



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament (Hybrid)

**Tuesday 11 August 2020**

**Session 5**



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Pàrlamaid na h-Alba

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# Scottish Parliament

Tuesday 11 August 2020

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

## Time for Reflection

**The Presiding Officer (Ken Macintosh):** Our first item of business is time for reflection. Our time for reflection leader is Mr Jon Plunkett, who is the care and support manager for the Corbenic Camphill Community.

**Jon Plunkett (Corbenic Camphill Community):** This contribution for time for reflection was originally scheduled for 17 March. Unfortunately, the virus had other plans. Between then and now, it seems that the importance of community has been emphasised more than ever.

I am connected with Corbenic Camphill Community, a care home in Perthshire for adults with learning disabilities. We are fortunate to have remained Covid-free. The poem that I am going to read is titled "Meanwhile". It is very much about community, and the importance of community.

"In various places at various times  
people discuss community—  
what it was, or is.  
What it could be,  
or should be.

Meanwhile  
on a spread of land by the River Braan  
trees knit the earth into place  
while their branches point to things beyond.  
And in workshops clay is spun into pots,  
pots are used for drinks and moments shared.  
Flour is kneaded into dough, dough baked into bread,  
bread delivered by small steps and swinging baskets.  
Fields are ploughed into furrows.  
Seeds stretch to drink the sun. Animals are fed.  
Horses are cared for.  
Wool is spun into weave, design is pressed into art.  
Wood is ringed and split. Wood is warmth.  
Days are turned into dates, dates into festivals.  
Houses are turned into homes,  
And plans into action (most of the time!)  
Wax is melted into moulds,  
liquid into solid, solid into light.  
Needs are met with care, care leads to love.  
And within, and around and between  
all these small transformations  
are joinings of one being to another.

So people can discuss community—  
what it was, or is.  
What it could be,  
or should be.

Meanwhile  
here, on our spread of land by the River Braan  
community is what it is, and carries on.  
Turbulent and calm, turbulent and calm,  
but never stagnant,

and like the river,  
flowing always  
to depths unknown."

**The Presiding Officer:** Thank you Mr Plunkett. I am glad that you were able to join us.

## Business Motion

*Motion agreed to.*

14:03

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-22404, in the name of Graeme Dey, on behalf of the Parliamentary Bureau.

*Motion moved,*

That the Parliament agrees—

(a) the following programme of business—

Tuesday 11 August 2020

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Ministerial Statement: Reporting to Parliament on Coronavirus Legislation

*followed by* Ministerial Statement: SQA Exam Results 2020

*followed by* Ministerial Statement: COVID-19

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

Wednesday 12 August 2020

12.20 pm Parliamentary Bureau Motions

12.20 pm First Minister's Questions

2.30 pm Parliamentary Bureau Motions

2.30 pm Ministerial Statement: Ensuring a safe and welcoming return to school for children, young people and staff

*followed by* Scottish Government Debate: An Implementation Plan for Economic Recovery

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.30 pm Decision Time

Thursday 13 August 2020

2.00 pm Portfolio Questions (Virtual): Finance

2.30 pm Portfolio Questions (Virtual): Environment, Climate Change and Land Reform

3.00 pm Portfolio Questions (Virtual): Rural Economy and Tourism

(b) that, for the purposes of Portfolio Questions in the week beginning 11 August 2020, in rule 13.7.3, after the word “except” the words “to the extent to which the Presiding Officer considers that the questions are on the same or similar subject matter or” are inserted.—[*Graeme Dey*]

## Topical Question Time

14:03

### Covid-19 Restrictions (Aberdeen)

#### 1. Mark McDonald (Aberdeen Donside) (Ind):

To ask the Scottish Government what conditions it expects to be met to enable the easing of local restrictions in Aberdeen. (S5T-02300)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** We will review the current situation tomorrow, at the end of the initial seven-day period, to consider whether the restrictions remain necessary. Our decisions will be informed by the advice of the Grampian incident management team, local clinical advice and our own Scottish Government clinical advice. The evidence and data available to us as we take those decisions covers the number of cases, the rate of increase or decrease in numbers of people infected, changes or not in age range, and the situation in neighbouring geographies. Case numbers today, as the member may know, are beginning to show that the situation appears to be decelerating but has not yet stopped.

**Mark McDonald:** I am sure that the cabinet secretary will appreciate that these are very worrying times for my constituents and for other residents in the city of Aberdeen, many of whom hope that good news will be round the corner but recognise nonetheless that the risk remains.

The Scottish Government guidance on the matter covers many issues, but one issue that was not covered and that remains ambiguous is about individuals who live in Aberdeen city—maybe grandparents—who are caring for children on behalf of parents who live in Aberdeenshire, or vice versa, to enable those individuals to work or to return to work.

Will the cabinet secretary give guidance in relation to those arrangements and say whether they are okay to continue under the current restrictions? If she cannot answer that now, will she assure me that the Scottish Government will publish that advice as soon as possible?

**Jeane Freeman:** I am grateful to Mark McDonald for that important supplementary question. Rather than attempt to answer in detail now, I undertake to provide Mr McDonald with an answer today on the current situation. Dependent on the decision that is taken tomorrow at the seven-day review, that situation will either continue for another period or be ended, but we will provide an answer to him today.

**Mark McDonald:** I fully appreciate that it is better that we get a detailed response that gives

reassurance to parents rather than an answer in the chamber that might not reflect the full detail that is required.

Another issue that has come up this week in my constituency mailbag—and, I suspect, other members' mailbags—is about the reopening of schools. I appreciate that there will be a statement tomorrow from the Scottish Government on the wider context of school reopening, but many parents in Aberdeen have concerns about the reopening of schools while the current local restrictions are in place. Yesterday evening, I had a helpful meeting with my son's school at which the headteacher was able to allay and address some of those concerns, but that will not be the case for all parents.

What steps will the cabinet secretary take to provide reassurance to parents about the robustness of the data that the Scottish Government is using to facilitate the reopening of schools, and to reassure parents in Aberdeen that their children and families are safe as the return to schools takes place this week?

**Jeane Freeman:** As Mark McDonald and other members know, one of our driving motivations in making the difficult decision to impose additional restrictions on the citizens of Aberdeen was to ensure that we could continue towards its being safe for schools there to reopen, along with schools elsewhere in the country. That is because of the importance of young people getting back to learning.

In Aberdeen, the incident management team, which involves the local authority, has access to detailed data. I expect the local authority, through its director of education and others, to ensure that local schools are aware of the data that the incident management team is looking at and to pick up any specific issues. My colleague the Deputy First Minister is dealing with those, with particular regard to Aberdeen. Nonetheless, if Mark McDonald or any other member from the city wants a specific answer on particular issues, I ask them to let me know what those are. We will be very content to give them an early answer to any specific questions that they receive from their constituents.

**Lewis Macdonald (North East Scotland) (Lab):** [*Inaudible.*—businesses in Aberdeen did their absolute utmost to keep staff and customers safe, but have had to close in the meantime in order to protect wider public health. Will the cabinet secretary join me in supporting the petition that was launched today by Khalis Miah of the Riksha restaurant, calling for the eat out to help out scheme to be rescheduled in Aberdeen to start after local restrictions have been lifted?

**Jeane Freeman:** Mr Macdonald is absolutely correct, in as much as very many businesses in Aberdeen city and elsewhere across Scotland have taken great steps and gone to great pains to ensure that their premises are as safe as possible and that they comply with the guidance that we have issued for the reopening of the hospitality industry. Nonetheless, I recognise that there are impacts on businesses in the city, because of the decisions that have been taken and the restrictions that have been imposed.

There has been additional financial support for Aberdeen, as there has been for other areas in Scotland. I know that the Cabinet Secretary for Economy, Fair Work and Culture is speaking with local business organisations in the city to see whether more can be done. I am happy to ensure that she is aware of that petition and can take a view on how she might want to proceed.

**The Presiding Officer (Ken Macintosh):** I will select Tom Mason, if he is there remotely.

**Tom Mason (North East Scotland) (Con):** I am here. Can you hear me?

**The Presiding Officer:** We can.

**Tom Mason:** Contact tracing is essential if we are to get back to any normality. However, at the beginning of the outbreak, an Aberdeen bar had to proactively get in touch with contact tracers because nobody from the national health service had contacted it. Establishments were then given an apology after they were added to the list of premises linked to the outbreak without being told. That is on top of the reports that only an additional eight contact tracers were sent to the area. How many contact tracers are working on the outbreak and, of that number, how many were sent after the outbreak started?

**Jeane Freeman:** NHS Grampian has 97 trained contact tracers in the local area who are available to be used. Over a short period, the number of cases in Grampian has grown to 253, 165 of which are associated with the cluster, and 875 contacts have been traced. In addition, more have been worked on between the reporting period yesterday and today, linked to the 27 cases in Grampian that I announced earlier. We see from that information that the contact tracing operation is working effectively.

NHS Grampian has received additional support in the form of 16 people from the national contact tracing centre to assist it and so that work can continue over the weekend, when contact tracers who have been working on the outbreak considerably and with great effect need to take some time off.

The case numbers and complexity of the cluster are particularly challenging and have been

growing. At this point, we have sufficient contact tracers in Grampian, and I check that every day. We have that additional support and we are making sure that we have sufficient contact tracers for cases elsewhere in the country, particularly for the investigative work that is under way on the 13 cases that have been reported for the greater Glasgow and Clyde area.

**The Presiding Officer:** I hope that Maureen Watt can also join us remotely.

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** Will the Scottish Government consider extra support beyond the job retention scheme for businesses in Aberdeen that are impacted by the closure?

**Jeane Freeman:** The Scottish Government has already provided an estimated £62 million to the retail, hospitality and leisure sectors in Aberdeen city as part of Covid relief, and £20 million was provided on 4 August for small business support grants. However, as I said, the economy secretary, Ms Hyslop, has been in contact with local business organisations and is engaging with local partners to make sure that we understand what additional impacts may have been brought about by the imposition of the additional restrictions and to discuss whether we could do more to support the affected businesses.

## **National Health Service (Pay and Conditions)**

**2. Monica Lennon (Central Scotland) (Lab):** To ask the Scottish Government when it will begin talks with trade unions regarding national health service staff pay and conditions. (S5T-02306)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** Through the Scottish terms and conditions committee—STAC, as it is known—we have already begun to talk with NHS Scotland agenda for change trade union representatives about the approach to the pay deal for 2021-22. I maintain regular contact with those trade unions and I have asked them, through STAC, to work out their plan for negotiations and bring that back to me by the end of this month.

The 2020-21 pay uplift, which is the third year of the three-year pay agreement that was reached, was implemented on 1 April this year, as members would expect. Based on the discussions that I have had with the trade unions and on what comes back to me from STAC, I am looking forward to beginning the negotiations properly for the next round of pay talks.

**Monica Lennon:** I thank the cabinet secretary for her response. However, as recently as lunch time today, trade unions have told me that they still do not have enough clarity about where they

stand or on whether the cabinet secretary will get round the table with them to discuss pay.

We all understand that clapping for healthcare workers does not pay their bills. Therefore, will the cabinet secretary give a firm commitment to NHS staff that the Scottish Government will reopen pay talks and, if so, when will that be?

**Jeane Freeman:** I am disappointed that trade unions are passing on that information or expressing those concerns to Ms Lennon. I do not doubt her; I am just disappointed because, in the two conversations that I have had—with Unison and most recently with the Royal College of Nursing—we discussed the pay talks and what I had asked them to do.

To be fair, I have received a letter from STAC today that asks for clarity on what is in and out of scope. That is probably the easiest way to describe what is in the letter. I do not have it with me, but broadly speaking that is its ask. The letter came from both the employer and trade union side of that body, and I will respond to it.

However, my commitment remains as it has always been: it is to begin the discussions and negotiations on the next pay agreement as soon as possible. That is why, notwithstanding everything that everyone else is engaged in—not least those union representatives—I want us to know the framework of the negotiations at the end of August, and then begin those negotiations.

I have meetings with Unison every two to three weeks and with the RCN every two weeks or thereabouts. Therefore, I am due to speak to Unison again shortly. At that point, if it wants further clarification, I am happy to give it—indeed, I am happy to give it at any point. In the meantime, we will get back to STAC with the clarification that it has sought on the scope of the plans that I have asked it to come forward with.

**Monica Lennon:** I welcome the cabinet secretary's commitment to further dialogue. She will be aware that Unison has launched a pay up now campaign. There is a strong feeling among its members that there is an urgency around pay. Does the cabinet secretary intend to attend one of the demonstrations that have been organised by Unison, at the start of next week, to—  
[*Interruption.*]

The issue is important for Government back benchers, too, because they have all had letters from Unison members who are not very happy with the standard lines that they are getting from the Government. I am simply asking the cabinet secretary if she will go along to one of the socially distanced demonstrations and listen to what those health workers, who we all value, have to say about their jobs and terms and conditions.

**Jeane Freeman:** I have received many emails from health and social care workers about their terms and conditions and how they want to see improvement in those—I am sure that Ms Lennon and other members have received similar e-mails—and I think that I am on record as saying that I am sympathetic to the views that they express.

However, I need to go through the proper negotiating channels. The agenda for change, which has stood the health service in Scotland in very good stead, involves all the unions that are represented. As I said, I will speak to the unions, go through those channels and conduct the negotiations properly. That is what I intend to do, although I continue to receive the views of individual health and social care workers and their local representatives and, as always, I pay close attention to what they say to me.

### Dirty Camping

**3. Gordon MacDonald (Edinburgh Pentlands) (SNP):** To ask the Scottish Government what it is doing to tackle so-called dirty camping, in the light of more people looking to beauty spots such as the Pentland hills for holidays this year. (S5T-02305)

**The Cabinet Secretary for Rural Economy and Tourism (Fergus Ewing):** Scotland's landscapes and natural environment are among our most precious assets. Many people have taken the opportunity to enjoy them and the outdoors, particularly after such a sustained period of lockdown. Most people are doing so in a responsible fashion by obeying both the law and the terms of the access code.

However, it is unfortunate that a small minority of people are spoiling that for others by endangering themselves, local communities and the environment. We are aware of a growing number of incidents and complaints about littering, antisocial behaviour and criminal damage. I am absolutely clear that such irresponsible behaviour is totally unacceptable. Police Scotland is alert to all these matters; it has already used powers to issue on-the-spot fines for antisocial behaviour, which, like littering and fly-tipping, is a criminal offence for which fixed penalties can be issued.

We partnered with Zero Waste Scotland and Keep Scotland Beautiful to develop a national anti-littering campaign, which launched on 15 July. We are working with local authorities and Police Scotland on what more can be done to protect our environment and communities across Scotland.

**Gordon MacDonald:** The local community is rightly angry about the destructive and antisocial behaviour that has been carried out by dirty campers in some of the most scenic areas of the

Pentlands, which I regret led to a fishing bailiff, who is over the age of retirement, being brutally attacked by four young men at Harlaw reservoir. Will the cabinet secretary outline what support Scottish Natural Heritage can provide to protect the community and this regional park for future generations?

**Fergus Ewing:** I am limited in what I can say about a specific incident that may be subject to police investigation at the moment. However, in general terms, any such attack on an individual by a group of people is cowardly, disgusting and completely unacceptable. The City of Edinburgh Council is the managing authority for Pentlands regional park and, as Mr MacDonald has said, SNH has a statutory requirement to promote the use and enjoyment of the natural heritage. However, incidents such as the one mentioned are plainly a matter for the police, as the law enforcement agency. I strongly urge anyone who encounters suspicious behaviour to put their own safety first and to call the police.

**Gordon MacDonald:** One impact of staycations this year is the number of cars trying to access the Pentland hills car parks and the resulting congestion on rural roads. What financial support is available to local authorities to provide more walking and cycling routes to places such as the Pentland hills in order to discourage car use?

**Fergus Ewing:** Our policy is to support local authorities through delegation to the local level as much as we possibly can. Against that backdrop, local government funding is distributed directly by means of a block grant, and it is the responsibility of local authorities to allocate financial resource based on their assessments of local needs. Through the funding package of £11.8 billion in 2020-21, coupled with the ability to increase council tax by 3 per cent in real terms, local authorities have access to more than £1 billion for day-to-day services in 2021.

We are also committed to active travel, now and in the future. The budget was increased from £80 million to £100 million, which is an investment that will enable the continued delivery of high-quality walking, cycling and wheeling infrastructure and will enable more people to choose to walk and cycle for shorter journeys or as part of a longer multimodal journey.

There are a lot of strands to this answer, Presiding Officer, so I ask you to bear with me. The Scottish Government's rural tourism infrastructure fund, which is managed by VisitScotland, was created to address the hot spots—the increasing popularity of several areas of Scotland where there are high levels of concern among the local populace about the behaviour of a few spoiling it for the many.

**The Presiding Officer:** We have five potential supplementaries on this subject.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** Rural crime, which is on the rise, puts huge pressure on local communities. I accept what the cabinet secretary has said about conversations that have taken place with Police Scotland and local authorities, but what specific conversations has he had with the Scottish Partnership Against Rural Crime in order to tackle the scourge of so-called dirty camping, which to my mind is as bad an offence as fly-tipping?

**Fergus Ewing:** The member is correct that that particular crime is causing many concerns around Scotland at the moment. I have engaged with the police in relation to the general issues—for example, some weeks ago, I chaired a conference call on which Police Scotland was represented in relation to particular problems in the Morar and Arisaig areas.

As I referred to in my answer to Gordon MacDonald, I know that Police Scotland has also issued many notices and fines in the Loch Lomond area. In answer to Ms Hamilton's specific question, I formally met the consortia group on tackling rural crime on a farm visit.

I also point out that fly-tipping is subject to a maximum fine of £40,000. It is useful to have the opportunity to highlight that. Although such matters are plainly up to the courts, we can all see that fly-tipping is a particularly selfish crime that causes real problems, particularly for farmers, and risks health.

It really is time that Scotland rid itself of such littering, fly-tipping behaviour, which, although committed by a relatively small number of individuals, causes enormous damage and misery for many others.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** There have been huge problems with dirty campers at Gladhouse reservoir in Midlothian South in my constituency. Fires have been left unattended, trees have been hacked down, human waste has been left behind and verbal abuse has been directed at local people. Does the cabinet secretary think that the access code needs to be revisited, and should there be an increase in fines?

**Fergus Ewing:** We have already increased the fines for littering: the spot fine was increased from £50 to £80 a few years back. I have also mentioned the maximum fine for fly-tipping, which is £40,000.

However, Christine Grahame is quite right to raise the issue. I and other ministers have received many complaints about dirty camping, fly-

tipping and other types of behaviour. I should say that, although the fixed penalty for littering is £80, if such an offence is prosecuted, the fine can be £2,500. Powers to deal with antisocial behaviour are also available to local authorities through the provisions of the Antisocial Behaviour etc (Scotland) Act 2004.

To answer Ms Grahame's specific question, my colleague Roseanna Cunningham has responsibility, along with Scottish Natural Heritage, for the access code. I know from my discussions with Ms Cunningham that she shares all those concerns. All of us feel that we must ensure that the penalties for such behaviour are of such a high level that they have the necessary deterrent effect. However, there is perhaps a wider cultural problem in Scotland with littering, which we just do not see in countries such as Norway, where there is scarcely a wrapping or an empty bottle to be seen on the streets anywhere in that country. That cultural problem is for all of us, as individuals in our society, to address.

**Andy Wightman (Lothian) (Green):** I note that the question from Mr MacDonald wisely used the term "dirty camping", but the media have been widely using the term "wild camping". I am sure that the cabinet secretary would agree that wild camping, which takes place well away from the public highway, is substantially carried out responsibly. Such freedoms are of long standing in Scotland and should be upheld. Does he agree that nothing should be done to inhibit the freedoms of genuine wild campers, who should be able to continue to enjoy the countryside responsibly?

**Fergus Ewing:** Mr Wightman makes a perfectly fair point. I do not think that anyone would wish to see a move to make wild camping illegal. It is simply camping outwith permitted regulated areas such as caravan sites. It is a part of our human freedoms and of people's enjoyment of the countryside.

When walking around Loch Morlich, for example, I have observed that the vast majority of wild campers are law abiding, as Mr Wightman has said. They leave the place where they have camped as they found it. Those are the watchwords of wild campers, and I would stress that the vast majority of people who partake in wild camping behave in that way.

Sadly, we need to try and reach out to the minority to persuade them to mend their ways—and, if they do not, to apply the full weight of the law. I think there is an appetite among many members across the Parliament for considering fines towards the maximum level, where appropriate.

**Emma Harper (South Scotland) (SNP):** The cabinet secretary has already outlined a pretty full

response to the questions. I recently met members of the Loch Ken Trust, one of whose members of staff had been threatened with physical assault. It is really worrying to hear about the brutal attack on the fishing bailiff that Gordon MacDonald described. Would the cabinet secretary support any additional education that the Scottish Government might be able to provide—it could also be provided by other organisations such as Police Scotland—in support of the training of community groups, so that they can learn how to de-escalate or deal with challenging behaviours? Could that be looked at?

**Fergus Ewing:** Emma Harper is quite right to raise concerns regarding her region, and I join her in wholeheartedly condemning behaviour of the sort that she has described.

I indeed think that there is a role for increased training. I know that Scottish Natural Heritage is working with the Scottish Countryside Rangers Association and other organisations towards that end. Forestry and Land Scotland has staff who are assisting in educating and informing people about how to behave. A whole host of people carry out that sort of work on a daily basis, for whose efforts we should all be very grateful.

I agree with Emma Harper that more can be done to train more people to do that work, because the response from all the agencies at the moment, although substantial, is plainly not sufficient to deal with the problems that we are seeing, sadly, from a small minority of people in this country.

**The Presiding Officer:** I am conscious that there are three members—John Scott, Neil Findlay and Finlay Carson—who wanted to ask questions. I am afraid, however, that we have already run more than 10 minutes over time. Members will hopefully get another opportunity to ask questions, possibly at First Minister's question time or at ministers' questions later this afternoon.

## Coronavirus Acts Report

**The Presiding Officer (Ken Macintosh):** The next item of business is a statement by the Cabinet Secretary for the Constitution, Europe and External Affairs, Michael Russell, on reporting to Parliament on the coronavirus legislation.

14:33

**The Cabinet Secretary for the Constitution, Europe and External Affairs (Michael Russell):** Since I made a statement in the chamber on 9 June on our first report on the coronavirus legislation, Scotland has progressed to, and remains in, phase 3 of the route map. Major progress has been made in tackling coronavirus but, as last week's events clearly underlined, we are still required to show caution.

The measures in the United Kingdom Coronavirus Act 2020 and the two Scottish acts remain necessary because of the continuing severe public health and economic challenges posed by the pandemic, despite the significant progress that Scotland has made. Today I have laid before Parliament the second report on the operation and continued necessity of the powers in both the Scottish acts and the UK act, which covers the reporting period that ended on 31 July.

Building on the first report published on 9 June, this report includes provisions from the second Scottish act—the Coronavirus (Scotland) (No 2) Act 2020—as well as information on Scottish statutory instruments whose main purpose relates to the coronavirus but which are not made under the UK or Scottish coronavirus acts. That follows an amendment made during consideration of the Coronavirus (Scotland) (No 2) Bill, which was originally proposed by Adam Tomkins, and which reflected the views of the Delegated Powers and Law Reform Committee. As a result of that amendment, we now report on a total of 32 SSIs.

In preparing the second report, we have fulfilled the requirement to take account of available information about—to quote from the Coronavirus (Scotland) (No 2) Act 2020—

“the nature and the number of incidents of domestic abuse occurring during the reporting period”.

That reflects an important amendment to the Coronavirus (Scotland) (No 2) Bill that was lodged by Pauline McNeill to help inform the approach that was taken to domestic abuse during the outbreak.

Overall, this second report forms a crucial part of our coronavirus strategy, demonstrating that accountability is integral to our efforts to suppress the virus. Today's report shows, I believe, that the powers available to ministers have been used

proportionately and, crucially, that they have not been used unless it has been judged necessary to do so. That means that while in some cases powers have not been commenced as there has been no need to do so, in other cases we have commenced powers but have not proceeded to use them. That should not be a surprise.

The legislation was intended to be enabling so that we could respond to the virus across all its many and varied impacts with speed, determination and all necessary tools to hand. In preparing this report, we have again sought to maintain a proportionate approach and have avoided placing undue pressure on those whose priority is properly to preserve lives. We have also provided, as we did in our first report, detail over and above the reporting requirements set out in the Scottish acts on the operation of the powers, where we think that that would be helpful.

Since our first report was published, we have continued to develop and refine our data collection and monitoring process. For example, we have issued further surveys to establish the extent of the operation of the powers at a local level for the powers under the UK act relating to local authority needs assessments. In the report, we have also included information on rights and equality impacts. That is key to ensuring that human rights are respected, protected and fulfilled, and that equality objectives are achieved. We have also sought to include, where possible, information on how the impact of the legislation on those with protected characteristics has been taken into account.

We will continue to work to consider carefully recommendations and best practice coming from the work that is being undertaken by the Parliament, stakeholders and others to ensure that human rights, children's rights and equality are protected at this time. I hope that the report also indicates clearly the positive benefits of some of the key elements in the emergency legislation. For example, there is information on provisions that have allowed for the effective use of technology to deliver essential public services, such as those relating to courts and tribunals and the conduct of business by electronic means, which have enabled three criminal summary trials to be held virtually in the reporting period.

The use of electronic signatures and digital transmission of documents has enabled swift process changes that have been necessary to operate court services efficiently. Similar benefits relating to the use of technology have also been demonstrable in the use of the powers for licensing and land registration. The powers relating to suspension of pension scheme rules and the establishment of the temporary social work register have also provided additional

resilience and enhanced capacity in the workforce. In addition, the second Scottish act introduced provisions relating to the carers allowance supplement. At the end of June, payment was made successfully to approximately 83,000 unpaid carers.

We are now two thirds of the way through the lifespan of the Scottish acts and there is considerable interest from stakeholders regarding the possible extension of the Scottish acts beyond their current expiry point of 30 September. We are giving very careful consideration to the details of such an extension. We are mindful of the calls from stakeholders that provisions of the legislation in areas such as housing have provided vital protections for individuals throughout the pandemic, and there is a continuing need for them. However, we are equally mindful of the commitments that we have made, which I have regularly reiterated, that such legislation must not be in place for a moment longer than is necessary.

On the overall question, I can now confirm that, before the end of this month, we will lay regulations that will, with Parliament's agreement, seek to extend the Scottish acts from 30 September 2020 to 31 March 2021. However, we will lay at the same time regulations that will expire certain provisions within the legislation that we deem are no longer needed. That will mean that some provisions now in place will not be extended.

Work continues in order to arrive at a final position on those matters and I will return to the Parliament in due course with recommendations. The timing of laying those regulations is intended to ensure that Parliament has time to scrutinise them and that they are drafted sufficiently close to the point at which the acts expire, in order to enable us to reflect the latest position as regards provisions that need to be covered by a proposed extension and those that can now be proposed for expiry.

I turn briefly to the position regarding powers in the UK act to which the Scottish Parliament gave its consent on 24 March this year, 20 weeks ago. The UK act has a sunset clause by which it will expire on 25 March 2022, two years after it was passed, subject to certain exceptions that are set out in the legislation.

Under the requirements of the act, the House of Commons will undertake a review of its non-devolved provisions after six months of operation, which will be at the end of September, and it will debate a motion on whether those provisions continue to be necessary—in precise terms, that the provisions should not yet expire.

The devolved provisions in the UK act will not be in the scope of that House of Commons six-month review. However, a review of the status,

operation and continuing necessity of those provisions is part of the Scottish Government's own reporting on the UK and Scottish acts.

The Scottish Government's third report to Parliament on those powers will be due following the end of the reporting period on 30 September. As part of that we will give full consideration, as we did in our previous reports, to whether those powers continue to be necessary and proportionate. The Scottish Parliament will have the opportunity to scrutinise the judgments that we have made and to express its view when it considers our third report.

I conclude by noting formally, as is required by section 15 of the first Scottish act and section 12 of the second Scottish act, that Scottish ministers have conducted a review of the provisions in part 1 of those acts and have prepared this report.

We are satisfied that the status of the provisions that are set out in part 1 of those acts remains appropriate. We have also undertaken a review of the SSIs to which section 14 of the second Scottish act applies. Scottish ministers are also satisfied that the status of those SSIs at the end of the reporting period is appropriate. A review has also been conducted of the provisions of the UK act for which the Scottish Parliament gave legislative consent. Those are also covered in the report and we remain satisfied that the status of those provisions remains appropriate. I now look forward to, and welcome, the opportunity to engage with the Parliament as it considers the second report.

Although we have made considerable progress through the phases of emerging from lockdown, the crisis that we are going through has not yet ended. Indeed, the events of the past week and the necessary reintroduction of lockdown measures in Aberdeen remind us of the real risks of a potential resurgence of the virus. It is essential that we as a Parliament provide the legislative tools and measures to respond to the serious threat that we continue to face. We only need to look around Europe and beyond to see that Governments and Parliaments elsewhere are still grappling with those challenges—as we are. Our job is not yet done. I commend this report on the coronavirus acts to the chamber.

**The Presiding Officer:** The cabinet secretary will now take questions. The first question is from Murdo Fraser, who is joining the meeting remotely. He will be followed by Alex Rowley.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I thank the cabinet secretary for advance sight of his statement. When the emergency coronavirus measures were introduced, it was understood that those would be temporary and would last only as long as was necessary. The cabinet secretary has

told us that the Scottish Government intends to extend those by six months from the end of September. Given the on-going threat of Covid-19, that will perhaps not come as a surprise, and is a measure that we would support. However, I hope that the Scottish Government will go as far as it can to remove restrictions that are no longer necessary. I look forward to hearing more from the Scottish Government about that in the coming days.

The on-going serious nature of the Covid-19 pandemic highlights the need for individual responsibility when it comes to compliance with regulations. In that respect, I have two questions for the cabinet secretary. First, is he able to give us an update on how many penalty notices have been issued by the police for breach of the coronavirus regulations? Secondly, I have been advised by constituents that in many cases the police are not issuing penalty notices, despite there being flagrant breaches of the regulations by individuals. Has the Scottish Government had any discussions with Police Scotland about the circumstances in which penalty notices will be issued, as opposed to warnings simply being given to the individuals involved?

**Michael Russell:** I thank Murdo Fraser for his question and for his indication of support for the renewal of the necessary provisions—that word is very important, and I am glad that he agrees with that—within the acts. This is not a blanket proposal for renewal. There will need to be a very serious consideration of items in the legislation that might not be renewed, as well as items that will be renewed, and I look forward to that discussion with the COVID-19 Committee, which will likely take forward some of those issues.

On the question about the operation of the act and the role of the police, Police Scotland has been confident and has said publicly that, to date, compliance with the regulations has been generally good. We would agree with Police Scotland that—of the important four Es—enforcement is a last resort, where engagement, explanation and encouragement have failed. The chief constable has made it clear from the outset that it is important that the tone and style of policing reflect the need for positive engagement.

With regard to the statistics, between 27 March and 21 July Police Scotland made 61,593 interventions, the majority—94 per cent—of which were dispersals when informed or instructed. In other words, people were warned as to their behaviour and took that warning. Of the remaining 6 per cent of interventions, 3,310 fixed-penalty notices were issued, 349 were dispersed using reasonable force and 268 arrests were made.

The number of interventions has gradually fallen. The peak, at 9,778, was in the week ending

10 May and it dropped to 42 in the week ending 19 July, the last week in this reporting period for which we have full statistics. I agree with Murdo Fraser that, if there is no other means of going forward, enforcement is essential. However, we have seen proportionate, effective policing and the numbers have come down, both as the regulations change and because people have wished to meet what is required. That is the bedrock of ensuring that we stay safe.

**Alex Rowley (Mid Scotland and Fife) (Lab):** [*Inaudible.*—made the comment that progress has been made in tackling and driving down the virus. However, I worry that there are those who have taken their eyes off the ball; that is visible when people, for example, go into shops without wearing a mask. We need to be vigilant, and Labour will continue to support the Government where we need powers.

I welcome the proposed extension to the coronavirus acts, specifically with regard to housing. Shelter Scotland and Citizens Advice Scotland have put forward a strong case, which Labour supports, for extending legislation to ensure that we prevent evictions until April next year. Does the cabinet secretary agree that, given that council housing applications have been frozen in most parts of the country since the Covid crisis started, the housing crisis that Shelter Scotland talked about before Covid is becoming even greater and that more and more people are finding it difficult to access housing? At the same time, the need to grow the economy should be driven by investment in infrastructure; housing should be a national infrastructure priority, so that we can get the houses that we need, as well as the jobs, skills and training.

When the Government looks at the extension of that legislation, will the cabinet secretary seek to have a wider debate on how we tackle the housing crisis in Scotland and grow our economy at the same time?

**Michael Russell:** The housing minister, Kevin Stewart, will want to bring to the chamber debates and discussions on a range of issues; I am sure that he will note and be sympathetic to that request to discuss all issues of housing.

In terms of the narrower responsibility that I bring to the chamber for this act, we are mindful of some of the arguments that Alex Rowley is putting, although the issues are not as clear cut as they might be. Undoubtedly, there is a need to continue to protect tenants; we recognise that, and yesterday we laid regulations for a new requirement for tribunals to consider whether a landlord has undertaken actions to support tenants before eviction, so we are taking actions outwith and on top of the bill. Also, from representations from the housing association in my area, I

recognise issues about allocation, which have not been addressed because of lockdown, and issues over how housing associations operate. There are complicated issues in there; as part of the renewal, Kevin Stewart will want to bring forward proposals that meet need and demand, but they are not the only issues that are relevant in housing at the moment and I am sure that he will take account of that request from Alex Rowley.

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

On 18 June, the Scottish Courts and Tribunals Service responded to a written question from me, saying that 158 applications for eviction were made between 25 March and 16 June, and that 484 applications were outstanding. The vast majority were initiated before the emergency period.

Will the cabinet secretary confirm that the rented sector provisions in the act will be extended? In particular, will the Government agree to extend the existing six-month notice period to 12 months to ensure that there are no winter evictions? Will the Government also reconsider the need to outlaw for ever evictions on the ground of arrears accrued due to coronavirus?

Finally, why, in paragraph 7.1.1.16 of the report, in relation to the equality impact assessment, is there mention only of the landlord's property rights under article 1, protocol 1 of the European convention on human rights, but no mention at all of the balancing article 8 right, on a person's private and family life, home and correspondence?

**Michael Russell:** I make it clear that I am sure that the Minister for Local Government, Housing and Planning will come to committee and the chamber with his detailed proposals.

We cannot, in renewal of the legislation, change the detail of it. That would require new legislation. We can either continue the powers or not continue them, and we have to decide on that before we put the regulations to Parliament. It is a clear process; we will not be able to amend the detail.

I think that the Minister for Local Government, Housing and Planning has made it clear that he would like continuation for six months, although I do not want to commit absolutely to that, because discussions continue. However, if there is a continuation—I hope that there will be—the terms of the continuation cannot be changed within the legislation. Doing so would require new legislation, and we are not planning new legislation at the moment.

On the wider question of evictions, nobody wishes to see evictions taking place. I repeat unequivocally that there should be no evictions

due to coronavirus. There are other circumstances in which evictions take place: as members of Parliament, we are all aware of circumstances in which eviction was not only inevitable but necessary, sometimes due to antisocial behaviour, for example. In all circumstances, we want to protect tenants and their rights, and to make sure that they enjoy their security.

However, I ask members to remember that we cannot choose to change the legislation—we can only decide what we do and do not renew. That will be the question before us.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I am grateful to the cabinet secretary for advance sight of his statement.

I will ask once again about schedule 9 and the changes to mental health regulations, which can increase the amount of time for which a person is detained, and can reduce the number of clinicians who are required for intervention. The powers remain available to the Scottish Government, but no circumstances have yet emerged during the crisis that have required their use. When, after his statement on the previous report, I asked the cabinet secretary to repeal schedule 9, he quoted to me the view of a senior psychiatrist in support of its retention. Psychiatrists might be experts in mental health, but they are not experts in human rights, and many human rights champions are calling for the schedule's repeal. Will the cabinet secretary reconsider?

**Michael Russell:** I am happy to say to Alex Cole-Hamilton that every provision in the legislation will be considered with regard to whether to renew it. If I may use an Irish word, it is not very flathulach to dismiss the president of the Royal College of Psychiatrists as just another psychiatrist. When the president of the Royal College of Psychiatrists says that such powers are necessary in the circumstances, it behoves every member in the chamber to listen to that individual.

I will not dismiss the point out of hand—there will be a discussion about it and consideration of the provision's renewal. When we make recommendations, I am sure that we will hear again from Alex Cole-Hamilton.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** There has been a lot of comment recently about development of a vaccine. Is there anything in the coronavirus acts that can help to ensure widespread coverage in Scotland, should a vaccine become available?

**Michael Russell:** Fulton MacGregor has asked an interesting question. There is a provision in the first act that allows a wider group of people to legally administer vaccines. That power has not been used yet, but there are circumstances in which it could be used.

That is an interesting example of legislation that has not yet been required, but might be required. It could be required in two sets of circumstances: when there is a need and a request for mass vaccinations for the coronavirus, and in the intensive flu virus vaccination programme this year. I think that everybody over 55 is to be offered the opportunity to have the flu vaccine. That is a provision in the legislation that it would be wise to hold on to, although it has not yet been used. There are a number of such provisions that we should be aware of and discuss.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** It is very welcome that the Scottish Government is taking such a proactive approach to domestic abuse during the coronavirus outbreak. Can the cabinet secretary confirm that the guidance for local authorities on how to respond to domestic abuse will continue to be refreshed regularly, in order that it reflects changing circumstances in relation to the lockdown measures that are in place?

**Michael Russell:** I do not expect that we will wish at this time to dispense with the provisions in the legislation on that matter, so they will continue. The initial analysis of the figures that we have indicates that there was a rise in domestic abuse during the reporting period, but we need to drill down much further into the figures before we can talk about them in detail. The domestic abuse provisions are a very important part of the legislation; the Government certainly has no intention of walking away from them, so I expect the provisions to continue.

**Oliver Mundell (Dumfriesshire) (Con):** Will the cabinet secretary set out to me, as the constituency member for Gretna Green, why the draconian one-size-fits-all restrictions on wedding gatherings remain proportionate and necessary? How can it be fair to leave individuals and businesses in limbo and to delay such important life events, when similar-sized gatherings are allowed in pubs and restaurants and on public transport, and all involve strangers?

**Michael Russell:** We all receive representations from a range of businesses, and we feel very deeply about them. I have received representations in the past few days about wedding venues.

We have to look at the matter in two ways. First, we should say that, clearly, weddings can take place and that there has, as a result of weddings being possible again, been a big increase in the number of weddings taking place.

However, the regulations about weddings are not the same as the regulations about social gatherings; a wedding reception is a social gathering in which it is likely that people from

many households will come together. In the circumstances, wedding receptions need to be regulated in the same way as other social gatherings. That is a necessity. I wish that it was not so, but we need to look at the entire balance of how such things are managed. It is not as simple as taking one item and comparing it to another item.

The priority today should be, and is, to get schools back. That has been the First Minister's declared priority, and it is now taking place. Nobody wants any regulations or restrictions to last a moment longer than is necessary. Mr Mundell's simply shaking his head does not make something true. There continue to be dangers from unlimited gatherings; as a result, difficult decisions have to be made.

**Jackie Baillie (Dumbarton) (Lab):** The cabinet secretary will be aware that debt is increasing because people are losing their jobs as a result of coronavirus. I hope, therefore, that the provisions on bankruptcy and debt in the first two emergency acts will be extended, because they are needed now more than ever.

I also ask the cabinet secretary to consider doing something that the Scottish Government has so far refused to do, which is to freeze interest rates and fees. I sincerely hope that the Scottish Government will not continue to set its face against that progressive measure, which would make a real difference to debtors. On that basis, will the cabinet secretary work with me to help people who end up in debt because they have lost their jobs?

**Michael Russell:** I am quite sure that Jamie Hepburn, who is the minister who deals with such matters, will be happy to continue his discussions with Jackie Baillie—I know that they have been intensive, which I am sure is benefiting both members—on trying to find a way to resolve the issue.

I pay tribute to the work that Jackie Baillie did on the second coronavirus act to ensure that we moved on the matter, because it has had an impact. Quite a number of people have paid nothing at all, and others have been able to get their charges reduced as a result of her amendment, which was the result of productive discussions across the chamber.

I am certain that Jackie Baillie will want a discussion with Jamie Hepburn. Items will either be renewed or taken out of the legislation. As I have said, it will not be possible to make changes such as she suggests, although I am sure that there exists the potential for other action.

**Ruth Maguire (Cunninghame South) (SNP):** Will the cabinet secretary say more about what engagement the Scottish Government will have

with external bodies—equalities and human rights bodies, in particular—to inform decisions on which provisions in the coronavirus acts will be renewed and which will expire?

**Michael Russell:** It is clear that the timescale for renewal is tight, but as I indicated in my statement, we want to make sure that, in bringing forward such proposals, we stay as close to that timescale as possible, so that we can be as active as possible in making changes.

Within that, I want the Government and Parliament's committees to engage with others in order to find out their views on the matter. People who feel that they should now be able to open premises but cannot yet do so should be part of the process, as should human rights bodies. There should be as much consultation as possible. It is because people are being asked to observe the regulations that we want them to be engaged in setting the regulations or renewal of regulations.

**Adam Tomkins (Glasgow) (Con):** The cabinet secretary said in his statement that the powers have been used "proportionately". In the light of that, how is it proportionate that gyms in Scotland are not to open until the middle of September, some two months after gyms south of the border opened, when no Covid clusters have been traced to transmission in a gym? How is that a proportionate use of power?

**Michael Russell:** The First Minister addresses such questions when she reports to the chamber, as she does regularly. I seem to remember that on the most recent occasion on which she addressed the issue that Mr Tomkins raises, she made it clear that if evidence was produced that would allow gyms to open safely earlier—we are always looking for such evidence—it would be considered.

Presently, the view is that that is not the case—*[Interruption.]* It is certainly possible to shout, but it is probably more sensible to listen to the evidence that is produced and the information that is provided, and to ensure that we are all taking part in a process that is designed to suppress the pandemic and to enable us to move on. If all that members do is shout, they are not listening to the evidence and are not thinking of all their fellow citizens.

**John Mason (Glasgow Shettleston) (SNP):** Quarantine after foreign travel has been quite a contentious issue. Can the cabinet secretary comment on such restrictions continuing and the question of which countries should be included or excluded?

**Michael Russell:** That issue is considered closely on a four-nations basis. The evidence comes from two sources. In the end, we always make sure that we make the judgment based on

what we regard as being the risks to the safety of citizens. That is not an easy thing to do—as we saw when one country was excluded that was not excluded elsewhere.

Quarantine is essential, because the bringing into the country of the virus is a major issue. Today in New Zealand, for the first time in 102 days, there are four cases in the city of Auckland. Action has been taken in Auckland to ensure that there is no possibility of that virus coming in from elsewhere.

We learn from other people, and we should do that by considering the totality of the matter, rather than just by looking at the situation in one sector compared with that in another.

**Monica Lennon (Central Scotland) (Lab):** I accept what the cabinet secretary has said about taking a proportionate and evidence-based approach to the legislation and the guidelines, but I want to raise the issue of funerals, which colleagues have raised recently at the COVID-19 Committee.

Can the cabinet secretary explain or publish the evidence base that limits attendance at funerals in places of worship to only 20 people? Many people from multiple households can gather in pubs and restaurants, but we cannot do so to mourn our loved ones. I ask the cabinet secretary to spell out the evidence behind that.

**Michael Russell:** Monica Lennon knows—I have said this in committee previously—that if individual members wish to receive individual evidence, they should ask for it and they will get it.

However, there is the overall balance of risk to consider. A judgment is reached on what the balance should be after a great deal of consideration. It is not simply a case of saying, "There's one sector, there's another sector; let's look at the two of them." It is a case of making sure that a balance is struck and that safety is preserved by making sure, for example, that the R number is kept as low as possible.

It behoves us all to look at that as carefully and calmly as we can, and to make sure that we understand that promoting one sector over another might have unexpected consequences that could be immensely serious. Let us try to do things as we did when this process began, because that way led to success. We should continue with that success.

**Joan McAlpine (South Scotland) (SNP):** Paragraph 7.1.3.9 of the report concerns aspects of the legislation relating to vulnerable adults and the powers that have been given to local authorities to provide services without involving the views of the vulnerable adult or their guardian, welfare attorney or intervener. Can the cabinet

secretary reassure us that the purpose of that power is only to keep the individual safe? Given the human rights implications of that restriction on people with a protected characteristic, will stakeholders be engaged with in order to understand the impact of the provisions?

**Michael Russell:** Those provisions, like the provisions that Alex Cole-Hamilton mentioned, are kept under constant review. It is very important that we listen to practitioners and to people who are involved in the issues, as we make judgments on them. I confirm that we will consider very carefully whether the provisions need to be renewed. We will also ensure that people who are involved—service users and practitioners—are included in discussion of what should happen next.

## Examination Results

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a statement by John Swinney on the Scottish Qualifications Authority exam results 2020. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

15:07

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** The Covid pandemic has inflicted much suffering and hardship on our society. Many of our young people have had to face that pain across different aspects of their lives. I want to make it clear that I understand that anguish and I can see that, for some, the SQA results process made that worse. We set out to ensure that the system was fair and that it was credible, but we did not get it right for all young people.

Before I go any further, I want to apologise for that. In speaking directly to the young people affected by the downgrading of awards—the 75,000 pupils whose teacher estimates were higher than their final awards—I want to say this: I am sorry.

Sorry as I am, I know that an apology is not enough. I watched the pictures of the spirited, articulate young people demonstrating in George Square on Friday. I have spoken directly to pupils who wrote to me—Nicole Tate, Lauren Steele, Eva Peteranna, Erin Bleakley, Subhan Baig and Eilidh Breslin—and I thank them for the passion and clarity that they brought to our discussions. I have also heard from parents and teachers.

I have listened, and the message is clear. They do not just want an apology—they want to see this fixed, and that is exactly what I will now do.

The exceptional circumstances of this year meant that it was not safe to hold exams in the spring. I said that we would need to do our utmost to protect the interests and life chances of our young people who were due to sit exams. It was always imperative that their achievements would be rightly and fairly recognised. I wanted the 2020 cohort to be able to hold their heads high and gain the qualifications and awards that they deserved after many years of hard work.

Covid meant that there was no established process for how to achieve that. All of it had to be developed at pace after we announced that schools required to close on 20 March.

I asked the SQA to develop an alternative approach to certification, to ensure that young people could receive awards this year. The SQA

developed a model, which gathered teachers' and lecturers' estimates in the absence of any other information and involved moderation of those estimates across all centres, to maintain standards.

That resulted in an increase in the pass rates of 2.9 per cent at national 5, 4.2 per cent at higher, and 5.5 per cent at advanced higher. Before I go any further, let me congratulate those tens of thousands of young people who achieved that strong result.

The system also meant that some people did not receive the awards that they felt they were capable of achieving and which their teachers believed they deserved.

The focus has, understandably, been on the impact on young people from deprived backgrounds. The defining mission of this Government is to do all that we can to improve the life chances of children and young people who live in poverty. We have focused intensely on that mission during this session of Parliament. The fact is that the results last week produced higher increases in the pass rates among young people from deprived backgrounds than among young people from any other group. I commend those young people on their achievements.

However, that picture does not disguise, or detract from, the clear anger and frustration among some young people and their families about their results. That anger stems from the unfairness that they feel is at the heart of the model for certification that we put in place.

The process relied on the professional judgment of teachers and lecturers, and we know that it was subsequently the case that the overwhelming majority—around three quarters—of those grade estimates were not adjusted at all. That is a demonstration of the strength within our teaching profession and the sound understanding of standards across the suite of qualifications and through curriculum for excellence. I thank the teaching profession for the care and attention that went into making every individual estimated grade.

The estimates that were received in May showed an increase in attainment at grades A to C by 10.4 percentage points for national 5s, by 14 percentage points for higher and by 13.4 percentage points for advanced higher. Those estimates, if grades were awarded without moderation, would have represented a very significant increase in the pass rate across the board and a one-year change without precedent in Scottish exam history. To ensure that it carried out what I asked of it, which was that the results were to be certificated on the basis of maintaining standards across all centres, the SQA judged that

increases of that nature could not be sustained without moderation.

Moderation is not a new process. It is an annual process and is widespread across all countries where exams take place. It helps to ensure that standards are maintained over time. In previous years, moderation was applied to quality assure centre assessment judgments of performance. This year, it was applied to teacher and lecturer estimates.

The SQA has provided a significant amount of information about how its methodology works, which I will not restate today. Some people have called for that to have been done earlier but, every year, the SQA provides the details of its marking methodology on results day and, although the methodology has changed this year, the principle of publishing on results day remains the same.

The moderation methodology consisted of both national and local moderation and was robust and based on a number of principles that the SQA has set out. There was always going to be a risk with that approach that, despite best efforts, some learners would see a grade adjusted in a way that did not reflect their potential. That is why the SQA included an open, free appeals process in its approach from the outset.

As a result of the SQA moderation process, 134,000 teacher estimates were adjusted, with just under 76,000 candidates having one or more of their grades lowered when compared to the teacher estimate.

Despite the headline improvements in the pass rate at national 5, higher and advanced higher, despite the fact that the pass rate among pupils in the most deprived areas increased at a sharper rate than pass rates in the least deprived communities, and despite the fact that there was progress in closing the attainment gap, the results left many young people feeling that their future had been determined by statistical modelling rather than their own capability and capacity. That has left a feeling of unfairness in the minds of young people.

I draw three conclusions from all that. First, we were concerned that grade inflation, through accepting the original estimates from teachers, would run the risk of undermining the value of qualifications in 2020. In the light of events and of listening to young people, we now accept that that concern, which is not without foundation, is outweighed by the concern that young people, particularly from working-class backgrounds, may lose faith in the education system and form the view that, no matter how hard they work, the system is against them. Education is the route out of poverty for young people in deprived

communities, and we cannot risk allowing that view to take hold.

Secondly, there is a view that relying on teacher judgment this year alone may give young people an incomparable advantage over pupils in other years. That view has to be weighed against the massive disadvantage that Covid has given young people through the loss of schooling, the limited social interaction, the pressure on mental wellbeing and, in some cases, the heartbreak of bereavement. Perhaps our approach to maintaining standards for the 2020 cohort alongside every other year—even though 2020 is so unique—did not fully understand the trauma of Covid for that year group and did not appreciate that a different approach might help to even things out.

Thirdly, this year, 2020, is and must be seen as unique. It has turned our society upside down. It cannot fairly be compared with previous years, and it cannot set an automatic precedent for future years. However, it perhaps merits taking a different approach in relation to certification.

Before I move on to how we resolve that issue, I want to be clear about the role of the Scottish Qualifications Authority. As I have said already, I asked the SQA to ensure that the qualifications of 2020 would be comparable to the qualifications of any other year despite the extraordinary times in which we are living. The SQA undertook the task that I set it, and it did so in good faith. I make no criticism of its actions in so doing. I am grateful to everyone at the SQA for the professional approach that they have taken.

I will now set out how I intend to resolve the issue.

I can confirm to Parliament that all downgraded awards will be withdrawn. Using powers that are available to me in the Education (Scotland) Act 1996, I am today directing the SQA to reissue those awards based solely on teacher or lecturer judgment. Schools will be able to confirm the estimates that they provided for pupils to those who are returning to school this week and next week. The SQA will issue fresh certificates to affected candidates as soon as possible and—this is important—will inform the Universities and Colleges Admissions Service and other admission bodies of the new grades as soon as practical in the coming days to allow for applications to college and university to be progressed.

As the First Minister confirmed yesterday, in those cases in which moderation led to an increased grade, learners will not lose that award. Many of those young people will already have moved on to secure college or university places on the strength of the awards that were made to

them. To unpick them now would not in any way be fair.

Due to the unique circumstances of the situation, we will this year make provision for enough places in universities and colleges to ensure that no one is crowded out of a place that they would otherwise have been awarded.

The outcomes from the 2020 SQA national qualifications will be updated, and a revised statistical release will be available from 31 August. However, I can confirm that the provisional revised 2020 results, based on the professional judgments of Scotland's teachers and lecturers, can be summarised as follows: a national 5 pass rate of 88.9 per cent, which is 10.7 percentage points higher than in 2019; a higher pass rate of 89.2 per cent, which is 14.4 percentage points higher than in 2019; and an advanced higher pass rate of 93.1 per cent, which is 13.7 percentage points higher than in 2019. I can also confirm that the final new headline results for national 5s, highers and advanced highers will be published by 21 August.

A result of the change in approach to awarding qualifications is that there will no longer be the need for exactly the same appeals process that was planned to consider cases in which awarded grades were lower than teacher estimates. There remains the need for the option of an appeal in some circumstances. Detail on that will be set out by the end of the week.

There are many lessons that we need to learn from our experience through this pandemic and from the difficult decisions we have had to make in unprecedented circumstances.

The 2020 SQA results have sparked a lot of debate about the future of assessment and qualifications in Scotland and the best way to recognise learners' achievements. We have already commissioned the Organisation for Economic Co-operation and Development to conduct an independent review of the curriculum for excellence. A key focus of that exercise is curriculum design, and that already includes looking at our approach to assessment, qualifications and other achievements and how well they articulate with the curriculum, learning and teaching. We will work with our partners at the OECD with a view to extending the remit of the curriculum for excellence review to include recommendations on how to transform the Scottish approach to assessment and qualifications, based on best practice globally.

Even before a broader review takes place, however, we need to quickly look at the immediate lessons of this year's awards process. Coronavirus has not gone away and, although we expect next year's exams to go ahead, we need to

put in place the right plans to make sure that we do not find ourselves in the same situation again.

I am aware that many teachers will be keen to understand fully the arrangements for national qualifications in 2021. The education recovery group has discussed a number of options in relation to this, and I confirm that the SQA will begin a rapid consultation exercise on options for change later this week. That will include consideration of key issues such as increasing optionality in question papers, removing components of course assessment and adjusting the volume of evidence required in coursework tasks.

In addition, however, I am today announcing that an independent review will be led by Professor Mark Priestley of the University of Stirling. The review will look at events following the cancellation of the examination diet and the alternative certification model that was put in place by the SQA. Areas to be considered include the advice provided to awarding centres by the SQA and local authorities; the approach developed in relation to estimating learners' grades; teachers' estimates; the moderation methodology used by the SQA; the proposed appeals process; the impact on young people and their families; transparency and the role of scrutiny of the process; and feedback received from teachers and lecturers on the grades that were awarded last week. Given the urgency, I have asked for an initial report within five weeks with recommendations on how we should go forward this coming year.

These are exceptional times and, in exceptional times, truly difficult decisions have to be made. It is deeply regrettable that we got this wrong, and I am sorry for that.

We have listened to young people and I hope that all will now feel satisfied that they have achieved the grades that their teachers and lecturers judged that they deserved. I assure Parliament that we will look to learn lessons from the process of awarding qualifications this year that will help to inform any future actions.

Finally, I would like to thank all of Scotland's children, young people and adult learners for the incredible resilience they have shown throughout the Covid-19 pandemic. We are immensely proud of all that they have achieved. I hope that our pupils now move forward confidently to their next step in education, employment or training with the qualifications that teachers or lecturers have judged were deserved.

Covid has at times placed unbearable pressures on us all and I wish our learners well in building on the achievements they have justifiably been awarded in these most difficult of days.

**The Deputy Presiding Officer:** The cabinet secretary will now take questions on the issues raised in his statement. I will allow up to 40 minutes for that. I ask members who wish to ask a question to press their request-to-speak buttons now.

I call Jamie Greene, who is joining us remotely.

**Jamie Greene (West Scotland) (Con):** I thank teachers for their forbearance throughout this period, and I also thank the cabinet secretary for advance sight of his statement, all 18 pages of it—the longest resignation speech in history, minus the resignation.

In extraordinary circumstances, Mr Swinney promised us an exam system that would disadvantage no one. He promised dialogue, openness and fairness for all. What did we get instead? A methodology that is clouded and secret; a lack of transparency and engagement; teachers being ignored; a postcode lottery that, disgracefully, penalised those from our toughest communities the most; a grading process that put the system ahead of the individual; and endless denial that there was a problem with any of that.

Just last week, the education secretary said:

“there is no evidence that young people in deprived communities have been disadvantaged”.

He was backed by the First Minister the whole way. Today, they have been forced into an apology and a humiliating U-turn.

Questions remain to be answered. First, who signed off the adoption of the methodology? Was it the cabinet secretary, the Cabinet or the SQA? More important, why was the flawed approach agreed to, pursued and defended so vigorously by him and his Government?

Secondly, how will the cabinet secretary physically ensure that those who are eligible for a university place will get one, given the implications of his comments today?

Finally, although I welcome the announcement of a short-term inquiry into the fiasco, which is something that the Conservatives have been calling for, given the importance of the wider OECD review into Scottish education, will the cabinet secretary commit to bringing forward the publication of that vital report, and most certainly before May 2021?

**John Swinney:** Jamie Greene referred to the comments I made last week about the fact that young people from deprived backgrounds had not been disadvantaged by the methodology that was used. The evidence that I cite for that is the evidence that I used in my statement. For example, the pass rate increased by 4.6 per cent among pupils in the most deprived communities,

while it increased by 2.9 per cent among pupils in the least deprived communities. That demonstrates that the pass rate in the most deprived communities increased at a faster pace than in the least deprived communities.

I set out in my statement my understanding of the sense of hurt felt by young people who were predicted to do better but did not get the awards to which they were entitled. That had to be addressed, and I have remedied that in my statement.

On the question of the methodology, I want to be crystal clear. The task that I set the SQA was to ensure that we maintained standards. I did not prescribe how that was to be done because, as Professor Lindsay Paterson, who the Conservatives frequently cite to me as an expert to whom I should listen, said last weekend:

“Politicians can’t be seen to be interfering in examining. That would not be acceptable.”

That is why we have an independent SQA.

I am conscious that I have just interfered in examining. Before the wise comings on the Labour back benches stumble on to that, I put my hands up; I accept that point.

Professor Paterson’s point is that decisions on examination standards have to be taken by an independent body, and those are the arrangements. The Government sets the task—we said that we wanted standards to be maintained—and the SQA developed the methodology to enable that task to be done. The approach was pursued because we had to replace the exams that could not take place. The methodology had to be put in place, to enable that to happen.

On eligibility for university places, many thousands of young people have received awards that have enabled them to take up places already, and more young people will be able to take up places subsequent to my announcement.

The OECD review will take place as soon as the OECD can practically undertake the task, given the travel restrictions that have affected us as a consequence of Covid. The OECD is ready to carry out the work, and the Government is entirely committed to the review being undertaken at the earliest possible opportunity. However, I have explained to Parliament previously that travel restrictions and difficulties have prevented us from progressing the review in the early period that we envisaged.

**Iain Gray (East Lothian) (Lab):** [*Inaudible*.]—a humiliating climbdown. This one is very welcome. The restoration of pupils’ achievements, based on the judgment of teachers who know them, is a victory for fairness, common sense and for those

young people who refused to take this injustice lying down.

The climbdown begs many questions about how on earth it came to this. Will the education secretary explain why he did not listen to warnings in April, May, June and July that this was exactly what was going to happen? When it did happen, why did he not act immediately? Why did he defend the results of the moderation for five days? Why was there no contrition, apology or U-turn until now? Why did he leave those young people twisting in the wind for a week, with their hopes and aspirations in shreds?

I commend the education secretary for taking responsibility now and for trying to fix this, but I ask him: will he take full responsibility for it happening in the first place and resign?

**John Swinney:** I take responsibility for my actions. I have come here to do what I think young people in Scotland want me to do, which is to fix this. I have done that right away, at the earliest possible opportunity and I have explained it to Parliament.

I have done that openly and honestly in front of Parliament to make sure that Parliament could hear my explanation. It is my duty to make sure that that is done here.

I am interested in the fact that Iain Gray welcomes the steps and the approach that we have taken. The methodology that he has criticised here is being used to address those issues in other parts of the United Kingdom and in countless other jurisdictions around the world. However, we have recognised that the application of that methodology has created an injustice and an unfairness to young people. I have come to Parliament to remedy that. I am glad that I have done that and I hope that young people will take heart that the Government has responded to their actions and protests.

**The Deputy Presiding Officer:** We will move to open questions. There are a lot to get through. Please bear that in mind.

**Clare Adamson (Motherwell and Wishaw) (SNP):** I thank the Deputy First Minister for his statement.

Two reviews into what has happened have been promised: a short-term review of this year’s process and a longer-term review looking at whether we have the right balance between exams and teacher assessment. Will the Deputy First Minister ensure that the views of young people, teachers, employers and other stakeholders will be part of those reviews, so that we can have complete confidence in their conclusions?

**John Swinney:** Clare Adamson raises an important point about the balance in our assessment system between exams and other forms of assessment. There is a legitimate discussion to be had about that and we can have it within the OECD review, which will engage widely with Scotland's education community. Professor Mark Priestley's review will look specifically at the issues that I raised in my statement about the particular approach taken this year. Engagement with young people and a range of stakeholders will be part of that process.

**Ross Greer (West Scotland) (Green):** As my colleagues have done, I congratulate the pupils and teachers without whose campaigning in the past week this would not have happened. I welcome the Government's adoption of all four of the Greens' proposals to resolve the situation.

However, we should not have been here in the first place. When the Deputy First Minister became aware of the number of grades that had been lowered by moderation and of the disproportionate number lowered in working-class communities, why did he not do something about it at that point? Does he regret the refusal to publish the methodology when that was twice requested by Parliament? Does he acknowledge that one of the many fatal errors in the process was the SQA's refusal to engage with teachers, whose professional judgment the cabinet secretary regularly praises?

**John Swinney:** I became aware of the moderation outcomes on the Thursday before the results came out, when I was given pre-release access to the statistics. By that stage, there was no conceivable way in which I could have changed the distribution of awards. I come back to the point that, under our arrangements, the SQA is an independent awarding body that acts independently of Government, and it would be inappropriate, in those circumstances, for the Government to make such a change—although I accept that I have come to Parliament today to exercise my statutory powers of direction.

I appreciate that Ross Greer has on a number of occasions pursued the point about the publication of the methodology. I explained in my statement the rationale for the SQA's stance on that matter. Essentially, the methodology is integral to the awarding process, and it was therefore published on results day, along with the approach to marking that replaced the marking approach that the SQA would normally have undertaken.

On engagement with members of the teaching profession, the SQA has set out that one of the difficulties of undertaking such engagement was with ensuring that it could be undertaken on an equitable basis across all centres. There are about 500 centres that undertake some assessment.

The SQA could not satisfy itself that it would be able to fulfil its equalities duties across the board to all centres using the dialogue that Ross Greer has suggested; that is why it was not pursued.

**Willie Rennie (North East Fife) (LD):** [*Inaudible.*]*—*he embraces a solution that he trashed just last week. How can we have confidence in an education secretary who undermines our education system in such a reckless way? John Swinney told students that the historical performance of their school would not affect their results, but it did. He was given another way, but he ignored it. He was asked to publish the methodology early, but he refused. He had plenty time to fix this, but he did not.

Does John Swinney not understand that he is now part of the problem, not the solution?

**John Swinney:** Throughout this exercise, I have tried to ensure that young people, in a situation of extremis, could be awarded qualifications when they were unable to sit the examinations for which they had been preparing. That is a wholly difficult and inconceivable situation, which we faced in a very short space of time.

I respected the independence of the Scottish Qualifications Authority, and set it the task—a very difficult task—of designing an approach to certification that respected the independence of the SQA, and that would give young people the ability to have their achievements properly and fairly certificated, on a comparable basis to that of other years. That is the approach that we took.

I accept that, as a consequence of all that, some young people felt that their achievements had not been properly recorded and certificated, and I have remedied that today. I have listened and paid attention to the concerns that have been put to me; that is what I should do in difficult and challenging circumstances, and I am pleased that we will be able to rectify the matter on behalf of young people across the length and breadth of Scotland today.

**Jamie Halcro Johnston (Highlands and Islands) (Con):** Parents, pupils and teachers believe that the cabinet secretary should have rejected out of hand the previous methodology for awards, as soon as he saw how and where the impact of those changes would fall. We have just learned, from his answer to Mr Greer, that he had an additional five days to decide whether to change or challenge those results. I ask him to clarify why he chose to defend the impact that has become so apparent.

I add that this whole sorry story and today's desperate U-turn could have been avoided if the initial methodology had been subject to proper

scrutiny by the cabinet secretary ahead of being used.

With that in mind, will the cabinet secretary outline what consultation took place with external organisations on this new approach ahead of his announcement, and what concerns they raised?

**John Swinney:** This decision was arrived at after I listened carefully to the views of young people, after discussions with the Scottish Qualifications Authority and with representatives of our universities and after listening to the views of teachers and parents as part of the process. The decisions that I announced today have been formulated as a consequence of that dialogue.

In relation to Mr Halcro Johnston's points about the methodology, I come back to my fundamental answer that in Scotland we have operated on the basis that awarding bodies operate independently of Government. That is not unique to Scotland—it is commonplace in many systems around the world. Government sets the task, and the task that I set, about which I have been very open with Parliament, was that a certification model that maintained standards should be developed. That is exactly what was developed by the SQA. As I have said, it resulted in an increase in the pass rate and in improved performance among young people from deprived backgrounds at a greater rate than among those from the least deprived backgrounds. As a consequence of that, it resulted in a closing of the poverty-related attainment gap. On a number of those measures, the results indicated significant progress.

However, the methodology also recognised that there could be individual cases that left young people feeling disadvantaged, and an appeals mechanism was built into the approach from the very outset to enable young people to appeal. All of that system was in place to enable the awards to be undertaken in circumstances in which young people could not present their own work through the normal round of examinations.

**Kenneth Gibson (Cunninghame North) (SNP):** I welcome the cabinet secretary's statement. Does he agree that, in a display of breathtaking opportunism and cynicism, Tory and Labour MSPs have shown less concern for Scottish education or pupils than a desperation to attack this Government? Does he also agree that, had his initial action been different, those same MSPs would be jumping up and down decrying a fall in standards, as they undoubtedly will next year, should the percentage of passes return to pre-pandemic levels?

Looking forward, will he explain how adjusting the volume of evidence required in coursework will aid pupils from deprived backgrounds, given that they will not have access to tutors or, in some

cases, the active parental support that children from better off families will enjoy?

**John Swinney:** Part of the work that the Government has taken forward, with which Mr Gibson will be familiar, is to specifically support young people from deprived backgrounds through the Scottish attainment challenge, through which we are trying to ensure that there is extra investment in schools to which young people come from deprived backgrounds in order to support their attainment. The Government is actively trying to counterbalance the issue that Mr Gibson put to me.

He also highlighted the question about the maintenance of standards that was at the heart of the direction that I gave to the SQA some months ago; that is, that consideration had to be given to the credibility of awards from one year to another. I have accepted in the decisions that I have taken today that, in these exceptional circumstances, that can be waived. However, it is a legitimate issue to be concerned about to ensure that young people have quality in the standards of the qualifications that they achieve.

**Daniel Johnson (Edinburgh Southern) (Lab):** The cabinet secretary promised crystal clarity on the decision making process, but I do not think that we got that clarity. Did the cabinet secretary sign off on the use of a purely statistical method of moderation? Given the U-turn today, that decision was clearly of national significance. Was that decision signed off on by the cabinet, and when did that decision take place?

**John Swinney:** I thought that I had given clarity on that point. The design of the methodology was the responsibility of the SQA as it responded to the direction that I had given it to design a model that would maintain standards with comparable performance between individual years, as is the normal expectation of the SQA.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I have received a lot of correspondence from constituents about the SQA results, and I am sure that they will be pleased with today's announcement. It is clear that the Scottish Government listens to the population: today's actions certainly demonstrate that. However, can the cabinet secretary ensure that no detriment for deprived communities is a foundation stone for the reviews that are about to take place?

**John Swinney:** That issue lies at the heart of the Government's policy agenda. The closure of the poverty-related attainment gap, the steps that we are taking to invest heavily in the Scottish attainment challenge and the commitments that we have made to concentrate on tackling the issues that underpin the existence of the poverty-related attainment gap are the measures that we

will take forward in education policy. Exam and assessment results will capture the progress that we make on that.

I have set out some of the issues that we will have to wrestle with in the comparability of results between 2020 and other years as a consequence of the change to the approach to awarding that was taken this year.

**Liz Smith (Mid Scotland and Fife) (Con):** Does the Deputy First Minister now accept that the utter fiasco of what happened last week has exposed fundamental failings in the whole system? The SQA is not nearly transparent enough. It is the only body in the UK that will not permit exam scripts to be returned to candidates and schools. Will he review that so that we do not go through this lack of transparency again?

**John Swinney:** I am very happy to raise the issue of exam scripts with the SQA. There is a slight problem this year in that there are no exam scripts to return to pupils because they did not sit exams. However, I am very happy to raise that issue with the SQA, and to try to provide a satisfactory answer to Liz Smith.

**The Deputy Presiding Officer:** We will not get through all these questions if we do not have shorter questions and answers.

**Ruth Maguire (Cunninghame South) (SNP):** I thank the Deputy First Minister for listening and taking action, and ask whether, in future, the SQA will assess the impact of moderation on all marginalised and disadvantaged groups.

**John Swinney:** That is part of the statutory responsibility of the SQA in relation to its equality duties. The equality impact assessment and child rights impact assessment have been published by the SQA. They are available for scrutiny on this issue, and will be undertaken in all future years.

**Jackie Baillie (Dumbarton) (Lab):** I welcome the cabinet secretary's U-turn. It is important that we put individual students above an algorithm that simply ignored their hard work and the professional judgment of teachers.

The remit of the review does not include examining the actions of the Scottish Government. However, I believe it is essential that we understand what went wrong. When the cabinet secretary was warned, time and time again, did he question the methodology? Did he ask for it to be modelled? What direction did he give to the SQA before the results were published? Was there any attempt to stop the car crash?

The cabinet secretary needs to publish all the papers and minutes to enable proper scrutiny. Will he now do so?

**John Swinney:** Whatever documentation we need to publish, we will publish.

However, the point that I made in explaining the approach to the design of the methodology is very important, because—as Jackie Baillie will know—the SQA is an independent awarding body. It is set up by Government, but it is not controlled operationally by Government. We have exceptional powers, which I have used, but in the ordinary scheme of events we believe that it is important for examination results to be awarded by an independent body. That is what has happened, appropriately, on this occasion.

Obviously, we will respond to any request for information that we receive, but fundamentally, at the heart of the judgments that the SQA has to make, is the ability to exercise independent decision making on important issues of this type.

**Bob Doris (Glasgow Maryhill and Springburn) (SNP):** I raised concerns with the cabinet secretary about how the appeals process may not deliver fairness for all pupils. I am pleased that today, with his actions, young people will no longer need to appeal. However, as we learn the lessons of this, will the cabinet secretary ensure an examination of all the elements that depress the grades of some young people, particularly in deprived communities? Can that examination look at the waterfall effect of the SQA, in effect, setting how many young people in Scotland will secure an A and subsequently downgrading across all grade groups, meaning that many people in deprived communities will have a lower grade?

**John Swinney:** That question is at the heart of all annual examination methodology. That was the point in my statement about moderation, which is not a new issue. Moderation is applied annually to ensure that standards are maintained from one year to another. That was the foundation of the approach that was taken here. As I signalled in my answer, there are different ways by which we can assess performance. We have habitually operated on that basis, which I think has generally commanded confidence. Indeed, I have not had pressure on me as education secretary to change the methodology at any stage in the past, and I take from that that Parliament has been confident in the methodology. The OECD review can explore those questions and examine whether it is the right way to proceed. As I have said, there is a very legitimate debate to be had on that question, in which the Government will happily engage.

**Beatrice Wishart (Shetland Islands) (LD):** After listening to all the questions from colleagues today, does the cabinet secretary understand that he has let down so many people over the past four months that he cannot be the person to take the new approach forward?

**John Swinney:** Obviously, I take a different view from that of Beatrice Wishart. The issues will be properly resolved through parliamentary processes, and I will leave Parliament to determine those questions.

**Annabelle Ewing (Cowdenbeath) (SNP):** I very much welcome the cabinet secretary's announcement, because he has listened and he has acted. For the parents and young people in my Cowdenbeath constituency who have contacted me about concerns about downgraded results, can he provide a bit more clarity as to when they may expect to receive intimation of the new grades? They will be desperate for that oral and written confirmation. Also, can he clarify the status of the original Friday 14 August deadline for appeals? I assume that that date is no longer relevant.

**John Swinney:** We will set out later this week further clarity about the circumstances, which I expect to be much more limited, because we have obviously taken a very different approach on awarding, in which appeals will be considered.

With regard to the confirmation of results, schools will be able to indicate to young people the estimates that they submitted on behalf of individual young people and the SQA will issue new certificates as soon as it is possible to do so. I cannot give a definitive timescale today but I assure Parliament that it will be done as quickly as possible.

**The Deputy Presiding Officer:** Donald Cameron is joining us remotely.

**Donald Cameron (Highlands and Islands) (Con):** One of the saddest stories this week was that of Eva Peteranna, a pupil from Benbecula whom the cabinet secretary has mentioned. I welcome the fact that her grades will be amended, but young people in our island communities already face significant barriers in education. In the wake of this fiasco and embarrassing U-turn, what urgent action will the SNP Government take to ensure that pupils such as Eva are not placed at any further disadvantage?

**John Swinney:** I had the pleasure of speaking to Eva yesterday. An issue that we discussed was the e-Sgoil, from which Eva has benefited. On results day, from Stonelaw high school I spoke to pupils from schools in Argyll such as Dunoon grammar school. A young pupil there had undertaken a higher course in psychology, which would not have been possible at that school but was possible because of the e-Sgoil programme, which the Government has funded in collaboration with Comhairle nan Eilean Siar.

Also involved in that video call were young people from Forres academy, Aboyne academy, Kirkwall grammar school and the Nicolson institute

in Stornoway who, along with Eva, are utilising the e-Sgoil programme. It is a tremendous investment in digital learning that broadens subject choice for young people in remote communities, enables them to take subjects that ordinarily they would not be able to take and tries to overcome exactly the disadvantage to island and remote communities that Mr Cameron highlighted in his question.

It was a pleasure to use the technology and to see how its practical benefits are being experienced by young people in schools such as Dunoon grammar and the other schools that I mentioned.

**Neil Findlay (Lothian) (Lab):** When the future of young people in our poorest communities was at stake, the cabinet secretary refused to listen. However, when the future of John Swinney was at stake, suddenly his inability to hear miraculously disappeared.

The exams methodology has been shattered and faith in the system has been battered. The cabinet secretary and the First Minister were repeatedly warned about that, but they arrogantly ignored those warnings.

In 2000, Nicola Sturgeon called for the resignation of the then—

**The Deputy Presiding Officer:** Could you get to your question please. Mr Findlay?

**Neil Findlay:** I am, Presiding Officer.

Nicola Sturgeon called for the resignation of the then education secretary over an error that affected 9,000 students. Today, John Swinney is still defending his policy decision—

**The Deputy Presiding Officer:** Could you get to a question please, Mr Findlay?

**Neil Findlay:** —that affects 75,000 students. I believe that Mr Swinney is an honourable man.

**The Deputy Presiding Officer:** Would you get to the question please, Mr Findlay?

**Neil Findlay:** Will he do the honourable thing, take responsibility and stand down?

**John Swinney:** I am here to take responsibility, and I have done so. I have listened, I have acted and I have fixed the issue that Mr Findlay is concerned about.

**Gillian Martin (Aberdeenshire East) (SNP):** The change to results that pupils and teachers have campaigned for will lead to more young people being able to go to university and college than would have been the case. That is welcome, given the very difficult experiences that young people have faced this year—in particular, through having lost months of vital face-to-face support.

In his statement, the Deputy First Minister said that colleges and universities—

**The Deputy Presiding Officer:** Would you get to your question please, Ms Martin?

**Gillian Martin:** —will review offers and accept those students. Will he outline his discussions with the higher and further education sectors to ensure that those places will be available and will be resourced?

**John Swinney:** We have had discussions with the higher and further education sectors on those questions. Further guidance will be issued by the Scottish Funding Council. We will work to address the issues that arise from that once we have a clearer idea of the number of places that will be involved and the support that will be required.

**The Deputy Presiding Officer:** The next question is from Mark McDonald, who is joining us remotely.

**Mark McDonald (Aberdeen Donside) (Ind):** The cabinet secretary mentioned the long-term review that will consider the assessment of pupils more generally and examine whether the balance is correct. Given that the current situation appears to have demonstrated that pupils from more deprived backgrounds are traditionally disadvantaged by the closed-book exams system, will there be an opportunity to completely do away with that as part of how pupils are assessed and instead do something radical and new? We constantly talk about adapting to a new normal, so would such an approach be up for consideration as part of the review?

**John Swinney:** As I have highlighted in my comments, Mr McDonald has raised an entirely legitimate view of how assessments should be undertaken. However, it is not the view that predominated in the discussions that have happened so far in Scotland. There is an entirely legitimate debate to be had there, and I hope that it will be had.

If we take the example of the higher results among our most deprived communities, the teacher estimates demonstrate that they believe that 85 per cent of young people in such categories deserved to pass the exams, but the exam system in 2019 judged that 65 per cent should do so.

Mr McDonald's point highlights the difference in approach that is at the heart of his question. There should be every opportunity for that to be explored as part of the review that we are undertaking.

**Graham Simpson (Central Scotland) (Con):** If there are any pupils who are still unhappy with their grades, will they be able to sit an exam?

**John Swinney:** We do not have plans for an exam diet in this academic year. We put in place an appeals mechanism at the outset of our approach to enable young people to appeal. We will see a much narrower base and foundation for appeals as a consequence, but there are no plans to establish an exam in the autumn.

**Sandra White (Glasgow Kelvin) (SNP):** This follows on slightly from Mark McDonald's question. The Deputy First Minister mentioned a long-term review of assessment. Today's issue involving young people who are not sitting exams is a prime example of the opportunity that they have this time. Would the Deputy First Minister consider following the progress of this year's pupils through college, university and employment to see whether the situation has led to greater opportunities for our young people?

**John Swinney:** Yes, I will commit to that. Sandra White highlights an important issue. We would benefit from understanding the implications of the decisions that we have taken, and Ms White's suggestion of monitoring the progress that individual young people make is one that I will certainly pursue so that we are aware of the progress that can be made as a consequence of the decision.

**Sarah Boyack (Lothian) (Lab):** Can the cabinet secretary clarify that the additional places that are required for school students who now meet the entrance requirements will be fully funded, given the financial pressures that our universities and colleges are facing?

**John Swinney:** That is an issue that we will pursue in discussion with the Scottish Funding Council, which is responsible, on our behalf, for dialogue with the institutions. We will do all that we can to ensure that those young people who are able to access university or college as a consequence of the announcements that I have made today are able to do so.

## Covid-19

16:04

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a statement by Humza Yousaf, the Cabinet Secretary for Justice, on Covid-19. The Cabinet Secretary for Health and Sport and the Cabinet Secretary for Transport, Infrastructure and Connectivity are also available to take questions at the end of the statement.

Before calling the Cabinet Secretary for Justice, I should mention that I have 29 members down as wanting to ask questions, and we are running late, so my message to you is to please make your questions crisp. I also ask the cabinet secretaries to give succinct answers, please, if we are going to try and get through all the questions before nightfall.

**The Cabinet Secretary for Justice (Humza Yousaf):** I am here at the request of the Parliamentary Bureau, together with the Cabinet Secretary for Health and Sport and the Cabinet Secretary for Transport, Infrastructure and Connectivity, to answer questions that members may have in relation to Covid.

Our understanding is that members wish to ask questions in relation to care homes, prisoners on remand and Edinburgh airport, but we will undoubtedly be answering questions on a wider range of issues than that, so my colleagues and I are happy to answer questions on those and other matters.

I am happy to leave it at that and to take questions now.

**The Deputy Presiding Officer:** That is very kind, cabinet secretary, as you did not take up all your time. I will try to take questions from as many members as possible. It would be helpful if members pressed their request-to-speak buttons now and at the same time indicated which cabinet secretary their questions are aimed at. The first question will come from Miles Briggs. *[Interruption.]* Mr Briggs's microphone is not working. This is a great start when we are running out of time. I am sorry about this, but I will take Monica Lennon now, then come back to Miles Briggs once we get that problem sorted.

**Monica Lennon (Central Scotland) (Lab):** Does the Cabinet Secretary for Health and Sport agree that we need more transparency in care homes? At the weekend, there were disturbing reports of a postcode lottery of Covid-19 deaths in Scotland's care homes and we are still relying on freedom of information requests and other journalistic investigations to get that information.

What action is the cabinet secretary taking in response to those disturbing revelations and is she looking in particular at the reasons behind the high number of deaths and infections in some care homes and the lower numbers in others? What targeted support is she providing to those care homes? Further to the First Minister's commitment to me to consider further transparency measures, will the Scottish Government commit today to publish data on individual care homes in terms of the number of deaths, the number of infections and safe staffing levels, particularly now that care homes are starting to open up for visits?

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** I, too, am committed to transparency. As the member knows—

**The Deputy Presiding Officer:** I am sorry, cabinet secretary. I do not know what is happening with recording, but the microphones are not going on timeously.

**Jeane Freeman:** Can you not hear me?

**The Deputy Presiding Officer:** I can now, but I could not at the beginning.

**Jeane Freeman:** Oh, good. Even without a microphone, my mother said that I had a voice that could sell coal, so I think that we will be fine.

As Ms Lennon knows, I am committed to transparency. We publish a great deal of information and, in advance of it being publicly available, it is possible for me to let her know today that we have developed with our care home sector, our clinicians, our geriatricians and NHS Education for Scotland what is called a safety huddle tool, which will be a dashboard that will provide detailed information on the basis that individual care homes will upload information to it, which will make matters much simpler for them. Rather than filling in many different returns, they will upload that information electronically. That will let us, them and the Care Inspectorate see how they are doing in terms of the number of cases that they have, the staff rota and its resilience.

We will add to that information, as we progress through the pandemic, other information on, for example, falls, nutrition and so on. It will replicate in many ways the successful dashboard information that we see across our national health service, particularly in our acute sector. It will also provide additional information on resilience and assurance to residents, potential residents and their families.

My final point is on the particular report, of which Ms Lennon is aware, about the difference in the numbers of cases and, sadly, the numbers of deaths between different care homes in different parts of the country. We are working with Public Health Scotland, but want also to use our clinical

university-based advisers to assist us, to identify what the correlation is between some of that data and data on wider population health in those particular areas, and to look at the timeline in all those care homes regarding how they started out in the pandemic, what support they got from us, what Care Inspectorate involvement there was, where they are on the current weekly testing programme and so on.

There is much more to this, and I would be very happy to give Ms Lennon a more detailed answer in writing.

**The Deputy Presiding Officer:** I call Miles Briggs, to be followed by Gillian Martin.

**Miles Briggs (Lothian) (Con):** [*Inaudible*].

**The Deputy Presiding Officer:** You are not yet audible on the microphone. There it is.

**Miles Briggs:** During the coronavirus public health emergency, the drug deaths crisis in Scotland is not being given the priority that it urgently needs. Across Scotland, we are seeing cuts to drug and alcohol services at the very time that they should be protected and when there is an increasing need to support vulnerable individuals. Will ministers agree to intervene to prevent any cuts to drug services in this financial year? Given the concern about the drug deaths crisis across Scotland during Covid-19, will ministers also agree to urgent cross-party talks on the issue?

**Jeane Freeman:** I believe that my colleague Mr FitzPatrick has already indicated that he is happy to have cross-party talks on those matters. The drug deaths task force recently reported on its work, and I am very happy to ensure that we write to Mr Briggs directly with the details of the work that it has undertaken to date, particularly about the current pandemic and what its forward plans are. I am sure that Mr FitzPatrick would happily discuss that with Mr Briggs.

**Gillian Martin (Aberdeenshire East) (SNP):** How can we reopen bars and restaurants in Aberdeen City again without addressing the following issues? Last week, members of the Scottish Parliament were told by NHS Grampian that some bars in Aberdeen did not have correct or comprehensive contact details for their patrons for the track and trace system. We saw photographs of crowds outside certain venues where patrons could just turn up without booking ahead. When the Aberdeen lockdown is eased, what can compel all venues to have a robust and safe system in place, and how can it be enforced? I am not sure who should answer that question.

**The Deputy Presiding Officer:** I think that the Cabinet Secretary for Health and Sport should answer that.

**Jeane Freeman:** [*Inaudible*]. I am not sure what is happening here.

**The Deputy Presiding Officer:** The microphone has to be on so that proceedings can be recorded for the *Official Report*.

**Jeane Freeman:** We are good now.

Ms Martin raises serious concerns that we share. Undoubtedly, it is the case that many businesses across the hospitality sector in Scotland—small and large—have taken significant steps in order to ensure that they are complying with the guidance. Unfortunately, not all businesses have done so. That is particularly relevant to the conscientious collection of data about their customers, so that if there is an outbreak—and we can see the relevance of this in Aberdeen City—the test and protect system has the data that it needs in order to trace contacts who may have been in a particular venue at a particular time and might be considered as close contacts.

From Friday 14 August, we will move to statutory guidance for indoor hospitality the requirement to collect contact details for all customers—there are a number of ways in which businesses can do that—maintain 1m distancing, ensure that there is no queuing and no standing at bars, but rather table service, and a range of other important measures that were in guidance, but will now move into statutory guidance. There will therefore be a requirement to comply. The detail will be set out later this week.

**Brian Whittle (South Scotland) (Con):** I refer to the report “Impact: restarting elective surgery”, which details that, in the month of March, the number of Covid-19 cases in elective hip and knee replacements patients was just three cases in 634 operations. Given that the list for those waiting longer than 12 weeks has risen from 10,000 to over 20,000, and that a lack of appropriate treatment leads to a significant deterioration in quality of life, can I ask the cabinet secretary whether she agrees with the report’s conclusions that boards should be encouraged to allow redeployed staff to return to their normal roles to support the significant reopening of elective services?

**Jeane Freeman:** I agree with Mr Whittle, in as much as that is a serious issue. I am conscious of the impact on individuals of waiting for what can be life-changing elective procedures.

As I am sure Mr Whittle knows, all our national health service boards were asked to provide remobilisation plans that would take us through to the end of March next year. Those plans have been received and are being considered by my officials. The remobilise, recover, redesign group of key stakeholders will consider those plans; 32

individuals are part of that group, which I chair. Part of that work will be looking at a number of remaining demands on our health service: the requirement to ensure that we retain sufficient capacity to cope with any upsurge in the number of Covid-19 cases—bearing in mind that the virus remains with us and the risk of transmission and hospitalisation remains acute, which we see elsewhere in Europe and the world—a support system for the test and protect service, which is critical to our aim of keeping the virus level as low as possible; and, at the same time, beginning to restart critical services in our NHS, which include elective surgery. One of the reasons why we have retained the NHS Louisa Jordan is to assist us in doing that.

As those board plans are finalised and we reach a view on how we will remobilise, while allowing the NHS to recover and meet those other demands, I have already made a commitment, with the support of the recovery group, to come back to this chamber to set out for members across the chamber—but, more importantly, for patients and the wider public—the plans that we have to take us through to the end of the current financial year.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I thank the Cabinet Secretary for Health and Sport for all the actions of the public authorities in dealing with the cluster in Port Glasgow. Can she make me aware of any lessons that have been learned in dealing with that cluster that can be utilised across the country to help in any future clusters?

**Jeane Freeman:** With regard to the Port Glasgow cluster, which members will recall involved a pharmacy and another local business, I am pleased to say that there have been no further cases since Saturday. At this point, the incident management team has agreed that it can stand down. In other words, it believes—and has the data to tell it—that it has reached the end of the transmission chain, so it has successfully contained that outbreak of Covid-19.

There are always lessons to be learned; we learned lessons from our first outbreak and use of test and protect in Dumfries and Galloway. However, the important part for us is that the local incident management team can make decisions—backed by the national support that we give in the system of test and protect—that make sense for the particular incidents that it is looking at. I am sure that Mr McMillan knows that, for example, the outbreak in Port Glasgow is significantly different in a number of important respects from the one that we are dealing with in Aberdeen. Those lessons are learned. The IMTs talk with each other and request from the Scottish Government any

additional support that they believe we should be offering them. We are taking all that very seriously.

**James Kelly (Glasgow) (Lab):** Earlier in the pandemic, the Scottish Human Rights Commission raised concerns about prison service regulations that were introduced and the restrictions that were placed on prisoners' bathing and exercise. Such limitations could have a negative impact on prisoners' mental health, so I ask the Cabinet Secretary for Justice what action has been taken to ease those restrictions and move the priority of prisoners' wellbeing higher up the prison service agenda?

**The Cabinet Secretary for Justice (Humza Yousaf):** I thank James Kelly for a very important question, which he has raised with me before. To give him reassurance, I say that I have had discussions with the Scottish Human Rights Commission and other human rights stakeholders that have an interest in our prisons. The best thing that we can do for those in our care in our prisons is, in line with public health guidance, to ease the regime as best as we can, and that has happened over the past few weeks and months. Importantly, steps have been taken to introduce virtual visits and mobile phones, to allow greater access to leisure—and, later this month, educational opportunities—and, most importantly, the resumption of physical visits. We know what a great impact that will have on the morale and, I hope, the mental health and wellbeing of those who are in our care in our prisons.

I am pleased to reassure James Kelly that it is still the case that the regulations that we introduced will be used only in extreme cases and will not be the norm moving forward.

**Maureen Watt (Aberdeen South and North Kincardine) (SNP):** Will the Cabinet Secretary for Health and Sport confirm what additional measures are being put in place to ensure that health boards such as NHS Grampian are equipped to deal with the increased pressures on services during the winter period?

**Jeane Freeman:** As I said in answer to a previous question, all our health boards have been asked to provide us with their remobilisation plans, which will take them through to the end of March next year. We have already gone through with them the financial outturns for the first quarter and what additional resources they need, given their spend so far in response to Covid-19.

The mobilisation plans will include all the areas that I have discussed: the boards' plans to maintain capacity to deal with any increase in Covid cases, the support that they are offering to test and protect, and their winter planning, in particular around the increase in the seasonal flu vaccination programme that we have announced.

There will be a significant increase, which I hope will see us vaccinate more than 2.25 million people in Scotland by extending eligibility. Our entire health service across primary care, dentistry, optometry and our community pharmacies will all have a role to play in delivering that programme.

In addition, the mobilisation plans from the health boards will alert us to any additional resources that they require in order to deliver on the priorities that we agree with them. We will agree those priorities through discussion with the recovery group that I spoke about earlier, which involves the British Medical Association, the royal colleges, including the Royal College of Nursing, our unions on the staff side, as well as other key stakeholders, including Scottish Care and the Health and Social Care Alliance Scotland.

**Alison Johnstone (Lothian) (Green):** Yesterday, in a BBC Radio Scotland interview, a journalist asked the national clinical director why there is no routine testing in schools in Scotland. Professor Leitch responded:

“Routine testing doesn’t work. It doesn’t help us.”

Does the Cabinet Secretary for Health and Sport share that view, and what assurance can she give teachers that they will be safe in our classrooms in the absence of routine testing?

**Jeane Freeman:** There have been a number of discussions, which have been led by the Deputy First Minister and Cabinet Secretary for Education and Skills with input from me and our clinical advisers, on the safe restarting of schools. From my perspective, part of that focused on the issue of testing and surveillance. I believe that there is now agreement with the unions concerned on what they describe as the “triple lock”, which is test and protect, the local incident management teams and health protection teams paying particular attention to what is going on in schools, and the involvement of schools in our surveillance work, which gives us important information about the level of the virus in communities in Scotland, as well as in Scotland as a whole.

In addition, we have made clear that individual teachers can access testing through the employer portal, whether or not they are symptomatic. Obviously, if people are symptomatic, they can access testing, but asymptomatic teachers, much like members of Police Scotland, will be able to access a fast route to testing through the employer portal. Therefore, we have the triple lock and we now also have that testing route, all of which is designed to ensure that we keep a close eye on whether there is any prevalence of the virus in and around our schools, so that we can act quickly through test and protect in order to contain it.

**Ruth Maguire (Cunninghame South) (SNP):** What is the Scottish Government doing to ensure that members of the public are aware of the risk from organised criminal groups during the crisis and of how they can report suspicions safely?

**Humza Yousaf:** Ruth Maguire raises a very important issue, which the serious organised crime task force and I discussed at our last meeting. We know that serious organised crime groups will try to take advantage of people, particularly those with vulnerabilities, during the pandemic. We work closely with the National Cyber Security Centre and Police Scotland to provide organisations and, importantly, individuals with advice and guidance on the cyberfraud threat. We also support Police Scotland’s positive shut out scammers campaign to inform individuals about the possibility of fraud.

Of course, members of the public can, and should, report any concerns to Police Scotland on 101 or, if it is an emergency, using 999. They can also report concerns to the independent charity Crimestoppers on 0800 555 111.

**Liam McArthur (Orkney Islands) (LD):** The justice secretary will be aware that a quarter of Scotland’s prison population is on remand, which is double the number south of the border. He will also have heard the warning from Her Majesty’s Inspectorate of Prisons for Scotland that the number of people who are being put on remand is huge and growing. Although the pandemic has certainly exacerbated the situation, the problem is not new. Will the justice secretary advise the chamber what steps he is taking to address the disproportionately high level of remand prisoners in our prison population?

**Humza Yousaf:** I thank Liam McArthur for asking a very important question. I will give a couple of caveats before I answer it. One is that bail decisions are, of course, made by the independent courts. He is right to allude to the fact that the main reason for the significant increase in the remand population has been the suspension of court business, particularly of jury trials. He is also correct to say that the problem existed pre-pandemic, too.

In the interests of brevity, I note that there are, in effect, three actions that I am proactively considering. First and foremost is the resumption of court business. If I can do that—the resumption of solemn court business has begun—that will help to reduce the remand numbers. I will make a further announcement about that before my appearance at the Justice Committee next week. The second action is continued investment in bail supervision, which increased by 26 per cent in 2018-19. That has not happened by accident; it happened because we provided funding for it.

Probably one of the most significant measures, about which I am pleased to be able to give a bit of detail today, is my intention to introduce regulations to enable electronic monitoring of bail. Liam McArthur will know that the Management of Offenders (Scotland) Act 2019 allows us to use electronic monitoring for that purpose. Subject to the agreement of parliamentary authorities, I hope to introduce such regulations in September, or by October at the very latest.

We will continue our consultation with a number of groups that have an interest in electronic monitoring. If we can get electronic monitoring of bail up and running, that will be a game changer and will allow us to reduce the remand population.

**John Mason (Glasgow Shettleston) (SNP):** Given that a number of arm's-length external organisations seem to be struggling to reopen sports facilities and have financial problems, has the Government had any discussions with Glasgow City Council or Glasgow Life concerning reopening such facilities, including the Crownpoint athletics venue in my constituency?

**Jeane Freeman:** We are aware of the particular difficulties that such organisations face. Discussions are continuing with the Convention of Scottish Local Authorities on how we can best support leisure bodies through local government funding. We could perhaps have, for example, a tailored lost-income scheme for Scottish councils that includes some allowance for ALEOs. Those discussions continue, and I hope that there will be a resolution soon.

**Lewis Macdonald (North East Scotland) (Lab):** The local outbreak in Aberdeen has once again highlighted the threat of transmission by people without symptoms, as well as the vital importance of contact tracing. Does the health secretary accept that testing all known contacts can help to assess and contain local outbreaks, even if test results are not accurate in every case?

**Jeane Freeman:** The question that Mr Macdonald has asked is an important one. As he knows, we have had many discussions on the issue. The evidence on the testing of asymptomatic individuals has evolved over time as scientists and clinicians—not just here in Scotland but globally—have learned more about the virus.

Evidence appears to be growing that people shed more of the virus in the pre-symptomatic stage—although, of course, not as much as when they are symptomatic, when they are coughing and sneezing and so on, which means that the risk is greater. Because a risk is presented by people who are pre-symptomatic, as part of the process of revising our testing strategy, which is under way and has almost been completed—I hope that it will be completed soon—active consideration is being

given to the testing of contacts through the test and protect scheme.

There have been instances in which contacts have been tested, for example as part of our handling of the outbreak in Dumfries and Galloway. That proved helpful, although as Mr Macdonald said, it is possible to get false positives and false negatives with people who are asymptomatic. Consideration is being given to the testing of asymptomatic individuals as part of the revision of our testing strategy. As I said, I hope that we will be able to conclude that work and publish the new strategy soon.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** My question is for the Cabinet Secretary for Justice.

Prior to recess, Lady Dorrian announced pilots for the resumption of a small number of solemn criminal trials in Edinburgh and Glasgow. As the cabinet secretary mentioned, the pilots involve the use of multiple courtrooms for a single trial to help with physical distancing. Can the cabinet secretary provide an update on how successful those pilots have been? What progress has been made to clear the inevitable backlog of cases that has been caused by the pandemic?

**Humza Yousaf:** Rona Mackay is right—we are all very pleased to see the resumption of solemn business. Of course, that is constrained because of the physical capacity of the court estate and the need to adhere to physical distancing guidelines.

On the whole, the feedback has been extremely positive—there have been positive comments from defence agents and prosecutors who are involved in cases, and we are listening to and engaging with victims organisations to get their feedback. We are having to think about innovative solutions that we have never previously thought about in order to maximise the number of trials that can take place. As I mentioned in a previous answer, I hope to be able to make an announcement on the issue ahead of my appearance at the Justice Committee next week.

However, even getting to the number of trials that were being held pre-Covid will be a challenge, let alone more trials than that, which would help us to deal with the backlog. I am afraid that the backlog is a significant issue, on which we will need to continue to keep our minds focused.

**Liam Kerr (North East Scotland) (Con):** Can the Cabinet Secretary for Health and Sport tell me what evidence supports the decision that gyms in Scotland must remain closed while pubs and restaurants can open?

**Jeane Freeman:** I will be happy to provide Mr Kerr with the detailed evidence from our clinical advisers. I am sure that he will appreciate that, as

politicians, we do not make such decisions without having that evidence before us. It centres primarily on the means by which transmission happens and the circumstances in which it occurs. As I said, I will be happy to provide Mr Kerr with that evidence.

**Joan McAlpine (South Scotland) (SNP):** Can the Cabinet Secretary for Health and Sport outline what progress has been made in protecting and supporting people with learning disabilities who are at risk of contracting Covid-19?

**Jeane Freeman:** Every fortnight or thereabouts, I have a detailed meeting with the Care Inspectorate. We have looked in particular at the situation as regards residential care and support for people with learning disabilities, and the Care Inspectorate is now taking specific steps in that regard.

The work that we are undertaking across the piece in social care applies to adult residential services. In addition, I have had detailed conversations with Sally Witcher from Inclusion Scotland to make sure that we are covering all the relevant areas in health. Obviously, my colleague Ms Somerville has a locus in that work, as does Ms McKelvie, to ensure that we are taking forward particular areas of support.

We are now looking at how safely and how soon we can open day centre support for those who are elderly and other adults who make significant use of and take benefit from that support and who have not been able to partake of it for some months. Part of our current work in the area of adult social care is to look at the steps that we need to take to be able to safely open those centres so that people across the country can benefit from their use.

**Sarah Boyack (Lothian) (Lab):** I would like to follow up on the previous questions to the Cabinet Secretary for Health and Sport about the scientific guidance that allows pubs to open but not leisure facilities. What types of leisure facilities are seen as high risk? How is that evaluated?

A lot of constituents have raised this issue with me. Do we not need to see action to enable people to get vital physical and mental health benefits from access to leisure facilities, especially given the growing concerns about their financial viability, with 18 leisure centres—

**The Deputy Presiding Officer:** No, Ms Boyack—

**Sarah Boyack:** —and eight swimming pools now at risk of permanent closure?

**The Deputy Presiding Officer:** An awful lot of people want to ask questions and I want to try and get everybody in.

**Jeane Freeman:** Sarah Boyack is absolutely right and I would not disagree with her about the importance of many facilities, in terms of physical and mental wellbeing for adults, and in particular, children.

The two particular areas on which we have not yet reached a decision on a date for opening, although they have indicative dates, are gyms and swimming pools. I am very conscious that swimming pools offer a therapeutic opportunity for people with particular health conditions. I take that matter very seriously.

As I said to Mr Kerr, I am very happy to provide the evidence that we looked at when determining that those facilities would not open at this point. We continue to keep that under review.

We have taken steps on outdoor activities for children and young adults, and I am currently looking at what more we can do on adults and outdoor organised sport and whether we can proceed quickly in those areas.

**James Dornan (Glasgow Cathcart) (SNP):** Can the Cabinet Secretary for Transport, Infrastructure and Connectivity outline how the Scotland cycle repair scheme will help to maintain the positive increase in the number of people across the country who are cycling, while helping to manage demand on public transport during the Covid-19 pandemic?

**The Cabinet Secretary for Transport, Infrastructure and Connectivity (Michael Matheson):** It has been very encouraging to see the number of people who are now cycling on a daily basis during the pandemic. We want to try to maintain and encourage that, particularly as the restrictions start to ease, and given the restrictions that we have on public transport, which have resulted in limited capacity due to physical distancing requirements.

The cycle repair scheme is an opportunity for those who may have a cycle, a tricycle or a manual wheelchair that they want to repair and make greater use of to get £50 towards the repair costs. We are making £1.5 million available, which will allow some 30,000 people to participate in the scheme through shops across the country.

**Dean Lockhart (Mid Scotland and Fife) (Con):** Before the outbreak of Covid, the two Caledonian MacBrayne ferries being built by Ferguson Marine were more than £100 million over budget and more than three years overdue. Will the cabinet secretary provide an update on the latest timetable for completion and the latest budget overspend for the two vessels?

**Michael Matheson:** As the member will recognise, during the pandemic construction work on sites such as the Ferguson's yard had to come

to a halt. However, as the construction guidance has been introduced, it has allowed some construction work to start again.

A reassessment of the existing work programme is being undertaken, which includes looking at its associated costs. As is the case with many construction projects, that project has lost time during the pandemic due to physical distancing and the need to have restricted work arrangements.

**Kenneth Gibson (Cunninghame North) (SNP):** Can the Cabinet Secretary for Health and Sport confirm whether the goal of the Scottish Government is the complete eradication of the Covid-19 virus in Scotland? If so, when does it believe that that can be achieved concurrently with life returning to the normality that we enjoyed before the pandemic struck, or do ministers envisage periodic lockdowns following outbreaks and health restrictions on everyday social activities becoming the new norm?

**Jeane Freeman:** Our goal as the Scottish Government is the elimination of Covid-19 in Scotland. We cannot pursue the goal of eradication, which would mean that Covid-19 does not exist, not least because the opportunities for importing the virus into Scotland are not ones that we have complete powers to control. The Government's aim is elimination—that is, driving down the virus to the lowest possible level that we can manage. We cannot expect to be able to do that and release some of the lockdown measures, as we have done, and not see outbreaks of the virus, because it is still with us. It still remains in our communities. We have seen that in the outbreaks in Dumfries and Galloway, Port Glasgow, Lanarkshire and the city of Aberdeen.

That is why two things are absolutely critical. It is absolutely critical that, as individuals, we take personal responsibility for our own behaviours that will control and eliminate the transmission of the virus. That is the point of the FACTS guidance—it is about face coverings, cleaning our hands, maintaining 2m physical distancing and, if we have any symptoms at all, not waiting to see whether they maybe get a bit better but booking a test and isolating ourselves from others, including others in our own households.

The second part of how we will pursue elimination so that we can return life in Scotland to greater levels of normality is through our national health service's test and protect system.

We hope that, in time, there will be a vaccination for Covid-19. We take part in the four-nation work on that, and we are ready to have a vaccination programme that will deliver a vaccine to people in Scotland. However, we do not have such a thing at this point, so our pursuit of an elimination

strategy has to combine the two key elements that I have talked about—constantly reinforcing the personal responsibility of each of us as the first line of defence against the transmission of the virus, and supporting and resourcing test and protect as our second line.

**Alex Rowley (Mid Scotland and Fife) (Lab):** Has any assessment been carried out of the impact of Covid on policing resources and the ability of the police to do their job? Given that new rules are, I think, coming out this week for pubs and other facilities, do the police have the resources to be able to police those areas?

**Humza Yousaf:** I thank Alex Rowley for asking an important question.

I speak to Police Scotland—usually the chief constable or one of his deputy chief constables—at least a couple of times a week. It is fair to say that, throughout the pandemic, we have worked with Police Scotland hand in glove in relation to the regulations that have been brought forward and, indeed, the guidance. There is no doubt at all that Police Scotland officers and staff have, very admirably, been at the front line in keeping us safe and have, where necessary, enforced the measures in regulations that have needed to be taken. They have taken a very commonsense approach to enforcement throughout the pandemic.

To directly answer Alex Rowley's question, it would be foolish to suggest that there has not been a significant financial impact right across our public services because of the pandemic. There is simply no doubt about that. I am keeping in very close contact with Police Scotland and the Scottish Police Authority; indeed, at the end of last week, I spoke to the interim chair of the SPA, David Crichton, to discuss that very issue. We certainly keep in close contact with them.

Obviously, we will look to see what assistance we can provide in the forthcoming spending review discussions, but it is fair to say that there is an impact not just because of Covid. We are getting to business as usual in respect of normal crime rates; we have Brexit and an imminent no-deal Brexit threat, with the implications of that; and, of course, there is the rearranged 26th conference of the parties, or COP26, which will also mean significant pressures on policing.

We have continued discussions with Police Scotland on those budgetary pressures.

**Sandra White (Glasgow Kelvin) (SNP):** The Cabinet Secretary for Justice will be aware of the closure of the forensic toxicology lab at the University of Glasgow because of Covid-19, and the drug deaths in Glasgow, which have increased during the Covid-19 pandemic. Will he provide an update on what the current status is, with

outstanding cases and new cases that are coming through the system? Can he tell us what the future holds for the forensic lab services and whether the Crown Office and Procurator Fiscal Service will revisit the decision to withdraw from utilising its services?

**Humza Yousaf:** I will ask the Lord Advocate to write to Sandra White with that detail. Obviously, the issue is within the Lord Advocate's remit. Sandra White will know that it is not for the Government to intervene in his independent functions but, nonetheless, this is an extremely important issue. She will also be aware that Covid had an impact on the lab and that work had to pause. I know that that work has restarted, and I also know that it has been publicly announced that there has been a further extension of the contract with the University of Glasgow, until the end of January 2021. Hopefully, that will give some reassurance to the staff.

I cannot go into detail about the other provider, due to commercial sensitivities around that. However, I will ask the Lord Advocate to write to Sandra White to give her the detail of the additional resources that are being committed to address that backlog, which is undoubtedly causing suffering to many people who are waiting for their loved ones' toxicology reports.

**Mark McDonald (Aberdeen Donside) (Ind):** I suspect that my question is for the Cabinet Secretary for Justice.

In light of the question from Gillian Martin about individual establishments in the city of Aberdeen, will the regulations that the Scottish Government is introducing involve additional powers being given to licensing boards to take enforcement action against the licence holders of any establishments that are seen to be contravening the regulations and acting inappropriately, or do licensing boards already have those powers?

Will the Scottish Government send a clear message about the inappropriateness of individuals undertaking pub crawls during this period? What steps can be undertaken to prevent that from being done through multiple establishments?

**Humza Yousaf:** That is a set of very good questions from Mark McDonald. As many members will know, under the current rules that exist for licensing, the licence holders' ability to obey rules and their history of doing so can be taken into account when they reapply for their licence. I have asked the Minister for Community Safety, who leads on licensing matters, to take a fresh look at this issue as a result of the current context that we find ourselves in. If there is more that we can do in terms of discouraging bad

behaviour on the part of licence holders, we will absolutely do that.

Mark McDonald makes a good point about pub crawls and people who go to multiple licensed premises during a day. The First Minister has sent a strong message in her daily briefings that people who do that are putting themselves and their loved ones at risk, because we know of the dangers of transmission in an indoor environment.

In relation to the first part of the question, again, we will seek to do whatever more we can do within the powers that we have in relation to licensing.

**Maurice Corry (West Scotland) (Con):** I have a question for the Cabinet Secretary for Transport, Infrastructure and Connectivity.

Last week's closure of the A83 at the Rest and Be Thankful in my region was the latest in a long line of closures over many years. That route is vital for my constituents and businesses in my constituency, which rely on it every day of the week. They now require a long-lasting and permanent solution to the problem. Can the cabinet secretary explain how the Scottish Government will fix this long-running problem once and for all and state that he will not just implement another review and dig more ditches at the roadside?

**The Deputy Presiding Officer:** That question was not quite Covid related, but I see that the cabinet secretary is getting to his feet to answer it.

**Michael Matheson:** I am more than happy to respond to the question.

I recognise the significant concern that will be felt by those who have experienced the disruption and difficulties that have been caused by the most recent landslide at the Rest and Be Thankful in the past week. It was a significant landslide of 6,000 tonnes of material that came on to both the main carriageway and the old military road and caused significant damage to the A83 at the Rest and Be Thankful. I am grateful to the engineers and those who have supported them over the course of the past week in order to get the old military road open.

I can say to the member that, as I set out at the most recent task force meeting—I am not sure whether the member was present—we are already looking at several different options for an alternative route to the Rest and Be Thankful. That is part of the strategic transport projects review 2 process.

I also set out at the meeting that I have already accelerated the process to ensure that those are the first elements of the STPR2 process that ministers consider in order to examine what the most appropriate mitigation measure for an

alternative route for the Rest and Be Thankful would be.

I assure the member that we will continue to focus our work on considering what the alternative route should be in order to ensure that we have a long-term solution to a long-standing problem with the Rest and Be Thankful route.

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** As the transport secretary will be aware, my constituents rely on lifeline ferry services. Will he acknowledge that the relaxation of Covid-related restrictions on bookings, although welcome, have brought us to the difficult situation whereby many sailings are now booked out well in advance?

**Michael Matheson:** Alasdair Allan raises an important issue, which I know will be a matter of concern to some of his constituents. He will be aware of the many competing demands across the ferry network in supporting local residents and key workers to travel around and in supporting essential trade and tourism.

Physical distancing must be maintained on the ferry network. However, given that the restriction has changed from 2m to 1m, where that is possible, capacity has been increased. To try to address the concerns and accommodate the needs of local residents and essential workers, 20 per cent of tickets are held back on any given sailing in order to be available on a turn-up-and-go basis, where possible.

I assure the member that CalMac Ferries is continuing to consider whether it can take additional measures to increase capacity. For example, it continues to engage with the Maritime and Coastguard Agency in relation to relaxations around some of the regulations that apply to car decks, which have been achieved on some crossings. I also assure the member that, if additional measures can be undertaken to increase capacity further, CalMac will look at doing so.

If the member has a specific concern about his constituents' experiences and has a view about how that could be resolved, I am more than happy to respond to him directly.

**Neil Findlay (Lothian) (Lab):** On the BBC programme "Disclosure", the chief executive of Scottish Care said that the Government's advice to care homes that residents who were showing symptoms of Covid should not normally be admitted to hospital was

"unacceptable, inhumane and a derogation of the duty to protect life".

The Cabinet Secretary for Health and Sport and the First Minister refused to take part in the

programme. Who is accountable for a policy that was

"a derogation of the duty to protect life"?

**Jeane Freeman:** Let me be clear about a couple of things. I did not refuse to take part in that programme—I was unwell at that point. I regret that I was unable to take part, because I would have sought to give a different perspective on a number of issues.

The chief executive of Scottish Care, who has been heavily involved in all our work and all the guidance that we have issued, has played a very constructive role with us in ensuring that we understand the key issues in and around care homes. He has challenged us and argued with us on many occasions, and asked for more to be done. I hope that we have responded positively on all those occasions.

We have had this discussion before. That was not in our clinical guidance. Where residents in care homes require to be admitted to hospital—if that is the clinical opinion—they should be admitted to hospital. That has always been the position. It is not for a politician to take clinical views; it is entirely for the local clinician to make their decision based on their professional judgment about where the best place is for an individual to receive the care that they determine that the individual requires. That is and has always been the Government's position. It remains my position as the health secretary and, for as long as I am the health secretary, it will continue to remain my position. Politicians do not make such decisions; experienced clinicians do.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** Edinburgh airport, which is in my constituency, has signalled that it may shed up to a third of the 750 jobs there. Will the Cabinet Secretary for Transport, Infrastructure and Connectivity undertake to meet the aviation sector to explore testing as an alternative to quarantine? Will he rule out the possibility of a quarantine order on all English passengers, which is harming our important domestic market?

**Michael Matheson:** I recognise the member's concern about potential job losses at Edinburgh airport. We are concerned about those workers who might be affected by the redundancy programme and we stand ready to provide support and advice through our services and through partnership action for continuing employment to workers who have been adversely affected today.

We have engaged extensively with Edinburgh airport. I have had a number of discussions with the chief executive, as has the First Minister. We will continue to engage with the airport to see how we can continue to support it. The member may know that the Scottish Government has provided,

as part of its £2.3 billion support package, business rates relief to our airports and airlines and to the air support agencies that are based at our airports, including at Edinburgh. That is not available to airports in England and Wales.

We will continue to engage specifically with Edinburgh airport on the question of how we can recover some of the routes into Scottish airports that have been lost. That is part of our route recovery strategy. We will identify the key routes that could be re-established and which are key to our business and inward tourism sectors.

I assure the member that we will continue to engage with the sector to provide whatever support we can. However, the member will recognise that the pandemic has had a significant and global impact on the aviation sector. That will remain significant for a long time, which is why we have called on the UK Government to extend the job support scheme to support the aviation sector through this extended difficult period. I have made representation to the UK Government about that, and we will continue to press it on the issue.

**Angus MacDonald (Falkirk East) (SNP):** The Cabinet Secretary for Transport, Infrastructure and Connectivity will be aware that the bus manufacturing industry has been one of the major casualties of Covid-19, due to a significant slump in demand for new buses. He will also be aware of the restructuring plans announced by Alexander Dennis in his Falkirk West constituency.

Given that a large number of my constituents work at ADL, will the cabinet secretary tell us what progress has been made, as part of the economic recovery from the Covid-19 pandemic, in exploring ways of supporting bus operators to overcome the higher up-front capital costs of new zero-emission buses? That would have the added bonus of simultaneously accelerating decarbonisation of the bus sector.

**The Deputy Presiding Officer:** You make the best of that, Mr MacDonald; you have waited a long time.

**Michael Matheson:** The member raises an important issue about the on-going impact that the downturn in the use of buses in public transport is having on the bus manufacturing industry. I am acutely aware of the challenges that that creates for manufacturers such as Alexander Dennis, whose Scottish operation is based in my Falkirk West constituency.

I have had extensive engagement with the senior management team at ADL and with the trade unions to look at the risk of job losses there. We have a strong track record of supporting bus manufacturing in Scotland. In recent years, we have provided almost £17 million through the Scottish green bus fund, which has helped to

support the provision of almost 500 new low-emission buses across the network.

We have also worked with Alexander Dennis to look at what further measures could be implemented to support recovery in the sector. With the Scottish National Investment Bank, we have taken forward a significant piece of work at pace on providing a leasing model so that operators can lease buses rather than buy them. The feedback so far from the bus sector has been positive and we are trying to move that forward as quickly as possible to support not only the greening of the bus fleet but the bus manufacturing sector.

We want to ensure that ADL remains at the cutting edge of new technology for low-carbon public transport. Scottish Enterprise has made available a grant of £10 million to support ADL with research and development over the next two years. ADL has had access to around £7 million of that during this financial year, and Scottish Enterprise will provide the remainder of that grant as ADL takes forward its research and development work.

I assure the member that we are working as best we can with that company to support the business and to encourage bus operators to start placing orders for new buses, and particularly for the ultra-low-emission vehicles in which Alexander Dennis specialises. I assure the member that we will continue that work to support the sector as it recovers.

**The Deputy Presiding Officer:** That concludes questions. I thank the cabinet secretaries and members, as we managed to get through all the questions.

## Business Motion

17:00

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-22405, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out revisions to Thursday's business.

*Motion moved,*

That the Parliament agrees to the following revision to the programme of business for Thursday 13 August 2020—

delete

2.00 pm            Portfolio Questions (Virtual):  
Finance

2.30 pm            Portfolio Questions (Virtual):  
Environment, Climate Change and Land  
Reform

3.00 pm            Portfolio Questions (Virtual):  
Rural Economy and Tourism

insert

2.00 pm            Portfolio Questions:  
Finance

followed by        Portfolio Questions:  
Environment, Climate Change and Land  
Reform

followed by        Portfolio Questions:  
Rural Economy and Tourism

3.20 pm            Motion of No Confidence

4.20 pm            Decision Time—[*Liz Smith*]

*Motion agreed to.*

## Decision Time

17:01

**The Presiding Officer (Ken Macintosh):** There are no questions to be put at decision time, so I close the meeting.

*Meeting closed at 17:01.*

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

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

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