lanarkshire, including in my constituency, there has been a fantastic local community response in reaching out to neighbours, supporting vulnerable people and providing food packages, as well as providing social support, listening ears and befriending services.

Although we still have to follow the guidance on maintaining social distancing, it is really important that we reach out to our communities, friends and families to ensure that people feel safe when they speak out.

**Miles Briggs (Lothian) (Con):** Carers Scotland has warned that half of Scots carers face burnout because support services have been cut. When will the Scottish Government produce a plan for the safe return of respite care services?

**Clare Haughey:** I cannot give Mr Briggs a concrete answer to that. We will review all the services that support carers, of which there are a lot. There is no longer face-to-face support, but there is still online and telephone support.

It is really important that people realise that those services are still there during lockdown.

On respite, we would need to look at the available evidence and science around how safe it is to reintroduce the service, to ensure that residents who go into respite and the people who care for them are safe.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** What additional support is the Scottish Government providing to key mental health services during the coronavirus pandemic, to help people to look after their mental health and wellbeing?

**Clare Haughey:** We recognise a range of possible effects on people's mental health during this time. Some people might feel anxious or emotionally distressed. There might be escalating distress or mental ill health as a result of the pandemic, and effects might be exacerbated by unemployment, financial uncertainty, isolation or bereavement—and for many other reasons.

We want to ensure that people who are identified as needing support can get services that are appropriate to their needs. We have developed guidance to help individuals to maintain good mental health, through NHS inform. We have ensured that the NHS Covid-19 website carries advice on maintaining mental as well as physical health during the outbreak. In addition to the expansion of NHS 24 that has been announced, we will continue to explore the extension and development of mental health and wellbeing services that people can access from home should they need to do so.

It is important to note that mental health services are working just now. If people feel that they are becoming unwell, general practitioner and primary care services are there for them, and secondary care mental health services are available should people require referral to such facilities. In addition, over the past few weeks, we have opened—I think—17 mental health assessment centres across Scotland, so that people do not have to access accident and emergency to get a mental health assessment but can go to a special facility and access services more quickly.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Some of the most difficult pieces of correspondence that I get at the moment come from grandparents who are desperate to see and hold their grandchildren. Given that we are moving into a new phase, with mass testing, will the

minister consider introducing a scheme that uses a combination of testing and voluntary self-isolation to enable family members safely to visit older relatives in self-isolation? Does she recognise that such a scheme would give much-needed help to some of our older residents right now?

**Clare Haughey:** I think that we all recognise just how difficult not being able to access parents or grandparents is—for all of us—and that it is particularly difficult for people who are shielding or who are over 70 and cannot access their grandchildren, which is absolutely heartbreaking. I have heard tales of people who have had a grandchild born during lockdown who they have not been able to see or hold as they would normally do. I have every sympathy for those people—and I think that we are all going through a difficult time in not being able to hug our parents.

The member makes an interesting proposition, and I am sure that all the science will be explored in that regard. We need to be careful and cautious in how we move forward; we have made a lot of gains in reducing the spread of the virus and we need to be careful not to lose them. We need to proceed with caution.

**Kenneth Gibson (Cunninghame North) (SNP):** Lockdown can work only if everyone accepts its parameters. David Blunkett, the former Home Secretary, is leading a petition that calls for healthy older people to be treated in the same way as everyone else is treated when lockdown ends. What incentive is there for someone in their late 70s who is in good health to comply with lockdown long after everyone else has stopped doing so, if they feel that they have only a few years of life left and want to make the most of them? Surely such people should be given the same consideration as is given to any other healthy person of any age.

**Clare Haughey:** I refer Mr Gibson to part of my answer to Monica Lennon. We know that people in that age group are much more at risk, we know that the mortality rate is higher in that group, and we know that the measures that are currently in place are helping us to tackle the pandemic.

We are all responsible for our own actions, but we all need to follow the guidance, which is led by the science. I would caution anyone against going against that guidance. We all need to follow the Government's guidance: to socially isolate, stay at home, not mix with other households, and wash our hands frequently.

### Barnett Consequentials

**3. Graham Simpson (Central Scotland) (Con):** To ask the Scottish Government when it will pass on £155 million in Barnett consequentials to councils. (S5T-02130)

**The Cabinet Secretary for Finance (Kate Forbes):** The First Minister has already made clear in the chamber, and I am happy to confirm again, that we will pass on those consequentials in full to local government. We took action quickly and have already committed to providing £175.6 million to local government. That includes a £50 million hardship fund, a £45 million Scottish welfare fund top-up, £30 million for a food fund and £50 million for a council tax reduction scheme and social security top-up. That brings the total direct additional funding that we have committed to providing to local authorities to £330.6 million.

In a meeting with me, more than a fortnight ago, the Convention of Scottish Local Authorities agreed to supply details on cost pressures. That information is still awaited. It is absolutely right that that information from councils should inform distribution methodology, to ensure that we support the areas of greatest need.

**Graham Simpson:** I thank the cabinet secretary for that answer. It is the first time that I have heard her agreeing to give the entire £155 million to councils. She certainly did not want to do that when I questioned her last week.

Let us look at the cost collection exercise that the cabinet secretary is so keen to mention. The exercise started at the beginning of April. Templates were sent to council finance officers on 6 April. That was 12 days before Robert Jenrick's windfall to English councils was announced, so it has nothing whatsoever to do with the consequentials from that. Does the cabinet secretary not accept that there is no link between the two and that councils should just be given the money—full stop?

**Kate Forbes:** It would be highly irresponsible to allocate money without carrying out the analysis that is necessary to understanding and determining where local authorities most require it. I agreed in good faith with COSLA, more than a fortnight ago, that we would need to see figures relating to additional pressures.

I accept, and have accepted all along, that local government has done an exceptional job in the response to coronavirus. I also accept that there are cost pressures. However, as Graham Simpson will have seen—and as I have seen—as individual councils identify what their cost pressures are, there is a variety of need. It is important that, in any spending decision, we decide in consultation with COSLA.

It is not for me to determine why that cost collection exercise has taken so long. I await it with interest; I look forward to receiving it; and I look forward to ensuring that local authorities get the funding that they need.

**Graham Simpson:** As I have already said, the cost collection exercise has nothing whatsoever to do with that £155 million. It sounds as though the cabinet secretary wants to decide for herself how that money is allocated. Perhaps she will confirm whether that is the case. If it is not the case, will she, as she should, use the normal distribution model that councils use—*[Interruption.]* I am being heckled, but perhaps members should listen. Failing to do that will lead to a war between councils and a battle within COSLA. I am old enough to have seen that happen. We have seen it before. The cabinet secretary would do best to avoid that and to use the normal system, rather than deciding for herself what each council should get.

**Kate Forbes:** It is within the job description of the Cabinet Secretary for Finance to deliver a balanced budget and to allocate funding. It is for COSLA to inform and influence the normal process that Graham Simpson has identified. His position is that he wants to use the normal distribution methodology; I would rather hear from COSLA how it believes that the funding should be allocated.

**Annabelle Ewing (Cowdenbeath) (SNP):** The cabinet secretary has set out how much additional funding is being provided to local government. She referred to a figure of £330.6 million. Will she outline the further financial flexibilities that the Scottish Government has provided to local authorities?

**Kate Forbes:** To support local authorities to respond to coronavirus, we have agreed with COSLA to front load our weekly grant payments by £150 million in May, £100 million in June and £50 million in July, and to keep the cash-flow position under review and make further adjustments if necessary. We have also increased the 2020-21 general revenue grant by £972 million and reduced business rates support by the same amount, reflecting the potential loss of business rates income resulting from our support for businesses. Lastly, we have provided additional flexibility linked to the previously ring-fenced funding for early learning and childcare, the pupil equity fund and the challenge authorities and schools programme funding.

**Sarah Boyack (Lothian) (Lab):** The cabinet secretary said last week that local authorities should use their reserves while she decides how much support to provide them to enable them to deliver new services and support our communities to cope with significant reductions in their incomes. In her previous answer, the cabinet secretary did not appear to get the fact that we are in the middle of a pandemic—we are not in a normal budget round. Does she accept why COSLA and our council colleagues are

increasingly unhappy with the lack of support that they have received to date and that she is micromanaging? Are our councils not equipped to carry out the necessary analysis to make the best use of those resources for our constituents across Scotland?

**Kate Forbes:** It is because we are in the middle of a pandemic that we moved quickly to provide local authorities with funding to begin with, before there were those consequentials from the UK Government; I have already mentioned the £175.6 million that we have provided to local authorities.

This issue appears to me to be a storm in a teacup. My letter made clear that I was awaiting confirmation from local authorities on funding in terms of their need; that was an agreed position with COSLA two weeks ago. I have committed once again, off the back of what the First Minister said a few weeks ago in the chamber, that we will pass on that funding in full, and I believe that COSLA and local authorities, and not just members in the chamber, should inform and influence how that money is allocated.

#### Covid-19 (Testing)

4. **Joan McAlpine (South Scotland) (SNP):** To ask the Scottish Government how soon it will begin to test asymptomatic people in the community as part of its test, trace, isolate and support strategy. (S5T-02136)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** We are already testing asymptomatic people in care homes and those without typical Covid-19 symptoms who enter hospital and are over 70. That is in addition to ongoing surveillance studies in the community, which test people who do not necessarily have Covid-19 symptoms. When the test, trace, isolate and support system kicks in in full, it will complement some of the current testing work that is under way but will not completely replace it. We will still have a specific focus on hospitals and care settings, where there are particularly high risks. Now, and in the future, when we test asymptomatic individuals as part of our overall testing strategy and they test positive, we will apply the same trace, isolate and support approach to their contacts.

**Joan McAlpine:** The paper that was published yesterday says that symptomatic people will be tested initially. The models that test, trace and isolate is built on come from studies in South Korea, Iceland and the Italian town of Vò, where asymptomatic people tested positive. In Vò, 50 to 70 per cent of people tested positive. Given that research, some of which came to public attention in early March, can the cabinet secretary say what research exists that suggests that asymptomatic people should not be tested?

**Jeane Freeman:** The paper that was published yesterday actually says that symptomatic individuals will trigger the trace and isolate strategy. That means that individuals whom the symptomatic person has been in contact with—who may not be symptomatic—will be traced and tested and, if they test positive, they will be asked to isolate while they wait for their test results and support will be provided to them. That is actually what the test, trace, isolate and support approach says. My understanding, from what I have read and what I hear from the group chaired by Professor Andrew Morris is that that particular approach matches what the World Health Organization tells us should be the approach on test, trace and isolate.

There will be a mix of symptomatic individuals and individuals with no symptoms who have been in contact in some way—there are criteria on the levels of contact in order to make the strategy work effectively. That is a central part of the work that we have already started. Contact tracing and testing was under way at the Home Farm care home in Skye at the weekend. That work has begun in some measure and will be ramped up as we look at ways to ease the current restrictions. However, in effect, test, trace, isolate and support will be one of our strategies for some time to come.

**Joan McAlpine:** As we know, the UK Government has designed its own app, which it is trialling on the Isle of Wight. Does the Scottish Government have any plans to go down the road of most other countries of using the technology developed by Apple and Google, which is said to be more reliable and less intrusive in relation to sharing information?

**Jeane Freeman:** As yesterday's Government paper made clear, the core of our strategy primarily relies on contact tracers. That is the most reliable approach. We estimate that we will need about 2,000 individuals to work as tracers. That means using the health boards' health protection teams, who do such work for other kinds of infections, and expanding them considerably. The work to expand those teams is under way and they will be assisted by digital technology. We are confident in using the technology that is being developed by our Digital Health and Care Institute, which is attached to the University of Strathclyde and has a track record of five years of work. It is building on an app that is already used in Scotland to trace contacts for other infectious diseases, primarily sexually transmitted diseases. That is now being scaled up to complement our strategy.

People will have heard in the media about the UK Government's proximity app. I believe that that app is being trialled in the Isle of Wight. We have not yet taken a view on the app largely because

we still await detailed technical information from the UK Government about it, assurance about the confidentiality and security of the data that it collects and assurance that what it identifies fits into the Scottish NHS system, so that the data transfer works well, allowing us to see it as an enhancement to our strategy. We have been asking for that information and I will have another conversation later today with Matt Hancock and colleagues from Wales and Northern Ireland. When we get that information, we will be able to take a measured decision about whether we believe that that particular proximity app will enhance our strategy.

**Brian Whittle (South Scotland) (Con):** What consideration has the Scottish Government given to the deployment of the proximity app that the UK is testing? Would it not be much more beneficial to have a cross-UK policy? That would tackle the issue much better. It highlights the lack of technology available in the NHS across the board.

**Jeane Freeman:** I think that, by and large, I have already answered that question. Once we have the answers from NHS England and NHSX on the technical information—and, more important, on the assurance about data confidentiality and security and on whether, if people from Scotland download the app, the data will feed into our central approach of test, trace and isolate—then we can take a view. At this point, we cannot take a view because we do not have that information.

If we are to have a four nations strategy on any of those matters, we need the appropriate exchange of information so that all four nations can decide whether they want to go down a particular route. We have evidenced our willingness to do that so far, but we have also been clear, as have my colleagues in Wales and Northern Ireland, that we take the right decisions for the population for which we are directly responsible. In my case, that is the population of Scotland.

**Willie Rennie (North East Fife) (LD):** I am concerned about the prospect of confusion if we have two technology systems for different parts of the United Kingdom. I hope that the cabinet secretary is able to explain why she lacks the knowledge that she needs in order to have confidence in the app. On the Isle of Wight, people are already testing it but, up here, we do not seem to know what it involves. Can the cabinet secretary clear that up?

**Jeane Freeman:** The reason why I do not know that is simple: the questions that we have repeatedly asked have not yet been answered. Willie Rennie's question would be better directed to my counterpart in the UK Government. As do my officials, I continue to ask those questions and to hope for that information, because I want to

make a decision about whether the proximity app could enhance what we are already planning. It is straightforward. At the moment, until I get my questions answered, I cannot make that decision. I do not know why I have not had that information; our questions are clear and we ask politely. We have managed to get to joint places on other matters but not yet on that. I remain hopeful that we will at some point.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** As we move towards the test, trace, isolate and support strategy, can the cabinet secretary expand on the importance of following social distancing and personal hygiene measures, as set out by the Scottish Government?

**Jeane Freeman:** I am grateful for that important question. Whatever else we do, including ramping up our early start with the test, trace, isolate and support strategy, and the considerations that the First Minister set out today about how we ease current restrictions and what that might do to our capacity in Scotland to suppress and control the virus, physical distancing and good hygiene will remain a central part of what we all need to do for some considerable time to come. We know the means by which the virus is transmitted. Physical distancing is there in order to prevent transmission, and good hand and respiratory hygiene are there to protect us as individuals and those we are with, including our families.

My final point is important. The whole exercise is about population health. The health decisions that I take as an individual impact on not only me and my family, but everyone in the chamber. We continue to say that we need to do this together, because our individual decisions have significant impacts on those around us.

### Recycling Centres (Reopening)

**5. Alex Rowley (Mid Scotland and Fife) (Lab):** To ask the Scottish Government when recycling centres will be designated as an essential service and reopened. (S5T-02144)

**The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham):** Local authorities are responsible for recycling centres and need to consider several factors before reopening them. Those include the ability to operate sites safely, the ability to ensure that physical distancing is maintained and the need to discourage the public from making unnecessary journeys.

We are working closely with the Convention of Scottish Local Authorities and local authorities on the development of a wider position statement regarding the prioritisation of waste services, and we are discussing what further guidance and

practical steps on recycling centres might be required.

Of course, we are grateful to all those who are working to maintain essential waste collection services across Scotland.

**Alex Rowley:** I concur. We should thank all those front-line workers who have been delivering the refuse collection and health and safety services across Scotland.

This morning, I had a discussion with the co-leader of Fife Council, David Ross, who told me that council officials in Fife have been talking with the police and have in place a proposal to at least start to try to open some recycling centres, given the level of fly-tipping. He says that the stumbling block to moving that forward is the Scottish Government and that the Scottish Government would have to be clear that these are essential services that can be opened in a safe way.

There is no point in blaming local councils. We have a problem with fly-tipping, and councils want to get these centres open. Will the Scottish Government work with them to do that?

**Roseanna Cunningham:** With the greatest respect to Alex Rowley, I say that that is exactly what I said we are currently doing. I am aware that a number of councils are looking at how they can manage the problem. It is not as straightforward as a single council choosing to reopen a centre, because impacts can begin to develop, as we have seen from some of the actions that have happened south of the border, which we do not want to be replicated here. It is very important that we understand how recycling centres will be managed.

One of the reasons why household waste recycling centres in Scotland were closed was workforce shortages. Average absence rates in waste services were between 15 and 35 per cent, but some were as high as 40 per cent. That situation still has to be worked through and managed.

It is not a question of just saying, "Yes, they can all be reopened." They have to be reopened safely, we have to know that that is not going to incentivise non-essential journeys, and we have to make sure that the centres can be managed as well as possible. At the end of the day, this is about minimising the likelihood of continued transfer of the virus.

**Alex Rowley:** Roseanna Cunningham's first answer was that councils are in charge of this and the decision is up to them, and her second answer was that it is up to local authorities, but the Government will not blindly give permission to open centres. With the greatest respect to her, I suggest that we need clarity and leadership.

The Scottish Environment Protection Agency has reported a 40 per cent increase in the number of reports of fly-tipping in April, compared to the figure for April last year. There is a problem that needs to be addressed, and councils want to address it. They are working locally to establish safe ways of doing so, and they want the Scottish Government to work with them and agree to get the centres reopened. The sooner we can do that, the better. I hope that the cabinet secretary will reflect on that.

**Roseanna Cunningham:** I presume that the member does not want me to simply instruct all local authorities to reopen without regard to any other matters. That would be utterly wrong, and it would not solve any of the problems that would likely transpire. I am pretty sure that, if I did that, he would be the first here to tell me that I had no business in instructing local authorities to do anything of the sort.

The fact is that we have to discuss with local authorities what guidance will best allow them to manage reopening recycling centres. We must make sure that there are no unintended consequences of that, which the member does not seem to be particularly interested in.

The member talked about fly-tipping. A number of the fly-tipping examples that we have seen have involved commercial waste, which would normally be taken to a licensed disposal site. That material would not normally be disposed of through local recycling centres, so opening recycling centres will not necessarily fix the problem.

I caution the member to be careful about what he thinks he is calling for and to agree that, as I said at the outset, we are having a proper conversation with COSLA about how the situation can best be managed for everybody's safety.

**Maurice Golden (West Scotland) (Con):** Coronavirus restrictions have meant that some councils have had to incinerate rather than recycle both kerbside waste and waste from recycling centres. When will the Scottish Government issue support and guidance to help maintain recycling rates?

**Roseanna Cunningham:** Right now, what we are concerned about is ensuring that we can manage our waste collection services right across Scotland during this emergency. That is at the forefront of the conversations that we are having.

As we move forward, the continuing necessity to recycle will remain absolutely important—we do not want to take anything away from that—but, right now, we are trying to manage a situation that is not particularly easy to manage, given the nature of what we are talking about. I hope that the member agrees that conversation,

collaboration, discussion and agreement are the best way forward.

**Angus MacDonald (Falkirk East) (SNP):** Local authorities across Scotland will be affected differently and at different times by the coronavirus, and it is paramount that any waste management is carried out with the safety of employees in mind. We all have a part to play in reducing the spread of the coronavirus and, ultimately, in saving lives. Will the cabinet secretary outline what guidance is available to help households to manage their household waste during the coronavirus pandemic and where they can access more information?

**Roseanna Cunningham:** Of course, we agree that the wellbeing of workers is paramount. We also recognise the importance of supporting households at this rather difficult and awkward time.

As part of our efforts, and working in partnership with local government, we have launched a national communications campaign that provides advice and support on arrangements for the management and collection of household waste. The campaign website, [www.managingourwaste.scot](http://www.managingourwaste.scot), provides householders with a range of guidance and received more than 45,000 visits in its first week. Local authority websites continue to provide the very latest updates on local service changes. I hope that people will access local authority websites and the national campaign website in order to establish what best practice is in the current scenario.

**James Kelly (Glasgow) (Lab):** The closure of the local recycling centre in Cambuslang, where I live, has resulted in an increase in fly-tipping and in householders holding excess waste within their properties. What routes exist for local communities to make their views known to councils and the Government on the safe reopening of recycling centres?

**Roseanna Cunningham:** I probably answered that question by referencing the council websites. I anticipate that people will have regular discussion and conversations with local councillors and council officials to ensure that their views are heard and taken on board.

Some recycling centres might be easier to open than others, from council area to council area, for a variety of reasons. It is important that councils understand the general impact on, and response from, the public in relation to the closures that they have had to endure and the potential for reopening.

I remind everyone that commercial waste fly-tipping is on-going. Such waste would not normally be going to those recycling centres, which are

household waste recycling centres, not commercial waste recycling centres. There is a danger of assuming that all the fly-tipping is of household waste, but that is not necessarily the case.

**The Presiding Officer:** That concludes topical questions. I encourage all members who are leaving the chamber to do so safely.

## Finance and Economy (Covid-19)

**The Presiding Officer (Ken Macintosh):** The next item of business is a ministerial statement by Kate Forbes on finance in relation to Covid-19.

15:03

**The Cabinet Secretary for Finance (Kate Forbes):** The Covid-19 outbreak has required an unprecedented response from the Government. It has focused primarily on the health of our citizens but also on the needs of our economy in response to the significant steps that we have taken to keep people safe. That has meant that significant additional resources have been deployed, or redeployed, from the budget that the Parliament passed in March.

Our action to date has been swift and targeted. We committed early on to pass on all health and social care consequentials, which are currently estimated at £620 million, including those for hospices, to support our front-line services. We launched a £350 million package to support welfare and wellbeing. Partly from that, we have provided an extra £175 million for local government, and we have underwritten integration authorities' costs in order to reduce delayed discharge.

Within days of the outbreak, we committed £320 million to a package of small business grants and sector-targeted rates reliefs, and then we expanded that into a £2.3 billion business support package. That has removed this year's business rates liability for retail, leisure, hospitality and aviation, and for all other businesses it has in effect removed the inflationary increase in the poundage. It has offered £1.3 billion in grants for small businesses and for retail, leisure and hospitality, and now we have added a £100 million fund to support the newly self-employed and small and medium-sized enterprises, addressing gaps in United Kingdom Government provision.

The scale of the challenge required us to move quickly. Therefore, I feel that it is important to have the opportunity to update Parliament on the budget implications of the outbreak, and of the actions that the Scottish Government is taking to protect the interests of Scotland's people, communities and businesses. I will provide regular updates on our financial approach to Parliament and the Scottish Fiscal Commission, and I will provide detail later this month, for Parliament's approval, of an early summer budget revision.

Our health and care services are at the front line of the efforts to tackle Covid-19, and we are working closely with the UK Government to ensure that all additional costs are fully funded. We are providing additional funding for national health



service boards and integration authorities, and we are responding to the urgent need to continue to ensure that front-line workers have the appropriate personal protective equipment. Along with my colleagues in Wales and Northern Ireland, we are seeking clarification from the Treasury that our committed PPE spend to date will be covered by Barnett consequentials relating to spend by NHS England and for the social care sector. As the Cabinet Secretary for Health and Sport indicated last week, we have provided a direct delivery of PPE to care homes and have worked with local partners to significantly improve the operation of local PPE hubs.

On the economy, I am proud that we are delivering a strong package of support worth around £2.3 billion for businesses in Scotland. We have provided £50 million to effectively freeze the non-domestic rates poundage at 2019-20 levels, and we are the only country in the UK to do so. We have committed £824 million to provide 100 per cent rates relief to properties in the retail, hospitality, leisure and aviation sectors, and we are the only part of the UK to support the aviation sector in that way. We have made £1.3 billion of support available through two grant schemes for small businesses and for retail, hospitality and leisure. We estimate that around 3,500 properties in the broader economy will benefit from a £7,500 grant in Scotland; their equivalents will receive nothing in England.

I am delighted that on 30 April the Scottish Government opened applications for a £100 million package of additional grant support for small and medium-sized businesses and newly self-employed people. Today marks the opening of the second phase of our original business grants funding scheme, which will relax the restriction on multiple properties.

Unfortunately, we do not have the resources to protect every single business from the economic damage of Covid-19. However, by last Tuesday—a week ago—over £526 million of grants had been paid out to businesses, and I thank local authorities for mobilising their resources so quickly to get those grants out.

The £350 million package of communities funding that was announced by the Scottish Government on 18 March, in advance of the UK Government's announcement of support for local government, ensures that local authorities, community groups and the third sector are able to support people and communities that are affected by Covid-19. Since its launch, we have already committed over £182 million from the package across various funding streams. Over £100 million has been allocated to local authorities through our £50 million hardship fund, an increase of £22 million to the Scottish welfare fund and a £30

million food fund. Over 160,000 free school meals are being distributed each day by local authorities, and the funding for those is supported by that investment.

We have committed considerable other investment to charities and community organisations. To date, we have provided significant additional resources and flexibilities to local government, including committing £175.6 million of direct funding and further flexibility, including de-ring-fencing grants. We will also provide additional support for health and social care through integration joint boards. The Scottish Government had already committed £175.6 million to local government before we had an indication that the UK Government would provide us with additional consequentials for local government, and in the past week or so, we have received an indication of £155 million of consequentials from local government spending in England. That money will be available to local government in full, but in order to make decisions on how it should be distributed among councils to top up the original £175.6 million, I need details from the Convention of Scottish Local Authorities on the funding pressures that its members are facing so that the money can be spent fairly on the areas of greatest need.

This continues to be an incredibly difficult time for people across the country and my sympathy is with every family affected and with those touched by every life lost. That is why ensuring that Scotland has the support that it requires to deal with Covid-19 and to recover from its effects continues to be the top priority for the Government. Our actions have been welcomed by the private and third sectors alike and are making a real difference to the lives of people in Scotland.

I would like us to do more, but we are constrained—financially and through our limited devolved powers. We currently anticipate an estimated £3.5 billion in Barnett consequentials this year to support the Covid-19 response. That funding is welcome, and I place on record the constructive conversations that I have had with my counterparts in the Treasury. We remain committed to ensuring that every penny at our disposal will be spent on safeguarding Scotland's interests, but it does not cover the need. I will continue to engage with the Treasury to ensure that Scotland's NHS and businesses get the funding that they need.

That is the only source of additional funding that is available to us without appropriate borrowing powers, but nobody can argue that it reflects the full magnitude of what we have needed, and will continue to need, to face this unprecedented situation. Other Governments are free to borrow to fund their Covid-19 response, but we have no

powers to do that, given the unnecessary restrictions that are imposed on our borrowing powers by the fiscal framework. It is one of the remarkable aspects of the fiscal framework that Scotland's national Government cannot borrow in the way that Scottish local governments can.

The longer-term health and economic impacts of Covid-19 in different parts of the UK remain uncertain. It is important that Scotland's public finances are not exposed to undue risk on the basis of circumstances outwith our control. We will continue to engage with the UK Government—as we have been doing—to make sure that that does not happen. The UK Government must surely now recognise the fundamental flaws that are inherent in the fiscal framework and must permit further flexibility to allow us to respond to the crisis. For example, I have asked the UK Government to guarantee that the Barnett consequential that have been notified thus far are not subsequently reduced, thereby clawing back money from the Scottish budget at a later date.

The inherent uncertainties of the fiscal framework are well documented and have been much debated here. If that was true before the health and economic crises, it is even more accurate now. Putting party differences to one side, I hope that there will be unity in Parliament on the importance of managing our budget position with additional fiscal flexibilities, through borrowing, guaranteed consequentials and managing future reconciliations.

Fairness and transparency are essential here and also sit at the core of Scottish Government tax policy. We recognise the challenges that are presented by tax avoidance behaviours and remain vigilant, particularly regarding the financial assistance schemes that have been announced by both the Scottish and the UK Governments.

To even begin to think radically about big responses to big issues, or about ideas such as a universal basic income, we need enhanced taxation and other powers. We will continue to make that case.

We have published our overarching framework for decision making, which describes the approach that the Scottish Government will take to the initial transition out of the current lockdown arrangements. We will keep that approach under review.

Although it is hard to be precise about future impacts, the legacy of Covid-19 will last for a considerable time. There will be a continuing public health response. There will be changes within society—in the way people and businesses interact with each other and to models of service delivery—as we look to restart and to recover the economy.

As the framework notes, before this crisis we were focused on making Scotland a greener, fairer and more prosperous country. Although that has not changed, our starting point has. We will work with, and will all learn from, Scotland's private, third and public sectors and from Governments around the world.

I want to continue to invest to support Scotland. For the avoidance of doubt, I say that the recovery will not and should not be a time for austerity. It is essential that we take the opportunity of recovery and think radically, embracing digital technologies and low-carbon reforms. To do that, we need to think long term, we need to work across party lines and we need the powers to invest in our future.

In the past few weeks, we have seen businesses across Scotland repurpose to deliver new products and services. I am proud that many have pivoted their operations to deliver support for the NHS supply chain, thereby saving jobs and lives. Through necessity, we have seen sectors embrace new technologies and innovation at a rate and scale that would ordinarily have taken years.

The Scottish Government must play its role in maintaining that speed and momentum, moving with pace towards a new high-tech, low-carbon economy. To realise that vision, we need to catalyse our most innovative and emerging sectors, ensuring that they fulfil their full potential as economic propositions in their own right and as sources of innovation for our wider economy.

I am therefore pleased to announce that, from next week, Mark Logan—a well-known name—will lead a short-life review of the Scottish tech ecosystem. He brings a wealth of experience, accumulated through 25 successful years in building Scottish tech start-ups, culminating in the success of Skyscanner, one of the most significant European tech unicorns. I have been clear with Mr Logan that we are looking for clear, ambitious and deliverable proposals that allow us to seize the opportunities that economic recovery present. He is passionate about creating an ecosystem that provides opportunities for a new generation of tech talent, and I look forward to receiving his recommendations.

That the fiscal challenges from Covid-19 are significant is beyond doubt, but our priority must continue to be protecting lives and supporting the economy through this turbulent period. In Scotland, our recovery and future renewal will be guided by our long-term vision of investing in an inclusive, sustainable, wellbeing economy. How we design and deliver our recovery can help us make progress towards that vision.

We will recover, and the Scottish Government is determined that Scotland will emerge stronger,

with a fairer and more sustainable economy, with opportunities for all.

**Donald Cameron (Highlands and Islands) (Con):** I thank the cabinet secretary for advance sight of her statement. I was pleased to see her welcome the anticipated £3.5 billion of funding from the UK Government to spend in Scotland and hear her acknowledge the constructive conversations that she has had with the Treasury.

The cabinet secretary's statement concentrates on the broad, longer-term budgetary outlook, which we will take time to digest and respond to in due course. However, it is concerns around the Scottish Government's economic interventions that remain the priority for many of the people who we represent, given the immediate impact on their livelihoods, whether that is delays in getting business support to those at the front line, or the continuing disparity in treatment between businesses in Scotland and their counterparts in the rest of the UK.

Although we continue to welcome many aspects of the Scottish Government's funding package, there remains widespread dismay—and, indeed, shock—that it will not deliver, at once, direct to local authorities, the £155 million coming to Scotland through consequentials. That is not merely a storm in a teacup. Our local authorities are at the forefront of delivering vital services to the most vulnerable, but they have yet to receive any details of what the funding can be used for and how much they will receive; they have also been told that they should use their reserves to meet current costs. That is unconscionable and unacceptable. When will every penny of the £155 million funding go to local authorities? Will the Scottish Government give them full discretion over what the money can be used for?

**Kate Forbes:** At the risk of repeating myself, I have just said that every penny of that £155 million will go to local government. We recognise the cost pressures that they face and we recognise the enormous amount of work that they have done—much of which has been on the front line—in response to Covid-19.

We have already given local authorities £175 million in light of the pressures on them.

I say this having already mentioned the constructive working relationship that I have with the Treasury. The member will appreciate that, in many respects, the Scottish Government has moved faster than the UK Government, and we provided funding before we had any indication that consequentials would be available. We did so in relation to support for businesses, local authorities and charities. The consequentials came after we had already made our own announcements.

I hope that Mr Cameron will appreciate the points that I have made about funding local authorities. He mentioned, too, the disparity between the Scottish Government's and the UK Government's responses to business. We have taken that approach in light of the differing needs of the Scottish economy. Small businesses in Scotland are benefiting from such support; they would not be doing so if they were in England. For example, those in the aviation, fishing and creative sectors here are benefiting, while their counterparts elsewhere are not.

It is important that, with the powers and resources that we have, we ensure that our response to the coronavirus is robust and tackles the issues that need to be tackled. The nature of devolution is such that we are able to take different decisions to achieve different outcomes in order to protect the people, economy and communities of Scotland.

**Richard Leonard (Central Scotland) (Lab):** I thank the cabinet secretary for advance sight of her statement. The section on support for the economy refers to support for businesses, which is welcome. However, at no point does the statement mention unemployment, even though we know that that is a real and present danger to working people in communities right across Scotland and even though there is a particular dimension to it.

Last month, the Institute for Fiscal Studies estimated that workers under the age of 25 are two and a half times more likely than older workers to have been laid off, because of the concentration of young people in shut-down sectors such as hospitality, hotels and non-food retail. We also know that long-term unemployment among young people is especially damaging.

Will the Scottish Government therefore produce a new plan for jobs? As part of that, will the cabinet secretary consider providing funding for the introduction of a high-quality, trade union-backed jobs guarantee scheme to tackle unemployment? Will she target under-25s as part of such a scheme?

**Kate Forbes:** To be clear, when it comes to the economic measures that we have put in place, my two priorities have always been, first, to ensure that workers and employees have money in their pockets and, secondly, to protect the productive capacity within the structure of our economy.

The points that Richard Leonard has raised are well made. Our economic analysis demonstrates that certain demographics are being hit far harder than others by the current crisis. There is an age element to that, and there is also a gender element. The Scottish Government has been having twice-weekly ministerial discussions with the Scottish Trades Union Congress and general

council members. We have already agreed with the STUC a joint statement on fair working principles during the crisis. The points that Richard Leonard has made and points that the STUC and the GMB have made in their most recent campaigns will be considered in our on-going examination of how we might ensure that, when we come out of the crisis, we have a fairer, more equal society than we had when we entered it.

**Andy Wightman (Lothian) (Green):** I thank the cabinet secretary for advance sight of her statement.

She stated that fairness and transparency are essential and that vigilance is vital in relation to tax avoidance. Will she regularly publish details of which businesses and ratepayers have received grants in relation to properties that they occupy? How will vigilance in relation to tax avoidance be carried out? For example, will there be scope to claw back grants awarded to companies that engage in tax avoidance?

**Kate Forbes:** The areas mentioned in both of Mr Wightman's points have already been the subject of discussion and consideration. He will know that our powers to crack down on tax avoidance are far more restricted than those of the UK Government. The publication of details of grants is an area on which I have been quite keen to see movement. There are general data protection regulation and other issues in relation to that, but in order to address his two points I will say this: if there is additional information that I am able to publish, I would like to do so. For example, as he will know, we have already taken steps to publish details of the distribution of grants at local authority level. If we are able to publish more granular data, I would be keen to do so.

**Willie Rennie (North East Fife) (LD):** The finance secretary must know that councils are frustrated by the strings that have been attached to the money that they need to deal with the crisis. They are doing the right thing in the middle of the crisis; I hope that the finance secretary will do the right thing, too.

Many businesses that have a higher rateable value are struggling without the grant support. As the lockdown continues, will the finance secretary consider proposals to support those businesses, because I fear for their future?

What discussions has the finance secretary had with the Treasury on a universal basic income?

**Kate Forbes:** Local government is doing the right thing; I have been blown away by the way in which employees across local government have stepped up to the plate, most of them working from home and working incredibly long hours in order to get grant support out, for example. I want to ensure that they have the resources that they

need and I will work constructively with COSLA to do that.

I assume that the businesses that the member refers to are those above the rateable value threshold of £51,000. I recognise that there is a gap. That is one of the main reasons why we put in place the £100 million fund and, in particular, the pivotal enterprise resilience fund, which is designed to try to support those businesses that are too big for grant funding but which are key to local economies—they often support a much wider supply chain and keep many jobs going. The enterprise resilience fund was designed to help those businesses.

The member will appreciate that we have to deliver a fixed, balanced budget. There are no quick and easy ways of creating additional headroom, for example to extend our business support. The only way of doing that just now is through additional consequentials, and I have regular discussions with counterparts in the Treasury in order to secure further funding to deliver a more generous business support scheme than the one that we have at the moment, in particular when it comes to recovery.

The member asked another question that I did not note down—

**Willie Rennie:** It was about a universal basic income.

**Kate Forbes:** When it came to mobilising our systems, whether through local authorities or enterprise agencies, what constantly struck me was that the fastest way of getting support directly into people's pockets was through Her Majesty's Revenue and Customs. There was no other scheme, and of course the management of HMRC is reserved.

I believe that we need to consider a universal basic income, not just for crises such as this one but beyond them. It is a subject of discussion—in a sense, it is part of that wider package of discussion around additional powers. These points are not being made for constitutional or political reasons; they are being made to ensure that we can respond to crises such as this one and support people and businesses in our communities.

**Bruce Crawford (Stirling) (SNP):** I am sure that the cabinet secretary will agree with me that a healthy and dynamic university sector is crucial to the future of the Scottish economy. Like many sectors, universities face an existential challenge and a financial threat because of Covid-19. For example, I know that the University of Stirling has a deep and mounting deficit of many millions of pounds. The university is clear that without additional financial support from Government, it faces significant redundancies and course

closures. Will the cabinet secretary therefore undertake to discuss the situation with the UK Government as a matter of urgency?

**Kate Forbes:** I assure the member that the issue is already being discussed as a matter of urgency. I know that the Deputy First Minister, John Swinney, has had regular discussions with his counterpart in the Department for Education—they are both facing similar issues and they have made joint representations to the Treasury, looking for funding. Our understanding of the announcement that was made over the weekend is that it does not in any way go far enough towards supporting the further and higher education sector, and I know that the Deputy First Minister is looking actively at how we can support that sector.

**Maurice Golden (West Scotland) (Con):** The First Minister has promised help for the oil and gas industry, but last week she said that she had not yet decided what that support would be. Oil and gas workers are losing their jobs and cannot afford to wait any longer. Can the cabinet secretary confirm when a decision will be reached and what support the Scottish Government will provide?

**Kate Forbes:** I understand that concern. Without wanting to be political in any way, I point out that, as the member will know, most of the powers to intervene in the oil and gas industry are reserved. One of the most obvious areas is ensuring that there is furlough support to the industry. We are actively considering what offer we can provide. My colleague Paul Wheelhouse has regular meetings with the industry and is working closely with it to understand what more the Scottish Government can do with our powers and resources. However, any intervention needs to be done jointly, because most of the powers still rest with the UK Government.

**Gillian Martin (Aberdeenshire East) (SNP):** I do not wish to labour the point that has just been brought up, but it is important. Before the crisis, oil and gas workers were to be at the heart of a just transition away from fossil fuels to low-emission energy. That just transition is more pressing than ever, as oil and gas companies are making many workers redundant because of a combination of the pandemic and the low oil price. What has been done to assist former employees and contractors, many of whom have been refused furlough and who of course do not have the opportunity to find other work because of the pandemic? Has the cabinet secretary had discussions with the UK Government on what it could do to assist the people who work in the sector, which is still important because we have not yet had the just transition? The situation is affecting many families in my constituency.

**Kate Forbes:** We have had those discussions. Support is available for those people, whether that is welfare support or, when we come to recovery, support to help them through a period of redundancy and into work. As I said in my earlier answer, we must work in collaboration with the UK Government, because many of the most significant levers to intervene in the oil and gas industry, which is going through an incredibly difficult time, rest with the UK Government. On funding support and what else we can do, we are in constant dialogue with the industry to understand what action we can take, and we will take that action to protect jobs.

**Jackie Baillie (Dumbarton) (Lab):** I welcome the cabinet secretary's statement, particularly because her previous position of not telling Parliament the detail of budget allocations until the summer revisions was neither transparent nor sustainable.

The Scottish Government was not asked to submit plans to the UK Government before money was released; indeed, businesses, food banks and health boards have not been asked to submit plans or costs to the Government before money is released. The second tranche of £155 million for local government is for social care and homelessness, which are critically urgent areas, and councils in England already have the money to spend. Therefore, why is the cabinet secretary now asking for plans to be submitted in advance? Does that point to a lack of trust in local government? If she truly believes that the issue is a storm in a teacup, why did the Scottish National Party councillors on COSLA vote against her to demand the release of the money now?

**Kate Forbes:** Local authorities in Scotland already have £175 million to support the coronavirus effort, and that money was available to them before local authorities in England got funding. The absurd thing about this debate is that, two weeks ago, the First Minister said that she would pass on the consequential for local government to local government in Scotland. Since the beginning of April, local government has been working on a cost collection exercise to identify the biggest pressures on it right now. I want to ensure that the money is spent in the areas of greatest need. It is not unreasonable to ask local authorities to complete the cost collection exercise that they promised me two weeks ago that they would do to determine how the money can best be spent. When all is said and done, local authorities are getting £155 million on top of the previous allocation of £175 million because of the tremendous work that they are doing.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** My question is on behalf of small businesses in my constituency such as opticians,

barbers and hairdressers, many of which are struggling financially despite the welcome help that they have received so far. Can the cabinet secretary assure them that the Government is looking at what the safety arrangements might be for businesses? When might we be able to share that thinking with them, so that they can begin to prepare their businesses to reopen when it is safe for them to do so? Will small businesses still be eligible for some financial support as they slowly get their operations back up and running?

**Kate Forbes:** I am working closely with Fiona Hyslop and other cabinet secretaries to develop an approach that will unlock the economy safely and build on the framework for decision making that was published about two weeks ago. That approach will set out the range of factors and judgments that the Government will need to consider in order to allow the economy to safely transition beyond lockdown. We are working closely with business groups, trade unions and others as part of that process. We need a transition that will reflect the public health advice and offer businesses a clear way forward, both in the short term and as part of a longer-term recovery process. We will set out further advice on that approach in due course; we will also continue to engage with the UK Government and the other devolved Administrations to shape the UK-wide response.

**Michelle Ballantyne (South Scotland) (Con):** I will add a point about COSLA's cost collection exercise: it is part of councils' due diligence process; it is not being done as a result of a request by the cabinet secretary.

My question is about business and follows on from the question that Willie Coffey just asked. Business is the one area that is not political and does not make statements for political purposes. Businesses are now about survival and protecting the jobs of the people whom they employ. The Scottish Government has consistently emphasised geographic variation—it talks about that again its framework for decision making. Many businesses—in fact, all the businesses across Scotland that export—have supply chains and customers across the UK. The UK Government has already started to bring out its guidance on returning to work and businesses south of the border are starting to reopen. If Scottish businesses cannot start to reopen alongside them, they will lose competitive advantage, which is the very thing that Fiona Hyslop said would not happen when she gave evidence to the committee of which I am convener. I ask the cabinet secretary to take the issue seriously. The framework for decision making suggests that there will be no further guidance until 28 May, but that will be too late for many businesses.

**Kate Forbes:** The member will know that we have tried very carefully to have an open and honest conversation about what transition out of lockdown will look like. We take very seriously people's health, protecting lives and ensuring that we will move beyond the current period only when it is safe to do so. I do not want to speak about my constituency, but some of the businesses that had been starting to reopen there have closed again because of the outbreak on Skye over the past week.

We need to take these decisions very carefully; they need to be informed by the best medical and scientific advice that we have available. There is a burden on all our shoulders to ensure that the decisions that we make will minimise harm—to the economy, yes, but ultimately to people.

**Tom Arthur (Renfrewshire South) (SNP):** It is difficult to envisage sectors such as grass-roots music venues and travel agencies being able to return to their pre-coronavirus capacity for a considerable time—perhaps not until there is a vaccine. What consideration has the Government given to supporting those businesses to repurpose over what could be quite an extended recovery period?

**Kate Forbes:** Such an approach will most certainly have to be part of our recovery. In our initial business support response, we tried to do two things: minimise people's fixed costs, for example by removing non-domestic rates in many cases for not just a few months but a full year; and provide grant support. That support will still be available, but I think that Tom Arthur's point about helping people to transition and to repurpose their businesses, which we have already seen during the crisis, will need to form part of our recovery.

**Colin Smyth (South Scotland) (Lab):** Everyone understands that the support that is provided to businesses is changing all the time and that more support will be provided. Will the cabinet secretary consider fully addressing the unfairness in the fact that a hospitality business in Cumbria with a rateable value of just over £15,000 is entitled to a £25,000 grant, but a similar business just over the border in the south of Scotland with the same rateable value is entitled to a grant of just £10,000?

Can she tell me why one of the requirements for applicants for the new hospitality hardship fund is to have a business bank account, which is not a legal requirement for sole traders and partnerships? There is concern among, for example, owners of guest houses who pay council tax and not rates that they could be denied the only support that they thought they might be entitled to, because they have a separate but personal bank account for carrying out guest house transactions. Will they be entitled to a grant

from the hardship fund or will they be ruled out because of that unfair technicality?

**Kate Forbes:** The member will know that eligibility for the grant scheme is based on the non-domestic rates system and on the Scottish small business bonus scheme, which is the most generous in the UK. The support that the grant scheme offers reflects the thresholds in the small business bonus scheme. That means that hundreds of businesses in the wider economy that are eligible for the small business bonus scheme are getting grants in Scotland that would not get them elsewhere in the UK. For example, if a business in Scotland has a rateable value of £17,000 and it is not in retail, leisure or hospitality, it can get a grant. If it was elsewhere in the UK, it would not get that.

At the end of the day, when we draw thresholds, my job is to make sure that the money goes as far as possible, helps as many businesses as possible and reflects the challenges in the Scottish economy. That is what we have done with the grant scheme.

The requirement to have a business bank account has been raised as an issue, including in my constituency, as some small businesses do not have such accounts. One difficulty with the scheme, which is not linked to a tax system, is that we need to ensure that we reduce fraud levels. Given our limited resources, I want the money to go as far as possible and to help as many businesses as possible. We therefore have to have consideration of due diligence and to minimise the fraud risk, and requiring a business bank account was considered to be a much simpler means of doing that than putting in place more bureaucratic systems.

If I can review that and change it, I would like to do so, but I need to make sure that the high levels of fraud that have been seen in other similar schemes will not be reflected in these schemes. We need to make sure that every single penny is used to help as many businesses as possible.

**Angela Constance (Almond Valley) (SNP):** Travelyard is a small bespoke service in West Calder, in my constituency. As an organisation, it has worked tirelessly to bring stranded travellers home. It is meeting its obligations to customers—and incurring costs in doing so—as an agent that offers its customers 100 per cent refunds for cancellations, and rescheduling. It is doing all that despite the evaporation of a large volume of its business and profits, and on top of that it is being driven demented in pursuing business interruption insurance claims.

What can the Scottish Government do? How will it persuade the UK Government to ensure that there is more bespoke support for the unique

travel sector by offering, for example, commission protection schemes and better support for companies that are making insurance claims, given that a high proportion of companies in the tourism sector have inadequate or irrelevant insurance?

**Kate Forbes:** It is accurate to say—and it is well documented—that the coronavirus business interruption loan scheme has not been able to help as many small businesses, by any stretch of the imagination. If we look at the average loan amount, it is quite clear that loans are disproportionately going to much bigger businesses, leaving small and medium-sized businesses without that support. That is why the Treasury introduced the bounce back loan scheme, which is another option. I know that it is difficult because this is not a time when businesses want to accrue more debt, least of all our small and medium-sized businesses.

We regularly raise those issues with the UK Government to ensure that there is more support for particular sectors. When it comes to the unique travel sector, I imagine that some businesses will be able to benefit from the new £100 million loan fund, the smaller fund of which is specifically targeted at the travel, hospitality and tourism sector. That might be a means of filling the gap that the member has identified.

**Edward Mountain (Highlands and Islands) (Con):** As the cabinet secretary knows, the Highland economy is highly reliant on tourism, and that is especially true of our small bed and breakfasts. The Scottish Government has set up the tourism and hospitality hardship fund, which is worth £20 million and is open to all tourism and hospitality businesses. However, as the cabinet secretary has made clear, many small B and Bs will be ineligible to claim because they do not meet the criteria in that they do not have a separate business bank account, despite having all the necessary regulatory consents. How many small B and Bs does she estimate the £20 million fund will actually help?

**Kate Forbes:** Obviously, that will depend on the grants that are being provided, and we have designed the schemes specifically to be as bespoke as possible. The fund that the member mentioned can give £3,000 grants, but businesses can get grants of up to £25,000. The amounts that businesses get will determine the number of businesses that receive grants. At the moment, that scheme is not oversubscribed, so I would encourage B and Bs to apply for it.

I have already addressed the point about business banking. That is the tension that we live with: when we are distributing public funds, we have a responsibility to ensure that we take appropriate steps to minimise the risk of fraudulent

claims. If the member has an additional point that he wants to raise with me after this meeting, I will be happy to address it.

**Annabelle Ewing (Cowdenbeath) (SNP):** On the key issue of economic recovery, for any alterations to lockdown restrictions to work, it is vital that social distancing in the workplace is secured. At the moment, in many cases, it would appear that it is being left to individual employees to raise concerns with their MSPs when they are told that they are expected back at the workplace but they are concerned about the conditions that will pertain. Would it not be a more reasonable approach to put the onus on the employer to demonstrate that social distancing can indeed be achieved?

**Kate Forbes:** The member makes a good point. We will keep our guidelines constantly under review and we will take decisions only when the scientific advice is clear that it is safe to do so. Until that point, there is absolutely an onus on businesses. We expect all businesses to adhere to the current guidance, which is designed to keep people safe, and that includes social distancing.

Although people have been living with lockdown for almost seven weeks, it is critical that people continue to follow that Government guidance, and there is an expectation on employers that they will protect their employees and ensure that the working environment is safe.

**Lewis Macdonald (North East Scotland) (Lab):** On 17 April, the cabinet secretary said about the oil and gas industry:

“Our strong steer is that we expect employees to be furloughed, not made redundant—that is why that support exists.”—[*Official Report*, 17 April 2020; c 15.]

With so many workers now facing redundancy, what would she say to those employers that have taken the view that the job retention scheme does not apply to them?

**Kate Forbes:** That is a disappointing position for those employers to take. The scheme is available. We have worked with the oil and gas industry to ensure that support is in place. At a time of national emergency, when people are struggling, it is extremely disappointing that employees have been made redundant when support is in place.

I do not dispute the challenges that are facing the oil and gas industry or the wider economy, but at a time like this, when we are theoretically all in it together, there is a responsibility on employers to treat their employees with respect, to protect them and to help them through these difficult weeks. Unusual and extraordinary Government funding is in place to help employers to do that, and I expect employers to make use of it to ensure that their employees continue to be paid.

**Kenneth Gibson (Cunninghame North) (SNP):** While many businesses are struggling to survive, supermarkets are making huge profits, and not just through increased sales. Across the UK, Tesco will receive £585 million in rates relief, while it paid out £635 million in dividends just last month. Meanwhile, prices have gone up and discounts and special offers are increasingly rare, which is pushing up costs for customers.

Just a few minutes ago, the cabinet secretary criticised the UK interruption loan scheme because a lot of the money for the loans is going to big businesses. Is it not time to reconsider some of the rates relief for supermarkets, with that relief being switched to support smaller businesses?

**Kate Forbes:** Although we keep many things under review and I know that Fergus Ewing is in regular dialogue with the supermarkets, it is for precisely that reason that we have ensured that our business support focuses on the small and medium-sized businesses in Scotland, which are the backbone of the Scottish economy and of multiple local economies. Our criteria ensure that more small businesses will get a grant in Scotland than elsewhere, precisely because of the way that we have tailored that support.

I recognise that there will be much debate about the rights and wrongs of how we support businesses, but at the end of the day, with the limited resources that we have, we have ensured that we protect the small and medium-sized businesses rather than prioritising the big businesses.

**Brian Whittle (South Scotland) (Con):** I spent yesterday speaking to a number of businesses in my region to see how they are coping in the current crisis. As the cabinet secretary might imagine, a lot of businesses are not sitting idle but are looking at ways to adapt their working protocols to enable them to stick to Government guidelines and at how, when the time is right, they can get back to work while ensuring the health and safety of their employees.

A sector return, when the time is right, is being talked about a lot. What consideration has the cabinet secretary given to how we can enable and help businesses that are able to stick to Government guidelines to get back to work? That might allow for more finance to support those businesses that currently cannot get back to work.

**Kate Forbes:** That is very much part of our thinking just now. When it comes to transitioning out, it is clear that those businesses that can adhere to social distancing will be able to go back to work first. This virus is going to be with us for not just a matter of weeks, but for months and maybe longer. We must therefore ensure that our businesses can adapt to meet the Government



guidelines in order to protect people and keep them safe.

When it comes to our thinking around transitioning out of this, it will be on the basis of which businesses can adapt to social distancing. In some cases, they will need to make structural changes to their business; they will need to make changes to the way in which they operate and the things that they do. Many businesses have already had to do that through this period, and that will continue. That is precisely the thought that we are giving to transition.

We have already published documentation and the First Minister published more yesterday in the form of the “Coronavirus (COVID-19): test, trace, isolate, support strategy”. We will continue to review those guidelines and, when it is appropriate to do so, we will publish further guidelines to give advice to businesses.

**Neil Findlay (Lothian) (Lab):** What very specific advice would the cabinet secretary give to workers who have been told that they are furloughed and who are working from home full time, but who receive only 80 per cent of their wage and feel that they cannot raise issues with their employer for fear of repercussions?

**Kate Forbes:** The advice that I would give them is that that is completely unacceptable and should not be happening. Where it is happening, and where Neil Findlay feels able to raise it with me or others in relation to specific businesses, he should, because those businesses should not be doing that.

When it comes to the furlough scheme, there is an expectation that if somebody is working full time, they should be paid as a full-time worker; if they are furloughed, however, they should be paid at 80 per cent. There are very clear guidelines and strict criteria around what a person can and cannot do as a furloughed employee.

To go back to the advice that I would give, as we discussed earlier, we of course raise and discuss these matters with the unions on a twice-weekly basis, and I encourage workers to raise the issue with either a union or with somebody else who will listen.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** The 100 per cent rates relief was extended beyond the hospitality sector to include airports and other ancillary named businesses. However, one kind of business that is not included in that is airport car parks, of which there are many in my constituency. They are big employers and they suffer an existential threat through not being included in the ancillary businesses around airports. What consideration will the cabinet secretary and her Government give to including airport car parks in the rates relief scheme?

**Kate Forbes:** Although I will give consideration to any sector or business that needs support, we have a restricted budget when it comes to extending support. A case has obviously been made by a number of other sectors for that support and I am happy to review any proposal; however, at the end of the day, our greatest challenge is around affordability.

We have tried to do things differently and to approach the issue on a sectoral basis, which is why airports have support. When it comes to extending that further, the challenge is affordability. There is another—legislative—challenge about retrospective rates relief, which I will not go into now.

**The Presiding Officer:** Before we move to the next item of business, I remind members to observe social distancing when leaving or entering the chamber.

## Agriculture (Retained EU Law and Data) (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a stage 1 debate on motion S5M-21650, in the name of Fergus Ewing, on the Agriculture (Retained EU Law and Data) (Scotland) Bill. I invite members who wish to speak in the debate to press their buttons now.

I call Fergus Ewing to speak to and move the motion.

15:56

**The Cabinet Secretary for Rural Economy and Tourism (Fergus Ewing):** I am pleased to present the Agriculture (Retained EU Law and Data) (Scotland) Bill and to set out its general principles. I thank the Rural Economy and Connectivity Committee for its consideration of the bill and for its report, which expresses support for the general principles of the bill. I also express gratitude to the Delegated Powers and Law Reform Committee and thank all stakeholders who have submitted evidence to the committee and have had discussions with me and my officials.

It is important to be clear on why we need the bill and on what the bill is and is not intended to address. The bill has been developed as a direct result of the United Kingdom's decision to leave the European Union. I am sure that everyone here knows that the Scottish Government believes that EU membership is the best option for both Scotland and the UK. However, we are where we are, in a kind of limbo—neither truly part of the EU nor clear about our future relationship with it or the rest of the world.

It is imperative that, as a responsible Government, we ensure that the right legal powers are in place so that we can continue to support the rural economy—farming and food production, in particular. The Covid-19 crisis has brought into sharp relief the importance of the secure production and supply of food as well as of the role of farmers, crofters and everyone in the agricultural supply chain. I am extremely grateful to every person who does that work for Scotland and for us all.

Clarity and certainty in funding are arguably even more important. That is why I remain committed to providing financial security by maintaining current common agricultural policy schemes largely intact until 2021, as I promised to do in “Stability and Simplicity: proposals for a rural funding transition period”.

These unprecedented times also demonstrate the need for powers to adapt flexibly to changing

circumstances—in particular, by making simplifications and improvements. As part of the preparations that are needed to leave the EU, the EU common agricultural policy is being rolled over into domestic legislation as “retained EU law”.

That process is happening in two stages. First, the rules on direct payments became law through UK-wide legislation on exit day, at the end of January. Secondly, the remaining areas of the CAP will become law at the end of the implementation period, which is currently due to be 31 September.

That is reflected in the powers in part 1 of the bill, which enable ministers by regulations to ensure that CAP schemes can continue to operate beyond the end of 2020, to make simplifications and improvements to the operation of the legislation governing those schemes, and to modify specific aspects of the common organisation of the markets regulation—namely, on market intervention, marketing standards and carcass classification.

The bill is not intended to create the opportunity to provide powers for a wholesale change in policy—that is not the purpose of the bill. I know that stakeholders and the REC Committee want to see a legislative commitment, through the bill, on the long-term direction of travel for rural policy. Although I am sure that the matter will be debated in detail should the bill progress to stage 2, I want to be clear that the reason why the bill does not set such a direction is that that is not its purpose. The bill is intended to be the mechanism by which we get to the proposals about long-term policy rather than to provide the answers themselves. That is an important distinction. [*Interruption.*]

**The Deputy Presiding Officer:** Excuse me, cabinet secretary. I say to members that, although it is difficult to carry on conversations, yelling at each other across the desks makes it difficult for those of us who are at the front of the chamber. Thank you.

**Fergus Ewing:** I will briefly address the related recommendation in the committee's report that a time limit be added to some of the powers in the bill by way of a sunset clause that would restrict their use after 2024. I understand and support the desire to hold the Government to a strict timetable, but surely the current unfortunate—albeit extreme—circumstances surrounding Covid-19 show that such timetables can unexpectedly be overtaken by events.

**Mike Rumbles (North East Scotland) (LD):** I think that everybody accepts that point. Most people who gave evidence to the committee were concerned that, if there was no sunset clause in the bill, it would allow this Government or a future Government to proceed with payments without the

need to introduce any changes to a new system in Scotland. We all want to see a new system in Scotland—the cabinet secretary says that he would like to see it by 2024. The committee is not being prescriptive; we just said that we thought that the Government should propose its own date. I suggest that the end of the next parliamentary session might be a good date.

**Fergus Ewing:** I thank Mr Rumbles for his suggestion. I know that he is always seeking to be helpful and constructive. I look forward to debating the point in more detail than perhaps we can today, although I am sure that members will comment on it.

My point is that having a rigid proposal of the sort that has been recommended by some of the committee is not something that makes sense. I suggest—and I think that Mr Rumbles accepts this—that we are held to account every week about everything, and that will continue to be the case. When we make any substantive further policy proposals, we will be held to account. By virtue of being held to account by the REC Committee, we are open to scrutiny all the time in the Parliament. I can think of very few Parliaments in which there is more democratic scrutiny, and I welcome that. I do not think that Mr Rumbles did so, but no one who is arguing for a sunset clause should also suggest that there is an absence of scrutiny. There is great deal of scrutiny, which is the fundamental point. At elections, we are all accountable to the people of Scotland for what we do.

**Colin Smyth (South Scotland) (Lab):** Will the cabinet secretary take an intervention?

**Fergus Ewing:** Yes, I will take another intervention, although I think that I will have to abandon most of my speech.

**Colin Smyth:** I am deeply sorry to hear that, cabinet secretary.

Does the cabinet secretary accept that one way to address his concern that a cliff edge would be created by having a fixed date in a sunset clause would be to provide for the date to be moved through secondary legislation, if circumstances were such that the Government wished to do so and if Parliament agreed? I think that that would address his concern about having a fixed date in a sunset clause.

**The Deputy Presiding Officer:** I will allow the cabinet secretary a few minutes of extra time.

**Fergus Ewing:** Thank you, Presiding Officer. That is very generous.

When I was in mountain rescue teams, I always concluded that cliff edges were places that are best avoided altogether. Shifting the date does not seem to me to be an ideal solution, but, at the end

of the day, it is up to Parliament and we will debate the matter in committee.

I welcome that debate and I emphasise to the convener and members of the committee that I do not have a closed mind on the matter. I know that the committee has discussed it in detail and it is required—it is right—that we discuss it in more detail than perhaps we can today. I will listen with great care to members.

The Covid-19 crisis is a stark illustration of why Governments need the flexibility to be able to act quickly and decisively. If Parliament decided to so restrain the powers of Government that we were unable to do that without making primary legislation—which we all know is a process that should be undertaken with great care—we would risk making a mistake.

Presiding Officer, I am not sure how much time I have left. I will certainly try to fill it for you, if you would like.

**The Deputy Presiding Officer:** There is spare time, so, unless your speech is an epic, we can let you get through it.

**Fergus Ewing:** I have just a couple of pages left.

Sadly, at the moment, we are faced with other uncertainties that make it difficult to do what some stakeholders and members wish us to do, which is to set all our policies for the future of rural support, farming and food production right now. Those uncertainties include the fact that we do not know what sort of trade arrangements we will have with the EU, which is our largest export market. We do not know what tariffs might be imposed on different sectors, such as on lamb exports, and we do not know what might be needed to change the current support mechanisms. We know that there is pressure on milk and beef and that there could be pressure on fruit production, as we may or may not be able to harvest fruit crops in full. There are also local and international pressures on cereal—not least the fall in the maize price in the USA, which is consequent on the collapse in the oil price.

There are many uncertainties, so I put it to members that those who ask why we do not have a fixed policy right now are not taking account of those pressures. They are also overlooking the fact that in “Stability and Simplicity” we have the most detailed and clear exposition by any Government in the UK of its financial support policy.

**Mark Ruskell (Mid Scotland and Fife) (Green):** Of course, there is uncertainty over the nature of future trade deals, but the foundation stone of our production in Scotland is a quality

environment and quality produce. Those objectives can surely be reflected in the bill.

**Fergus Ewing:** We have always espoused those as worthy objectives. Consequential on that, we have also stressed the importance of ensuring that agricultural produce—beef, for example—is not imported from countries that do not observe the same high quality standards that are observed in Scotland.

I repeatedly made that point to Michael Gove when he was the Secretary of State for Environment, Food and Rural Affairs. His answer was that the UK Government would include equivalence as a legal requirement in a future trade bill. That has not happened, and I am not quite sure whether it will. If it does not happen, what is to stop importation of cheaper beef from countries that, according to many people, do not observe the high standards of animal welfare that are displayed here? As that is uncertain, it makes it far more difficult to decide whether specific measures require to be taken. As an independent country, we would be free to ensure that we made such decisions ourselves, which Mark Ruskell alluded to.

I reiterate the intent to utilise the powers in the bill from 2021, to begin the simplifications and improvements that we need in our new policy approach. Examples include addressing the severity of penalties for infractions—often relatively minor ones—of the rules; making changes to the inspection system; and looking at the way in which the mapping system deals with small errors. Those are some of the nitty-gritty issues that we need to look at and on which farmers and crofters would welcome action.

Part 2 of the bill focuses on the collection and processing of data. The powers that we currently use go back to 1947, when agriculture was very different, so we have taken the opportunity to update and improve them by making them clearer and more transparent and by linking them to the general data protection regulation and the Data Protection Act 2018. Those are issues of technical procedure and process rather than long-term policy—as in part 1.

I appreciate the recommendations of committees that the bill be approved by the Parliament today. I look forward to listening with care to what members say, and—assuming for the moment that members will want the bill to pass—I confirm that I want to continue to work with members constructively and am open to discussing possible amendments to the bill between its stages, despite the Covid-19 restrictions, if members want to have such discussions. I want to work collaboratively.

Above all, I want to deliver this bill, which is essential if we are to discharge our duties to the farmers and crofters of this country, through whose work we continue to have food on our tables.

I move,

That the Parliament agrees to the general principles of the Agriculture (Retained EU Law and Data) (Scotland) Bill.

**The Deputy Presiding Officer:** I call Edward Mountain to speak on behalf of the Rural Economy and Connectivity Committee.

16:11

**Edward Mountain (Highlands and Islands) (Con):** I am pleased to contribute to the debate as convener of the Rural Economy and Connectivity Committee.

I remind members of my entry in the register of members' interests: I am a member of a family farming partnership.

The committee published its stage 1 report on the bill on 3 March. I thank the cabinet secretary for his letter of 29 April, which set out the Scottish Government's response to our recommendations. I also thank everyone who took part in evidence sessions and provided evidence to the committee.

Overall, the committee supports the bill and is keen to see it progress, to facilitate a smooth transition for the agriculture sector following the United Kingdom's departure from the European Union. We also recognise the importance of providing greater clarity on the development of a long-term rural policy for Scotland. We have reflected the views of many stakeholders in calling for new primary legislation that sets out long-term policy to be introduced as soon as is reasonably possible.

On the purposes of the bill, multiple stakeholders expressed concern that the simplification and improvement provisions in section 2 reflect the lack of an overarching policy and are, potentially, open to different interpretations. We recognise the Scottish Government's argument that to put a purpose clause in the bill would pre-empt the work of the farming and food production future policy group. Nonetheless, we encourage the Scottish Government to provide greater clarity on the underlying principles that are to be applied as measures are developed to simplify and improve common agricultural policy legislation.

Environmental stakeholders voiced concern that the potential for the bill to relax rules and red tape could lead to a regression in standards, including environmental protection and animal welfare standards. The cabinet secretary has provided helpful reassurance that the Scottish Government

has no intention of relaxing those standards. We note the Scottish Government's intention to address such matters further through its proposed continuity bill. As this bill progresses, we would welcome further detail on how the Government will ensure that there is no regression in standards.

The committee's most significant concern is that the powers in the bill are not time limited. That view is shared by the Delegated Powers and Law Reform Committee, Scottish Land & Estates and the Law Society of Scotland—to name but a few. The Scottish Government has repeatedly asserted that it intends to use the powers for no longer than is strictly necessary.

We accept that there is continued uncertainty about the length of the transition and that there is a need to develop a long-term policy for Scotland following the UK's departure from the European Union. However, the committee does not think that it is appropriate or proportionate for the Scottish Government to have, on an indefinite basis, the broad powers that will be conferred by the bill. Although I recognise that such is not the current Scottish Government's intention, the power remains in the bill. Thus, a future Scottish Government could use those powers in perpetuity to amend rural policy through secondary legislation, without suitable, robust parliamentary oversight. That would be undemocratic. We therefore call for a sunset clause that will give due reference to the planned end of the proposed transition period in 2024.

The committee notes that the Scottish Government does not support that recommendation. However, we dispute its contention that our proposal would commit a future Government to a statutory deadline for implementing wholesale change. The committee proposes simply that, should a future Government determine that it needs more time to implement such change, it should be required to seek the renewed approval of the Scottish Parliament to extend the use of those powers beyond the date of the sunset clause. That would be democratic.

On the marketing standards and carcase classification provisions of the bill, many stakeholders have emphasised the crucial importance of maintaining alignment in standards across the UK internal market. That would avoid barriers to the movement and sale of agricultural products, post-Brexit. In that context, we welcome the Scottish Government's repeated assurance that it has no intention of using those powers to disrupt the functioning of that internal market.

We also share the concerns that were highlighted by the DPLR Committee and various stakeholders, including NFU Scotland, regarding the blanket use of negative procedure to exercise

the powers that will be conferred by sections 2 and 8 of the bill.

We welcome the Scottish Government's commitment to reflect further on the procedure to be used, in light of our specific recommendations to simplify and improve those measures, which have wider policy implications, and to make the powers that are conferred by section 8 of the bill subject to affirmative procedure.

The committee strongly welcomes the provisions of part 2 of the bill, which provide an important update to the legal basis for the collection and processing of agricultural data. We welcome the Scottish Government's clarifications regarding the precise scope of those provisions—in particular, that the definition of "agricultural activity" is restricted to the data collection provisions in the bill, and would not affect the definition in any other context, such as for calculating or allocating farm payments.

In recognition of the Environment, Climate Change and Land Reform Committee's view that proper consideration should be given to the environmental impact of the policy measures that are introduced by the bill, we welcome the Scottish Government's commitment that

"the environmental impacts of any changes will be robustly assessed under existing processes."

I turn to long-term rural policy for Scotland. Scotland's agriculture sector has already committed itself to reducing emissions by 75 per cent, and to contributing to a doubling in turnover in farming, fishing, food and drink by 2030. Given those commitments, many stakeholders have argued that the timetable for bringing forward a long-term policy for Scotland lacks urgency. The committee acknowledges the lack of clarity around the future operating environment for the agriculture sector, and hopes that the Scottish Government will recognise that there is also an urgent need to set out, as far as possible, how the powers in the bill will help to set Scotland's agriculture industry on a realistic path towards meeting the 2030 commitments; otherwise, we believe that there is a genuine risk that those commitments will simply not be met.

In the short time that I have been allowed, I have sought to focus my remarks on certain key issues that were raised by the committee in its stage 1 report. In the debate, my colleagues may wish to cover those and other aspects of the report.

In conclusion, the Rural Economy and Connectivity Committee recommends that the general principles of the Agriculture (Retained EU Law and Data) (Scotland) Bill be agreed to. We look forward to the further work of considering potential improvements reflecting the committee's

recommendations—especially and particularly on the sunset clause—when we consider the bill at stage 2.

16:20

**Donald Cameron (Highlands and Islands) (Con):** I refer members to my entry in the register of members' interests as an advocate who once specialised in agricultural law and in relation to my crofting and farming interests. It is unusual to speak in a debate that so neatly unites two of my main interests—law and farming. The mere mention of mapping errors takes me back to when I represented the cabinet secretary's Government in the Scottish Land Court in many agricultural subsidy appeals.

I start by paying tribute to our hard-working farmers, crofters and growers in these difficult and unprecedented times. As I have said in the chamber on many occasions, those who work in our agricultural sector are the custodians of our countryside and despite these and many other challenges that the sector has faced over the years, Scottish agriculture has continued unabated to provide us with high-quality produce. As a result of the resilience of our agricultural sector, there is an expectation on those of us in the chamber to ensure that, as we leave the EU, our farmers, crofters and land managers have not only clarity, but a support system that works for them in practice. The Conservatives acknowledge the significant work that the sector has carried out to improve environmental standards, increase productivity and drive efficiencies, from planting hedgerows to sequester carbon, and using better-quality feeds to reduce methane output, to operating the latest technologies to increase profitability. Our farmers and crofters are at the forefront of delivering for our environment and it is more important than ever that we continue to support the sector so that it can continue on that upward trend.

I turn to the legislation that is before us today. The Scottish Conservatives are happy to support the bill at stage 1 to give farmers and crofters the security and certainty that they need, but with a view to improving the bill at stages 2 and 3. We acknowledge the need to ensure continuity as we leave the EU and note that, at this stage, the bill is an overarching one that sets in place the technical structures to allow farmers and crofters to continue to receive support. However, we also recognise the calls from organisations such as the NFUS, which notes in consultation with its members that there is an appetite for change and for

“the implementation of a new agricultural policy that better meets the outcomes desired by governments, consumers and the industry in terms of climate change ... and growth of Scotland's food and drinks sector.”

Other submissions echo similar themes. Scottish Land & Estates stated:

“What the industry needs now is bold and ambitious leadership in setting a clear direction of travel for future policy.”

The UK Committee on Climate Change acknowledged the same. It said:

“The Scottish Government's plans for a long-term policy framework to replace the EU Common Agricultural Policy are lagging behind both England and Wales.”

We share many of those concerns.

I accept that the cabinet secretary has readily acknowledged today and in correspondence with the committee that the bill is about process, not policy, and so already has a very focused purpose. We, too, will approach the bill in that spirit, but it would be remiss of me not to mention, as I have just done, the concerns of many stakeholders. We will continue as a party to press the Scottish Government for further clarity on its policy proposals for future farming support, but we recognise that that is a debate for another day.

I will address three specific aspects of the bill, the first of which—the absence of a sunset clause—has been referred to already. It is clear from reading the DPLR Committee and the REC Committee reports on the bill that there is a desire to ensure that a sunset clause is included in the bill at stage 2 to ensure that the powers conferred by section 2(1) of the bill do not remain available for an indefinite period. Scottish Land & Estates noted in its submission:

“The lack of a sunset clause means that the powers are not time-limited and could roll on beyond 2024 and the proposed transition period in Stability and Simplicity.”

The REC Committee report also recommends that

“as for section 2, section 6 of the Bill should be subject to a sunset clause”.

The Conservatives believe that such a mechanism will ensure that new policy is introduced after 2024, rather than allowing retained EU legislation to continue beyond then, with corrections being made through the negative procedure, which we do not think would benefit the agriculture sector in the long term. We share the concerns of many stakeholders, members who have spoken already in the debate and the relevant parliamentary committees that it would not be proportionate for the Scottish Government to have the potentially broad power conferred by section 2 of the bill on an indefinite basis. Although the Scottish Government appears to remain opposed to the insertion of a sunset clause, we acknowledge that it is open to discussion on the issue and we welcome that.

I turn to the proposed capping system. The bill introduces regulations to modify any provision of

the main existing EU CAP legislation that relates to the setting or determining of ceilings on the amounts of any payments or expenditure for any purpose under the legislation. We acknowledge that those changes are coming down the track from Brussels, but we remain cautious that future Governments in Scotland may exploit that to reduce the funding available to agriculture. Farmers need clarity on what the capping of individual payments would look like. The NFUS is clear that all funds that are capped must remain within the agriculture portfolio and any potential saving should not be siphoned off into other areas of spending.

I share the views of my colleagues on the RECC that we need to scrutinise the measures effectively and need regular updates on the on-going development of the policy on capping and the specifics of future funding. Capping measures have the potential to impact larger agribusinesses. If we start capping, we need an evidence-based approach because jobs and livelihoods may be at risk. We urge the Government to provide us with more clarity on that section of the bill.

My final point is on the four nations approach. In leaving the EU, there is an opportunity to maintain the UK's high environmental and animal welfare standards. We do not want a regression in standards and we want to be clear that consumers should know that when they purchase Scottish produce they are buying a product that has passed some of the highest standards in the world. I understand that the Government still proposes to introduce a continuity bill that will provide for the ability to align any area of Scots law with EU law in areas of devolved competence, although I believe that there may be some delay to that as a result of the coronavirus crisis. In the meantime, we are firmly of the view that we should keep to the highest standards, but we must be cognisant that, over time, greater alignment with the EU may well threaten the integrity of the UK internal single market that is so intrinsic to Scottish agriculture. Scotland trades three times as much with the rest of the UK as it does with the rest of Europe and we must be mindful of that proportion when setting any direction in standards. We believe that common UK frameworks must be agreed in order to ensure a consistent approach across all four nations.

The Scottish Conservatives are happy to support the bill at stage 1. We will look to amend the bill at stage 2 to address the various concerns that have been mentioned and that are all informed by evidence and reasoned judgment. We remain of the view that we need further clarity from the cabinet secretary on future policy and the specific nature of a new farm support model—and we need that soon. The bill, purposively, does not provide such clarification, although crucially, it

provides farmers with certainty over continuing payments and the mechanism for such payments. For that reason, the bill has our support today.

16:28

**Colin Smyth (South Scotland) (Lab):** The bill is important and I recognise the need for it to be passed swiftly in order to provide certainty on future payments for farmers and crofters. I am happy to support the bill at stage 1. However, our constituents may be asking why, in the current crisis, the Government has insisted that the first substantive debate that the Parliament has held in some months should be this one, rather than a debate on the impact of the Covid-19 pandemic on their communities, including our rural communities.

I genuinely regret that the debate is taking place in a way that excludes many members, including some who have contributed to the stage 1 report that we are debating today. The Scottish Parliament should be leading by example and following best practice and advice. We are telling high-risk people to stay at home, but we are saying to any member who wants to participate in today's debate that they must attend in person. We are telling businesses to make adjustments to enable home working, but we are failing to make adjustments that would allow members who cannot be here today to contribute to the debate through a videolink. That is not how workplaces should be operating during this crisis and that is not how legislation should be made. Labour called for the debate to be delayed until Parliament had put in place the technology to allow digital participation. I am disappointed that that call was not supported by other parties.

The Covid-19 crisis has shone a light on so many issues and Government announcements that are not being fully debated in this chamber, such as testing, personal protective equipment availability and economic support for our communities.

The Covid-19 crisis has also underlined the importance of a strong agriculture sector and a robust food supply chain. It has exposed the vulnerabilities in our food system, but it has also highlighted the resilience of workers in our critical food and drink sector. I offer my heartfelt thanks for their heroic efforts to all those workers—from the farmers who are fighting to rescue the summer harvest to those in our supermarkets who are working round the clock to keep essential supplies on our shelves. Their work has allowed us to avoid the major food shortages that we feared, and we owe them all a huge debt of gratitude. They should not have had to ask 32 individual local councils to designate them as key workers.

Although the sector's hard work and innovation mitigated the worst impact of the sudden shift in demand from the food service sector to food retailer and the halt in people being able to move freely, the vulnerability of supply chains to major upheaval has been clear. The capacity to adjust rapidly, without chaos and cost, is seriously limited and we cannot ignore the precarious nature of our food system.

The sector has responded well to the crisis, but we should not be dependent on a largely reactive response. We need a more strategic, joined-up approach to managing our food system and robust contingency planning to ensure that the sector is prepared for future emergencies.

We need to better link food and farming policies and properly recognise their role in health, the environment and poverty. We need to end the siloed approach by introducing a more cohesive and comprehensive policy on food—from the farm to the fork to waste.

One way to help to deliver that would be through the development of a national food plan—a statement of policy, as proposed in the consultation on the good food nation bill. Although the decision to shelve that bill was perhaps unavoidable, it is still disappointing that that important piece of legislation will not get a chance to progress. However, we should not drop all elements of that bill. I urge the cabinet secretary to look at what we could incorporate from the good food nation bill into this agriculture bill. Since the bill that is before us was drafted and the stage 1 report was written, the world has changed; we need to change with it. We should start by looking at how we can amend the bill to underpin the development of a national food plan, as the Scottish Food Coalition recommended.

Other changes to the bill are needed. It provides powers for the Scottish ministers to make changes to common agricultural policy legislation to “simplify or improve” its operation and enable pilot schemes, but it does not define simplification or improvement, and the scale and purpose of pilots remain unclear.

We need more detail on the Government's plans for the transition period and what it wants to achieve from the investment in agriculture and the wider rural economy, and we need clear direction for the future to provide as much certainty for the sector as we can. As we have heard, that clarity could be improved by the inclusion of a purpose clause in the bill.

In our stage 1 report, the Rural Economy and Connectivity Committee highlighted

“the views expressed by multiple stakeholders that the Bill lacks an overarching purpose or direction.”

In his response, the cabinet secretary expresses concerns about

“setting a statutory ‘direction of travel’ that proves impossible to deliver”

due to uncertainty about the future. That uncertainty is why we need a statutory purpose clause—a set of key values at the heart of policy making. A purpose clause would not pre-empt the work of the farming and food policy group. It is the role of the Government and Parliament to provide leadership in policy making. A purpose clause would set high-level objectives to guide policy making during the transition period and as we develop our long-term strategy.

Given the broad regulation-making powers that the bill would create, the need for more detail from the Government is also essential. I appreciate the need for secondary legislation to be used, but Parliament cannot be expected to write the Government a blank cheque. Therefore, I echo the Law Society of Scotland's calls for more requirements for consultation and, where appropriate, the use of affirmative procedure to provide greater parliamentary scrutiny. That is particularly relevant to powers that allow ministers to “simplify or improve” the operation of CAP legislation, given the broadness of that language. At a minimum, the use of that power should be subject to adequate consultation and parliamentary scrutiny.

More broadly, that power and others must be time limited. That will address concerns about those sweeping regulation-making powers being available to ministers indefinitely, and reiterate the Scottish Government's commitment to bring forward a new system by 2024. I recognise the concerns over a fixed date that the cabinet secretary outlined in his opening comments, but those concerns could be avoided by including a mechanism for ministers to extend the duration of the bill by secondary legislation if necessary.

The Covid-19 pandemic has brought home to us all the importance of food, and it has exposed the fragility of supply chains, as we only narrowly avoided major shortages in our supermarkets, and many vulnerable people still cannot book home delivery slots for their essential groceries. It has sadly highlighted the vulnerability of many families, with the Food Foundation estimating that 3 million families across Great Britain have gone hungry during the lockdown. It has revealed a new desire for local produce, with more people using farm shops and local dairy deliveries for their supplies—but we have also all witnessed the scenes of farmers pouring unused milk down the drain. If ever there was a need for a better contingency plan for food supplies and a national food plan, it is now. Let us wake up to the fact that



the world has changed and use this bill as an opportunity to put in place a national food plan.

16:35

**Mark Ruskell (Mid Scotland and Fife) (Green):** I thank the committee for its thorough report on the bill, and I send John Finnie's best wishes to the chamber for this debate.

The Covid-19 crisis has certainly brought many issues to the fore, not least the vulnerability of our food system and the vital contribution that food sector workers—from the producers through to the fruit pickers, the processors, the independent shop owners and the women and men staffing our checkouts—make to our society. Crises hone our sense of what is important, and there are few more important things than having access to fresh, affordable and healthy food.

The Scottish Greens recognise the role of public subsidy in supporting our food system, and in delivering good management of our land and the wider environment, so we will be supporting the general principles of the bill.

We recognise the uncertainty that farmers have faced since the referendum in 2016 and the difficulties that still remain in designing a clear agricultural support system for a Scotland that is outwith the EU but closely aligned to it. In that regard, the transition period that the bill facilitates, and the research and development and pilot work that it proposes, are welcome. However, we agree with many stakeholders that the bill sorely lacks an overarching purpose and direction for how it should be used. The question remains, what are we transitioning to? What outcomes will we be seeking from the pilots and how will we judge success?

As it stands, the bill gives ministers extensive powers without addressing those questions or providing any guidance on how those powers should be used. Scottish Environment LINK has called on the Parliament to agree a purpose for the allocation of future agricultural support and has created a comprehensive list of outcomes for future support schemes. That is about recognising that we face twin climate and nature emergencies. Outcomes must tackle those crises head on, while building resilient food production systems that are able to withstand the inevitable shocks to come. Including those broad outcomes in legislation would not hinder the development of pilot schemes or the simplification of existing legislation, but it would provide clear direction and certainty to industry, Government and Parliament.

Farmers plan for decades, if not generations, ahead. They need to know that politicians and Governments are willing to do the same. Although uncertainty exists about how much subsidy money

there will be in five years, or what type of trade deal the UK might end up with, Scotland's strengths are clear. The quality of our environment and food go hand in hand, and although we might never be able to compete with more intensive forms of food production, whether those are within the UK or outside the EU, we have to build on our strengths. That is a clear certainty on which we should build objectives for the future.

The NFUS has urged ministers to drive forward the development of policy as a matter of urgency, and Scottish Land & Estates has called for a purpose section to be inserted at stage 2. Meanwhile, as we have heard, the Scottish Food Coalition has called for the bill to require ministers to set out a broader statement of policy on food, and I would encourage the Government to carefully consider that proposal. The requirement for a statement was a core part of the proposed good food nation bill, which has now been indefinitely postponed. Such a policy statement would have greatly influenced the delivery of a new agricultural support system, including how subsidies can be used to build resilience and diversity in supply chains, deliver on public health outcomes and address social justice issues around food.

I appreciate that the bill seeks to deal with specific mechanisms for farm payments, but consideration of financial support on its own, with no consideration of the wider policy framework that should influence those payments, is exactly the kind of silo thinking that the good food nation bill was supposed to address. Given that much of the development and consultation work for the statement of policy on food has already been carried out, I again urge the Government to consider how it can be included in the bill at stage 2.

I note the Government's reassurance that there will be future consultation on wider agricultural policy but, given the long list of advisory groups and round tables that the cabinet secretary has convened since 2016, I am perplexed as to why we do not have a comprehensive agricultural policy ready to go right now.

Time is running out in our monumental task of delivering a 75 per cent reduction in climate emissions in 10 short years. That takes us to the end of session 7 and it is not a lot of time for us to turn the corner and to cut emissions in a way that also delivers a successful agricultural food economy in Scotland.

Our new Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 includes a framework for farming objectives, which have to be reflected in the new climate plan that is scheduled for December this year. The UK Committee on Climate Change has been critical of

the Government's lack of progress so far, and it would be unthinkable to have a revised climate plan without a clear policy on agriculture to accompany it.

We must ensure that our farmers can continue to receive the stable support that they have enjoyed under the CAP. To miss this opportunity to clearly set out the environmental, social and health outcomes that we want our farmers to deliver on would be a dereliction of our duty as parliamentarians, and it must be fixed through the bill.

16:41

**Mike Rumbles (North East Scotland) (LD):**

The Liberal Democrats support this very necessary bill. Among other things, it will ensure that agricultural support payments to businesses up and down the land can be paid by the Scottish Government after the end of this year. That is even more important given the current crisis, when so many enterprises throughout Scotland are going through such difficult times. I am pleased that the bill will continue its progress through the parliamentary process to becoming law.

The importance of the bill can be seen by the broad support for it from stakeholders who were called to give evidence to the committee in the lead-up to the debate. The bill allows the Government time to develop primary legislation to implement its bespoke agricultural policy for after 2024, which is the year that it has set itself in which to have the legislation on the statute book.

The one point of controversy that I wish to focus on relates to the broad powers that the bill will give to the Scottish ministers under section 3, which is headed "Power to provide for the operation of CAP legislation beyond 2020". It says:

"The Scottish Ministers may by regulations modify the main CAP legislation for the purpose of securing that the provisions of the legislation continue to operate in relation to Scotland for one or more years beyond 2020."

It is clear why the Government does not want to put an end date of 2024 in the bill: it is concerned that it might not be in a position to put in place new primary legislation by then.

I understand that point, which has been reiterated by the cabinet secretary this afternoon, but it causes a problem. The majority of witnesses to the committee expressed concerns that section 3, as it is currently written, would allow the current Scottish Government or, indeed, any future Government to delay or even fail to implement the primary legislation that is needed to support the new agricultural policy for Scotland that everybody wants to see post-2024.

I have quotations from just three organisations that gave evidence to the committee. In his impressive evidence, Jonnie Hall of NFU Scotland said:

"Some sort of sunset clause, which is what we are talking about here, would be advantageous, but the time limit needs to be thought out very carefully."

Yvonne Wight of the Scottish Crofting Federation said:

"as it stands, the power in section 3 of the bill will be available in perpetuity ... there are concerns about the CAP legislation continuing to operate in perpetuity."—[*Official Report, Rural Economy and Connectivity Committee, 18 December 2019; c 5-6.*]

The Law Society of Scotland said:

"Given the stated intentions of the Scottish Government that this is a transition Bill with work ongoing in relation to future policy, we question whether the powers under the sections in this part, in particular those powers in sections 2 to 4, should be time-limited by the introduction of sunset provisions. The powers in the Bill could be used by any future Government and this may not be done in line with the intentions of the current Government."

The current Government might not be here for ever. [*Interruption.*] Steady on.

Even the Delegated Powers and Law Reform Committee called for a sunset clause when it examined the bill—although it suggested a date of 2030. It is the view of members of the Rural Economy and Connectivity Committee, however, that that would extend the date too far. I refer to the unanimous view of the members of the committee, by quoting the recommendation that we made in our report. The report states:

"The Committee endorses the view expressed by the DPLR Committee, with the exception of its proposal that a sunset clause should be extended to 2030, which it considers to be too far in the future. It therefore calls on the Scottish Government, as the Bill progresses to stage 2, to bring forward proposals for a sunset clause extended to a date that gives due reference to the planned end of the transition period in 2024".

We are not hung up on the sunset clause applying in 2024; the bill that has been introduced has been framed with the best intentions. However, it is the job of parliamentarians to examine the bill critically and to see how it can be improved—that is our job, and it is the purpose of the stage 1 debate.

I hope the cabinet secretary will acknowledge that there are, among stakeholders, real and legitimate concerns about section 3 of the bill, which have been highlighted in the committee's report and by members of the Scottish Parliament from across the chamber this afternoon. I am pleased that the cabinet secretary has said that his mind is not closed to considering a sunset clause, and that he will work with members from across the chamber at stage 2 to see how the bill can be improved to everybody's satisfaction.

I now refer again to the evidence that Jonnie Hall of NFU Scotland gave to the committee on 18 December. He said that

“the time limit needs to be thought out very carefully”.—  
[*Official Report, Rural Economy and Connectivity Committee*, 18 December 2019; c 5]

We do not want to restrict the actions of the Scottish Government. However, we do not want it to have the powers in perpetuity.

I would like the cabinet secretary to lodge a Government amendment that would place a time limit in the bill—perhaps to the end of the next session of Parliament, in 2026. That would give plenty of time to introduce primary legislation for a new bespoke agricultural policy for Scotland, which we all want. That would also ensure that we can all move forward together; it is important that we do that to pass this much-needed transition bill.

16:47

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** I am glad that we are, at last, having this debate. The bill was considered by the Rural Economy and Connectivity Committee quite a while ago: I note that a number of organisations, including NFU Scotland, want the bill to proceed with some speed in order to provide a degree of certainty about payments, in these otherwise very uncertain times.

I regret that some of my committee colleagues are not here in person to deliver their views on the bill and the stage 1 report. However, a number of them have been in conversation with me and with other members, today.

Throughout consideration of evidence, there were many who wanted the bill to do more than it is intended to do. The bill is not a vehicle through which to overhaul the CAP or to completely revise how payments are made to farmers, and in the rural economy more generally. Thank goodness for that. As current events have shown, such a bill would possibly be largely irrelevant, and would have to be scrapped or heavily amended.

The bill is about process, and it is required as a result of the calamitous decision by the UK Government to leave the EU, which is regarded by the vast majority of Scots as a flawed decision—even more so in the situation in which we now find ourselves. The CAP will cease to apply at the end of 2020. Therefore, as a Parliament, we must take the necessary steps to continue to support our farmers and crofters. Agriculture is devolved, so it is right and proper that this Parliament should establish its own policy on it.

There will be a requirement, in time, for a definitive bill on future agricultural policy and payments. Thank goodness that the Scottish

Government has not rushed into doing that now. In 2018, the Government’s response to a consultation on our exit from the EU was called “Stability and Simplicity”. That seems to be very apt now. Parliament, as the committee suggests, should accept the Scottish Government’s commitment not to use the legislation for any longer than it is required.

As a result of the global pandemic, the term “food security” has taken on even greater importance than it had previously. I hope that those who have advocated for a sunset clause will now agree with the NFU Scotland and others, and will realise that such a section would be inappropriate and is not required, given the Government’s commitment as set out in its response to the stage 1 report. Many of us are nervous about being here, and the Parliament’s timetable has been disrupted. It seems now to be even more inappropriate that a sunset clause be included.

As a result of the need for change, the Government has committed to some innovative agricultural pilot programmes. I suspect that the cabinet secretary did not have time to say anything about those because of the interruptions that he experienced during his opening speech. If he could speak about those schemes during his summing up, that would be welcome.

The bill addresses the need for alignment of standards—for standardisation across the UK marketplace. I think that most of us here would prefer to be seeing a commitment to standards that would still be aligned with those of the EU. The main driver, as always, must be the best interests of the Scottish agricultural industry and Scottish consumers. The people of Scotland expect nothing less from the Scottish Government.

The bill provides the ability to cap agricultural payments. That is broadly welcome; many people are horrified by the amount of taxpayers’ money that is given to already very wealthy farmers, so it is welcome that future payments will be based on a farm’s output, rather than on its area.

On that, it is worth noting the data-collection aspects of the bill. During his evidence to the committee, the cabinet secretary reassured me that the bill will not lead to a requirement for more information. It is important that data is collected in the most up-to-date way, and that it is relevant. If the data is to be credible, it must be used for the benefit of the nation by leading to good use of taxpayers’ money.

I promised my colleague Emma Harper that I would mention something that she would have brought up, had she been here. It concerns the producer organisations that are mentioned in the bill. Emma Harper represents 48 per cent of

Scotland's dairy farmers in her South Scotland region. She is very worried about continuity of milk supply, so she would like the cabinet secretary to clarify, in his closing remarks, whether the bill supports initiatives such as producer organisations and fruit and vegetable organisations, which can be hugely beneficial to farmers.

I would also like the cabinet secretary to say more about the agricultural transformation fund, because anything that we do now must be in the context of our commitment to mitigating climate change.

I will support the bill at decision time.

16:54

**Liz Smith (Mid Scotland and Fife) (Con):** I make this contribution on behalf of my colleague Peter Chapman, who is unable to be present. He reminded me last night that one of the most important things that I should do is to draw members' attention to his entry in the register of members' interests.

Notwithstanding the fact that this speech is very much Peter Chapman's contribution, I very much welcome the opportunity to speak this afternoon as a member for Mid Scotland and Fife. Colin Smyth said that Labour was not content about the debate being held. I understand that Covid-19 is the focus, but the bill is very important. It matters to a lot of people in a hugely important sector. We should not forget that, although it may be about process, how we support the agriculture sector matters.

Like the rest of my Scottish Conservative colleagues, I am supportive of the general principles of the bill. I agree whole-heartedly that there must be a smooth transition in the ability to make payments to the agriculture sector as the UK leaves the EU—that is essential, especially when it comes to allowing farm support payments to be made post-Brexit, and the desire for simplicity and stability after the initial exit from the EU has to be very welcome.

I think that the Covid-19 crisis has shown the importance of having resilience built into the agricultural industry in order to maintain the supply lines and keep food on families' tables; Mark Ruskell made an important point about that. As such, it is easy to argue that the bill has become even more important now than it was before. We owe so much to our agricultural sector, which is critical to the wellbeing of our society.

The bill focuses only on the short to medium-term future—from now until 2024—which will take us almost halfway through to our ambitious 2030 targets for a 75 per cent reduction in greenhouse gas emissions and the doubling of our output to

£30 billion. That leaves us only six years to enact the large-scale changes that are needed to meet those challenging targets. If the industry is to have any chance of doing that, it needs to have far greater understanding of the support mechanisms and of the direction in which we are going.

A substantial reduction of emissions in the agricultural industry, coupled with a desired target of doubling turnover in farming, fishing and food and drink to £30 billion without a clear policy, is, at best, wishful thinking. It is in that vein that my colleagues have argued that a longer-term sustainable rural policy for Scotland should be put before Parliament as soon as is reasonably possible, thereby giving the industry as much time as possible to enable efficient, effective and environmentally beneficial practices.

We welcome the use of pilot schemes and acknowledge the many benefits of trialling policy changes to identify and inform longer-term policy development. However, the Scottish Government must keep Parliament and, most important, the industry up to date as to what those pilot schemes are and how they will operate. There needs to be full clarity and transparency.

The renewed focus on an outcome-based approach, as opposed to an area-based approach, to the calculation and allocation of farm payments is welcome. One of the few assets from Brexit—in my view, they are few—will be our ability to design a bespoke system for agriculture that fits Scotland's farmers' needs and desires, so it is good to see that the cabinet secretary is responding to that.

There is a need for additional assurance at stage 2 that there will be no relaxation of environmental and animal welfare standards as a result of the bill. The issue of standards needs to be subject to common framework discussions with the UK Government. It is imperative to protect the integrity of the internal UK market and to avoid any potential barriers to the movement and sale of products post-Brexit. Assurances are needed that the Scottish Government will not needlessly diverge from the rest of the UK, on which Scottish agriculture is so heavily dependent.

The committee was in general agreement that the use of the negative procedure should be amended. Section 2 of the bill would give ministers sweeping powers to modify regulations relating to direct payments, transfers and funding. Without additional safeguards, the powers that are conferred in the bill could be used to amend rural policy without parliamentary scrutiny. That is not an acceptable situation. Therefore, the inclusion of a sunset clause, which has been spoken about eloquently by Mike Rumbles and by Edward Mountain, the committee convener, is important.

A contentious issue is the possibility of individual payments being capped. If a Government were to decide to do that, that must be done in a fair and proportionate manner. It needs to be recognised that farms receiving large payments are regularly and intimately involved in agri-environment schemes and employ significant numbers of staff. Consequently, any schemes must be subject to wide-ranging consultation before they progress.

Scottish Conservatives welcome the general principles of the bill and see the need for simplicity and stability post-Brexit. The bill has the potential to make major changes to the agriculture industry in the next few years. It will have implications for a world in which Covid-19 looks set to stay for some time. Change is inevitable, and the industry accepts and expects that we will urge the cabinet secretary to grasp this opportunity by using the Government's ability to pilot new schemes as soon as possible in order to give our farmers the guidance and clarity that they need.

17:00

**Angus MacDonald (Falkirk East) (SNP):** It is fair to say that everyone who has the agriculture industry at heart would like to see the bill done and dusted as soon as possible. I am therefore pleased that we are having this stage 1 debate to help to move it forward.

It is also fair to say that stakeholders are, broadly, on the same page in relation to the bill. It is good to see common ground between the Scottish Government and industry bodies such as NFU Scotland and the Scottish Crofters Federation. We know that NFU Scotland's view is that the smooth passage of the bill will be vital to ensuring stability and certainty in the period immediately following the UK's departure from the EU and as the agriculture sector plays its role in the recovery from Covid-19. That approach has never been more important than it is now, as we see the UK careering towards the cliff edge of a no-deal Brexit at the end of the year.

It is with that last point in mind that many stakeholders welcomed the proposal for public intervention and private storage aid. Section 5 of the bill gives the Scottish ministers powers relating to "intervention purchasing", which involves paying private companies to store product rather than immediately placing it on the market. Clearly, none of us would want to see a return to the EU's discredited milk lakes or butter mountains, and no one is suggesting anything on that scale. However, those provisions are designed to enable public authorities to manage prices in agricultural markets during periods of volatility. Although I am sure that none of us would wish to see such an intervention being used, if we have to endure a no-

deal Brexit the legislation might be required sooner rather than later.

Steven Thomson, policy adviser at Scotland's Rural College, stated in evidence to the committee:

"There also needs to be scope to maintain intervention. The EU has that potential, and America uses it in emergencies. We need to have the scope for storage and intervention in the markets in exceptional circumstances. A hard Brexit or a no-deal Brexit may be such an exceptional circumstance in which we might need scope for that far sooner than we think."—[*Official Report, Rural Economy and Connectivity Committee*, 27 November 2019; c 18.]

Of course, such provisions would be used only in market crisis situations. However, as the cabinet secretary explained in his oral evidence to the committee, the Government was already looking at an exceptional circumstance that would require intervention using the powers conferred by section 5. That is—or was, and might be again—the previously made preparation for creating a compensation scheme for sheep meat in the event of the UK's leaving the EU without a deal. That would—and still could—result in the introduction of significant tariffs on sheep meat exports, as the cabinet secretary alluded to in his opening remarks.

That is an important aspect of the bill that gives some comfort to the industry, which is why it has offered its widespread support for the inclusion of such powers. It also highlights the strong possibility that public intervention might yet be required to protect specific agricultural sectors in Scotland against specific exceptional circumstances—for instance, in the event of a no-deal exit from the EU.

I turn to the issue of a sunset clause, which has had quite a bit of coverage in the debate. In his opening remarks the cabinet secretary said, in relation to such a clause—I will paraphrase his comment—that now is not the time. When the committee signed off its stage 1 report, it endorsed the view of the DPLR Committee that there should be a sunset clause, but not that committee's view that such a clause should be extended until 2030. However, that was then and this is now. It must be said that when the stage 1 report was published on 3 March, we did not yet know the impact of the coronavirus.

We have ambitious targets on agriculture ahead of us—not least that of doubling the value of Scotland's food and drink sector under "Ambition 2030: Industry Strategy for Growth". However, such targets also bring challenges, not the least of which will be ensuring that, over the same period, Scottish agriculture will make a significant contribution to a 75 per cent reduction in greenhouse gases, moving onwards to net zero by 2045.

Stability and simplicity are required and will be a must over the coming years up to 2024; another must is the need to ensure that the development of policy for the sector post 2024 is driven forward by the Scottish Government with an objective of introducing new primary legislation as soon as is reasonably possible in order to ensure the enactment of a new policy that goes beyond the stability and simplicity approach.

It is worth noting that NFU Scotland, while recognising the aspirations and intentions behind the inclusion of a sunset clause in the bill, now has concerns with such an approach, particularly with such a date being fixed in legislation. Its position is that fixing a sunset clause in legislation could equally constrain agriculture if, by 2024, the wider operating environment resulting from the UK-EU trade discussions or other current unknowns that could be destabilising—such as economic, environmental or social issues—is such that stability and certainty in agricultural policy are still required.

As NFU Scotland states:

“it is impossible to predict what political, market, regulatory and economic operating environment the agricultural industry will be operating in by 2024.”

It is for that reason that NFU Scotland believes that the Scottish Government should not be legislatively bound to implement a new agricultural policy by that date or any other specific date. That said, it is fair to say that development of future policy beyond stability and simplicity must get under way as soon as possible to ensure that the industry keeps up with the direction of travel.

I look forward to stages 2 and 3 of the bill and I hope that the cabinet secretary, in summing up, will have a bit more to say regarding a sunset clause in particular. This is not the time for an arbitrary statutory timescale for wholesale change to rural support services as we try to recover from the Covid-19 pandemic.

17:06

**Rhoda Grant (Highlands and Islands) (Lab):** Although I recognise that the bill is necessary, it is not urgent. We should not be debating anything but our response to Covid-19 and emergency legislation while not all members can attend the Parliament to vote and while this Parliament cannot pass legislation virtually.

We are also asking people to stay at home unless their reason for leaving is to contribute to the fight against Covid-19; this legislation does not do that, so we are setting a poor example. It is unacceptable that the Scottish Government has forced us to break the Covid-19 regulations that it has set.

There are also members of the committee that took evidence on the bill who cannot be here today, which means that we cannot find out what they have learned from taking that evidence. There is a difficulty in the processes of the Parliament when those who are supposed to inform members about the bill cannot be present in the chamber.

Although the bill is necessary, it is not urgent. Neither does it deal with the shape of farming support going forward—there is no vision and no ambition; it is just the same old support on offer. The Scottish Government should have been planning for what will replace the CAP, the form it will take and the public goods that will be required from crofters and farmers in return for that public support. Unfortunately, the Government has squandered that opportunity.

The cabinet secretary said today that the bill will provide stability until 2021. That is next year, and anyone who knows anything about farming and crofting knows that a year does not provide stability for them. They need to know the direction of travel. Our crofters and farmers will end up with no idea of what is to come or what public goods will be supported.

Covid-19 makes everyone's future more precarious, and the Government should be providing certainty where that is possible. We have always said that public money must pay for public goods, which must include supporting local economies and providing jobs and income.

**Fergus Ewing:** Let me make it absolutely clear that we believe that stability should continue to be provided until 2024. Moreover, from 2021, in addition to the continued support that farmers know they can have and that they will get for the years until 2024, we will be trying pilot schemes of new initiatives. The stability will continue not until 2021 but until 2024 under our plan.

**Rhoda Grant:** That suggests to me that there will be no change in policy until 2024. How on earth will the farming and crofting sector meet its climate change challenges if there is no change in how support is distributed until 2024?

We need a joined-up policy across departments. For years, we have been telling crofters and farmers to diversify to make a living, yet that diversification could mean that they are not getting the financial help that they require during the Covid-19 crisis. All arms of Government need to sign up to and support policies. For instance, we have asked farmers and crofters to consider entering the hospitality industry but, in the current situation, self-catering accommodation does not attract any support.

The bill does not address the food chain, and the difficulties in that regard have been exposed

during the Covid-19 pandemic. We hear of people not being able to access food because they have to isolate or because they cannot afford it; in contrast, we see farmers pouring milk down the drain because they have no market for it. That is absolutely obscene. For those of us who have plenty, that is heartbreaking to watch, so I cannot imagine how it must feel to those who are hungry or those whose families are hungry. The bill does nothing about that.

The industry is crying out for labour. Crops are going to rot in the fields, which could lead to a food shortage, but, yet again, the bill does nothing about that. The Government can support businesses through the crisis with finance, but that finance cannot prevent crops from rotting in the fields.

Throughout the Covid-19 pandemic, access to food has been a big issue, yet the bill does not deal with that. If ever we should be looking for an agriculture policy that goes from field to fork, we should be doing it now. During the lockdown, 3 million people in Britain have gone hungry, 1.5 million have gone a whole day without eating and 7.1 million have had to reduce or skip meals because they could not afford enough for everyone in the household. That is pretty grim, yet, rather than the good food nation bill being treated as urgent, it has been delayed due to the pandemic. At the very least, the bill that we are discussing today must include a right to food until such time as we can get comprehensive legislation through the good food nation bill.

Agriculture and access to food are intrinsically linked but, historically, the Government has too often taken a siloed approach to policy and legislation in the area, and families are now suffering as a result. The bill was an opportunity to change that, but the Government has not taken it.

17:12

**Gillian Martin (Aberdeenshire East) (SNP):** At this most difficult of times, as the Parliament is endeavouring to continue business, I commend the Parliament staff for the huge effort that they have put in to ensure that members can continue to represent their constituents. I understand that the Parliament is considering proxy voting to give a voice to members who cannot be here, and I had hoped that this speech would be the first proxy speech, but I appear to have been beaten to it.

My colleague and friend Stewart Stevenson, who sits on the Rural Economy and Connectivity Committee and who represents the large food-producing constituency of Banffshire and Buchan Coast, cannot be here, as he is in the category of those who must shield—although only just, I

should say. I will endeavour to echo his voice in a small way. I have been liaising with him on the points that he would have made in the debate. I stopped short of paying further tribute to him by wearing his galluses, tempting as that was, although I believe that our hairstyles are similar at the moment.

Stewart told me that, at the beginning of his seven weeks of lockdown, the fields that he walked past near his home in Boyndie for his daily exercise were winter torn and largely bare. However, when I spoke to him yesterday, he recounted that he had walked past the same fields and seen spring barley 9 inches tall. That made him think how easy it would be to imagine that the farmer needed only a few weeks' work to transform a field from winter to spring, but, of course, we know better—that barley was long in planning. The farmer's decision about what to plant was made at least as far back as last autumn, and possibly even earlier, when she or he made financial projections that enabled a decision on how much seed to order and assessed the potential market for the crop.

As they made those calculations, they knew that they were part of a chain of suppliers and buyers who were making similar calculations. The sheep farmers would have had to consider the potential for the lamb sales later this year when they put the yowes to the tup last year. They were probably cautious, because they might have foreseen difficulties in selling to France, which we all know is a very important market for Scottish lamb. Lamb producers in Scotland are particularly worried about a post-Brexit trade agreement, and Angus MacDonald has mentioned issues with regard to the lamb sector.

We can be certain that no Scottish farmer incorporated a viral pandemic into their spreadsheet projections last autumn. If we let that difficulty translate into reduced farming profitability, we face the prospect of having less of our home-grown food on our tables. That simply cannot happen from an economic, social and environmental perspective—and from a health perspective, too.

The agriculture bill that is before us this afternoon is more vital in content than ever. Most critical is its timing and our ability to be fleet of foot as we recover from this crisis and help our agricultural sector through the difficulties that lie ahead, as well as with Brexit. Only if we give certainty to our farmers and crofters—and all the businesses that work with and rely on them—about the support that they will receive will their actions in planning for 2021 and beyond preserve that most vital of industries.

So, how will the bill help—and why now? I will deal with the “now”. Few farmers are without an

overdraft. Stewart Stevenson believes that the banks' sentiment towards their agricultural creditors is unlikely to improve, and their margins are being squeezed by a base rate of nearly or actually zero. He says that some certainty on the farmers' balance sheets will help to keep the banks at bay—and he speaks, of course, as an ex-banker.

The earlier we can act to deliver certainty, the better the outcome will be. A pound promised now and guaranteed through legislation is worth a lot more than a pound promised in September, even if it were to reach the relevant bank account on the same day. That is because, in a crisis, too many creditors will seek to minimise adverse outcomes by calling in loans if “bad” looks as if it may be followed by “disastrous”. Lenders or trade creditors winnae hing aboot, as they say in Stewart's constituency. They will want to recover as fast as possible.

The bill's most important purpose for farmers is:

“From 1 January 2021, to enable the continued operation of current CAP schemes and policies”.

That has already been promised to farmers, but we must not delay progress towards creating a statutory framework, especially at a time when there are so many other sources of uncertainty for everyone. There are not many areas on which we can give certainty right now, so when a chance comes along we have a duty to do so. If we increase doubt by not progressing this legislation, that will simply translate into more difficulty on farmers' and crofters' balance sheets.

It is Stewart's view that the bill does not change policy but provides the powers to do so in the future, with the consent of Parliament. He believes strongly that the bill is an essential part of protecting the support for our farmers that previously came as part of our membership of the EU's common agricultural policy. I represent a large rural and agricultural constituency that neighbours Mr Stevenson's, and I am in complete agreement with him.

The noises from Westminster are clear. Despite strong objections on social and economic grounds, the UK Government has said that it will stick to the Brexit transition period ending on 31 December. Many of us, including myself, will make the case for changing that date, but we have to accept that the parliamentary arithmetic at Westminster is not in our favour. We would be fools to gamble on winning the argument, because of that large majority. When that happens, farmers and farming will be hit at precisely the moment when farming's huge importance will be growing even more. Stewart has asked me to relay to members today that it is incumbent on us to support the bill, to guarantee our farmers some certainty now.

**The Deputy Presiding Officer (Lewis Macdonald):** We now come to closing speeches. I remind members of the importance of maintaining social distancing, especially when entering and leaving the chamber.

17:19

**Colin Smyth:** As I said in my opening comments, Labour will support the bill at stage 1, because we understand its importance. However, I reiterate the comment that I made earlier that delaying the debate by a couple of weeks, so that members who are unable to be here today could have participated virtually, would not have in any way detracted from that importance. We have already seen a number of members giving proxy speeches when there would have been an opportunity in a couple of weeks for those members to be present virtually.

More importantly, such a delay would have allowed what would have been the first substantive debate on the crisis that we face over Covid-19 to have taken place this week, instead of waiting more weeks before that debate takes place. I wonder what our constituents must think about our priorities.

Although we will support the bill today, we also want to see improvements as it passes through the parliamentary process. I welcome the commitment of the cabinet secretary to work with other parties to deliver—I hope—the changes that we need.

A recurring theme throughout today's debate has been the concerns of stakeholders over the lack of clarity and direction from the Government both during the transitional period and in beginning the process of developing a new agricultural support scheme.

At every step of the way, it seems that it is stakeholders, and not Government, that have led the way. NFU Scotland, Scottish Environment LINK and Scottish Land & Estates have all set out proposals for a new system and for how we should use the transition period to begin the process of moving to that new system, and WWF has produced detailed policy options for reducing emissions.

We have seen little information from Government since it published “Stability and Simplicity” almost two years ago. The only changes that have been suggested so far are the largely technical ones that were set out by the simplification task force. We have had no detail on what other changes are being considered to improve on or simplify common agricultural policy implementation in Scotland and no detail on what the pilot schemes might cover, what their budgets could be or how they will be funded.



The transition period must be used to lay the groundwork for the new system, by developing and trialling schemes and, crucially, by providing training to ensure that farmers and crofters are equipped to deal with any new system. Put simply, the bill as it stands is a missed opportunity to deliver a clear direction towards which the sector should transition. The sooner we have a clear vision of what we want to replace the CAP, the more effectively we will be able to use the transition period to develop the detail. The clock is ticking.

As many members have highlighted during the debate, a purpose clause would provide more clarity on that direction of travel, and a sunset clause would provide more certainty on the timescales for bringing us towards a new system. There is very much still a discussion to be had about the exact wording of a purpose clause, and I look forward to having those discussions, but it is clear that a majority of members recognise that there are benefits to setting out a clear set of principles in the legislation. It would provide reassurance on the long-term direction of agricultural policy and help to address reservations about the broad enabling powers that the bill includes by providing a set of guiding principles for the use of those powers.

Likewise, a sunset clause would simply provide a statutory basis for commitments that the Government has already made. The cabinet secretary has consistently stated that the transition period will last only until 2024. Underpinning that commitment in law would provide a welcome guarantee that that remains the case. As I have said before, any sunset clause should of course include the option of an extension in order to avoid a cliff edge. The clause would simply be a matter of making clear that the default position is for the legislation to be temporary, in line with the Government's own desire. Establishing a new system within the proposed timelines is essential, and passing the bill with no time limit sends the wrong message.

CAP funding is a lifeline for this key sector, but we know that the current system is not fit for purpose. We need a new system that distributes funding more fairly, supports and incentivises sustainability and environmentally friendly practices, and protects and enhances animal welfare, while building a more productive and resilient industry. There is a clear consensus among stakeholders on the need for a system that delivers on both environmental aims and productivity. Indeed, the sector faces ambitious targets on carbon reduction, from the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, and on productivity, from the ambition 2030 strategy.

The agriculture sector urgently needs a support system that better enables those aims to be met. An agricultural support system with environmentalism at its heart will allow the sector to make the emissions reductions that are needed. Equally, any new support system must also underpin productivity and growth as well as environmentalism. Those two aims should not be thought of as competing, and it is critical that neither is achieved at the expense of the other.

The bill does not set out a detailed long-term plan for agriculture and no one is arguing that it should, but it is clear that it should provide more direction and that failing to do so is a missed opportunity.

It would also be a missed opportunity not to wake up to the fact that the world has changed in recent weeks. The Covid-19 crisis is, first and foremost, a public health crisis. It is also a crisis that has exposed the need for a fairer, healthier and more sustainable food system. With the good food nation bill being dropped because of the crisis, we need to adapt—it cannot be business as usual. We should take the elements of the good food nation bill that the Government supported and incorporate them into this bill. That includes a statutory commitment to a statement of policy on food. It would be a dereliction of duty not to take this urgent opportunity to safeguard our fragile food system against future crises as best we can, shoring up resilience and future food security. That statement of policy should include a contingency plan for tackling future interruptions to supply. If this is not the time to do that, I do not know when that time will be.

17:25

**Jamie Halcro Johnston (Highlands and Islands) (Con):** I am pleased to be closing for the Scottish Conservatives in today's stage 1 debate but, as other members have done, I make this contribution on behalf of another member who cannot be here in Parliament today to deliver it in person. In this case, it is Finlay Carson, who is at home in his constituency in beautiful Galloway.

I also refer members to my entry in the register of members' interests as I am a partner in the farming business of J Halcro-Johnston & Sons, and to Finlay Carson's and my membership of NFU Scotland.

We have heard some strong contributions from members across the chamber, reflecting the circumstances in which the agriculture sector finds itself as a result of Covid-19. They have not been immune to the challenges, and that makes today's debate an important stage in ensuring that the sector has the clarity and policies in place that will help it to emerge stronger from this crisis and to

continue in the years ahead, when we are beyond the transition period of exit from the European Union.

As highlighted by my colleagues, we support the general principles of the bill, but today's debate has highlighted the need for proper frameworks and funding mechanisms to emerge in the future stages of the bill. As deputy convener of the Environment, Climate Change and Land Reform Committee, Finlay Carson has emphasised that the principles of the bill must be designed with environmental concerns in mind. The Covid-19 crisis has inadvertently brought benefits to our environment, with fewer emissions from many sources because there has been less activity. However, that does not mean that we can be complacent about the massive challenges that we face in tackling climate change, and our agriculture sector is at the heart of that. It is ready and willing to take up the challenge.

As Finlay Carson has often said in the chamber and at committee, we cannot continue to allow the agriculture sector to be demonised when it comes to the challenges of reducing emissions and enabling better practices. Agriculture has stepped forward and started to address those issues. The industry, including the NFUS, has long recognised the part that it must play in achieving the ambitious 75 per cent reduction in emissions by 2030 on the way to hitting the net zero target by 2045. As we know, there is to be an unfortunate but inevitable delay in an update to the climate change plan, which makes it even more important that the right policies are in place throughout the bill. Faster and further is what is required when it comes to addressing climate change.

It is therefore disappointing that the Scottish National Party Government has not shown greater urgency in outlining a plan of action. The Rural Economy and Connectivity Committee understands that the period of simplification and improvement will run until 2024. We need to get it right now. Who knows when we will fully emerge from the Covid-19 crisis?

When we do, there will also need to be a sense of urgency to outline how future policy will be developed. Stability is key for the industry in the coming years, but change must also be instigated if the industry is to adapt, then change and, ultimately, deliver. We have already heard from the chief executive of the UK Committee on Climate Change that the Scottish Government's plans for a long-term policy framework to replace the EU common agricultural policy are lagging behind those of England and Wales.

On environmental schemes, the funding for environmental and climate management interventions is a serious area of concern, with the provisions in the bill giving limitations on sources

of funding and, potentially even more seriously, if not introduced carefully, capping on that funding. That would mean that the agriculture sector could lose out on lowering specific sectoral emissions as part of the overall work to reduce emissions.

When it comes to environmental standards, it is vital that a common framework is agreed across the four nations of the United Kingdom in order to maintain that commitment to the highest possible environmental standards. The same principles should apply when it comes to the agriculture regulatory frameworks that end up as part of the bill. The integrity of the UK single market is vital for the industry. It is therefore critical that the nations work within a commonly agreed framework and that although, as is currently the case, there is flexibility when it comes to the playing field, the whole of the UK plays within the same set of rules.

In Mr Carson's constituency of Galloway and West Dumfries, as well as in other areas of Scotland, an area that will be vital in the coming years is agritourism monitor farms. It is welcome to see that groups have been set up to provide further support and expertise as the programme continues. That is exactly what will be needed, given that the tourism industry is among the hardest hit during the coronavirus crisis. The diversification of farming businesses is something that can help to sustain them. I have been asked to highlight monitor farms, which have already sold £20,000-worth of farm tours for the spring and summer seasons, including such things as lambing experiences. However, that cash has, obviously, already been spent.

Tourism income aside, there is the urgent need to get in place policies that recognise the huge potential role that monitor farms can play in testing and in providing future policy with regard to climate change and the protection of biodiversity. The principle of monitor farms has been proven and they are widely accepted and respected as the right way forward by the agriculture sector. The monitor farm model should form the foundation of future pilot schemes as soon as possible, as delay is no good for anyone.

The agriculture bill is vital, but we must ensure that we get it right. With the current state of affairs, it is important that sufficient time is set aside by the Government, alongside requisite measures, to ensure that the right scrutiny can take place at stage 2. That is when Conservative members will seek to ensure that our industry is protected in terms of resources, policies and the highest possible standards in the years to come in a world outside the European Union.

17:32

**Fergus Ewing:** In these times, I feel that those who are listening to the debate, particularly those who are interested in farming and the rural economy, want to see politicians working together. We have largely seen that this afternoon, and I very much appreciate the clear statements from—I think—all the leading Opposition party spokespeople that they will support the general principles of the bill. For my part, I restate for the record that I am keen—as always—to work with members to improve the bill in so far as we can.

There were some very good contributions, including from Mr Cameron, Liz Smith, and Mike Rumbles. The convener of the committee gave a fair account of the committee's report, and members of other parties made very useful and positive remarks. I therefore start by broadly thanking members for the spirit of the debate. However, I think that this is an important debate and I contest the point that we could postpone the bill, because it needs to be done. Farmers want us to do our work; they expect us to do our work. The bill does not need to be passed this month or next month, but it needs to be passed within a time limit, and given that we do not want to leave things until the last moment, we need to get on with our work. The public would expect us to do that—it is important to say that.

I absolutely agree that members are keen to debate the longer-term policy with regard to farming, the environment, food production and animal welfare standards. Many members quite rightly made points about that, and they are all very fair points indeed. However, although they are fair points, they are not directly relevant to the purpose of the bill, which is about a mechanism and a process. The bill is about providing a lever; it is a tool in the box—a spanner that enables us to do a specific task. Spanners are not designed to save the planet; they are designed to do something specific. That is what some legislation is about, and this bill is one such piece of legislation.

That does not mean that members have not made valid points, but that, with all due respect, some of those points are not directly relevant to our job with this bill today.

**Mark Ruskell:** As I understand it, the core purpose of the bill is to ensure alignment with the EU common agricultural policy. That policy will change in 2021, when the EU sets nine new objectives. We need to incorporate those objectives in our own agricultural policy if we want to stay aligned with the EU.

The cabinet secretary can surely see that our best chance of rejoining the EU—maybe as an independent nation—would be through an

alignment with the EU CAP for 2021 to 2027. Those objectives could be incorporated in the bill.

**Fergus Ewing:** That is an interesting point, but the purpose of the bill is rather different. This Government absolutely believes that EU membership is the best option for Scotland and the UK, as I stated earlier. The bill's specific purpose is to allow us to simplify, and improve on, the operations of the EU legislation. Without the bill, we would be unable to do that.

I will not labour the point, but I hope that most members will feel that, in making it, I am being absolutely sincere about the nature of the function and purpose of our job today. I am not necessarily critical of differing points of view; the debate is perfectly legitimate, but it is neither for today nor for this bill, and nor is it for stages 2 or 3.

The issues around a sunset clause and a purpose clause are important. Mr Rumbles made the key speech in that regard and went further with his suggestion of a specific alternative—something that we do not hear often on these benches in this type of debate. That point was interesting. I undertook that it would be considered carefully and that we will have discussions about it.

That is all well and good. However, I have met farmers, often at the behest of members. Mr Cameron, for example, invited me to meet some farmers from Lochaber, with whom I had a serious discussion, as they were very worried about future financial support. I hope that I was able to provide some welcome reassurance, particularly regarding the continuance of payments as part of the less favoured area support scheme. I was grateful to Mr Cameron for hosting and arranging that useful meeting.

I do not mean to be facetious or flippant, but I tell you this: not one farmer or crofter at that meeting mentioned a purpose clause or a sunset clause. They would be interested in actual sunsets, not legislative ones. I am not being facetious; those things do not directly concern farmers. Members might say that that was not their purpose in raising those issues and that they did so to discuss long-term policy—of course people are interested in long-term policy.

**Liz Smith:** Will the cabinet secretary give way?

**Fergus Ewing:** I will finish the point and then certainly give way.

My point is that farmers and crofters have an awful lot to worry about at the moment—my goodness me, I do not really have to enumerate those worries. Gillian Martin made that point very well—I do not know whether she was impersonating Stewart Stevenson or whether the speech was his offering—in her interesting and unusual contribution, which I thoroughly enjoyed.

She made the good point that the farmers who are concerned at the moment are practical, down to earth and welcome our efforts to continue to ensure that they get financial support in their bank account. I think that those farmers were grateful and satisfied that we secured that support to the tune of 81 per cent of the CAP payments—more than £340 million of loan payments, £430 million of pillar 1 payments and approximately £80 million of convergence payments, just before lockdown; in fact, it was weeks before it.

The fact that we were able to do that as a Government and to complete those complex tasks—thanks to the diligence of public servants throughout the country and to the rural payments and inspections division—is what is really important to them, rather than the minutiae of purpose or sunset clauses, which no farmer or crofter has ever mentioned to me.

**Liz Smith:** I think that the cabinet secretary is absolutely correct that farmers are concerned about the practicalities just now, but they are also concerned because the bill is about procedures. The whole debate about a sunset clause is about the level of scrutiny that can be given to decisions that are being made. As it stands, there is a concern that the Scottish Government could, if it so wished, take such decisions into its own hands. For parliamentary democracy, that is not right.

**Fergus Ewing:** Earlier, I said that Liz Smith made a good contribution and I think that she has made further worthwhile points. I totally agree, and I agreed when I responded to Mr Rumbles that they are very important points for us as parliamentarians. The distinction that I was trying to make, and which I hope that I have made, is that farmers perhaps have less interest in such points than they do in the practicalities, which I think Liz Smith agreed with. We will come back to those points. As a Government, we want to ensure that we are subject to appropriate scrutiny. We have never shied away from that, and we will not start to do so now.

The non-regression issue, which several members raised, is in a sense already dealt with by previous legislation that we have passed, including the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the Nature Conservation (Scotland) Act 2004. They contain legislative provisions that are the law—we must abide by them, and rightly so. Those provisions already commit us to non-regression. If there is a thesis that somehow, we could do lots of regressive things, we cannot. We are constrained by the law and the law is in place.

Presiding Officer, I have no idea how much time I have, so I can fill whatever time you want me to.

**The Presiding Officer (Ken Macintosh):** If the cabinet secretary wishes to draw his remarks to a conclusion now, I am sure that that would be most welcome—*[Interruption.]*

**Fergus Ewing:** I hear suggestions that winding up would be appropriate, and not for the first time while I have been standing in this place, it has to be said.

I am very grateful for the broad approach that members have taken today. I think that we are doing a good thing in scrutinising this legislation. I am sure that we will make progress at stages 2 and 3, and I very much look forward to working with members across the chamber to do what we can to make sure that we are able to adapt our policy in a way that will help farming, crofting and the environment, enable high-quality food to continue to be produced and preserve food security in an increasingly uncertain planet.

I thank all members and I look forward to continuing to work with them in the same spirit in the weeks to come.

**The Presiding Officer:** That concludes our stage 1 debate on the Agriculture (Retained EU Law and Data) (Scotland) Bill.

## Parliamentary Bureau Motion

17:42

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of Parliamentary Bureau motion S5M-21664 on committee membership. I invite Graeme Dey, on behalf of the Parliamentary Bureau, to move the motion.

*Motion moved,*

That the Parliament agrees that—

Rhoda Grant be appointed to replace Jackie Baillie on the Economy, Energy and Fair Work Committee;

Jackie Baillie be appointed to replace Neil Bibby on the Finance and Constitution Committee.—[*Graeme Dey*]

**The Presiding Officer:** I am minded to accept a motion without notice to bring forward decision time to now.

*Motion moved,*

That, under Rule 11.2.4 of Standing Orders, Decision Time on Tuesday 5 May be taken at 5.43 pm.—[*Graeme Dey*]

*Motion agreed to.*

## Decision Time

17:43

**The Presiding Officer (Ken Macintosh):** There are two questions today. The first question is, that motion S5M-21650, in the name of Fergus Ewing, on the Agriculture (Retained EU Law and Data) (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Agriculture (Retained EU Law and Data) (Scotland) Bill.

**The Presiding Officer:** The final question is, that motion S5M-21664, in the name of Graeme Dey, on committee membership, be agreed to.

*Motion agreed to,*

That the Parliament agrees that—

Rhoda Grant be appointed to replace Jackie Baillie on the Economy, Energy and Fair Work Committee;

Jackie Baillie be appointed to replace Neil Bibby on the Finance and Constitution Committee.

**The Presiding Officer:** That concludes decision time. I urge members, when leaving the chamber, to do so in a safe way by observing social distancing rules.

*Meeting closed at 17:43.*



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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