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Scottish Parliament

Wednesday 4 November 2020

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

Portfolio Question Time

Health and Sport

The Deputy Presiding Officer (Linda Fabiani): Good afternoon, everyone. Before we begin, I remind members of the social distancing measures in place in the chamber and across the Holyrood campus. Please take care to observe them over the course of the afternoon's business, including when entering and exiting the chamber.

The first item of business is portfolio question time. I inform members that we have no spare time and loads of requests for supplementary questions, so it would be good if members could be succinct with questions and answers. The first portfolio is health and sport.

Suicide Prevention

1. **Sandra White (Glasgow Kelvin) (SNP):** To ask the Scottish Government what action it is taking to address suicide. (S5O-04705)

The Minister for Mental Health (Clare Haughey): Suicide prevention continues to be a priority for the Scottish Government. In our recently published "Mental Health—Scotland's Transition and Recovery" plan, we set out an evidence-based suicide prevention response to the pandemic. In partnership with our national suicide prevention leadership group, we recently launched the evidence-based united to prevent suicide campaign. We continue to work with the NSPLG and stakeholders on suicide prevention. The work is focused on examining differing models of suicidal crisis support, sharing best practice and restricting access to the most common means of suicide. The work also includes taking forward the four priority actions for a pandemic-specific suicide prevention response, as recommended by the group in its Covid-19 statement, which includes work to improve real-time suicide and self-harm data in partnership with Public Health Scotland.

Sandra White: The minister will be aware that I have three universities and a number of further education colleges in my constituency that have thousands of students. What increased mental health support is being offered to students in Glasgow Kelvin? In light of indications of worsening mental health in that age group, will people in my constituency and across Scotland continue to be able to access applied suicide

intervention skills training to help prevent suicides?

Clare Haughey: Now, more than ever, it is of the utmost importance that our students are able to receive the mental health and wellbeing support that they need. We are actively considering what additional targeted support is needed for students, to support their mental health and wellbeing. On 22 September, the Scottish Funding Council announced a further £3.6 million in support of our commitment to provide more than 80 additional counsellors in colleges and universities in Scotland over the next four years. That builds on last year's investment and good progress has been made by institutions in putting those counsellors in place. We have also funded NUS Scotland to host think positive, Scotland's student mental health project, which supports students experiencing mental ill-health, tackles stigma and discrimination, and promotes wellbeing in colleges and universities across Scotland.

The applied suicide intervention skills training—ASIST—is currently not being delivered, because it cannot be carried out face to face due to Covid-19 restrictions. To support the needs of the health and social care workforce during this period, pandemic-specific learning resources were developed by NHS Education for Scotland that give support on responding to people in distress and crisis and on mental health and suicide prevention.

The Deputy Presiding Officer: If members and ministers take so long on one question, we will not have time for supplementaries. Can I have a quick supplementary, please, from Maurice Corry?

Maurice Corry (West Scotland) (Con): What discussions has the minister had with veterans' organisations about suicide prevention among our veterans in Scotland?

Clare Haughey: The Scottish Government has on-going discussions with all our key stakeholders on a regular basis.

The Deputy Presiding Officer: Thank you. That was good, but I suspect that Mr Corry might drop you a line.

Covid-19 (Professional Football Clubs)

2. **David Stewart (Highlands and Islands) (Lab):** To ask the Scottish Government what advice, guidance and financial assistance is being provided to professional football clubs during the Covid-19 pandemic. (S5O-04706)

The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick): We have been working closely with the football authorities from the outset of the pandemic to ensure that all clubs

at all levels have access to the support and advice that they need at this difficult time.

A range of general financial assistance has already been made available by the Scottish and United Kingdom Governments, and many football clubs have accessed that funding.

We are aware that this is an extremely challenging time for football clubs in Scotland, particularly given their relative reliance on gate receipts compared with clubs elsewhere in the United Kingdom. Recognising that, today I wrote again to the UK Minister for Sport, Tourism and Heritage, seeking urgent clarity from the UK Government on the financial package that is being developed to support sporting organisations that are most affected by a delay of the return of spectators to stadia and the Barnett consequential funding for Scotland as a result.

David Stewart: I refer members to my entry in the register of members' interests.

Our professional football clubs are facing a perfect storm: the loss of fans, the loss of match-day revenue and the rising compliance costs of Covid-19. Will the minister look at setting up a football support fund as a matter of urgency? Clubs are not just businesses; they are the beating heart of their local communities. My plea to the minister is to support our local clubs or face a new year with the demise of much-loved community champions across Scotland.

Joe FitzPatrick: I recognise the member's particular interest in football in his region. As I said, we are working with the UK Government to develop support. I had what I consider to be a positive meeting with the UK minister for sport on the issue, particularly in relation to sport that relies largely on spectators. However, thus far, we have not received the hoped-for clarity to be able to develop support for teams in Scotland.

We absolutely want to get supporters back as soon as possible, and the member will be aware that, last week, the First Minister announced that limited numbers of supporters would be allowed in areas with level 0 or level 1 restrictions. Obviously, that is an important point in relation to the member's interests in his region. Officials are working with the football authorities on the detailed arrangements for that, with a view to supporters being back at some fixtures very soon.

The Deputy Presiding Officer: We will have some quick supplementaries.

Kenneth Gibson (Cunninghame North) (SNP): What advice, guidance and financial support are being provided to amateur football clubs?

Joe FitzPatrick: Officials are working with the football authorities. We are of the view that all

levels of football must be supported by any scheme that is developed, once we have clarity on funding.

As I said, I have written again today to the UK Government, stressing that it is particularly important to Scottish football that we develop a scheme. I am acutely aware of the importance of the amateur game as part of Scotland's football offer.

Liam McArthur (Orkney Islands) (LD): The minister will be aware from cross-party representations that the Highland league had hoped to start with spectators at the end of November. That has been thrown into doubt, because 11 of the teams are in a level 1 area while the six teams in Aberdeenshire are in level 2. Given the health and wellbeing benefits and the important role that the teams play in their communities, what consideration is the Government giving to allow the league to resume as planned at the end of the month?

The Deputy Presiding Officer: Were you able to hear all that okay, minister?

Joe FitzPatrick: I think that the member was asking about the Highland league.

Liam McArthur: Yes.

Joe FitzPatrick: Obviously, the Highland league took a decision to postpone the start of its season, and that was a decision for it. I hope that, as the majority of the Highland league teams are in level 0 or level 1, they will be able to move forward. I am keen that my officials engage directly with the Highland league. It is important that, when we are talking about football, we talk about not only the premier league teams, but teams at all levels and about the importance of football to communities across Scotland.

The Deputy Presiding Officer: I have another two supplementaries. Please make them quick.

Brian Whittle (South Scotland) (Con): Given that so many sports have innovated and adapted to create Covid-safe environments, does the minister agree that the response to Covid and the ability to play sport, especially outdoors, must be evidence led? Will he work with me and others to make sure that that happens?

Joe FitzPatrick: I have been hugely impressed by the efforts of a range of our sports governing bodies, not just those of the football bodies, in continuing to provide support to their players and sportspeople throughout the pandemic.

Clearly, we must be led by clinical advice as to what is or is not safe. In the context of professional sports we have taken some decisions to allow greater exceptions to the current restrictions. However, particularly in areas in levels 3 and 4, in

which the prevalence of the virus is relatively high, we must ensure that we are not inadvertently doing things that could lead to it being spread further.

That is particularly important in relation to contact sports. By that I mean not only those sports, such as judo, in which there is direct physical contact, but also those in which, in the normal course of a game or a match, people are regularly within the 2-metre range, which would certainly include football.

Gil Paterson (Clydebank and Milngavie) (SNP): Martin Docherty-Hughes MP and I recently met representatives of Clydebank Football Club, when we discussed the plight of the West of Scotland league clubs, which are facing ruin because of the coronavirus restrictions. Will the minister comment on my written request to set up a hardship fund for such clubs, which do not qualify for any other financial support? Will he also comment on my separate request to set up a pilot scheme to explore allowing a limited number of spectators to attend matches under Covid-19 guidelines, which would allow them to do so safely? If such an approach were to be successful, perhaps it could be rolled out across that league.

The Deputy Presiding Officer: Please answer quickly, minister.

Joe FitzPatrick: I apologise to Gil Paterson. As members will be aware, we are currently receiving a huge volume of correspondence. I have not yet seen his letter, so I am unable to respond directly to the points that he raised in it. However, I am hugely sympathetic to clubs such as Clydebank Football Club that are currently unable to welcome supporters back.

I hope that supporters across Scotland saw some light at the end of the tunnel from the First Minister's announcement that some supporters will be allowed back, in areas covered by levels 0 and 1. That will offer additional impetus for supporters, and I encourage them to follow the FACTS advice, which will help us all to drive down the level of the virus. Although that is one reason for me to say that, the main reason for us to drive down the virus has to be to save lives.

As I mentioned earlier, I continue to ask the UK Government to clarify for us what the Barnett consequential for Scotland would be, so that we can consider developing a hardship fund to support not only football, but all sports across Scotland.

Covid-19 (Physical Activity)

3. Clare Adamson (Motherwell and Wishaw) (SNP): To ask the Scottish Government how it is encouraging physical activity within the necessary measures to suppress Covid-19. (S5O-04707)

The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick): We recognise the benefits that all sport and physical activity bring to physical and mental health, as well as the key role that sports clubs play in local communities. That is why we are protecting the ability to undertake essential outdoor exercise in every tier of the strategic framework.

Through the Clear Your Head campaign, and working with sportscotland and other partners, we continue to encourage the public to remain physically active for the health and wellbeing benefits that that brings. We also provide advice and guidance to ensure that such activity is undertaken safely and in accordance with all national and sector guidance.

Clare Adamson: I thank the minister for his answers both to my question and to the previous questions on football.

We know that organised sports provide a great deal of physical and mental health benefits for participants. However, a number of amateur football clubs in my constituency have raised concerns about the restrictions on their operations. A particular grievance is that the restrictions on grass-roots football are not the same as those on junior football. Will the minister outline the rationale behind that distinction?

Joe FitzPatrick: In any contact sport—at any level—there is an increased risk of transmission of the virus. Like players of other professional sports, professional football players have been granted an exception, around which they are being asked to follow pretty strict guidelines. Although we absolutely recognise the importance of organised sports, the increased risk of spreading the virus through contact activity means that we need to be as careful as we can be.

As the First Minister made clear in Parliament last week, we continue to look at whether there can be further relaxations. I was pleased that we were able to make clear over the weekend that the travel restriction around sport did not apply to those aged 17 and under. That is a really positive development. On all these things, we are guided by the clinical advice, and the clinical advice for that particular group was particularly strong. I was therefore pleased that we were able to win that argument, as I know that that will make a difference to many young people across Scotland.

Flu Vaccines (Availability)

4. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Government what steps it is taking to ensure that flu vaccines are available for those who need them. (S5O-04708)

The Cabinet Secretary for Health and Sport (Jeane Freeman): We have taken a number of

steps, including the procurement of sufficient vaccine to cover all who are eligible in the enhanced programme, which covers 2 million people. We are working directly with all health boards to improve delivery and to deal with demand, including work on how vaccine supply can be best utilised and ensuring that all board delivery plans reflect how the boards will respond to the high volume of calls, so that those who are eligible receive their vaccine as soon as possible.

By the end of last week, just over 1 million people who are eligible for the vaccine had been vaccinated, or 44 per cent of the total number we aim to cover.

Kenneth Gibson: In my constituency, in communities such as Kilbirnie and West Kilbride, vaccination has proceeded smoothly, with constituents contacting me to praise the staff delivering the programme. However, in Arran and Largs, concerns have been raised about availability. Unfortunately, NHS Ayrshire and Arran has been slow to respond to those concerns. Can the cabinet secretary again chivvy the health board—I know that she has done so already—to be more proactive and responsive?

Jeane Freeman: I am happy to commit to doing that. As members would expect, I wrote earlier this week to the chairs of all our national health service boards, asking them to provide me with details on how they brief our MSPs to ensure that that is happening regularly and properly, not just on the vaccination programme but on Covid generally and on other issues, with full disclosure of information.

I will pick up with the boards how they all respond to individual MSP queries, as they are not all as consistently good as I would wish. In particular, I will take up the issue with Ayrshire and Arran. I assure the member that I receive a daily issue log on the performance of the vaccine programme across all our boards and I follow up where I think that we are not moving fast enough.

Covid-19 (Discharge of Hospital Patients to Care Homes)

5. **Jeremy Balfour (Lothian) (Con):** To ask the Scottish Government when the First Minister first became aware of hospital patients who had tested positive for Covid-19 being discharged to care homes. (S5O-04709)

The Cabinet Secretary for Health and Sport (Jeane Freeman): As the First Minister said in her written reply to Donald Cameron on 14 October:

“I would confirm that prior to the Sunday Post publishing their FOI, neither Scottish Ministers nor Government officials had information on the results of Covid-19 tests prior to discharge, or where these patients were discharged. The Cabinet Secretary commissioned Public

Health Scotland to enable us to more fully and consistently understand how many people were assessed as being discharged with a recent positive test result, and the rationales that were in place for such a discharge.”

As the member will know, guidance has been in place since 13 March. The 13 March guidance specifically refers to the need for clinical screening and risk assessment of patients who are being discharged from hospital. That guidance, of course, has evolved and has been updated as our knowledge and understanding of the virus have developed.

Jeremy Balfour: I thank the cabinet secretary for her answer. However, I think that there is still confusion over the timings. The First Minister was asked about the subject at her daily briefing on 22 April by Chris Mason of *The Scottish Sun*. Will the cabinet secretary correct the record and tell us whether ministers and their officials ignored the information that was provided back in April; if they did not, will she outline what action was taken at that time?

Jeane Freeman: I do not believe that I have a record to correct; I have read out what the First Minister said in her letter to Mr Balfour’s colleague. Mr Balfour will also know that I introduced guidance—on 21 April, I think—requiring that all those who were discharged to a care home were tested prior to that discharge. That supplemented the 13 March guidance that I referred to and the subsequent guidance that, from memory, was issued on 26 March. If I have got any of those dates wrong, I will of course correct them, but I do not believe that there is any record to correct, as Mr Balfour asked me to do.

Monica Lennon (Central Scotland) (Lab): Did the cabinet secretary read the article in the *Sunday Mail* on 19 April about Newcarron Court care home in Falkirk, in which the care home said that it was having to accept Covid patients? I accept that the guidance changed on 21 April, but did that article or information have any bearing on that? I seek clarity on what the current testing policy is for people being admitted to care homes from other settings and not just hospitals.

Jeane Freeman: Ministers, including me, read the media coverage on Covid in the widest possible sense as best we can every day, although it is not possible to read everything. We are questioned on that in the chamber and elsewhere. It is fair to say that there was growing concern about whether clinical risk assessment, which was in the guidance from 13 March, was sufficient to ensure that we were taking all the steps necessary to protect patients as well as the places where they were going. We should remember that the majority of elderly patients who were discharged from hospital were discharged to home. Along with the developing clinical

understanding, that all led to the initial testing guidance or requirement on 21 April, to which Ms Lennon refers.

As Ms Lennon knows, the current position on discharge from hospital to a care home is that, where the patient has been in hospital for Covid-19 and where the patient has not been in hospital for Covid-19, there requires to be a negative test—from memory, that has to be seven days before discharge. On community admission to care homes, the requirement is for a negative test where at all possible seven days before admission. If that is not possible and the individual has to be admitted to the care home within those seven days, on admission, they certainly should be in isolation in their room until the proper incubation period has passed and the test results are available.

Neil Findlay (Lothian) (Lab): I will not ask about individual results or when guidance changed; I will ask the cabinet secretary a very straight question: on which date did she know that Covid patients were being discharged to care homes untested? All that I want in answer is a date.

Jeane Freeman: I believe that I have already answered that question, and the First Minister has answered it. *[Interruption.]*

The Deputy Presiding Officer: Mr Findlay, please stop shouting from the back row. *[Interruption.]* Mr Findlay, please stop shouting.

Jeane Freeman: Thank you, Presiding Officer.

If Mr Findlay wishes me to go and look at when the *Sunday Post* published its FOI, I am happy to do that, although I am sure that he could do it himself. If he is looking for a specific date, that would be the date. As I said, the First Minister said:

“I would confirm that prior to the Sunday Post publishing their FOI, neither Scottish Ministers nor Government officials had information on the results of Covid-19 tests prior to discharge, or where these patients were discharged.”

That cannot be any clearer. *[Interruption.]* That is clearly not the answer that Mr Findlay wants. I do not know for what purposes he continues to pursue the issue, but that is the answer and it is accurate, and that is what I am going to say on the matter.

The Deputy Presiding Officer: Mr Findlay, please refrain from shouting from a seated position in the back row.

Covid-19 (Suspension of Outdoor Amateur Sports)

6. James Kelly (Glasgow) (Lab): To ask the Scottish Government whether it will revisit its

decision to suspend outdoor amateur sports such as football across the central belt, in light of the benefits that sport offers for participants' physical and mental wellbeing. (S5O-04710)

The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick): We recognise the benefits that all sport and physical activity bring to physical and mental health as well as the key role that sports clubs play in local communities. From 2 November 2020, a revised approach to outbreak management based on five levels of protection was introduced, as set out in the strategic framework document, with local authority areas in the central belt being placed into level 3, along with Dundee. The “Coronavirus (COVID-19): local protection levels” document provides the Covid protection level for each local area and information on what people can and cannot do at each level.

In level 3 areas, organised contact sport can still take place for those aged 17 and under, and organised non-contact sport outdoors and organised exercise indoors and outdoors can be undertaken by those aged 18 and over. We recognise that that will be disappointing for many adults who will not be able to play contact sport in level 3 areas. However, as the First Minister noted in the Scottish Parliament on 29 October 2020, we will continue to review the situation with the sports restrictions and give updates as and when we can do so, based on clinical advice.

James Kelly: The minister will be aware of the extent of the stress and mental health problems that have been caused by the pandemic. When amateur football returned early in the summer, it was demonstrated that it was of great benefit to those who participated in relieving stress and mental health problems. I have received a number of representations from well-run amateur football clubs, such as Rutherglen Glencairn under-21s, in which they make a strong case for the Scottish Government's decision to be reversed.

The Deputy Presiding Officer: Could you move along a little, Mr Kelly?

James Kelly: Does the minister agree that stress levels are helped by participation in sport? On what basis will a review of the decision be set out?

Joe FitzPatrick: I agree with the bulk of what Mr Kelly said. Football and, indeed, all sports are extremely important not just for our physical health but for our mental health and our wider wellbeing. Therefore, the Scottish Government did not take the decision not to allow contact sports in level 3 and level 4 areas lightly, which is why the First Minister confirmed that we would continue to look at the evidence. The challenge with contact sport is that, regardless of how well organised the club

is, the playing of the sport presents a huge risk of spreading the virus.

Beatrice Wishart (Shetland Islands) (LD): I have been contacted by a local adult football team that questions why it cannot use a large indoor training facility, given the low number of Covid cases that have been reported in the isles and the difficulties of outdoor training in a Shetland winter on pitches that are often waterlogged. Will the Government look again at the level 1 guidance on indoor contact sports?

Joe FitzPatrick: I will be very brief—yes, we will.

The Deputy Presiding Officer: I thank Joe FitzPatrick for that, as it allows Jackie Baillie to ask question 7.

Covid-19 (Treatment of Long-term Effects)

7. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Government when national health service boards will be in a position to provide clinics that will specifically treat the long-term effects of Covid-19. (S5O-04711)

The Cabinet Secretary for Health and Sport (Jeane Freeman): We are actively supporting the Scottish intercollegiate guidelines network, which is working with the National Institute for Health and Care Excellence and the Royal College of General Practitioners to develop a rapid clinical guideline on the persistent effects of Covid-19—long Covid. That guideline, which will be critical to the development of services, is expected to be published before the end of the year. It will provide a formal definition of the disease, address how ongoing symptoms can be identified and look at a definition of best-practice investigation and treatment options to support the management of the condition.

In addition, we have launched a call for applied research proposals that are designed to improve understanding of the longer-term effects of Covid-19 on the physical and mental health and wellbeing of people in Scotland, and which have the aim of developing effective clinical interventions.

In summary, at the moment our NHS is working to treat individuals with particular symptoms through, for example, the respiratory and heart work that is being undertaken, but the work to establish a clinical definition of long Covid is critical. As a result of that work, we will be able to cohort the right kind of clinical services to address the needs of people who are experiencing long Covid symptoms.

Jackie Baillie: My constituent contracted Covid-19 in March. Since then, she has had to live with debilitating symptoms, including fatigue,

breathlessness, headaches, sore eyes, blood pooling in lower extremities, tachycardia and much more besides. She is a nurse; she has tried to go back to work three times.

People need one-stop clinics to deal with long Covid. I understand that such clinics have already been set up in England. When will that happen in Scotland?

Jeane Freeman: I do not disagree at all with Ms Baillie, and I have huge sympathy for her constituent and for the many others who are suffering in that way.

The range of symptoms that Ms Baillie has read out could be added to with the additional symptoms that other people are experiencing. That demonstrates the need for a clinical definition that guides clinicians on the various symptoms that an individual might present with—not so that they can dismiss those as being about something else but so that they can investigate properly whether the condition is long Covid and work out a treatment plan that can best treat the most critical symptoms first and then work through the other ones. It is a long exercise. I appreciate that that is no great comfort to Jackie Baillie's constituent, but it is the right way to ensure that there is a holistic treatment approach.

As soon as we have the long Covid guideline, we will be ready to cohort the necessary clinical input—it is not dissimilar to the situation with other conditions—so that individuals can get a holistic diagnosis and treatment plan that will start to help them.

I, too, have read that NHS England has set up such clinics, but my understanding is that what we have read is a news release about NHS England being about to set up the clinics. We could have issued a similar news release, but I would rather do that once we have set up clinics than anticipate it in advance.

Covid-19 (Antibody Testing)

8. Gillian Martin (Aberdeenshire East) (SNP): To ask the Scottish Government whether it will provide an update on antibody testing for Covid-19. (S5O-04712)

The Cabinet Secretary for Health and Sport (Jeane Freeman): In Scotland, we are using antibody tests to improve our understanding of Covid-19 and in the clinical management of patients. Public Health Scotland, in partnership with national health service boards, is leading national surveillance and research studies that utilise antibody testing. The Public Health Scotland serology surveillance programme collected more than 19,000 blood samples between 9 March and 3 August, with reported estimates of antibody

prevalence from that sample being in the region of 3 to 4 per cent.

Antibody testing is under way as part of our enhanced surveillance in schools, with more than 13,000 antibody tests already delivered. The SIREN—SARS-CoV-2 immunity and reinfection evaluation—study of Covid-19 immunity in healthcare workers has now started recruiting, and 20 per cent of participants of the Office for National Statistics Covid-19 infection survey are being invited to provide samples for antibody testing.

Gillian Martin: The cabinet secretary's answer has anticipated much of my supplementary question, so I will ask something simple: will people who suspect that they have had Covid but did not get tested be able to get an antibody test in the future?

Jeane Freeman: That is entirely possible. As I am sure that Gillian Martin understands, all the work that I mentioned is under way—including research on a four-nation basis, as well as research by the individual nations of the United Kingdom—because it is still not clear how long antibodies provide someone with protection against the virus, or what level of antibody presence is needed to give someone any level of protection.

I know that there are a number of individuals who believe that they have had—and may well have had—Covid-19 without having been tested. As we understand the veracity and validity of such tests for individuals, as opposed to their use in our research work to increase our understanding, we will make them available to as wide a number of people as we have the capacity for.

The Deputy Presiding Officer: That concludes questions on the health and sport portfolio. I made a judgment, which I hope was not too awry, to let it run on a bit, because of the number of supplementary questions. However, I ask for a bit more discipline in questions and answers for the next section.

Communities and Local Government

The Deputy Presiding Officer (Linda Fabiani): Questions 1, 7 and 8 are grouped together.

Affordable Houses (Target)

1. **Bill Kidd (Glasgow Anniesland) (SNP):** To ask the Scottish Government what progress it has made on its target to build 50,000 affordable houses during the current parliamentary session. (S5O-04713)

The Minister for Local Government, Housing and Planning (Kevin Stewart): The latest

Scottish Government quarterly affordable housing supply statistics show that, since the beginning of this parliamentary session, we have delivered 34,988 affordable homes, more than 23,000 of which are for social rent. Those are part of the 95,692 affordable homes that have been delivered since 2007, more than 66,196 of which are for social rent, including 14,393 council homes.

As I stated in April, the impact of the lockdown means that we will not meet our 50,000 affordable homes commitment by the end of March 2021. However, we remain committed to our target and continue to work closely with partners across the housing sector to deliver the remaining homes as quickly as it is safe to do so.

Bill Kidd: Given that my Glasgow Anniesland constituency has such a large number of people in the over-60 age demographic, can the minister look a little into the figures and tell me what the impacts have been on the variety of housing options that are currently available for that age group, including open market, shared equity and help-to-buy shared equity options, not forgetting direct rental from local housing associations?

Kevin Stewart: The Government offers people aged 60 and over the opportunity to apply for our shared equity scheme as a priority access group, with no requirement to take out a mortgage when purchasing a property. The affordable housing supply programme supports the delivery of flexible housing that is capable of being adapted to suit people's changing requirements. Wherever possible, all new-build units are built to "Housing for Varying Needs" standards. In the four years from April 2016, more than 2,200 affordable homes were purpose built for older people in Scotland, including more than 450 in Glasgow.

We recognise the value of people being able to adapt their existing home to suit changing needs and support independent living. In the four years from April 2016, more than 4,500 adaptations were completed for housing association tenants in Glasgow.

Covid-19 (Sustainable Development)

7. **Graham Simpson (Central Scotland) (Con):** To ask the Scottish Government what its position is on ensuring that planning authorities do not reduce efforts to deliver new homes and other sustainable development during the on-going Covid-19 pandemic. (S5O-04719)

The Minister for Local Government, Housing and Planning (Kevin Stewart): The Scottish Government has worked with planning authorities and stakeholders to ensure that the planning system remains open for business throughout the on-going pandemic.

Graham Simpson: Measures suggested in the Scottish Government's consultation on Scottish planning policy and housing would delete the presumption in favour of sustainable development and weaken policy on planning for housing delivery, and there is a lot of concern about that. Can the minister give assurances that Scottish planning policy on housing and wider sustainable development will not be changed if there is any risk of a reduction in the number of new homes receiving planning permission and being delivered in areas that have a housing shortfall?

Kevin Stewart: As Mr Simpson is well aware, I want to see more homes across Scotland, but they have to be the right homes in the right places. That is key to delivering for our people.

In our consultation, we have proposed removing wording that specifically states that there is

"a presumption in favour of development that contributes to sustainable development."

It is clear that, in practice, that statement means very different things to different people and is causing quite a bit of confusion, including in the courts. As matters stand, it is not necessary for a development to be considered to be sustainable before the presumption can apply.

We have consulted on that, and we have received 344 responses to the consultation from a wide range of interests. We are currently considering them in order to inform our next steps.

Planning Policy (Housing Developments)

8. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the Scottish Government how its planning policy supports the delivery of new housing developments. (S5O-04720)

The Minister for Local Government, Housing and Planning (Kevin Stewart): Our policies are clear that planning should have a sharp focus on the delivery of housing. Planning should maintain a generous supply of land for housing and support the delivery of homes through joint working. We are currently reviewing our planning policies and will publish an update on national planning framework 4 later this month.

Murdo Fraser: Like Mr Simpson, I have received representations from house builders in my region that are concerned about the proposed changes to planning policy and any impact that they might have on the supply of available land to develop. Specifically, they have raised with me the watering down of the requirement on local authorities to maintain proper supplies of deliverable housing land. Can I have an assurance from the minister that those concerns will be taken seriously in the planning policy review?

Kevin Stewart: As I said to Mr Simpson, I want to see the right houses in the right places. Our proposals do not aim to reduce our support for the delivery of quality homes; they aim to clarify our existing policy ahead of the fourth national planning framework, which will be laid in draft in the Parliament for scrutiny and consultation in September 2021.

Over this parliamentary session, I have received communications from members across the chamber—including, if I remember rightly, from Mr Fraser—about getting housing right and in the right places, and about ensuring that our planning is absolutely spot on and that local planning policies are followed. As I have said, our proposals will not reduce our support for the delivery of homes across the country, but we must clarify exactly what the situation is.

The Deputy Presiding Officer: If supplementaries are very quick, I will get all of them in.

Mark Ruskell (Mid Scotland and Fife) (Green): Numerous planning permissions for new housing developments in west Fife are being granted outwith the local development plan by the reporter on the basis of a perceived housing shortfall, and the new spatial strategy for south-east Scotland contains a housing land requirement for Fife that is a third lower than the previous figures. Has the minister considered those revised figures? Can he confirm whether the Government's reporter will now commit to upholding the democratically decided local development plan for Fife?

Kevin Stewart: One of the reasons why we are carrying out the current consultation is that there is often an argument about numbers and about that presumption. As Mr Ruskell has pointed out, some communities feel that there is overdevelopment. I am keen to ensure that, in the light of the new planning act, local development plans have the right housing numbers in them. I am keen to get that right as we move forward, and I want to see robust local development plans and robust regional spatial strategies. National planning framework 4 also has to be absolutely right. If all of that is done, we will iron out some of the difficulties that some communities feel they are in.

The Deputy Presiding Officer: I am sorry, but I cannot take any more supplementaries on that issue, as time does not allow that.

Covid-19 (Food Poverty)

2. Fulton MacGregor (Coatbridge and Chryston) (SNP): To ask the Scottish Government what action it has taken to tackle food poverty during the Covid-19 pandemic. (S5O-04714)

The Cabinet Secretary for Communities and Local Government (Aileen Campbell): The Scottish Government has invested more than £130 million to tackle the food insecurity that has been caused by the pandemic. That includes free school meal provision over the summer.

We have also recently announced that we will continue to support free school meal provision in holiday periods up to and including Easter 2021, which will benefit more than 150,000 families. That is in addition to significantly increased investment in the Scottish welfare fund. That investment has enabled the public, private and third sectors to work in partnership to ensure that everyone has access to food and other essentials.

Our cash-first approach, which is founded on the principles of dignity and human rights, is putting money in the pockets of those who need it, and we are committed to tackling the root causes of poverty.

Fulton MacGregor: The cabinet secretary will be aware of the great work of many voluntary organisations in my constituency that have delivered food to our most vulnerable over the past eight months. They include Coatbridge food bank, the stay connected project, Glenboig Development Trust, Kirkshaws Neighbourhood Centre and Lanarkshire Community Food, to name only a few. As we move into the winter, with the second spike in Covid cases and subsequent further restrictions, those organisations are working round the clock, and I have noticed that they are encountering a level of demand that is similar to that which they experienced at the start of lockdown. What further support will be made available to allow that crucial work to continue to deliver over the coming winter months?

Aileen Campbell: I pay tribute to the groups that Fulton MacGregor mentioned and all the community groups that are doing phenomenal work across the country.

Fulton MacGregor is correct to point out that this is a particularly challenging time as we come into the colder, darker and more expensive months. We have committed over £15 million out of the £350 million community package fund to support critical third sector and local community food responses through the wellbeing and supporting communities fund. We also have a £25 million community and third sector recovery programme, which is supporting our third sector to continue to support people and communities in responding to local on-going outbreaks in the pandemic.

We will continue to work with groups and local authorities because the issue will not go away, and we need to ensure that we do all that we can to support that vital response.

The Deputy Presiding Officer: Questions are not the time for speeches on either side. Members should cut down on their questions and answers, please.

Community Shopping (Scotland Loves Local)

3. **Emma Harper (South Scotland) (SNP):** To ask the Scottish Government how the Scotland loves local campaign will support and encourage community shopping. (S5O-04715)

The Cabinet Secretary for Communities and Local Government (Aileen Campbell): The Scotland loves local campaign is encouraging people through a range of media to safely support their local businesses by shopping locally and accessing local online offerings. The campaign builds on the community spirit and local support that were experienced at the height of the pandemic, with more people becoming aware of the community benefits of shopping locally. I welcome the support that many members across the chamber have given to the campaign.

Emma Harper: The campaign is an exciting opportunity for local projects and businesses, such as Upper Senwick farm in Dumfries and Galloway and the businesses that support Dumfries farmers, the farmers market and the town centre market. Can the cabinet secretary outline how those and other organisations in my South Scotland region can apply for the fund?

Aileen Campbell: The Scotland loves local fund will provide grants of between £500 and £5,000 to develop projects that improve and promote local places and communities. Application forms and guidance notes are on the Scotland's Towns Partnership website. I hope that if Emma Harper's constituents go to that website, they will be directed to the right way to apply for that funding.

The Deputy Presiding Officer: We come to question 4 from Alex Cole-Hamilton.

Alex Cole-Hamilton (Edinburgh Western) (LD): I have done it again. Presiding Officer, I am afraid that I am adrift of my question. If someone could hand me the—

The Deputy Presiding Officer: Okay. We will move to question 5.

Alex Cole-Hamilton: I have it here now, Presiding Officer. I apologise.

To ask the Scottish Government what discussions—

The Deputy Presiding Officer: Excuse me, Mr Cole-Hamilton. We are now on question 5.

Alex Cole-Hamilton: Okay. I apologise.

Community Empowerment (Scotland) Act 2015 (Community Assets)

5. James Dornan (Glasgow Cathcart) (SNP): To ask the Scottish Government what progress has been made in enabling the transfer of community assets under the Community Empowerment (Scotland) Act 2015. (S5O-04717)

The Cabinet Secretary for Communities and Local Government (Aileen Campbell): Great progress has been made since part 5 of the Community Empowerment (Scotland) Act 2015—asset transfer requests—came into force in 2017. To date, 127 successful asset transfer requests have been made by communities. Community assets transferred include parks, woodlands, community growing spaces, sports and recreational facilities and community hubs.

James Dornan: I thank the minister for her answer. Although she cut out a bit towards the end, I got the gist.

I have been made aware that arm's-length external organisations are exempt from the Community Empowerment (Scotland) Act 2015, which makes it harder for community organisations to finalise asset transfers in a timely manner, if at all. Can the minister look into that anomaly, as at least two organisations in my Glasgow Cathcart constituency are waiting for a decision on an asset transfer involving an ALEO?

Aileen Campbell: I thank James Dornan for raising that important issue. We are aware that local authorities use arm's-length external organisations and that that can sometimes create confusion as to who owns or is in control of assets. That is why we have pulled together a national asset transfer action group consisting of senior representatives from the authorities that are listed in the act and partners and stakeholders in the sector. The group will consider issues such as those raised by James Dornan and provide direction on that.

The Deputy Presiding Officer: We will go to question 6. If Mr Cole-Hamilton is quick, we can go back to him.

Fire and Smoke Alarm Standards (Public Awareness)

6. Lewis Macdonald (North East Scotland) (Lab): To ask the Scottish Government what steps it will take to raise public awareness of its plans to introduce new fire and smoke alarm standards. (S5O-04718)

The Minister for Local Government, Housing and Planning (Kevin Stewart): The Scottish Government, in recognition of the challenges that are posed by Covid-19, will seek parliamentary approval to delay the implementation of the new

standards for fire and carbon monoxide detectors from February 2021 until February 2022.

People need to know what the changes are, why they are important to ensure that homes are safe and what action they need to take. We will continue to work with partners to spread awareness of the changes before the new deadline, if it is agreed by the Parliament, and ensure that there is timely, effective publicity in order to ensure high levels of awareness and understanding. Our focus will be on supporting householders to ensure that satisfactory fire and carbon monoxide alarms are installed so that we can improve safety in all homes.

Lewis Macdonald: As well as making sure that people are aware of the new deadline, will the minister ensure that householders are clear about precisely what actions the legislation will require them to take?

Kevin Stewart: Absolutely. The legislation was highlighted in the media at the beginning. Our intention had been to ramp up publicity as we came closer to the date of it coming into force. We have had help from the Scottish Fire and Rescue Service in all of this, which has also been giving advice about the required equipment. I am more than happy to send further communication to all members about the equipment that is required, so that they can pass it on to their constituents.

The Deputy Presiding Officer: I will go back to question 4. Please be quick, Mr Cole-Hamilton.

Covid-19 (Reopening of Local Services)

4. Alex Cole-Hamilton (Edinburgh Western) (LD): To ask the Scottish Government what discussions it is having with local authorities regarding the safe reopening of local services, including libraries. (S5O-04716)

The Cabinet Secretary for Communities and Local Government (Aileen Campbell): The Scottish Government is working closely with local government, predominantly through the Convention of Scottish Local Authorities and the Society of Local Authority Chief Executives and Senior Managers to understand how best we can support them and to identify priority areas that might require support during this challenging period.

We produced safer workplaces guidance for public libraries to help local authorities reopen public libraries safely. We worked with a range of partners in producing that guidance, including organisations that represent the sector and local authorities. First published on 14 July, the guidance is updated regularly in response to feedback from partners. The decision when to reopen libraries is for individual local authorities.

Alex Cole-Hamilton: Everybody in the chamber will recognise the importance of community libraries to community cohesion and wellbeing. Although some libraries in my constituency, such as Kirkliston library, have safely reopened, Drumbrae and Blackhall libraries remain shut because of the insufficient capacity of cleaning services to meet Covid-19 restrictions. What additional support can the Scottish Government offer local authorities to bolster cleaning capacity in the pandemic?

Aileen Campbell: What I outlined goes beyond the reopening of libraries. We engage with local authorities on a range of issues, and we have provided them with support, both in kind and financial, to respond to the pandemic. As I said, we also continue to update the guidance that is there to enable the safe reopening of libraries.

I absolutely understand the point that Alex Cole-Hamilton is making. These are critical services for people. They provide a place to go and a space to be, and often they provide access to computers as well. It is incredibly important, given all the restrictions that are placed on people's lives at the moment, that we have those spaces. If Alex Cole-Hamilton would like to raise with me more things that I can pursue, I am happy to hear about them. I do not think that there is any disagreement between us in recognising how important those facilities are.

The Deputy Presiding Officer: That concludes questions on communities and local government.

Scottish Government Handling of Harassment Complaints

The Presiding Officer (Ken Macintosh): The next item of business is a debate on motion S5M-23218, in the name of Murdo Fraser, on the Scottish Government's handling of harassment complaints.

14:53

Murdo Fraser (Mid Scotland and Fife) (Con): Presiding Officer, this afternoon the Scottish Conservatives are dividing our debating time into two parts. Shortly, my colleague Donald Cameron will lead a debate that looks at the crucial issue of the impact of the Covid-19 pandemic on our care homes. In advance of that, I am leading this short debate calling on the Scottish Government to publish the legal advice that it obtained in relation to the judicial review case taken against it by Alex Salmond in connection with its complaints procedure.

I say at the outset that I regret that we are having to spend debating time in Parliament on such an issue. It is necessary only because of the failure of the Scottish Government to respond to consistent calls from members of the Committee on the Scottish Government Handling of Harassment Complaints, speaking unanimously and on a cross-party basis, to publish vital information that the committee believes is essential to allow us to do our work. That led the committee convener, Linda Fabiani, to state on 29 September that the committee had been "completely frustrated" by the lack of evidence being provided from the Scottish Government, among others. A vital component of the missing information is the legal advice that informed the Scottish Government's decision making—specifically, its decision to defend the judicial review pursued by Mr Salmond.

We know that Mr Salmond had counsel's opinion, which said that his prospects of success in that case were substantial. We know that the Scottish Government conceded the judicial review, admitting that Mr Salmond was correct. We also know that the award of expenses paid to Mr Salmond—more than £500,000 of taxpayers' money—was at the highest level available in the circumstances, and is a level of award made only when the defence has been conducted, in the words of Lord Hodge, "either unreasonably or incompetently". We therefore know that something went far wrong with the Scottish Government's legal case, and we need to understand why that happened and what led to such a loss of public funds. It is surely a matter of legitimate public interest to understand such a catastrophic failure

within the Scottish Government that cost the taxpayer so dearly.

There is a long-standing convention that legal advice given to ministers is confidential, and that convention exists for good reasons. However, it can be overridden when there is an overwhelming public interest, and I believe that that applies in this case. The Scottish Government has published its legal advice on a number of occasions: in the contaminated blood scandal case; on the Scottish child abuse inquiry; and in relation to the Edinburgh trams inquiry. The Government has chosen to publish legal advice in the past, and there is no restriction on it doing so.

We have had repeated promises from the First Minister and the Deputy First Minister that the Scottish Government will co-operate with the inquiry. On 17 January 2019, Nicola Sturgeon told Parliament:

“The inquiries will be able to request whatever material they want, and I undertake today that we will provide whatever material they request.”

She went on to say:

“My commitment is that the Government and I will co-operate fully with it”.—[*Official Report*, 17 January 2019; c 14.]

If those words mean anything, the Scottish Government should publish the legal advice that the committee is seeking.

On 1 October this year, the First Minister told members that all the information that the committee had asked for was being provided, except when there was a “legal reason” why it could not be. That statement is, I am afraid to say, simply untrue. There is no legal reason why the legal advice that we are seeking cannot be published. It is simply a matter of political choice by the First Minister and the Scottish Government. There is nothing in law preventing it from being provided.

Why does that matter? We know that the legal stance taken by the Scottish Government led to the loss of the judicial review case, and with it more than £500,000 of taxpayers’ money that was paid to Mr Salmond for his legal costs. If it is the case that the legal advice obtained by the Scottish Government, either in-house or externally, said that it had a good case to defend, lessons need to be learned about why such poor advice was offered to ensure that there is no repetition in future.

The alternative explanation is much more sinister and concerning. Mr Salmond’s allies believe that the legal advice obtained by the Scottish Government said that the judicial review case should not be defended as there was very little chance of success. If that is indeed what the

legal advice said, a decision was taken at the top of the Scottish Government to defend the case regardless, and, in light of what we now know, that decision was irresponsible and reckless.

More worrying still is the accusation that the decision was made on political grounds, and that the Scottish Government was effectively pursuing a vendetta against the former First Minister, using public funds to do so. That claim might be nonsense, but it is impossible for members of the committee, or indeed the public as a whole, to reach a view on which of those explanations is correct in the absence of seeing the legal advice.

That is why the publication of the legal advice is vital to the inquiry, and it explains why all members of the committee, from all five political parties represented in the Parliament, have joined together in making calls for the legal advice to be published.

As matters stand, it is hard to avoid the conclusion that, to date, the Scottish Government has treated the inquiry with something close to contempt. In addition to the refusal to release vital information, we have now had an astonishing four occasions on which senior civil servants have come to the committee and given oral evidence and had to write to the committee subsequently to correct misleading statements that were given in a public session. That is simply not good enough.

It is essential to the work of the committee that the legal advice is made available to us. I hope that the Scottish Parliament will agree today to support my call for its publication. If we are successful in winning the vote later this afternoon, I expect the Scottish Government to respect that parliamentary vote and produce the missing documentation as a matter of urgency and, in so doing, to fulfil all the promises that have been made by the First Minister and the Deputy First Minister to be open and co-operative with the inquiry. To do otherwise would be unforgivable.

I move,

That the Parliament calls on the Scottish Government to publish all the legal advice it received regarding the judicial review into the investigation of the alleged behaviour of the former First Minister, Alex Salmond.

15:01

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): Scots law provides that any person who seeks legal advice has the benefit of confidential communications with their lawyer. That is an important and well-established legal principle. In the same way, legal professional privilege is part of the normal operation of the Scottish Government. It supports good government by allowing ministers and officials to

be informed by appropriate and full legal input when making decisions. Legal privilege is inherent to the functioning of good government and the rule of law.

It is important that the legal advice that ministers and their officials receive is full and frank and not affected by concerns about it subsequently becoming public. The principle of legal privilege has been upheld and respected by successive Scottish and United Kingdom Governments of different political colours on a range of topics and on very high-profile issues including, recently, the Conservative-led United Kingdom Government in relation to issues in connection with Brexit. Governments operate on the principle that legal privilege applies, which allows for open and candid legal advice to be taken to inform the process of decision making.

Legal advice does not constitute a democratically taken decision—

Daniel Johnson (Edinburgh Southern) (Lab): Will the member take an intervention?

John Swinney: If Mr Johnson will forgive me, I need to make progress. I have a lot of ground to cover.

It is advice that informs that decision. It is the decision itself that the Government is accountable for, and in the case at the centre of this debate—the handling of the judicial review—the Scottish Government's decision making, or, in essence, its legal position in the case, is set out in the pleadings in the case, informed by the legal advice that we took. Those pleadings have already been shared with the committee, including various changes and developments that took place during the handling of the case, as set out in a detailed timeline document that has, again, been made available to the committee.

That is one aspect of the information that the Scottish Government has provided to the committee in making available the documentation that the committee has requested. Maintaining legal professional privilege has not prevented the Government from providing the committee with more than 1,000 pages of relevant material. Scottish Government witnesses have provided more than 14 hours of oral evidence to date. We are working to provide more material to the committee and have set out our intention to initiate legal proceedings seeking to allow the release of further documents that we believe the committee should receive.

The First Minister and I have both personally provided written evidence and the First Minister has made clear her willingness to attend the committee in person when asked. Our co-operation has also included the Lord Advocate making himself available to provide oral evidence

to the committee on relevant matters. He has already attended committee on 8 September and will attend again next week.

The Lord Advocate gave detailed answers at committee on the issues at the heart of this debate. He explained:

“It is really important to say that the assertion of legal professional privilege is routine. Its waiver is exceptionally rare, and it happens against the background of very strong reasons of public policy”—

Oliver Mundell (Dumfriesshire) (Con): Will the Deputy First Minister take an intervention?

John Swinney: If Mr Mundell will allow me to finish the quote, I will give way to him.

The Lord Advocate said:

“Its waiver is exceptionally rare, and it happens against the background of very strong reasons of public policy for maintaining that confidentiality, which facilitates and encourages the seeking and receipt of legal advice by policy makers and ministers on a basis of absolute candour.”

He went on to say:

“In the context of a litigation, where inevitably the Government's previous legal position may come under scrutiny and test, it is particularly important that the Government is not disincentivised from seeking and obtaining legal advice on the basis of absolute candour. It is also fair to say that, the more an issue is a matter of live political debate, the greater is the risk that a waiver of privilege would undermine that.”—[*Official Report, Committee on the Scottish Government Handling of Harassment Complaints*, 8 September 2020; c 47.]

I give way to Mr Mundell.

Oliver Mundell: Does the Deputy First Minister honestly think that in this case, the circumstances are “routine”? Does he not think that it is exactly the sort of exception in which the public interest test kicks in?

John Swinney: If Mr Mundell looks at examples of where the Government has waived legal professional privilege, he will see that they have been major issues of public policy such as historic child abuse, contaminated blood or other issues of that nature. In this case, there is an issue of litigation. The point that the Lord Advocate made—

Oliver Mundell: Will the Deputy First Minister take an intervention?

John Swinney: No—I am answering the member's intervention.

The point that the Lord Advocate made in the quote that I read out is that it is particularly relevant in a situation in which matters are the subject of litigation for the principle of legal professional privilege to be applied.

The Government—

Oliver Mundell: Will the Deputy First Minister take an intervention?

John Swinney: I have to make further progress, I am afraid.

The Government is frequently involved in litigation and decision making as part of normal good government. As the Lord Advocate noted in his evidence, it is crucial that decisions can be taken with the benefit of full and frank legal advice.

If the Government were to waive its privilege in this case, I would be concerned that in any future high-profile litigation involving the Government, ministers might not be able to benefit from advice that is given on a full and frank basis should there be a fear that that advice might be published.

We all surely recognise the benefits for public policy and decision making if the Government can benefit from being able to take legal advice that is robust and which considers all possibilities and weighs up all considerations. None of us wants public policy and decision making to fall victim to legal advice that errs on the side of caution for fear of its publication.

The strength of legal privilege stems from a consistent application by a client—in this case, the Government—across its legal communications. Picking and choosing what to make public does not assist decision makers to make sound and reasonable decisions or assist Parliament and the public to hold the Government to account.

I have carefully considered the committee's request that the Scottish Government waives legal privilege in this instance. I have concluded that the public interest in maintaining the privilege, including the negative impact of waiving privilege for all areas of Government intervention, outweighs any perceived areas of public interest in disclosing legally privileged material. The Scottish Government continues to assert legal professional privilege in relation to the work of the committee. That will not prevent us from continuing to co-operate with the committee's work in the supply of documentation and the provision of witnesses. That has been the Government's commitment throughout this process, and it will remain so for the remainder of the inquiry.

I move amendment S5M-23218.2, to leave out from "calls" to end and insert:

"acknowledges that legal professional privilege is an important established legal principle that gives both individuals and organisations the right to privacy in legal advice, that successive Scottish and UK governments of different political configurations have operated on the basis that legal professional privilege enables decisions to be informed by full and frank legal advice, and that, while maintaining its legal professional privilege, the Scottish Government has provided and is providing substantial documentation and other evidence to support the work of the Committee on the Scottish Government Handling of

Harassment Complaints, including the Lord Advocate making himself available to provide oral evidence on relevant matters."

15:08

Jackie Baillie (Dumbarton) (Lab): I begin by quoting the words of the First Minister in the chamber on 17 January 2019, because it is worth reminding members of what she said. She stated:

"The inquiries will be able to request whatever material they want, and I undertake today that we will provide whatever material they request ... My commitment is that the Government and I will co-operate fully with it".—[*Official Report*, 17 January 2019; c 14.]

Let us be clear: Nicola Sturgeon was speaking as the First Minister of the Scottish Government, not in a personal capacity, and there were no caveats to what she said. That means that the Government should be committed to openness and transparency, and it should be providing the committee with "whatever material they request".

The Deputy First Minister is, however, reinterpreting what the First Minister said to mean something completely different. Contrary to what the Scottish Government says, the committee has had partial information; pages of white paper with no information on it at all because it has all been redacted; delayed information; and, in some cases, no information at all.

Information on complaint handling was supposed to be provided to the committee by the end of August. We are now in November and we are no clearer about when that information will be received. I would not object so much if the committee had been established yesterday or even last week, but it was established more than 18 months ago. It should, therefore, be no surprise to the Scottish Government that the committee would want that information.

The question of the judicial review is central to the committee's remit—a remit that the Scottish National Party agreed with. Understanding the legal advice that was given to the Scottish Government is key to determining whether it pursued the judicial review appropriately or whether it wasted public money. Let us remember that £500,000 was given to Mr Salmond and his lawyers, which was on top of the cost of external counsel for the Scottish Government at £118,000, never mind the cost that we have discovered of a whole array of officials meeting daily in same cases—at least 10 to 12 of them lawyers—and another group meeting three times a week involving comms people, policy officials and special advisers. Then, of course, there were the 17 meetings with counsel. That is a huge investment of public money in just this one case.

There is, of course, precedent for providing the committee with legal advice that has been taken. Government legal advice was provided to the United Kingdom blood inquiry, the sexual abuse inquiry and the trams inquiry. Why is a parliamentary inquiry of less importance and status to the Scottish Government than a public inquiry or, indeed, a Government inquiry into trams?

We need to remember that this is about women who complained about experiencing harassment in the Scottish civil service. With all due respect, they are much more important than trams. They deserve the committee to do its job: to understand what went wrong and why they were failed. For those who come forward in the future, there needs to be trust in a process that is not subject to challenge. When the Scottish Government withholds important information from the committee, that lets down those women and other women in the future.

Despite repeated letters and requests, and despite the convener having put her foot down very publicly—I pay tribute to her for doing so—the Scottish Government continues to stick its fingers in its ears and refuses to provide the information. That is simply not good enough. I hope that, this evening, the Parliament votes for the release of the legal advice that was provided to the Scottish Government. If the Scottish Government ignores the will of the Parliament, we can only assume that it really does have something to hide.

15:12

Andy Wightman (Lothian) (Green): On 6 February 2019, Parliament voted to establish a committee to inquire into the Scottish Government's handling of harassment complaints in the light of allegations made against former First Minister Alex Salmond, which led to the judicial review that was conceded by the Scottish ministers at a cost of more than £500,000. The point of the inquiry is to establish what exactly happened and, as a result, to ensure that the procedures are fit for the future.

As we have heard, the committee has asked on a number of occasions for the legal advice that is referred to in the motion, but the Government has refused to hand it over. I acknowledge the Deputy First Minister's point that ministers do not, as a rule, publish legal advice. Doing so, it is argued, would compromise the requirement for frank and independent advice. If the providers of such advice knew that it could be released at a later date, such frankness could be compromised to the detriment of good government. In recent years, the Government has refused to publish legal advice on the legality of a second independence referendum without a section 30 order, and it has

refused, in response to requests from the Law Society of Scotland, to publish its legal advice in relation to the UK Withdrawal from the European Union (Continuity) (Scotland) Bill.

However, legal advice can be published if the public interest requires it, as Murdo Fraser mentioned. Sections 21 and 28 of the Inquiries Act 2005 give powers to the chair of any public inquiry to require evidence and documents to be produced, including legal advice. Under the freedom of information regime, legally privileged information is a statutory exception, but the Scottish Information Commissioner can order disclosure when there is a compelling public interest for it. Given that there has been a freedom of information request for the information, the commissioner may yet do so. As was set out in the letter of 7 September from Mr Swinney to the committee, paragraph 2.40 of the Scottish ministerial code makes it clear that disclosure can be made

"If, in exceptional circumstances, Ministers feel that the balance of public interest lies in disclosing either the source or the contents of legal advice on a particular matter".

The Committee on the Scottish Government Handling of Harassment Complaints is not a public inquiry, but it is a special committee of Parliament, established by a resolution of Parliament to inquire into specific matters of public interest in relation to an apparent serious failing of Government. The idea that legal professional privilege always applies is wrong. A public inquiry can overrule it, it can be waived under FOI and, if ministers consider it appropriate, they can waive it under the Scottish ministerial code. The committee's letter of 30 September 2020 to John Swinney, which references the Deputy First Minister's 7 September letter to the committee, states that

"the committee notes that the Scottish ministers have, on previous occasions, chosen to waive legal privilege. It did not impose a restriction notice on the disclosure of legal advice to the Scottish child abuse inquiry or the (UK) infected blood inquiry as well as limited disclosure in the trams inquiry."

I repeat that it is possible to waive legal professional privilege when the public interest demands it.

The only real question that the Scottish Government and Parliament face is whether it is in the public interest to disclose the legal advice. The Government has claimed that, in its view, it is not. However, the Parliament is invited today to, in effect, decide whether the release of that advice is in the public interest. I submit that this democratically elected Parliament is a better barometer of the public interest than the Government, which is an interested party in the inquiry.

Scottish Greens believe that the release of legal advice is in the public interest, since the whole point of the committee's work is to consider the Government's handling of complaints under the complaints procedure—the very substance of the judicial review and thus the reason why the legal advice plays a central role.

The Deputy First Minister said that “ministers make decisions”, but assessment and critical scrutiny of that decision making cannot be done in the absence of the advice that informs it. The committee has, unanimously, asked the Government for that advice, and MSPs from every party in the Parliament have agreed that the committee needs to see it.

The committee serves the Parliament, so this evening I will be particularly interested in how SNP backbenchers vote. Will they stand up for their parliamentary colleagues on the committee and join all other parties in supporting it in its endeavours, or will they defy their parliamentary colleagues and side with the Government—an interested party that refuses to release the advice?

15:17

Alex Cole-Hamilton (Edinburgh Western) (LD): I am grateful for the opportunity to speak in support of the Conservative motion. I will come to the substance of the legal advice in a moment. Before I do, I note that this is not the speech that I had originally intended to give. Had my amendment been selected last night, I would have set out why the Parliament should direct the Scottish Government to urgently expand the remit of the ministerial code investigation into the actions of the First Minister.

At this time, James Hamilton QC is charged with the investigation only of the meetings that were held between the First Minister and Mr Salmond that were connected to the complaints against him and the Government investigation of the same. However, significant and detailed evidence has been passed to our inquiry that casts doubt on the First Minister's version of events. For legal reasons, the evidence cannot yet be published, but I know that I speak for colleagues when I say that, when we saw it, we recognised the immediate need for the ministerial code referral to be expanded to examine whether Nicola Sturgeon knowingly misled the Parliament under the terms of section 1C. Despite what the First Minister told Oliver Mundell this past week, this is a quasi-judicial process and the only body that can expand its remit is the Government itself, so I ask it to do that today.

The Liberal Democrats will support the motion. As a member of the inquiry, I have been frustrated by the grey wall of silence that we have

encountered from the civil service in respect of nearly every aspect of our inquiry, and many answers will flow from the legal advice. The Government has clung so hard to legal professional privilege during our deliberations that the inescapable conclusion of any dispassionate observer must be that there is some reason why it does not want us to see the advice.

The judicial review was launched to settle the legality of the complaint-handling process, but it was not the only means of doing so. Mr Salmond offered arbitration several times, to adjudicate not the complaints but how the Government had handled them. There was obviously a clear advantage for the former First Minister in the privacy of arbitration—but so, too, for the complainers, and, for me, that is what the issue is all about. I credit Jackie Baillie for an excellent speech about why we should always remember the complainers who are at the heart of the investigation.

Judicial review is a winner-takes-all event, and one of the consequences of the judicial review is that the original complaints will probably never see the light of day again or receive a fair hearing under any process that is used by the Scottish Government. With arbitration, the complainers would have had a fighting chance of starting again and having their complaints heard properly from the beginning, without the public intrigue that the judicial review brought with it. Without the legal advice, we will never understand why the Government took the decision that it did.

The First Minister's evidence suggests that the Government had been aware of the risk of judicial review since the spring of 2018. As we heard from Murdo Fraser, Mr Salmond had received advice from senior counsel suggesting that his case was very strong—a slam dunk. Therefore, it is hard to imagine that the Government did not also seek legal advice from the outset.

Our committee is charged with understanding with whom the responsibility for the failure ultimately rests. If, at some point, the Government was offered the opinion of senior counsel that the probability of victory was vanishingly small, why on earth did it proceed? It would have been much easier just to set fire to £500,000 on the front step of St Andrew's house and leave the women at the heart of the matter utterly exposed. The Parliament needs answers, and those answers lie, in part, in the publication of the Government's legal advice.

The Presiding Officer: We do not have a lot of time for the debate, so I urge members to keep their remarks to the four minutes that they have been allocated.

15:21

Margaret Mitchell (Central Scotland) (Con):

On 8 January 2019, Lord Pentland announced that the Scottish Government had conceded the former First Minister Alex Salmond's petition for judicial review on the grounds that the procedure was unlawful, the decision was taken in "procedurally unfair" circumstances and was "tainted by apparent bias". The former First Minister was awarded an interim payment of £350,000, and a balance of £166,250 to cover his legal expenses, which were paid on the solicitor client scale, reflecting that the Scottish Government had conducted the litigation incompetently or unreasonably.

On 15 January 2019, Parliament agreed to establish a committee of inquiry to look into the Scottish Government's handling of complaints against the former First Minister. The Alex Salmond harassment charges case followed, which was sub judice. Nonetheless, throughout 2019 and up to June 2020, the committee met in private and was determined to do all possible groundwork to enable it to hit the ground running when, on conclusion of the trial, it was able to meet in public and begin the formal evidence sessions. It did so for the first time in August 2020.

However, when seeking the relevant information to allow it to carry out its remit, the committee and its members have experienced huge frustration, as deadlines for productions are missed or information, such as that which was released in the Scottish Government's first tranche, is supplied in a format that makes it virtually unintelligible. Quite simply, behind the scenes it has felt like wading through treacle to get straight answers to questions, or to receive information to allow proper scrutiny during evidence sessions. Instead, if evidence is produced at all, relevant deadlines are ignored, and the necessary information is frequently received the night before taking evidence.

Based on that, it is perhaps not surprising that we are having to resort to a parliamentary debate to call on the Scottish Government to waive legal privilege and release the advice that it received, which it has not done despite there being precedent for its doing so.

The evidence that is in the public domain confirms that arbitration was offered to, and rejected by, the Scottish Government well before the petition for judicial review was formally lodged in August 2018. Significantly, the unsuccessful challenge to the judicial review then cost the taxpayer a minimum of a staggering £630,000.

Information that has been received regarding the suggestion of arbitration confirms that the Scottish Government rejected arbitration because

it was confident of the legality of the process. The former First Minister's senior counsel, however, believed that the process was unlawful. The legality issue therefore had to be resolved either in private, in a confidential and binding arbitration, or in public in the Court of Session.

The position was that if the former First Minister's legal advice was wrong, the process for judicial review would proceed; but if the Scottish Government's legal advice was wrong, it would discover that that was the case without the expense of losing in a public court. Crucially, arbitration would have guaranteed confidentiality for the complainers, but they were never offered that choice.

In order for the inquiry committee to carry out its remit effectively, the Scottish Government must waive legal privilege and release the judicial review advice that it received. Only then can the required transparency and accountability be achieved for the complainers and the taxpaying public, who paid the six-figure costs of the judicial review.

I whole-heartedly support the motion in Murdo Fraser's name.

15:25

Bruce Crawford (Stirling) (SNP): The motion asks Parliament to call

"on the Scottish Government to publish all the legal advice it received regarding"

a judicial review. In my speech I will, inevitably, cover some of the same ground as the cabinet secretary, because his argument exposed the deep flaws that are at the heart of the Conservatives' position.

The Conservatives lodged the motion despite the fact that they are more than aware that in the United Kingdom it is the law officers who are responsible for providing legal advice to the Government. Moreover, successive Governments of all political persuasions have observed the long-standing convention that the advice that they receive from the law officers is not disclosed outside the Government; indeed, Murdo Fraser himself made that point in his opening speech. The convention is one that the Conservative Government at Westminster adheres strictly to, with the clear rationale for the convention being well understood—that it enables the Government to have access to full and frank legal advice.

That position is well laid out in the "Scottish Ministerial Code: 2018 edition", which states:

"Ministers may acknowledge publicly that they have received legal advice on a particular topic, but must not divulge either who provided the advice or its contents

(whether it is from the Law Officers or from anyone else). This applies to all forms of legal advice”.

The code goes on to say that the

“approach is required in order to take account of the public interest in maintaining ... The right to confidentiality of communications between legal advisers and their clients”.

Of course, it is true that exceptions have been made in regard to publicising such advice in truly exceptional circumstances, such as the UK going to war in Iraq, or in major public policy areas, as has been pointed out by the Deputy First Minister. However, I submit that the case that is being put forward by the Conservatives does not meet the bar of exceptional circumstances or major public policy. I think that the Conservatives and, indeed, the whole Parliament know that to be the truth.

In lodging the motion for debate today, the Conservatives also knew full well what the Scottish Government’s position would be, because that position is well established.

Given those circumstances, the question has to be asked: what are the purpose of and motive behind the Conservative motion? Given the background, the only possible conclusion that can be reached is that its purpose is an ill-conceived attempt to precondition the outcome of the committee inquiry into the Scottish Government’s handling of the harassment complaints, and that the motive is an attempt to politicise the process and undermine the credibility and position of the Scottish Government, no matter how futile that attempt might be.

To exacerbate matters, the motion has been lodged during a coronavirus emergency that has now killed more than 47,000 people in the UK and, sadly, claimed the lives of almost 400 people yesterday, with 50 of them in Scotland alone in the past 24 hours. However, there is an important Conservative motion for debate today, in the name of Donald Cameron, in relation to Covid-19 deaths in care homes. I say to the Conservatives in all seriousness that had they devoted all their time to a motion that was concerned with the Covid-19 emergency, people in Scotland might have taken their concerns more seriously.

However, the truth has been bared for all to see: the Conservatives would rather indulge in political stunts than properly address the real and deep concerns of the people Scotland about the Covid-19 emergency.

15:30

Daniel Johnson (Edinburgh Southern) (Lab):

This is an important debate because, undoubtedly, the circumstances surrounding it are some of the most troubling issues that we have dealt with since devolution and the creation of the Parliament.

As Jackie Baillie and Alex Cole-Hamilton set out, the complaints that are at the centre of the issue are of the most serious nature. As Murdo Fraser pointed out, serious questions have been asked publicly about how the Government arrived at its decisions, and about whether it was pursuing a particular agenda. As Andy Wightman pointed out, there are key questions about how the Government used the advice that was made available to it. Of course, there is also the question of the more than half a million pounds that the circumstances and decisions have cost the public purse.

It is with regret that I take exception to Bruce Crawford’s comments. He asked whether the test of exceptional circumstances had been met. I simply put it to him like this: if a former First Minister making accusations such as have been made of the existing First Minister does not constitute exceptional circumstances, I simply do not know what would.

This is a matter of collective concern, because the issue and the circumstances surrounding the Government’s decisions reflect not just on the Government, but on the Parliament, and on politics in Scotland as a whole. Ultimately, power is not vested in the Government; it is vested in Parliament, and we exercise that power on behalf of the Scottish people. It is through that sequence only that the Government exercises its power on our behalf and, ultimately, in the public interest. That is critical, and that is what is at question. Andy Wightman set out that point well.

We need to understand the appropriateness of the Government’s actions. The only way that we can do that is by seeing the legal advice, because there are critical questions to ask of the Government. Why did it continue to defend the judicial review? Did political judgment override legal assessment? If that occurred, the Government failed to act in the public interest. The only way that we can make that determination—the only way that we can judge whether political judgment overrode the advice that the Government received—is by seeing the legal advice. It is so important that we see it.

There is the critical matter of legal privilege. I understand the arguments that the Deputy First Minister made. Legal privilege is hugely important, if we believe in the rule of law and in individual rights. It is important that individuals are able to act in an informed way, so that they understand their options and can investigate them without prejudice. Indeed, organisations have the same private interest and enjoy the same legal privilege. In that regard, the Government does, indeed, have legal privilege. However, is that exclusively a private interest? The Government is different from

an organisation or an individual because it acts on our behalf and in our interests.

It is absolutely right that the Government must be able to deliberate, decide and make judgments, but that assumes that it acts in good faith and using its best judgment. That has been called into question. Was such judgment exercised, or were other elements taken into consideration? On top of that, there are other issues, such as the policy being retrospective rather than prospective. The situation is very much akin to what happened with the release of legal advice in the trams inquiry and the blood inquiry.

Overall, the public interest has itself been challenged. A key question is whether the machinery of Government been used for political agendas and personal interests rather than those of the public. The only way that we can answer that is by seeing the legal advice. I urge the Government not to wait until this evening's vote to act. It should release and publish the legal advice. It is morally required to do so, and it should not require a vote in Parliament to force it to do so.

15:34

Annabelle Ewing (Cowdenbeath) (SNP): In this short debate of one hour and 10 minutes—the Tories have opted to use only half of their Opposition time for it—I wish to focus on the issue of legal professional privilege. At this point, perhaps it would be prudent for me to refer members to my entry in the register of members' interests, from which they will note that I am a member of the Law Society of Scotland and hold a practising certificate, albeit that I do not currently practise.

At its heart, the motion concerns legal professional privilege so, as I have said, I will focus on that. It is a concept that is centuries old and is deemed essential to the operation of the legal system and the administration of justice. The principle also underpins the convention that legal advice that is provided to Governments is not published, so as to ensure that their decisions are informed by comprehensive and open legal advice that can be provided without fear or favour. The obverse of that would involve the risk that such advice could be skewed if publication were to be the norm. Therefore, the convention of not publishing legal advice has long been followed by Governments across these islands and in many other countries.

Of course, there have been a few exceptions to that. We have already heard about that happening in Scotland—in the main, in relation to judge-led inquiries. In recent times, there have also been two notable exceptions relating to the UK Government's approach. The first concerned Tony

Blair's Labour Government's publication in 2005 of the advice that it had received on the Iraq war; and the second was Theresa May's Tory Government's publication in 2018 of the advice that it had received on Brexit. Those exceptions involved what must be regarded as seismic foreign policy decisions: Labour's Iraq war decision represented a monumental foreign policy disaster, and the Tories' Brexit shambles an acute case of economic self-harm. Given the seismic nature of those issues, I contend that publication of legal advice in those particular circumstances should set no precedent, as the exceptional approach that was taken should be understood very much in context.

Incidentally, it is perhaps worth pointing out that, notwithstanding—[*Interruption.*—]—I have only four minutes, so I will not take an intervention. Notwithstanding the truly exceptional circumstances justifying the publication of the advice on Brexit, they were nonetheless not sufficient to garner the support of Scottish Tory MPs, and David Mundell, Douglas Ross and others resisted publication at that time. Further, I do not recall any Tory member of the Scottish Parliament raising an eyebrow about that in this chamber then or calling for publication of that legal advice.

As far as the ministerial code and the public interest test here in Scotland are concerned, and taking into account the operation of the convention, I submit that it is by no means clear that, thus far in the debate, a compelling case has been made for waiving professional legal privilege.

As we have heard, an inquiry is concurrently being held by a committee of the Scottish Parliament, to which I understand that the Lord Advocate has already given oral evidence and to which he could be recalled if that were felt to be necessary and appropriate.

In 21st century Scotland, there might indeed be merit in proceeding with a jurisprudential debate on the reach of the principle of legal professional privilege—in particular, as far as it concerns the role that it plays in the giving of legal advice to Governments. However, it is surely important that such a debate should be conducted in a measured, objective and coherent fashion, and not simply fitted around an individual case—especially in a 70-minute parliamentary debate. In fact, the better forum could be the Scottish Law Commission, which brings great weight to the legal issues on which it deliberates.

For the foregoing reasons, I will not support the motion.

15:39

Annie Wells (Glasgow) (Con): I very much welcome the opportunity to speak in this important debate. It is right that responding to the Covid-19 pandemic has been at the forefront of our minds and has dominated proceedings in the chamber. Now that we are in the midst of a destructive second wave and heading into the winter months, that will become even more crucial as we look to protect our national health service and to save lives.

Having said that, I am afraid that this debate can wait no longer. It is right that the Scottish Conservative and Unionist Party is leading on this today. Not only has this extraordinary affair made a mockery of the Parliament and shamed the SNP, it has been a slap in the face of the people of Scotland.

Along with the discredited hate crime bill, the conduct of the Scottish Government throughout this affair is rapidly forming part of a larger pattern, in which it thinks that it can simply cast aside the concerns of members in the chamber and do what it likes. We will not stand by and let that happen.

With the legal battle having cost the taxpayer over £0.5 million—an eye-watering amount and a complete waste of public funds considering the severe economic harm of the coronavirus pandemic—the people of Scotland deserve answers as to why that money was spent in the first place. My party and members across the chamber are therefore determined to get to the bottom of this fiasco and force the SNP to come clean.

With its contemptuous attitude towards the special committee, the SNP continues to withhold essential information from the Parliament in the form of legal advice relating to the Alex Salmond inquiry. It is vital that that advice is released immediately. The SNP claims that it cannot publish legal advice, but that is hypocritical to say the least. From air strikes in Syria to the European Union withdrawal agreement, the SNP has urged the UK Government to publish legal advice on a range of issues in the past. The legal advice with regard to Mr Salmond's judicial review is crucial evidence. What is it that the SNP has to fear? It is information that could allow us, as parliamentarians, to properly scrutinise and establish exactly what went wrong in this whole doomed affair.

Like many others, I am sick and tired of this Government treating the Parliament and the Scottish people with contempt. The SNP's attitude is simply staggering and stinks of sheer arrogance. In many people's eyes, it has lost all credibility as a result of this affair. That is why I have repeatedly urged the chamber and MSPs of

all political persuasions to stand up and speak with one voice to call on the SNP to immediately release the key documents.

So far, the extent of cross-party support that has been generated from members across the chamber has been extremely welcome and refreshing to see. That kind of unity from members further signals that the Government is clearly in the wrong. Our ability to act with purpose and to collectively endeavour to get answers for Scotland will be crucial in the next few months as the committee continues with its inquiry. Simply put, in the face of SNP contempt, the reputation of the Parliament is on the line. It is high time that we stand up and be counted.

15:43

Shona Robison (Dundee City East) (SNP): For me, today has been a tale of two Parliaments. The first, this morning, was a meeting of the COVID-19 Committee, on which I serve, in which we scrutinised the First Minister in detail on the new tier system and on her handling of the pandemic more generally—serious matters indeed. However, I cannot help but contrast that with this afternoon's Conservative business. This debate, about which I feel more sorrow than anger, could not be more different from this morning; it feels like political game playing at its worst.

Bruce Crawford, in his speech, exposed the purpose and motive behind the motion today, which I think stand for themselves. Do not get me wrong—the Committee on the Scottish Government Handling of Harassment Complaints is looking at some serious matters, which absolutely require full investigation, but therein lies the point. We are in the middle of the committee inquiry, so how can it be right for the Tories to bring forward such an ill-timed motion, which cuts right across the work of that committee?

The committee that has been tasked with investigating this matter should be given the time and space to scrutinise what went wrong and why. Furthermore, the Tory motion focuses specifically on the issue of the legal advice, which is interesting; I want to make three key points about that.

First, the protection of legal professional privilege has been relied on by Scottish and UK Governments of all political colours, and must be respected. Secondly, the continued existence of legal professional privilege for the Scottish Government helps to ensure the rule of law and administration of justice. Thirdly, the Scottish ministerial code recognises the existence of legal privilege and is clear that ministers can say that legal advice has been obtained but must not

divulge it. The exceptions that have been made previously were made on issues of public policy, which is not the case here.

The code also notes the public interest in ensuring that the Scottish Government can have confidential communications with its lawyers. The Lord Advocate's submission to the committee expanded on that by explaining that good government is ensured by enabling ministers and officials to seek legal advice whenever they need to.

It is worth noting that the Scottish law officers must be consulted and must consent before any legal professional privilege can be waived, and that the code confirms that the law officers would have to be convinced that there were "compelling reasons" in support of a waiver. Some members, in supporting the motion, appear to be saying that the Scottish Government should release the legal advice even if the law officers have said that that should not happen or have not agreed. I believe that that would be a breach of the ministerial code. It is worth noting that the Lord Advocate has made himself available to provide oral advice on those relevant matters.

The correct parliamentary process is the committee investigation, which should be allowed to run its course free from the distractions of parliamentary debates such as this. Therefore, I urge members to vote against the motion and to support the amendment in the name of John Swinney.

The Presiding Officer: We move to the closing speeches.

15:46

Jackie Baillie: The debate has been short but illuminating. The Opposition parties across the chamber are of one mind: they believe that the Scottish Government should provide the committee with its legal advice in relation to the judicial review of the harassment policy. SNP members on the committee agree, too. The remit for the committee was agreed by the Parliament as a whole. This is about the credibility of the Parliament and the accountability of the Scottish Government.

The committee has a job to do and, to be blunt, the Scottish Government is obstructing its work. Whether it is withholding information or the sometimes apparently serial memory loss on the part of senior civil servants, it amounts to the same thing: a lack of co-operation with the committee. Some people, although I am not one of them, might say that it is a deliberate lack of co-operation.

The First Minister's commitment was made on behalf of the Scottish Government, which she leads. I appreciate that she has recused herself, as she will be a witness to the committee, but that is not an excuse for the Scottish Government not to fulfil that promise. The Deputy First Minister can release the legal advice if he chooses to do so. Andy Wightman, in an excellent speech, explained exactly why that is the case. The issue is not that the Scottish Government cannot tell us; it is that the Scottish Government will not tell us.

I will give one example of the obstruction that we have faced. Early letters from the Deputy First Minister about the judicial review said that the Scottish Government could not share any information, as it was a matter for the Court of Session. That was simply not true. The Government could have shared with the committee the information that it had presented to the court. However, it took the attendance of the Lord Advocate, giving evidence under oath, and a letter from the committee to the Court of Session to establish that that was the case.

We have heard that an army of lawyers was involved for the Scottish Government—at least 10 to 12 of them—so I am not persuaded that the Deputy First Minister did not understand that he could share that information. If it was not ignorance that prevented the information from being shared, what on earth was it? Why did it take the presence of the Lord Advocate at the committee, under oath, to stop the nonsense coming from the Scottish Government?

I will not rehearse the evidence that the committee has received. Suffice it to say that I have genuine concerns about the blurring between the party and the state, but that is for another day. The committee has been told that the legal advice was taken throughout the judicial review process. An FOI request from September 2019 revealed that there were 17 meetings with counsel between 23 August and 7 January. The counsel remained the same throughout, so there would have been consistency in their thinking and their advice.

Just yesterday, the Scottish Government's lawyer in charge agreed that even when the prospects of success were not good, the Government might still decide to proceed. That might be questionable, but we need to have the legal advice to understand that. When the prospects of success nosedived after the role of the investigating officer was revealed, why did it take the Scottish Government almost three months to concede the case? Having the legal advice provided will help to address those fundamental points in relation to the judicial review.

Of course, the Scottish Government has form. We are used to not getting information through

FOI requests—we are used to that being withheld. Now the Government is withholding information from the committee; it even tried to withhold information from the Court of Session until it was forced to produce it. It is very much a case of secret Scotland with this Government.

It is time for the Scottish Government to end the secrecy and give the committee the legal advice or tell the people of Scotland what it has to hide.

15:51

John Swinney: Jackie Baillie said that she would not rehearse the business of the committee and the substance of the inquiry. Some members have raised elements of the substance of the inquiry, and I want to make it clear to the Parliament at the outset of my closing remarks that I will not reflect on any of the issues of substance that the inquiry is concerned with. It would be inappropriate for me to do so, as there is a committee process under way, and that is properly the business of the committee.

I want to address the issue of the nature of the documentation that the Government is providing to the committee, which Jackie Baillie and Margaret Mitchell touched on, because I do not think that either of their characterisations was in any way fair, appropriate or representative of the issues that the Government must be mindful of in the way in which we present information to the committee.

Understandably and quite appropriately, the committee itself has established stringent rules about how information must be presented, to ensure that it complies with the various legal obligations and requirements that are on the committee and on the Government, and which have been applied in many circumstances by decisions of a number of courts. For that reason, I think that it is unfair to criticise the redaction of documents by the Government when the Government is simply acting to ensure that we do not breach the law in relation to the content of that material. I think that the Parliament should accept that the Government is going to significant lengths to ensure that we comply with the series of legal requirements under which we are operating.

Oliver Mundell: Does Mr Swinney not recognise that the argument that he is making makes it even more compelling that the judicial review legal advice, which can be published, is published, so that the maximum information is in the public domain?

John Swinney: I am coming on to that point, which is about the material that the committee already has. The Government has already provided the committee with the pleadings that have been the substance of the legal argument that the Government has put to the courts in

relation to the judicial review. The various changes to those pleadings have been set out to the committee openly and transparently, in compliance with all the other obligations that are placed on the Government.

In addition, the Government has provided the committee with a substantial explanation of various events in the process of the judicial review to ensure that the committee is able to understand what influenced the decisions that the Government made as the judicial review took its course.

Alex Cole-Hamilton: I will try another way of approaching the issue. I understand that Mr Swinney is not going to release the legal advice, but given the decisions that the Government took, which he has referred to, did the Lord Advocate or senior counsel at any point threaten to resign because of the decisions that the Government was taking in respect of that legal advice?

John Swinney: I remind Alex Cole-Hamilton what I said at the outset: I will not get into the substance of any aspect of the processes in question, because it is not appropriate for me to do so. The Government has shared the explanation of the case that we set out to the court and the explanation, in the form of the timeline, that goes with it.

Andy Wightman rose—

John Swinney: I hope that Mr Wightman will forgive me, but I want to address a point that Daniel Johnson raised in his speech.

In essence, Daniel Johnson made my argument for me, because, in his speech, he accepted that legal privilege is vital in the rule of law.

He also accepted a central point in my argument, which is that, in all circumstances but particularly in litigation, Government must be free to explore all options without prejudice in relation to the handling of any particular case.

Mr Johnson went on to say that the Government carried additional responsibilities because it had to act in the public interest, which is absolutely correct. There are a multiplicity of circumstances in which the Government acts in the public interest in a litigation environment when those who advise us must be able to give us full and frank advice without fear of it being published, because, from the Government's and the public interest points of view, the advice might end up being more cautious than it needs to be.

I give way to Daniel Johnson.

The Presiding Officer: Before the cabinet secretary gives way, I note that he has five minutes only and I am conscious that he has already taken two interventions. I will give him another minute to draw his remarks to a

conclusion, but I suggest that he does not take another intervention.

Daniel Johnson: Does the cabinet secretary acknowledge that I also said that the issue of public interest was called into question, so the question whether the Government was acting in the public interest needs to be answered and the only way to do that would be to see the legal advice? Does the cabinet secretary understand that point?

John Swinney: Forgive me, Presiding Officer—I thought that I had six minutes to speak, so I apologise for extending my speech.

The answer to Daniel Johnson's question is in what I just said to the Parliament about the combination of the explanation, the publication of the pleadings and the detailed timeline that provides an account of the Government's decision making in the circumstances.

For those reasons, I invite the Parliament to support the amendment in my name and to reject the Conservative motion.

15:57

Oliver Mundell (Dumfriesshire) (Con): It gives me no pleasure to close the debate. I give credit where credit is due, as SNP back benchers were right about one thing: the debate should not be taking place, as it should not have been needed. If the Scottish Government had kept its word, Opposition parties would not have been forced to waste precious debating time to try to get something that had been promised in the first place.

Only a Government that has dug itself so deep into a hole would adopt a strategy of denying reality. The truth is that, no matter how many times the once honest John Swinney hides behind the paper-thin excuse of Government conventions on the publication of legal advice, this is not a conventional situation.

Annabelle Ewing: On a point of order, Presiding Officer. Oliver Mundell referred to the Deputy First Minister as the “not honest” John Swinney. That is surely to goodness not an acceptable thing to say in the chamber.

The Presiding Officer: Oliver Mundell said, “the once honest”. I was conscious of the remark, and I am sure that he was conscious of the reaction that the remark received and will be careful about his choice of words.

Oliver Mundell: For an SNP Government that calls for legal advice to be published every time that there is a decision that it does not like to try to hide behind that defence is just the latest in a long line of comments and actions that are not credible.

It does not wash with the public and it demeans Scotland's national Parliament.

Given the allegations that have been made and the concerns that continue to surround the matter, the idea that the Scottish Government and the First Minister have the right to decide what is or is not in the public interest is laughable. As Andy Wightman rightly pointed out, this is a matter of self-interest. I wonder whether the cabinet secretary saw the legal advice before the decision was taken not to publish it. If he did see it, how can he objectively say to Parliament that there is no public interest in publishing it?

On top of that, the number of omissions and mistakes mean that the Government lacks credibility. Parliament has been misled.

John Swinney: Will Mr Mundell reflect on the comment that he has just made about the way in which information has been supplied to the committee? Does he not acknowledge the point that I made, which is that there are significant legal constraints that the Government must follow when supplying information to the committee, otherwise it would be in contempt of court?

Oliver Mundell: I do not deny reality, unlike the Government, but I think that the Government's attitude has been wrong throughout. I will not repeat the language that I have used in the past to describe the First Minister's words and actions, because I want to be able to join colleagues in voting tonight to demonstrate clearly that the Government is out of step with Parliament, but dodging key questions just adds to the stench that hangs over this whole sorry affair.

It is convenient and easy to argue that the inquiry and the issue are somehow rendered unimportant in the context of current events. I appreciate that some people might sincerely believe that to be the case, but we cannot allow such allegations surrounding a serious abuse of state power and questions over the integrity of Government processes and procedures to be left unanswered.

For me, this is more about politics—*[Interruption.]* This is about more than just politics—*[Interruption.]* It is actually quite hard to speak when I am being heckled, Presiding Officer. This is about more than just politics and individuals. I have a great deal of respect for those, such as Alex Neil, who have been willing to speak out. I strongly suspect that many members across the political divide know in their hearts that something has gone very badly wrong in this case and that, at the very least, we are not being told the full story. I suspect that, like me, many members would now agree with Alex Neil that a judge-led inquiry might have been more

successful than MSPs have been in extracting the required information.

I say that because it is now clear that the commitments of the First Minister and her Government to transparency and full disclosure are worse than meaningless and that those promises were only offered to buy more time. After all, if someone was serious about transparency, serious about helping Parliament get to the bottom of the issue, serious about restoring faith in the Scottish Government and serious about respecting the high office that they hold, they would maybe—just maybe—be a little bit more proactive when it came to disclosing the full facts and key documents.

I suspect that even John Swinney knows the reason why the Scottish Government has not adopted that approach, which is that it has something to hide. If that assertion is wrong, it is easy for the Scottish Government to disprove it. After all, sunlight is the best disinfectant. Let us get the full facts into the public domain and let members of this Parliament and the people of Scotland judge for themselves the actions and decisions that have been taken. I suspect that the full disclosure of information might even assist the First Minister with her memory. It would certainly let us move on more quickly and allow the valuable resources of this Parliament, which have been highlighted by so many SNP members this afternoon, to be refocused.

In my short four and a half years in this Parliament, I have lost count of how many times Nicola Sturgeon has said that leadership is about doing the right thing when it is difficult. When I look at this decision, I struggle and find it almost impossible to think that hiding behind legal convention shows any kind of leadership. If the SNP Government and the First Minister want to make a start on restoring trust in the inquiry process, they must listen to the will of Parliament if it votes at decision time to demand the publication of the legal advice. To do otherwise would confirm many people's worst fears about their motives.

The Presiding Officer: That concludes our debate on the Scottish Government's handling of harassment complaints. There will be a short pause before we move on to the next item of business. I urge members who need to leave the chamber to be careful in observing social distancing.

Care Homes

The Deputy Presiding Officer (Christine Grahame): The next item of business is a debate on motion S5M-23226, in the name of Donald Cameron, on care homes.

16:04

Donald Cameron (Highlands and Islands) (Con): I am grateful for the opportunity to open this important debate, particularly in light of last week's delayed report by Public Health Scotland.

I pay tribute to all Scotland's care workers, who have been at the forefront of protecting some of the most vulnerable people in our society. We thank those who work in a care home, those who deliver care at home and those who simply look after a relative or friend for all that they do and all that they continue to do.

The unpredictable nature of Covid-19, especially in the early stages of the pandemic—in March and April this year—has created significant challenges for the care sector, but those at the front line have been quick to adapt to the new reality that we face. Protecting those who receive care must always be at the forefront of our minds, but I am afraid to say that it is clear that significant and costly mistakes have been made during the year. The Scottish National Party Government has made mistakes that may have cost lives.

At the heart of the detailed report from Public Health Scotland that was released last week was confirmation that 113 Covid-positive patients were sent from hospitals to care homes and 3,061 patients were discharged into care homes without being tested at all. We also know that, since the start of the pandemic, there have been, as of today, 2,048 deaths from coronavirus in our care homes, and that, as of 28 October, 134 adult care homes had a current case of suspected Covid-19.

Those are serious and concerning figures. Every death from the virus is, of course, a terrible tragedy. However, there is a lot that remains unknown. We do not yet know the number of positive tests from care homes that suffered outbreaks after receiving a Covid-positive patient or the number of positive tests from care home staff. We do not yet know when precisely the First Minister became aware that Covid-positive patients were transferred from hospitals to care homes and what action she took to investigate that. Those are serious questions that require serious and urgent answers.

Politicians of all political stripes have demanded clarity on numerous occasions from the First Minister, the Cabinet Secretary for Health and Sport and public bodies such as Public Health

Scotland. It is regrettable that those answers have not often been forthcoming. The Government's failure to protect Scotland's most vulnerable people is a scandal—I do not shrink from describing it in that way.

It is clear to us and to others in the chamber that only an immediate public inquiry will hold ministers to account and give grieving families the answers that they deserve. I know what the cabinet secretary will say to that call—indeed, it is in her amendment. She says that it is not the time and that we must wait until this is over and it is reasonably practicable to do that. However, the simple reality is that we do not know when this will all be over. We are currently experiencing a second wave, and we may—regrettably—have a third wave. That could be a matter of months or another year from now—we do not know. While we wait, the families of those who died in our care homes will get no answers and no closure. We owe it to them to get those answers now, not later. It is precisely because the virus has not gone away that we need to get to the bottom of what went wrong.

There is no reason to delay. We can set the wheels in motion today. We can decide terms of reference and appoint key personnel. Crucially, we can start to in-gather evidence. All that takes time. If committees of the Parliament or the chamber can operate virtually or in a hybrid function, so can an inquiry. If court trials in Scotland can now—as of today—operate as they used to do before the pandemic, so can an inquiry operate.

I want to cover a few other aspects that the report covers. The report provided particularly damning evidence on the guidance that led to Covid-positive patients being transferred into our care homes. We know now that the SNP Government did not change that guidance until 26 April. Its original guidance of 13 March advised that, although

“long term care facilities have expressed concern about the risk of admissions from a hospital setting ... the priority is maximising hospital capacity”

and

“steps should be taken to ensure ... that flows out from acute hospitals are not hindered and where appropriate are expedited.”

We know that it was not until 21 April that the cabinet secretary announced to Parliament that Covid-19 patients who were discharged from hospital should have given two negative tests. It then took almost another month before any mention was made of the testing of non-Covid hospital patients.

Mention is often made of hindsight. I have always accepted that in March and April we needed the capacity in the national health service

to deal with an influx of Covid-19 admissions. However, even then, any movement of hospital patients into care homes had to be done safely, especially given the virulence and speed of Covid-19 infection and particularly because care homes are the abode of many elderly people who are especially vulnerable. That had to be done safely, but it was not.

The Cabinet Secretary for Health and Sport (Jeane Freeman): I am grateful to the member for taking an intervention and for his comment about the importance of what was, at that point, a shared agreement across the chamber to protect our NHS.

Does the member also accept that to safely discharge patients from hospital to any setting, the guidance on 13 March—notwithstanding his point about testing—was clear that there should be a clinical risk assessment? From memory, the guidance on 26 March was not only clear that that should happen but put in place particular infection prevention and control steps that have been there since 2012. That guidance also required the isolation of individuals in their own homes and placed significant restrictions on communal and other activities for the purpose of safety.

The Deputy Presiding Officer: We do not have a lot of time in hand, but Mr Cameron will get all his time back.

Donald Cameron: The cabinet secretary mentioned the guidance on 26 March. That guidance also stated that individuals who were being discharged from hospital did not routinely need confirmation of a negative Covid-19 test. We cannot pick selectively from the guidance, despite its terms.

Yesterday, I participated in a virtual meeting with Scottish Conservative Party leader Douglas Ross and relatives of care home residents from across Scotland. Some of their stories were heartbreaking. It is clear that the inability of families to see their loved ones for months on end has taken its toll. One participant talked about a father in a care home who has not been told that his wife has died. Every member in the chamber will have experience of constituents who have come to them with those stories, which are a stark reminder of the human cost of the virus and the dilemma that we face in keeping care home residents safe, but also trying hard to maintain their quality of life.

That underpins why an inquiry is necessary now. The quicker we can learn lessons, the better. That will allow us to understand what happened and to move on to a better, safer and more humane system. It is just as much about the future as it is about the past.

There have been significant failings that have probably led to deaths in our care homes. Every death is a death too many. The affected families deserve answers. They have waited too long. Now is not the time for delay; now is the time to take meaningful action. The only way that that can be fulfilled is through an urgent, judge-led public inquiry. It is a simple request.

I call on the Scottish Government to support the motion in my name.

I move,

That the Parliament notes the publication of Public Health Scotland report, *Discharges from NHSScotland Hospitals to Care Homes between 1 March and 31 May 2020*; further notes with serious concern the report's analysis of the transfer of COVID-19 positive patients from hospital to care homes during this time; recognises the risk that this might have posed for vulnerable and older care home residents, and calls on the Scottish Government to hold an immediate public inquiry to find out what happened in Scotland's care homes during the course of the pandemic, which resulted in the deaths of more than 2,000 residents.

16:13

The Cabinet Secretary for Health and Sport (Jeane Freeman): Covid-19 is a cruel virus that is particularly dangerous for the most elderly and vulnerable in our society. In the first wave, as we have heard, the lives of over 2,000 care home residents were lost. That is devastating for their loved ones and for the staff who cared for them, and I will never be able to adequately express my sorrow and condolences to them all.

In moving the amendment in my name, I want to be very clear. As we have said repeatedly, the Government wants and will welcome a public inquiry into the response and handling of the pandemic. There is no dispute about that between us and any other party in the chamber. A public inquiry will be critical for a number of reasons, not least for the lessons that it will draw out for any future Government response to a global pandemic, and the critical improvements to any part of the health and social care infrastructure that will be introduced, or aspects that will stay the same, in preparation for that.

The only disagreement may be about the timing of such an inquiry. Right now, as the number of cases, the rate of test positivity, the number of people in hospital and the number who have died must make crystal clear to all of us, we remain in the middle of a global pandemic. If our ultimate responsibility as a Government is to do all that we can to save lives, then that, without question, must remain our focus.

That is why my amendment sets the timeframe for a public inquiry after the country is through the immediacy of dealing with the pandemic. I would

welcome the engagement of all parties in working with us on its remit and scope.

One aspect that we should consider together is whether the inquiry should or could be held on a four-nations basis, because I am conscious of the experience of families who have been affected by blood-borne infections. After Scotland's Penrose inquiry had reported, the United Kingdom Government instigated a UK-wide inquiry. That meant that people who had been affected by that tragedy had to face reliving it twice.

A public inquiry rightly takes time to reach its conclusions; for example, the Penrose inquiry lasted for almost seven years. Put bluntly, however, we do not have time to wait. That is why we have commissioned a range of independent, expert investigations to get us the recommendations now that we need to act on for this winter.

Members will be familiar with the information that I published yesterday that supports the adult social care winter preparedness plan: the evidence paper and the result of the root cause analysis of outbreaks in care homes. Those were in addition to last week's independent Public Health Scotland report and the recent Care Inspectorate inquiry into care at home, which will both teach us lessons and which fed into the winter plan.

I turn first to Public Health Scotland's independent report. It found that, although it could not exclude hospital discharge as a factor associated with outbreaks, that was not the major factor; the key factor was the size of the care home. I am not dismissing either.

Given the highly infectious nature of the disease, any person who comes into a care home carries a risk of infection. That is not to blame anyone—it is simply a statement of fact, just as it is a fact that any one of us who comes into this chamber carries a risk of infection. By the very nature of care homes, the larger one is, the larger the number of people who come into it, whether that is through admissions or whether those people are staff, visitors and others providing essential supplies.

We need to learn and work out how we can help providers work with that finding. Members know that I have agreed with the Convention of Scottish Local Authorities that we will continue sustainability funding for social care at October levels and work with providers and others during this month to ensure that people get the support that they need, that organisations that need support are able to access it and that services can be safely sustained. That will include making the changes that we need to make to learn the lessons.

John Scott (Ayr) (Con): Does the cabinet secretary accept that at the same time that hospital patients were incautiously discharged into care homes, many other hospital patients were discharged into the community, thereby seeding Covid-19 into the community as well as care homes?

The Deputy Presiding Officer: I can give you only 30 seconds back, cabinet secretary, so you are nearly in your final minute.

Jeane Freeman: I do not agree with the member's characterisation of that as incautious. I believe that we did what we believed to be right at the time with the resources that were available to us, and we changed that. Yes, about two thirds of individuals who were discharged went into the community.

The Care Inspectorate's recent inquiry into care at home and housing support services could not have been clearer about the hard work and flexibility of care at home staff in meeting the needs of people during the pandemic. They, along with others, of course have my grateful thanks for all that they do.

Families rightly want answers. If I were one of those families, I would want answers, too. Therefore, I welcome the actions of the Crown to establish a dedicated unit to receive and investigate the reports of Covid-19 deaths, whether through employment or as a resident in a care home. The findings of that work, which investigates individual cases, will also provide vital information to help make improvements for the future.

A public inquiry is undoubtedly important—we have no disagreement on that. However, right now—in the middle of the pandemic, when all the resources in care homes and the national health service are stretched severely—is not the time to divert any resource to setting up an “immediate” public inquiry, as the motion demands.

I move amendment S5M-23226.2, to leave out from “calls” to end and insert:

“also notes the report's conclusion that care home size has the strongest association with outbreaks of COVID-19, and that this association persists after taking account of other care home characteristics, including discharge from hospital; further notes the publication of the rapid Independent Care Home Review, which through root cause analysis reviews the factors in four care homes, which were relevant to the management of COVID-19 within the homes; welcomes the Care Inspectorate's inquiry on delivering care at home and housing support services during the COVID-19 pandemic; recognises that the recommendations of these reports have helped lead to the development of the Adult Social Care Winter Plan; believes that a public inquiry into all aspects of the response to the COVID-19 pandemic, including in the tragic loss of the lives of over 2,000 care home residents, should be held as quickly as is practicable, once the country is through the

immediacy of dealing with the pandemic; considers that expert input and review must continue to be sought as the response to COVID-19 continues to evolve in light of emerging evidence on the virus, and believes that all of this evidence should be shared with the Independent Review of Adult Social Care, together with the views of those receiving social care and their families, in order to best shape the development of a National Care Service for Scotland.”

The Deputy Presiding Officer: I must say to members that, in these short debates, there is no time in hand, so I have to be very strict with the timings. I call Monica Lennon to speak to and move amendment S5M-23226.1. You have a strict four minutes.

16:19

Monica Lennon (Central Scotland) (Lab): Care homes have been at the centre of the Covid-19 crisis and, unfortunately, the crisis is far from over. Today, it was confirmed that, sadly, six of my constituents from Caledonian Court care home in Falkirk have died in the past few days following an outbreak. On behalf of Scottish Labour, I send my sympathies to their loved ones and to everyone who has lost someone special to them during this awful pandemic. I also pay tribute to healthcare workers who have lost their lives, those who have become ill in the line of duty, and all the workforce for their on-going efforts.

It is vital that Parliament pays proper attention to the impact of the pandemic response on care home residents and the workforce, so I am grateful to Donald Cameron for lodging the motion and for the opportunity to give these vital matters our attention. We will support the motion, because we believe strongly that getting a public inquiry under way is in the public interest. My amendment calls on the Government to commence cross-party talks on the inquiry's remit, and I think that the cabinet secretary has made fair points about the four-nations context. We need to have a discussion about that.

My amendment also calls for a human-rights-based approach to such an inquiry. The Scottish Human Rights Commission recommends that, and I am pleased that ministers have already made a commitment to that approach. However, we are not minded to support the Government's amendment today, because it does not commit to getting the preliminary work under way, which risks an inquiry being kicked down the road, possibly until after the election. We recognise that Scottish Care and others would prefer the work to begin later, but many others have added to the compelling case for action beginning now, including Age Scotland, GMB Scotland and other unions, and Covid-19 Bereaved Families for Justice UK.

Cross-party work should be being done now, so that we can agree the terms of reference, identify where there are gaps in the data and research, and fill those gaps quickly.

Donald Cameron touched on this point. The voices of families are really important, but so, too, are the voices and experiences of people who live in care homes. We are not hearing enough about them and they do not have time, so we have to capture their views. We need to discuss who will lead the inquiry and so on, but we can agree those things.

What has happened in our care homes this year has been a national scandal. I thank Neil Findlay for bringing a debate on the Amnesty International report “As If Expendable” to the chamber last night. That report contains findings and lessons that are applicable to the whole of the UK, including Scotland, and Amnesty International recommends a full independent public inquiry without further delay.

We should never again find ourselves in a situation in which older people are discriminated against on the basis of their age. The Amnesty International report concludes that we have had policies during this pandemic that have threatened older people’s right to life, their right to health and their right to non-discrimination. Never again can we have a situation in which people who test positive for Covid-19 are discharged into care homes and an environment with other vulnerable people.

My amendment also says that an inquiry should consider the role of Scottish Government guidance in relation to Covid-19 outbreaks in our care homes. I am afraid that, last week, the Scottish Government sounded very defensive when questioned about the Public Health Scotland report that is referred to in the motion.

No one is looking for a blame game to happen here, but we need transparency and openness. I urge that we work together to agree the terms of the public inquiry and show collective willingness to act swiftly in the interests of public safety.

I move amendment S5M-23226.1, to insert at end:

“; believes that such an inquiry should take a human rights approach and consider the role of Scottish Government guidance in relation to COVID-19 outbreaks in care homes, and calls on the Scottish Government to commence cross-party talks on the inquiry remit, in the interests of transparency and public safety.”

The Deputy Presiding Officer: Thank you. It is very hard to keep to four minutes in this debate, so well done Ms Lennon. I call Alison Johnstone—you, too, have four minutes.

16:23

Alison Johnstone (Lothian) (Green): I, too, thank all those who work in care and in our care homes. The clapping might have ceased, but they should be in no doubt that we appreciate the great value that they bring to us all.

Calls for public inquiries are not made lightly, and I appreciate that each and every party in the chamber agrees that there should be a public inquiry. Colleagues who have spoken have outlined their differing views on when such an inquiry should take place. I make it clear that, if the Conservatives had brought this motion to the chamber earlier in the pandemic, I would have resolutely opposed it. However, we now know that 2,048 people have died from Covid in Scotland’s care homes, that 44 per cent of the total deaths from Covid have occurred there and that families across Scotland are grieving. With loss of life on that scale in that specific setting, the case for a separate public inquiry on the issue is clear.

I appreciate that the Government’s amendment seeks an inquiry into all aspects of the response to the pandemic. I do, too, but including care homes in that essential endeavour—an inquiry of such scope—would lead to greater delay. I am gravely concerned for those people from whom we need to hear, who must be given every opportunity to ensure that we can hear from them. If we delay, there is no guarantee that we will have learned all the lessons. We may continue to put lives at risk due to a lack of complete understanding of what happened.

As we know, public inquiries investigate issues of serious public concern. They seek to prevent a recurrence of events that we would always wish to avoid. They need effective information gathering and management, and we need to know now that the necessary information is stored securely. There will be a requirement to ask for and gather evidence, to analyse documents and testimonies and to establish roles and responsibilities and the terms of reference. That must, of course, involve consulting residents and their families, bereaved families and the people who are working to look after them.

All of that will take time. Elderly spouses or partners and the families of people who have lost their lives may not be able to wait, nor should they be asked to. Our shared aim is to save lives and protect people, and the sooner that we understand all the contributory factors to the truly harrowing death toll in our care homes, the better. I believe that an inquiry is an important step to take now to ensure that we are doing all that we need to do in order to prevent avoidable deaths among our oldest citizens.

I welcome the fact that the Scottish Government commissioned Public Health Scotland to carry out work to identify and report on discharges from NHS hospitals to care homes during the first wave of the Covid-19 pandemic, and I welcome the care homes review. As has been said, the PHS report states that,

“after accounting for care home size and other care home characteristics, the estimated risk of”

hospital discharge may reduce and

“is not statistically significant”,

but that will provide no comfort to people who have lost loved ones. It also raises questions about the mitigations that are being put in place in larger care homes.

We now understand what is appropriate personal protective equipment in specific settings, why testing must include asymptomatic people and why masks are important, but do we understand all the interlinking factors that have led to the devastating loss of life in our care homes? I do not believe that we do, and we need to learn them now. The opportunity to do so should not be delayed.

16:28

Alex Cole-Hamilton (Edinburgh Western) (LD): What has happened in our care homes is the tragedy of Scotland’s pandemic story. While it certainly did not do it out of malice, by sin of omission and commission the Government has failed some of our most vulnerable residents.

If we cast our minds back to the foothills of the emergency, our public health priority at the outbreak of the pandemic was to manage the spread of the virus in a way that allowed our front-line health services to cope. We all subscribed to that and absolutely understood it. In early spring, in those weeks of high infection, the Government frantically prepared for the tsunami of Covid cases with the construction of the NHS Louisa Jordan hospital and the rapid decampment of older people from our hospitals into our care homes.

The minutes from the Scottish Government’s Covid advisory group meeting on 2 April cover several topics, but two points stand out. First, our scientists were struggling to understand how the virus was moving around in Scottish hospitals despite infection control measures; secondly, the Government wanted to speed up the movement of elderly patients into care homes. The international health community had been screaming about asymptomatic viral transmission since January, yet the Government accelerated the movement of more than 1,500 hospital patients whose Covid status was unknown into care homes that had precious little PPE at the time.

In that decision lay what may well come to be regarded as one of the biggest public health disasters led by policy in this country. Our rate of care home deaths is much higher than the rates that have been recorded elsewhere in these islands. To make matters worse, we now know that the Government was releasing into care homes patients who had tested positive for Covid-19, which put a time bomb at the heart of the most vulnerable homes in our country. For me and my party, that is unforgivable.

Beyond the early death of care home residents, which could and should have been avoided, another misery that has been visited on the residents of this nation’s care homes and their families has been the isolation that they have experienced. For the best part of nine months, tens of thousands of Scottish people living in care homes have had to go without the physical contact and presence of those whom they love the most. That has caused untold harm to the mental wellbeing of people who were struggling in any case.

Many family members made an appropriate point to the Government in a demonstration outside Parliament that I and other members, including Monica Lennon, attended. They highlighted that family members are not just sightseers nor do they come to a care home just to have a cup of tea. They are there because they care and they want to be part of the physical care of their loved ones. They are unpaid family carers and, as such, they take health and infection control measures as seriously as any agency or in-house staff would. In fact, they go further, and they made this point to us at the demonstration. Family members who go into care homes act as informal inspectors—they pick up on problems, things that have been missed or corners that have been cut. That function has been lost to our care homes for the time that we have been denying those families access.

I am grateful to the Scottish Government for moving on the matter. I very much hope that we will start to see life being breathed back into our care homes. That is not to denigrate the very hard work of our care home staff, who have worked tirelessly to make the situation as bearable as possible. We need to ensure that that continues. However, we also need a public inquiry, so that we can learn from the mistakes at the start of the pandemic in order to avoid the future mistakes that may still come.

The Deputy Presiding Officer: We move to the open debate. I ask members for tight four-minute speeches.

16:32

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I, too, thank care home workers for the compassion that they have shown during the pandemic.

This is a really important debate: 2,000 people have died from coronavirus in Scotland's care homes, which is 47 per cent of coronavirus deaths in Scotland. The facts speak volumes, and delay, spin and sleight of hand cannot gloss over SNP mistakes that led to the highest rate of care home deaths in the UK.

Jeane Freeman: Would the member like to elucidate on what delay, spin and diversion—I think that that was the other term that she used—I, as cabinet secretary, have engaged in?

Rachael Hamilton: As I make progress through my speech, I shall engage with the cabinet secretary on the delays and the publishing of guidance that was removed from the Government website.

We cannot begin to imagine the anguish that has been experienced by the families who have lost loved ones in care homes. The Scottish Government knew that older people were vulnerable, but it threw a match on a petrol-soaked problem, with guidance stating that elderly patients could be discharged from hospital before their test results came back, risking the introduction of yet more infected patients into care homes.

When she was questioned, the Cabinet Secretary for Health and Sport admitted that she had “not seen absolutely yet” guidance before it was revealed that that guidance had been published in error and removed from the Scottish Government's website. Families have been let down, and—as my colleague Donald Cameron pointed out—that is nothing short of a scandal.

It is upsetting to know that constituents of mine were potentially put in danger by the Government's actions, but the Government's failure to take proper action to investigate why that happened really rubs salt in the wound. Furthermore, the Scottish Government report was delayed, and the First Minister has still not answered the question about when she knew that Covid-positive discharges to care homes were happening. Why was that allowed to happen? Families across Scotland have been left speechless, and now, during these difficult times, they are grieving without knowledge of the full picture. The Scottish Conservatives will fight to ensure that they get those answers.

We need to see more data on what has happened over the past eight months. We know that 3,000 patients were transferred without a test and that 113 Covid-positive patients were

knowingly sent from hospitals to care homes across Scotland. Between 1 March and 31 May 2020, 137 people were discharged from Borders hospitals into 20 of the 26 care homes across the Borders. We do not know, however, how many Covid-positive patients were discharged. That is causing significant concern—a point that the Cabinet Secretary for Health and Sport can perhaps address immediately. It is imperative that the Government provides clarity on the statistics at a local level. In my constituency of Ettrick, Roxburgh and Berwickshire, people want answers, and that is the least that the SNP can do.

The Government has demonstrated a complete lack of ownership of the problem, which happened entirely on its watch. The First Minister has still not answered the question about when she first knew about the Covid-positive discharges to care homes and what action she took to investigate the situation. The SNP's tactic has been to blame others for mistakes. Both Nicola Sturgeon and Jeane Freeman blame clinicians, yet we know that the SNP Government had the policy in place. It ignored advice and chose to make dangerous decisions.

When it comes to the detail of Public Health Scotland's report, the SNP Government fails to take proper ownership. It claims that the report does not show a statistical link between the transfer of patients and the further spread of the virus. Public Health Scotland states in its report that it

“cannot exclude a moderate to large excess risk from a care home receiving a discharge where the last test was positive.”

It will not bring back our loved ones, but we need a full public inquiry into this national tragedy now.

16:36

Emma Harper (South Scotland) (SNP): Covid-19 is the biggest public health crisis that we have faced in our lifetime, and the impact on care homes across the world has been profound. Every life lost to the virus is a tragedy and a loss that will be deeply grieved by loved ones. I send my condolences to anyone who has experienced the loss of a loved one to this serious virus. I also thank care home staff for their valuable work.

As I listened to the speeches so far, I reflected on where I was, and where we all were, at the start of the pandemic. We did not know a lot about the virus. I was one of those folks who was eager to return to the NHS front line and to help with what Alex Cole-Hamilton has just called the “tsunami of Covid cases” that we expected to receive in hospitals across Scotland.

I am clear that the Public Health Scotland analysis does not find statistical evidence that hospital discharges were associated with care home outbreaks. As a direct response to the Conservative motion, I can say that the First Minister and the health secretary have confirmed that a public inquiry will be held that will look into every aspect of the crisis, including what has happened in care homes. However, we are in the midst of an increase in cases—a second wave of the virus—and right now is simply not the time for a public inquiry, although I agree that one is needed and I welcome the commitment that it will happen.

It is important to note the point that we have got to. The health secretary commissioned the Public Health Scotland report in August

“to identify and report on discharges from NHS Hospitals to care homes during the first wave of the COVID-19 Pandemic.”

The report was commissioned because it is right that residents, families, staff and the Parliament have accurate data on and independent analysis of the transfer of patients to care homes and the impact on care homes.

The report states on page 42 that

“The analysis does not find statistical evidence that hospital discharges of any kind were associated with care home outbreaks.”

It also states that PHS

“cannot statistically exclude the presence of a small risk from hospital discharge. By comparison though, the risk of an outbreak associated with care home size is much larger than any plausible risk from hospital discharge.”

The cabinet secretary has already described that.

The report notes that 3.7 per cent of care homes with fewer than 20 registered places had an outbreak over the period. In comparison, 90.2 per cent of care homes with more than 90 places had an outbreak over the same period. The report noted that hospital discharge was

“associated with an increased risk of an outbreak when considered on its own. However, after accounting for care home size and other care home characteristics, the estimated risk”

was not “statistically significant.”

The Scottish Government will take forward the recommendations that PHS makes in its report, and PHS will now carry out further work to give a more detailed understanding of Covid-19 outbreaks in care homes. The Scottish Government will act on the areas in which the report’s conclusions highlight the need for additional measures.

I welcome the steps that the Scottish Government has already taken to ensure that additional safeguards, such as testing when

clinically appropriate, are in place when discharge from hospital into care homes takes place.

Guidance has been clear—

The Deputy Presiding Officer: You must conclude.

Emma Harper: I will conclude, Presiding Officer.

I welcome that the Scottish Government will continue to—

The Deputy Presiding Officer: Conclude means conclude, wherever one is on the planet.

16:40

Neil Findlay (Lothian) (Lab): I declare an interest as my mum is a resident in a care home and my wife and daughter work in the NHS.

I have never worked in a care home and have never been a resident in one. With that in mind, I have to relay what carers and those for whom they care have told me and try to put myself in their position.

Imagine that it is March of this year and that you are an 81-year-old patient in hospital. You have been there for six months and have been ready to go home for 12 weeks but have been told repeatedly that the reason why you cannot leave the hospital is that there is no care home place or package to support you. Imagine then being told at short notice that a place has become available and that you are moving today, although not to your own community, among the people you know, but many miles away, and that you have to move there, as it is the only place that is available.

Imagine watching TV on that same day and hearing that a virus that results in the deaths of hundreds of thousands of older people just like you is sweeping the world. You see the news bulletins that show multiple deaths at care homes across Europe, and the haunting image of undertakers removing bodies. Imagine then being discharged alone, with limited family contact and without an assessment of your needs and without being tested.

Imagine working in a care home on minimum wage, in a place that is regularly short staffed and has been for years. Imagine that you have to take in more residents and that the company that you work for cannot provide you with appropriate and safe PPE to protect you, keep your residents safe and allow you to do your job. Imagine that that company is registered in a tax haven, pays negligible corporation tax and posts regular, healthy profits. Imagine going home at night—every night—to see the news headlines of more and more people dying in care homes just like the one you work in.

Imagine reading newspaper reports of multiple care home deaths—such as happened on Skye—and wondering, “Are we next?” Imagine listening to politicians who claim that we have the best testing capacity in the world at a time when neither you nor the residents you care for have ever been tested. Imagine caring for Covid-positive people who have become seriously ill and then being told that they must not be admitted to hospital for treatment.

Imagine being Covid-clear as a patient in hospital but finding yourself ill from Covid a few days after you are moved to a care home. Imagine realising that, as you worked and tried to keep people safe, you were inadvertently spreading Covid because you had never been tested.

Imagine being vulnerable, living among new people you do not know and seeing the Covid crisis growing. Feeling scared and alone, you are unable to hold the hand of your son and daughter or even to speak to them. Imagine being asked to agree to a do not resuscitate order without a discussion with your general practitioner or your closest family. Imagine seeing your friends and neighbours—other residents—die without their family around them and being laid to rest with a handful of mourners.

Too many of our mums, dads and grandparents, our friends and our family have no need to imagine those things—they happened to them in Scotland in 2020, and that is to our eternal shame.

16:44

Stuart McMillan (Greenock and Inverclyde) (SNP): I welcome this short debate, and I thank the Conservatives for securing it. I agree with Donald Cameron’s comments regarding the activities of staff in care homes throughout the Covid pandemic.

In preparation for the debate, I spoke to my staff to clarify how many of my constituents have been calling for an immediate public inquiry, as per the Conservative motion. The answer is none. Some constituents have contacted me to raise issues and concerns about PPE and about access to local care homes but, in the main, constituents who have contacted me—

Neil Findlay: Will the member take an intervention?

Stuart McMillan: Let me finish my point.

Most constituents who have contacted me about care homes have been fairly positive about their experiences. Not one person has called for an immediate public inquiry, as the motion does.

Neil Findlay: Incredible! Absolutely incredible! How many constituents have contacted your office

asking for a hate crime bill or an independence referendum while all this is going on? I honestly cannot believe that you have the gall to stand up and say that in Parliament. It is shameful. *[Interruption.]*

The Deputy Presiding Officer: You are all wasting your debating time.

Mr Findlay, I know that it is a teacherly thing to say, but please do not use the word “you” in the chamber. I have said over and over again that I like things to be proper.

Stuart McMillan: I am telling members about the number of constituents who have contacted my office. I am sorry if Mr Findlay does not appreciate the fact that not one constituent has contacted my office asking for an immediate public inquiry. I am sorry if members do not accept that, but it is a fact.

Members rose—

Stuart McMillan: I am sorry, I have already taken an intervention.

I want a public inquiry to take place, but I genuinely do not think that it is right to have one according to the timing that is set out in the motion. The families of the 2,048 residents who have passed away as a result of Covid-19 deserve answers about what has happened, so it is absolutely correct that an inquiry should happen. However, I believe that attempting to have an immediate inquiry is the wrong thing to do. We are in the midst of a second wave of Covid-19, so we need to focus on dealing with the pandemic that we face. We do not know what will happen after the second wave; members need to appreciate that.

On multiple occasions, the First Minister and the Cabinet Secretary for Health and Sport have confirmed—we heard it again today from the cabinet secretary—that a public inquiry will be held that will look into every aspect of what has happened. That is the right thing to do—it is vital for accountability, and in order to ensure that lessons are learned, going forward. However, our attention must be on the crisis at hand so that we ensure that we are as prepared as possible for dealing with a second wave of the virus.

I am conscious of time, so I will conclude. I want a public inquiry—but not at this time, as per the motion.

16:48

Jamie Halcro Johnston (Highlands and Islands) (Con): I am pleased that we have been able to have the debate, because it is vital.

Since the outbreak of the Covid-19 pandemic, some of our most vulnerable constituents have

faced conditions and dangers that should cause enormous concern to members across Parliament. We are all well aware of their plight, and we all have a responsibility to make sure that the problems are addressed quickly.

However, too often in the chamber, we have heard warm words about our older population—words such as “respect”, “choice” and “dignity”, while the reality has been quite different. Too often, the Scottish Government has substituted rhetoric for real action.

Our social care system remained low on the Government’s agenda. The consequences of that have been apparent for a long time, but are now even more clear because earlier this year our care homes faced a new virus that disproportionately affects elderly people and those with underlying health issues. However, instead of action from the Scottish Government to support efforts to protect those residents, care homes saw their residents being put at risk through discharge into care homes of untested patients from hospital. The result is that those care homes, which should have been some of the most shielded settings and sanctuaries for their elderly and vulnerable residents, have been battling Covid infections since the start of the pandemic. The cost of that is stark: more than 2,000 residents have lost their lives, so far.

I spoke recently in a debate about social care staff and acknowledged again their remarkable efforts and commitment. However, those staff, while they have been on the front line in the fight against Covid, have often been left at the back of the queue for help. They were late in getting vital supplies of PPE and late in being provided with adequate testing.

In my region, I have seen directly how the testing regime that was promised by SNP ministers simply was not working. When one care home in Moray identified a confirmed case of Covid, getting testing for staff and residents—testing that we were assured, by the health secretary and the First Minister, should be routine—was an almost impossible struggle. Despite the case being raised with the First Minister and the health secretary in the chamber, it took two weeks for testing to start and three weeks from identifying the first case for all results to come back. What did they find? They found three more cases—two of which were asymptomatic and both of them staff. Residents and staff were put at further risk while Government ministers here in Edinburgh gave assurances that bore no relation to what was happening on the ground.

Care home residents, their families and the staff who work in the care homes still have deep concerns. As we enter the early stages of the

second wave, they remember the experiences of the first.

Although we have to protect the physical health of care home residents, we must not ignore the importance of also protecting their mental health. Too many have been unable to see family and friends, and have been left isolated because safe visiting options have, for many, been completely absent. The impact that that is having on their mental health and wellbeing is enormous. There are too many stories of people coming to believe that life is not worth living or—most heart-breaking of all—dying alone without their loved ones around them. The Scottish Government must work with the social care sector to ensure that the guidance and resources are in place so that care homes can allow residents safely to see their families.

We do not know for how long the virus will continue to be a threat, or for how long it will continue to separate families, and we still do not know that all our care home residents are safe, but we do know that too many have lost their lives already and that lives will continue to be lost. I therefore fully support the view that there is a need for an urgent judge-led independent inquiry. That inquiry would look in more depth at the challenges that the sector faced and the response of the Government and its agencies, and—so that lessons can be learned to prevent more loss of life—find out what went so badly wrong.

16:52

George Adam (Paisley) (SNP): I wanted to take part in the debate because I hope to provide some reassurance and clarity for the families and loved ones whose relatives have tragically lost their lives in care homes throughout the pandemic.

None of us in the chamber is a stranger to the devastating statistics that we saw about care homes at the beginning of the pandemic. Constituents have contacted me after losing loved ones; I continue to offer them my deepest sympathies and condolences. I also believe that the families of those care home residents have a right to know what happened, and to know whether hospital discharges to care homes were to blame. After all, those who have lost members of their families are the most important people in the process.

That is why I am glad that the Cabinet Secretary for Health and Sport, Jeane Freeman, commissioned the report on hospital discharges from Public Health Scotland. It has been acknowledged from the start that the Scottish Government might get things wrong, so it is important that the circumstances were investigated and that we learned from the report.

What we learned is that hospital discharges into care homes had no significant impact on the risks of an outbreak in care homes, but other factors, including the size of the care home, did. We know that the more residents, staff, visitors and community admissions there were, the higher was the risk of a Covid outbreak. Larger care homes have increased healthcare requirements and more people interact with them in order that they can run smoothly in all their operations.

Only 3.7 per cent of care homes with fewer than 20 places had an outbreak between March and June, while 90.2 per cent of care homes with more than 90 places had an outbreak during that period. That dramatic difference is significant—the size and capacity of care homes are playing major roles. There are many large care homes throughout Scotland. We need to investigate further to ensure that we get things right and to ensure the safety of residents, staff and their families in those environments. We might have to look at different and radical ways of tackling the issues that have been highlighted by the pandemic. Those decisions will be made in due course.

Countries throughout the world have similar findings, so we are not tackling the issue alone—and tackle it, the Scottish Government has. It did not waste time on generating guidance to hospitals and care homes that anyone leaving hospital or a care home should be tested. For those who tested positive, there was clinical interest in their discharge, with a mandatory risk assessment and 14-day isolation.

The cabinet secretary has said time and again that the wellbeing of staff and residents in care homes is one of her top priorities. As everyone else in the debate has done, I congratulate and thank care home staff for their on-going work. They are working with Health Protection Scotland, local public health teams, health and social care partnerships and others to monitor, direct and guide services.

The Care Inspectorate has been given an enhanced role with enhanced duties, including on reporting. There is at least weekly, and sometimes daily, contact. Public Health Scotland is immediately told of Covid outbreaks in care homes, which allows it to provide specialist infection-control advice, guidance and support. I have confidence that the Government will work with them and learn from the findings in the new report.

Although I support the call and acknowledge the need for an inquiry into what has happened, I do not think that now is the best time. We need more information, more evidence and more time. We are going through a worldwide pandemic. We must ensure that, when we hold an inquiry, we do

it properly, and that there will be a legacy for care home residents.

16:57

Monica Lennon: This has been an important debate, and I am grateful to all members for their contributions. In her opening remarks, the cabinet secretary said—I am paraphrasing—that we are all committed to holding a public inquiry. I accept that. She also said that her disagreement is only about the timing. However, the timing is crucial. Alison Johnstone made a considered contribution in which she said that, if we delay, there is no guarantee that we will learn all the lessons that we need to learn and we could put lives at risk.

I acknowledge and welcome the fact that the Government has made important commitments in recent weeks and days. George Adam touched on that. However, we need to go further. We cannot afford to be slow and to be reactive.

I welcome the adult social care winter preparedness plan, which was published yesterday. However, I also reflect that GMB Scotland wrote to the First Minister back in March asking for a national plan for social care.

We have been hearing people say a lot that, with the benefit of hindsight, we could have done X, Y and Z. I pay tribute to low-paid and front-line workers who have been speaking out since the beginning of the pandemic. We owe it to them to act now.

There are immediate issues that need to be raised. For example, in a briefing today, the Royal College of Nursing Scotland asks where the workforce will come from to cover sickness absence and to support care homes during the winter. We went into the pandemic with about 3,600 nursing and midwifery vacancies in the NHS. We know that we have big challenges to address now.

The clinical guidance for nursing home and care home residents that was published on 13 March, and updated on 26 March, has been referenced today. It also says:

“It is not advised that residents in long term care are admitted to hospital for ongoing management but are managed within their current setting.”

We have still not had sufficient explanation as to why that guidance was in place, or a reassurance that, as our NHS buckles again under pressure, those same decisions will not be made. Members have mentioned the pressure that has been put on people to have in place “Do not attempt to resuscitate” orders. Hospital beds are filling up. We cannot have a situation again in which care home residents are denied access to hospitals.

I point out that we are still seeing blockages in data coming through—for example, members from across the chamber are struggling to get responses to freedom of information requests. I was pleased that, last night, the Minister for Social Security and Older People gave me a commitment that she would get me answers from NHS Lanarkshire on issues that I have raised about whether particular care homes received patients who were positive for Covid. The health board has said that it cannot provide those answers, so how can we have confidence in the report that Public Health Scotland published last week?

I have a few seconds left, so I will pick up on other points that have been raised in the debate. As Alex Cole-Hamilton said, the role of family care givers is crucial. There are other areas in which we need to do more. Infection prevention and control should be an enabler to families having contact; it should not be a barrier. I also appeal to the Scottish Government to take on board the suggestion—made not just by me but by campaigners for older people—that in Scotland we should have an older people’s commissioner. That is not a new idea—I think that Alex Neil raised it back in 2005 or 2006—so let us get it done.

If the motion is agreed to, Scottish Labour will work constructively with the Government and will participate fully in cross-party efforts to shape the terms of a public inquiry, build public confidence and do everything that we can to protect lives.

The Deputy Presiding Officer: I call the cabinet secretary, Jeane Freeman, to close the debate on behalf of the Scottish Government.

17:01

Jeane Freeman: There is no question but that a public inquiry should take place. However, I want to be clear about the requirements for the holding of a statutory public inquiry—and such an inquiry should be statutory.

As I have said, I welcome discussion from members across the chamber on the draft remit and scope of such an inquiry. As Ms Lennon has said, it should also take a human rights-based approach. I agree with her, and the Scottish Government will support the amendment in her name. However, it would be for the judicial lead in such an inquiry to make a final determination on its remit and scope, on the information and evidence that he or she would require, and on how the inquiry would proceed.

I am sorry, but I do not believe that people can examine the Scottish Government’s response to the pandemic—and get the answers that they seek and which we need to learn from and apply—by focusing solely on one aspect of that response, as the motion suggests.

Alison Johnstone set out clearly exactly how a public inquiry goes about its business. I believe that, in doing so, she proved my point precisely. Such an inquiry is not an immediate exercise; rightly, it takes the time that is required to do its job properly. *[Interruption.]* No, I am not taking any interventions.

As case numbers rise, as we battle to suppress the virus again and as, after an already very tough year, our NHS and social care staff gear up for a long and difficult winter, now is not the right time to divert their resources to respond to the rightful demands of a public inquiry.

I refute absolutely the suggestion that the Government is hiding, spinning or avoiding any issues or demands on how we have already responded to the pandemic or how we will do so in the weeks ahead.

Neil Findlay: Will the cabinet secretary take an intervention?

Jeane Freeman: No; I will not.

Neil Findlay: Why will you not take my intervention?

Jeane Freeman: Mr Findlay—no.

Neil Findlay: You are not avoiding anything?

Jeane Freeman: No, I am not avoiding anything, Mr Findlay.

The Deputy Presiding Officer: Excuse me, everyone. You cannot hold your own little debate across the chamber. If the member is not taking interventions—

Jeane Freeman: My apologies, Presiding Officer.

The Deputy Presiding Officer: Excuse me, cabinet secretary. Please sit down for a second.

My understanding is that, when a member says that they are not taking interventions, they mean that they are not doing so—end of.

I call the cabinet secretary.

Jeane Freeman: Thank you, Presiding Officer.

I have only one final point to make. The issue here is all about timing. We must ask what is the right thing to do, right at this moment, and what is the right focus not only for the Government but for our NHS and social care staff. It is how we continue to suppress the virus and steer a safe course through the coming winter months. Winter is always difficult; in the context of the Covid pandemic it will be even more so for every single one of us but mostly for our front-line NHS and social care staff.

Therefore I do not believe that this is the right time to divert that resource away from the

important work that they do so very well, in order to set up an immediate public inquiry. There will be such an inquiry, and I will work with colleagues from across the chamber to agree its draft remit. We will go ahead and do that when we are through the immediacy of the pandemic.

I ask members to support the amendment in my name.

17:04

Brian Whittle (South Scotland) (Con): I am pleased to be closing this important debate on behalf of the Scottish Conservatives. As others have done, I thank the incredible staff and carers who have looked after our most vulnerable in such difficult times with such dedication and professionalism. There are so many stories of compassion and dedication and it is important, when we have these debates, that we always caveat our comments by acknowledging the debt that we owe our care staff and our NHS staff.

We are all aware of the difficult decisions that no Government would want to have to make. It is clear that Governments across the world have struggled to create a route out of this crisis and that is why, when the Scottish Government called for cross-party support for its efforts to tackle Covid-19, the Scottish Conservatives put party politics aside, as did all other parties in the chamber, recognising the seriousness of the situation. That does not mean that Opposition parties waive their right to scrutinise the Scottish Government.

The subject has returned to the chamber because it is so important. Moreover, it is the lack of satisfactory answers to consistent parliamentary questions and scrutiny that ensures that we will continue to seek answers to the many questions that we continue to be asked by constituents on the continuing care home tragedy.

Let us be absolutely clear—all Government responses, including those in the other UK nations, have been seriously flawed. This is no time to hide behind party politics. However, it is our job, in this place, to scrutinise and question Scottish Government decisions and I know that I and many of my colleagues continually raise the care home crisis with the Scottish Government on behalf of our constituents. Hardly a day goes by without care homes being the subject of emails and phone calls to my office. It seems increasingly clear that there has been mistake after mistake in the handling of the most vulnerable in our society. As has been said, in Scotland, there have been 2,048 tragic deaths from Covid in care homes since the start of the pandemic—some 45 per cent of all Covid deaths. A Public Health Scotland report revealed that over 113 patients were sent to

care homes, despite testing positive for Covid, and some 3,061 patients were discharged into care homes without being tested.

The cabinet secretary recognised the risk of patients being transferred into care homes, but citing clinical decisions or advice surely cannot be acceptable. I listened to Neil Findlay's speech, which I thought was very good, and I am sure that he would agree with me that although he and I are not clinicians, we do not need to be clinicians to work out for ourselves that transferring positive Covid patients into a care home environment is extremely dangerous, especially given that the reproduction number is estimated at over 10 in that environment. I say to George Adam that the reason why care homes with the greatest capacity have the greatest Covid outbreaks might be because they accepted most of the Covid positive cases into their homes.

It was acknowledged and accepted right at the start of the crisis that mistakes would be made; the main and recurring issue that I have is with the Scottish Government's continual attempts to hide the truth—to hide from simple parliamentary scrutiny. Take the simple question, "When did you know that Covid positive patients or patients who had not had a test were being transferred into care homes?" How many times has that question gone unanswered? Had it been answered the very first time with a degree of honesty, it would not be the issue that it has become.

The biggest question to my mind has been about the Scottish Government's initial response and its lack of learning since. We watched the virus begin in China, move across the world, and move across Europe towards us with devastating effect on countries such as Italy, Spain and France, especially on the most vulnerable, yet we were still caught unprepared. I asked the cabinet secretary about that and her response was that we did the same as everybody else. Why did she do the same as everybody else? What different outcome did she expect? The wise learn from their mistakes and the truly wise learn from other people's mistakes. Protection of the most vulnerable in our society should have been better than it has been.

Even now, after nine months of the pandemic, with all that we have learned, the care home sector is still being let down by the Scottish Government. Not only have too many care home residents tragically lost their lives to Covid, too many are still being denied contact with loved ones during the twilight of their lives.

I have raised the point many times in the chamber that the Care Inspectorate, under the guidance of the Scottish Government, has significant influence over the way in which private and council care homes are run, so surely it was

not beyond the wit of the Scottish Government to ensure that Covid-safe indoor environments were created in all care homes. Instead, we have heard over and over about short meetings with loved ones, outdoors, in poor conditions.

That tells me that the Scottish Government is not looking ahead or planning ahead and that it is not learning the lessons that must be learned, which is exactly why a public inquiry is essential now. As Alison Johnstone said in her speech, lessons have not been and cannot be learned if the Scottish Government refuses to accede to proper parliamentary scrutiny or to answer straight questions.

As I said, it was accepted that mistakes would be made and that advice would be ever changing as we learned more about the virus, but keeping the Parliament from effective scrutiny only increases the Parliament's suspicion. The virus is not going away, despite what many of us thought would have happened by now. The response across the world, including from the Scottish Government, has been far less sophisticated than it should have been by now.

It is time to take a breath. We all recognise that terrible decisions have been placed in front of Governments, but the Scottish Government must own its poor decisions and mistakes. It must instruct a public inquiry now that will answer the public queries from those who have lost loved ones. Then we will be able to map a more cohesive and compassionate route out of the crisis in which we can all have confidence. Care home residents and staff, and families and their loved ones, deserve that at the very least. I ask members to support the motion in the name of Donald Cameron.

Business Motions

17:12

The Presiding Officer (Ken Macintosh): Our next item of business is consideration of business motion S5M-23234, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Tuesday 10 November 2020

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions

followed by Ministerial Statement: COVID-19

followed by Scottish Government Debate: Remembrance Commemorations

followed by Committee Announcements

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 11 November 2020

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions: Finance; Environment, Climate Change and Land Reform

followed by Scottish Labour Party Business

followed by Business Motions

followed by Parliamentary Bureau Motions

followed by Approval of SSIs (if required)

5.10 pm Decision Time

followed by Members' Business

Thursday 12 November 2020

12.20 pm Parliamentary Bureau Motions

12.20 pm First Minister's Questions

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions: Rural Economy and Tourism

followed by Ministerial Statement: Rural Payments Strategy 2020-21

followed by Legislative Consent Motion: Environment Bill

followed by Stage 1 Debate: Pre-release Access to Official Statistics (Scotland) Bill

followed by Legislative Consent Motion: Medicines and Medical Devices Bill

followed by Business Motions
followed by Parliamentary Bureau Motions
 5.25 pm Decision Time
 Tuesday 17 November 2020
 2.00 pm Time for Reflection
followed by Parliamentary Bureau Motions
followed by Topical Questions (if selected)
followed by Ministerial Statement: COVID-19
followed by Scottish Government Business
followed by Committee Announcements
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business
 Wednesday 18 November 2020
 2.00 pm Parliamentary Bureau Motions
 2.00 pm Portfolio Questions:
 Transport, Infrastructure and
 Connectivity;
 Justice and the Law Officers
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
followed by Approval of SSIs (if required)
 5.10 pm Decision Time
followed by Members' Business
 Thursday 19 November 2020
 12.20 pm Parliamentary Bureau Motions
 12.20 pm First Minister's Questions
 2.30 pm Parliamentary Bureau Motions
 2.30 pm Portfolio Questions:
 Constitution, Europe and External Affairs
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.05 pm Decision Time

(b) that, for the purposes of Portfolio Questions in the week beginning 9 November 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*]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motions S5M-23235 and S5M-23236, on the stage 1 timetable for two bills.

Motions moved,

That the Parliament agrees that consideration of the United Nations Convention on the Rights of the Child

(Incorporation) (Scotland) Bill at stage 1 be completed by 22 January 2021.

That the Parliament agrees that consideration of the University of St. Andrews (Degrees in Medicine and Dentistry) Bill at stage 1 be completed by 5 February 2021.—[*Graeme Dey*]

Motions agreed to.

Parliamentary Bureau Motions

17:13

The Presiding Officer (Ken Macintosh): The next item of business is consideration of four Parliamentary Bureau motions. I call Graeme Dey, on behalf of the Parliamentary Bureau, to move motions S5M-23237, on stage 2 consideration of a bill, and motions S5M-23238 to S5M-23240, on approval of Scottish statutory instruments.

Motions moved,

That the Parliament agrees under Rule 9.7.1(b) that stage 2 of the UK Withdrawal from the European Union (Continuity) (Scotland) Bill be taken as follows—

(a) the Finance and Constitution Committee to consider (in the order set out by, or by virtue of, Rules 9.7.4 and 9.10.8)—

- (i) Parts 1 and 3 and the long title,
- (ii) any amendments to provisions in Parts 1 and 3 and the long title, (other than amendments to provisions in Part 3 and the long title specifically on matters relating to the environment), and
- (iii) any other amendments that relate primarily to alignment with EU law (other than amendments specifically on matters relating to the environment), and

(b) the Environment, Climate Change and Land Reform Committee to consider (in the order set out by, or by virtue of, Rules 9.7.4 and 9.10.8)—

- (i) Part 2,
- (ii) any amendments to provisions in Part 2, other than those to be considered by the Finance and Constitution Committee by virtue of paragraph (a)(iii), and
- (iii) any other amendments specifically on matter relating to the environment.

That the Parliament agrees that the Children's Hearings (Scotland) Act 2011 (Children's Advocacy Services) Regulations 2020 [draft] be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2020 (SSI 2020/307) be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 18) Regulations 2020 (SSI 2020/326) be approved.—
[Graeme Dey]

The Presiding Officer: The question on those motions will be put at decision time.

Decision Time

17:13

The Presiding Officer (Ken Macintosh): We turn to decision time.

Andy Wightman (Lothian) (Green): On a point of order, Presiding Officer. It has come to my attention that an email has been circulated to members saying that there is an updated BlueJeans link. The email was sent at 17:04, for decision time at 17:10. I am sure that you are aware of that, but it occurs to me that, given that members have to be on BlueJeans to be present and that the votes will be tight, there might be some difficulties this evening.

The Presiding Officer: I could be wrong, but I am pretty sure that that particular invitation is the online equivalent of the bell that we ring to summon members to the chamber. In other words, members who are working remotely will have been invited on to the BlueJeans platform much earlier in the day and will have had the opportunity to join. That particular email goes out as a reminder to give them a final chance to join.

Andy Wightman: The email is headed, in red bold,

"Apologies, please note the updated BlueJeans link, which is now below."

That rather suggests to me that there may be some issues in terms of timing.

The Presiding Officer: I will just take some advice on that.

I thank Mr Wightman for illuminating the chamber and me on the nature of the email link. Previously, the wrong connection was provided. Sixty members have now joined us on BlueJeans using the new link, so we hope that it is working. However, we will take some extra time, if necessary, to ensure that all members are on board. We will check, as we always do, who is missing and who is not.

The first question is, that amendment S5M-23218.2, in the name of John Swinney, which seeks to amend motion S5M-23218, in the name of Murdo Fraser, on the Scottish Government's handling of harassment complaints, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. Because we need to allow everybody to access the voting app, I suspend the meeting temporarily to allow people to open it.

17:15

Meeting suspended.

17:22

On resuming—

The Presiding Officer: We move to the division on amendment S5M-23218.2, which will be a one-minute division.

The vote is closed. I urge any member who was unable to exercise their vote, or who thinks that there was an issue, to let me know.

Keith Brown (Clackmannanshire and Dunblane) (SNP): On a point of order, Presiding Officer. I was unable to connect and I would have noted yes.

The Presiding Officer: I will ensure that your vote is added to the roll.

Richard Leonard (Central Scotland) (Lab): On a point of order, Presiding Officer. I was not able to vote online and I would have voted no.

The Presiding Officer: I will instruct the clerks to add your vote to the roll. You voted no.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)

Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)

Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)

Abstentions

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)

The Presiding Officer: The result of the division is: For 55, Against 63, Abstentions 4.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S5M-23218, in the name of Murdo Fraser, on the Scottish Government handling of harassment complaints, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The vote is now closed. If any member had any issues, they should please let me know by making a point of order online or in the chamber.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)

Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)

Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Abstentions

Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

The Presiding Officer: The result of the division is: For 63, Against 54, Abstentions 5.

Motion agreed to,

That the Parliament calls on the Scottish Government to publish all the legal advice it received regarding the judicial review into the investigation of the alleged behaviour of the former First Minister, Alex Salmond.

The Presiding Officer: I remind members that if the amendment in the name of Jeane Freeman is agreed to, the amendment in the name of Monica Lennon will fall. The question is, that amendment S5M-23226.2, in the name of Jeane Freeman, which seeks to amend motion S5M-23226, in the name of Donald Cameron, on care homes, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

That vote is closed. If members had any issues or did not think that their vote was recorded, they should please let me know.

Jackie Baillie (Dumbarton) (Lab): On a point of order, Presiding Officer. My vote was not recorded and I would have voted no.

The Presiding Officer: I will make sure that your vote is added to the register.

The Minister for Local Government, Housing and Planning (Kevin Stewart): On a point of order, Presiding Officer. My phone went a bit weird at the end there and I would have voted yes.

The Presiding Officer: I can assure you that your vote was recorded, Mr Stewart.

Daniel Johnson (Edinburgh Southern) (Lab): On a point of order, Presiding Officer, I fear there is something of a Bermuda triangle of wi-fi here. My phone went funny, too. I would have voted no.

The Presiding Officer: I assure Mr Johnson that his vote is also recorded.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): On a point of order, Presiding Officer. I am afraid that we have a rhombus rather than a triangle now. My connection was lost moments before the vote was concluded, and I am unaware whether it has been counted. I would have voted yes.

The Presiding Officer: Your vote was recorded, too. Thank you very much, Mr Doris.

Ruth Davidson (Edinburgh Central) (Con): On a point of order, Presiding Officer, my phone is frozen. I would have voted no.

The Presiding Officer: Thank you for the notification, Ms Davidson. However, I can assure you that your vote was recorded.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)

Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

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

Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)

The Presiding Officer: The result of the division is: For 60, Against 62, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that amendment S5M-23226.1, in the name of Monica Lennon, which seeks to amend motion S5M-23226, in the name of Donald Cameron, on care homes, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S5M-23226, in the name of Donald Cameron, on care homes, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

That vote is closed. If members had any issues or did not think that their vote was recorded, they should please let me know.

The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick): On a point of order, Presiding Officer. My phone did not refresh. I would have abstained.

The Presiding Officer: Thank you, Mr FitzPatrick. That will be noted and added to the roll.

The Minister for Trade, Investment and Innovation (Ivan McKee): On a point of order, Presiding Officer. My screen did not refresh. I, too, would have abstained.

The Presiding Officer: Thank you, Mr McKee. That will be added to the roll, as well.

Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP): On a point of order, Presiding Officer. The connection did not work on my phone. I would have abstained.

The Presiding Officer: Thank you, Mr Allan. That is noted, and that will be added to the roll.

The Cabinet Secretary for Justice (Humza Yousaf): On a point of order, Presiding Officer. I had connection issues. I would have abstained.

The Presiding Officer: Thank you very much. That will be added to the roll.

Joan McAlpine (South Scotland) (SNP): On a point of order. My phone froze, too. I would have abstained.

The Presiding Officer: Thank you very much. I will make sure that the clerks register your abstention on the roll.

I believe that Aileen Campbell wants to make a point of order, but I can tell her that her vote was registered.

The Cabinet Secretary for Communities and Local Government (Aileen Campbell): Okay. My connection dropped, as well. I would have abstained, but it is reassuring if my vote has been registered.

The Presiding Officer: I can offer you the reassurance that it has been. I can also reassure Beatrice Wishart that her vote was registered.

There have been no references to the Supreme Court, so I think that we are okay.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Mason, Tom (North East Scotland) (Con)

McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Torrance, David (Kirkcaldy) (SNP)

Abstentions

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)

McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 64, Against 1, Abstentions 57.

Motion, as amended, agreed to,

That the Parliament notes the publication of Public Health Scotland report, *Discharges from NHSScotland Hospitals to Care Homes between 1 March and 31 May 2020*; further notes with serious concern the report's analysis of the transfer of COVID-19 positive patients from hospital to care homes during this time; recognises the risk that this might have posed for vulnerable and older care home residents, and calls on the Scottish Government to hold an immediate public inquiry to find out what happened in Scotland's care homes during the course of the pandemic, which resulted in the deaths of more than 2,000 residents; believes that such an inquiry should take a human rights approach and consider the role of Scottish Government guidance in relation to COVID-19 outbreaks in care homes, and calls on the Scottish Government to commence cross-party talks on the inquiry remit, in the interests of transparency and public safety.

The Presiding Officer: I propose to ask a single question on the four Parliamentary Bureau motions. Does any member object?

Members: No.

The Presiding Officer: The question is, that motions S5M-23237 to S5M-23240, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, be agreed to.

Motions agreed to,

That the Parliament agrees under Rule 9.7.1(b) that stage 2 of the UK Withdrawal from the European Union (Continuity) (Scotland) Bill be taken as follows—

(a) the Finance and Constitution Committee to consider (in the order set out by, or by virtue of, Rules 9.7.4 and 9.10.8)—

- (i) Parts 1 and 3 and the long title,
- (ii) any amendments to provisions in Parts 1 and 3 and the long title, (other than amendments to provisions in Part 3 and the long title specifically on matters relating to the environment), and
- (iii) any other amendments that relate primarily to alignment with EU law (other than amendments specifically on matters relating to the environment), and

(b) the Environment, Climate Change and Land Reform Committee to consider (in the order set out by, or by virtue of, Rules 9.7.4 and 9.10.8)—

- (i) Part 2,
- (ii) any amendments to provisions in Part 2, other than those to be considered by the Finance and Constitution Committee by virtue of paragraph (a)(iii), and
- (iii) any other amendments specifically on matter relating to the environment.

That the Parliament agrees that the Children's Hearings (Scotland) Act 2011 (Children's Advocacy Services) Regulations 2020 [draft] be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2020 (SSI 2020/307) be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 18) Regulations 2020 (SSI 2020/326) be approved.

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): In light of the vote on the Conservative motion on the Scottish Government's handling of harassment complaints, I confirm that ministers always seek to respect the decisions that are taken by the Parliament. I will now consider the implications of the motion with my ministerial colleagues, consistent with our obligation in the ministerial code. I will advise the Parliament accordingly of our response.

The Presiding Officer: Thank you very much. I hope that that will have pre-empted any other points of order.

Neil Findlay (Lothian) (Lab): On a point of order, Presiding Officer. I thank the Deputy First Minister for that statement. We have not had a similar statement from the Cabinet Secretary for Health and Sport. Has she intimated that she will make a similar statement?

The Presiding Officer: That is not a point of order for me. However, I can assure the member that the Government will be aware of the decision that the Parliament has taken. There is an expectation that the Government will respond appropriately and in a reasonable time.

That concludes decision time. We will shortly move on to a members' business debate in the name of Angela Constance. I encourage members to observe social distancing while leaving the chamber and to wear masks.

Scottish Guardianship Service (10th Anniversary)

The Deputy Presiding Officer (Lewis Macdonald): The final item of business is a members' business debate on motion S5M-22742, in the name of Angela Constance, on the 10th anniversary of the Scottish guardianship service. The debate will be concluded without any question being put.

Motion debated,

That the Parliament recognises that September 2020 marks 10 years of the Scottish Guardianship Service and the partnership between Aberlour and the Scottish Refugee Council supporting trafficked and unaccompanied asylum-seeking children and young people arriving alone in Scotland; understands that, in that time, the service has been by the side and on the side of nearly 700 children and young people across 29 local authorities, supporting them to navigate the complexities of the UK asylum and immigration systems, engage with statutory services and support them to build new lives in Scotland; considers that the service is an exemplar of a human rights approach to how a country should care for and support trafficked and unaccompanied asylum-seeking children and young people and has influenced the development of similar provision in Northern Ireland; commends what it considers the successful conclusion of its pilot in 2013, whereby the Scottish Government has provided statutory funding to the Scottish Guardianship Service and, in 2015, committed to long-term support for guardianship of separated children in the Human Trafficking and Exploitation (Scotland) Act 2015; believes that the partnership between Aberlour and the Scottish Refugee Council exemplifies Scotland's commitment to international human rights frameworks, including the UN Convention on the Rights of the Child, and has been key to ensuring separated children and young people's rights are protected and promoted, and considers that, at a time when so many children and young people around the world are fleeing conflict or persecution or are the victims of international trafficking, the Scottish Guardianship Service has never been more needed to ensure vulnerable children and young people arriving alone in Scotland are cared for, protected, integrated and seen as assets to Scotland.

17:39

Angela Constance (Almond Valley) (SNP): If you are a child or young person who comes to Scotland all alone, with no family or caregiver, because you have been trafficked or your home country is no longer safe, what is the one thing that you need most? Surely, it is someone whom you can trust—someone who is by your side and on your side, and who helps you to plan your future and to believe that you have a future.

Those are not merely words paraphrased from a wonderful new video by the Scottish guardianship service; rather, they describe exactly what the service has been doing for the past 10 years. It has been providing a trusted adult—a guardian—to some of the world's most vulnerable children and young people, thereby ensuring that they can

navigate their way through the United Kingdom's complex asylum and immigration system and receive legal welfare and other age-appropriate support.

I am grateful to MSP colleagues from all sides of the chamber for supporting my motion and enabling me to bring the debate to the chamber tonight. Many of those colleagues will have been pivotal in securing the statutory basis and funding for the life-changing guardianship service, in particular by passing the Human Trafficking and Exploitation (Scotland) Act 2015. I know that MSPs will want to join together to pay tribute to the Scottish guardianship service on its 10th anniversary, and I thank everyone who has been involved in that partnership between the Scottish Refugee Council and Aberlour Child Care Trust.

Over the past 10 years, 700 children from 38 different countries, speaking 40 different languages, have been supported to rebuild their lives here, across 29 local authority areas the length and breadth of Scotland. The Scottish guardianship service is an exemplar of a human rights approach being taken in how a country cares for and supports trafficked and unaccompanied young people. As a nation, there are only two questions that we should ask ourselves. Are these children and young people our bairns? Are these children and young people our weans? The answer is yes—they are both. Like all good corporate parents, we have the same hopes, dreams and aspirations for all Scotland's children.

There are some people and events that never leave a person. I have had the privilege of meeting many refugees and asylum seekers over the years, and it is always a humbling experience to listen to the personal testimonies of our new Scots. In fact, it has inspired me to try to learn Arabic—but that is another story.

The last visit that I undertook as a minister was a trip to Rothesay to visit Helmi's, a patisserie, to meet Helmi and his family, and other Syrian families who are starting businesses and having weans in rural Scotland. What is not to like about that? I believe, from reading a motion that was lodged by Ross Greer, that Helmi is branching out to Bearsden, in Rona Mackay's constituency. That year, 2018, was the year of young people. In Rothesay, I spent the afternoon with a number of young people, who had been supported by the guardianship service, at an event to combat social isolation and provide a sense of community for those young people.

I am grateful to the Scottish Refugee Council and Aberlour for their briefing for tonight's debate. The briefing is rooted in the personal testimony of young people whom they have supported. They include young people such as Zayn, who received

essential support to help him to overcome his almost stifling fears when he first came to Scotland; Tati, who was guided through the complex immigration process; Hai, who learned to drive; and Lyn, who is now doing her PhD in ultrasonic engineering at the University of Glasgow. My word—those young people are, indeed, assets to their new country.

The challenge for us all is to live up to our own rhetoric. The Scottish guardianship service fits with the Scottish Government's commitment to incorporation of the United Nations Convention on the Rights of the Child, our new Scots support strategy and the action to give young expectant mums in the asylum process access to pregnancy and baby payments and to the baby box.

Over-16s who have immigration leave can vote in Scottish Parliament and local government elections, and there is access to the care-experienced bursary for students and to free school meals and vouchers, where applicable. Where we can improve our support, we must do so.

The Scottish Refugee Council and Aberlour Child Care Trust are calling for national guidance for social workers who are working with separated children, and are seeking clarity around access to the educational maintenance allowance. They do not want the small number of asylum-seeking children to be excluded from our great plans to extend free travel to under-19s. Perhaps the minister can comment on those asks during her closing speech.

I cannot ignore the elephant in the room, which is the fact that the asylum system in the UK is broken and inhumane, and has built-in destitution. There have been three separate and potentially avoidable tragedies within the Glasgow refugee community. Housing for people who are seeking asylum is in disarray, with hotels and other types of accommodation being used for longer than is acceptable. There is a real live concern that the UK Government's proposed fair borders bill will move away from community support to institutional accommodation for asylum seekers. My word—that would be a backward move indeed.

We would all do well to remember that international law gives us all the right to seek asylum in another country, and we would do well to remember that people who risk their lives in dinghies trying to cross the English Channel do so because of utter desperation, despair and fear.

The Scottish guardianship service is a beacon of hope. I hope that, irrespective of our different views about Scotland's constitutional future and about how UK immigration should be run, we can all agree that, over the past 10 years, the Scottish

guardianship service has been a symbol of the country that we aspire to be.

To the 700 young people who have come to Scotland all alone who have been supported by the guardianship service, let us all say, "Welcome to Scotland. You're ours. You're part of our family now."

17:46

Alexander Stewart (Mid Scotland and Fife) (Con): I am pleased to take part in this evening's debate on the 10th anniversary of Scottish guardianship service. I pay tribute to and thank Angela Constance for raising this important issue in the chamber this evening.

Since its formation 10 years ago, the Scottish guardianship service has undertaken outstanding work in supporting some of the most vulnerable children who arrive in Scotland alone and separated from their families.

It is simply impossible for many of us to put ourselves in the shoes of those unaccompanied children, who are looked after, thanks to support from the Scottish guardianship service. We find incomprehensible the traumatic experiences that many of those young people have had prior to arriving here, as they reach our country alone and separated from their parents. That is not to mention the fact that many of them have already experienced war, terrorism and conflict in their home countries.

Nearly half of all the supported young people have been trafficked or exploited. Those children arrived here having lost everything—their families, their friends and their homes—but the Scottish guardianship service gives them something that we cannot put a price on: hope.

Applying for asylum is a complex and daunting experience for any individual, especially a child. The one-to-one support that is offered by the service to young people is vital in helping them to navigate the legal process.

It is also important that those children are coming to Scotland to play their part in our society. The support that is provided by the service gives them the skills and the knowledge to overcome many of the cultural and language barriers that they face in their new country.

The service also provides opportunities for young people to share their lived experiences and to come together, which fosters a sense of community. It is vital that they have that chance, which gives them the opportunity to be children once again. The service welcomes them with open arms and gives them an opportunity to follow their hopes and dreams as children growing up here in Scotland.

As has been mentioned, nearly 700 children have experienced the process. The service's work has to be looked upon as a strength. Only recently, in 2019, 165 children and young people arrived in Scotland, which was double the number in 2018. I hope that that continues to be the positive way ahead.

In my previous role as my party's shadow spokesperson on international development, I encouraged, and was encouraged by, the fantastic work that has taken place in civic Scotland. It shows the links that we have with other nations—for example, the link between Scotland and Malawi. Those links benefit not just people from other countries, but people in Scotland, too.

I pay tribute to the charity Aberlour and the Scottish Refugee Council, and to civic Scotland in general. Those organisations make a huge difference in bringing the third sector community and the Government together to work collaboratively. The commitment that we have from the Scottish Government is vital, and the funding makes a huge difference by ensuring that organisations the length and breadth of Scotland can participate and be supportive.

In conclusion, I join my parliamentary colleagues from all sides of the chamber in paying tribute to people in the Scottish guardianship service and the staff of the Scottish Refugee Council and Aberlour. I encourage them all to continue to do the work that they have been doing, because by doing so they have ensured that many people are supported. They make a real difference—their efforts make a difference to the lives of hundreds of children who have come to call Scotland their home, and that is right.

17:51

Joan McAlpine (South Scotland) (SNP): I, too, congratulate Angela Constance MSP on bringing to the chamber this important debate to celebrate 10 years of the Scottish guardianship service.

If Scotland is to be the best place in the world for children to grow up in, it is essential that the complex needs of separated children and young people arriving in Scotland are met. Although more than 80 per cent of young people are granted leave to remain, the complicated legal process can take months or even years. The guardianship model ensures that one-to-one long-term support is provided to each unaccompanied child to support them through the necessary legal and immigration processes.

That help comes at a time in a young person's life when they suddenly find themselves needing to rebuild their life in a new country. The young people whom the Scottish guardianship service supports are isolated, are in a totally unfamiliar

environment and are often coping with trauma, including as a result of trafficked exploitation or violent conflict. Those things make them particularly vulnerable, and they need dedicated specialist support and advocacy.

The isolation of separated children and young people is made worse by language barriers, unfamiliarity with culture and customs in Scotland and the complicated immigration and legal processes that they immediately face. All at once, they must navigate the care system, the asylum system, the education system and the national referral mechanism, all of which can be confusing and intimidating. Talking with a guardian empowers a young person to navigate those systems with confidence and ensures that they understand their rights and the processes that may determine their future.

The Scottish guardianship service has helped 200 children and young people who arrived in Scotland this year. People who come to Scotland because they need a place of safety should have our support, and that has become even more apparent during the pandemic. The service has provided laptops, mobile phones and data to minimise social isolation and to ensure continuous engagement with services during the pandemic.

Throughout the pandemic, the Scottish guardianship service has helped to keep young asylum seekers connected to one another online. After reading some of their stories, it is clear to me how beneficial it is for those young people to connect together. They are able to support each other because it is a process that they are all going through. When those young people arrive here, their guardians are there to welcome them to Scotland and to be there for them when they need it most. That encourages those young people to stay strong and shows that they are not alone.

By helping young people through the asylum process, supporting them into education and helping them to realise their potential, the service is helping so many young people to flourish in Scotland. Guardians play an essential role in the protection, integration and welfare of young people, and it is no exaggeration to say that they have been providing a lifeline service. I am so thankful for the work that they do in offering companionship and support to young people who are doing us all a service by choosing to build their lives here in Scotland.

17:54

Mary Fee (West Scotland) (Lab): I, too, thank Angela Constance for bringing the motion to Parliament and securing the debate. At a time when the world is an increasingly scary place for our children to live in, it is more important than

ever before that we do all that we can to protect them.

I congratulate Aberlour, the Scottish Refugee Council and the Scottish guardianship service for reaching such a monumental anniversary. I hope that they will continue with this vital service for as long as it is required. The work that they do to support children who are asylum seekers or victims of trafficking, and who are completely alone, is vital, and its impact cannot be overstated. As a lifelong advocate for human rights, I greatly admire the work of the guardianship service. The work that it does ensures that the human rights of so many children cannot be ignored.

The United Nations Convention on the Rights of the Child has a number of different articles in place that aim to ensure that all children across the globe have the right to grow up in a safe and secure environment. However, that is not always the case. The children who are supported by the service often arrive in Scotland alone, because their homes are no longer safe or because they have not been protected by the adults in their lives. I am sure that no one in the chamber this afternoon can begin to imagine the fear and the trauma that those children have gone through before arriving in Scotland.

The intense isolation and loneliness that the children experience when they arrive in a foreign country alone, knowing no one, and rarely knowing the language, is incomprehensible. By providing support with legal documents and immigration status, and finding them a home and access to an education, the Scottish guardianship service gives children hope—and it gives them more than hope: it gives them a fighting chance to thrive.

Children thrive when they are safe, comfortable and feel that they have someone on their side who they can trust. That can be seen in the numerous success stories of children who have been helped by the service and who now have families of their own or are pursuing higher education. Some children have also been reunited with the families that they were forced to leave behind, and that is often made possible only by the tireless work of the guardian.

I am proud that local authorities across my region of West Scotland have provided a new home for a number of children over the years. I hope that we continue to be a welcoming community for more children in the future.

Children are so precious. They are our future, and they are a reflection of the society that they live in. By offering such crucial lifeline services to support children who have faced incredibly difficult circumstances, the Scottish guardianship service

provides a ray of hope for the diverse, inclusive and open society that we all wish to achieve.

I end by adding my support for the call of the Scottish Refugee Council and Aberlour for the UK Government immediately to restart its resettlement scheme, and I ask that everyone in this Parliament support that call.

17:58

John Finnie (Highlands and Islands) (Green): Like my colleagues, I thank Angela Constance for the opportunity to discuss this important issue tonight. I congratulate her and the Scottish guardianship service, Aberlour and the Scottish Refugee Council on the service's 10th anniversary.

As we all know, the service's cause of helping others in supporting young children in a foreign land is something special. We know from those organisations' briefings, for which I am grateful, that 29 of Scotland's local authorities have been involved in that support. I do not think that the other three local authorities are in any way complacent, and as someone who lives in the far north, I can assure members that this terrible situation has visited that part of the world, too.

As the motion says—I will refer a lot to the motion—we are talking about children who have been separated from their parents and caregivers. Can members imagine the trauma that that causes a child? Humanity is required to fill that huge vacuum, and I think that Scotland can be proud of the way that it has stepped in.

Human trafficking is a crime against humanity. The motion goes on to talk about supporting the children to

“navigate the complexities of the UK asylum and immigration systems”.

That is not an ordinary bureaucratic environment but an overtly hostile environment, and its proponents are proud to call it that.

The same people are equally reticent about providing support for the countries that many of those children come from. I am proud of the situation that we find ourselves in, in celebrating this great work. We are talking about children who are at a

“confused, disorientated, extremely vulnerable time of life”,

so the provision of an advocate is very important. We all know of the challenges that there can be in dealing with lawyers, immigration workers, social workers and police officers.

I want to take the opportunity to engage with the statutory services and to thank all those public servants and volunteers for the work that they do.

My favourite phrase from the motion is:

“support them to build new lives in Scotland”.

I love that phrase. I want Scotland to be not only just, but just and welcoming. From the Highlands, I say fáilte a h-uile duine and welcome every one of those 700 children.

Angela Constance talked about age-appropriate support. I am delighted about the wide range of support—which I will not repeat—that is provided for the children. Of course, I do not support only a rights-based approach to policy making; it is very important that policy practice reflects that.

I was a member of the Justice Committee during the scrutiny of the Human Trafficking and Exploitation (Scotland) Act 2015, and I was humbled by hearing at first hand the harrowing testimony of some of the people who were affected in that way.

International crime knows no borders, and it is good that we are sharing best practice with Northern Ireland. As a side issue, it is important to say that humans can be trafficked in their own jurisdictions.

I also commend the locking in of the funding arrangements in the 2015 act.

It has often been said that Scotland wants to be the best place in the world for children to grow up. We need to demonstrate that. I welcome a keen personal interest in the UNCRC, and I commend the progress and future work that is planned for the incorporation of that. It is vital that we ensure that the rights of separated children are not only protected, but actively promoted. Many children around the world are fleeing conflict and from people who would directly embroil them in fighting in war zones. People are fleeing as a result of the climate emergency and food shortages. Scotland must continue to act and have positive engagement in international affairs. The Scottish guardianship service has never been more needed.

Again, I thank Aberlour and the Scottish Refugee Council and, indeed, everyone who is associated with the Scottish guardianship service for providing the beacon of hope to which Angela Constance referred. I thank her again for the opportunity to highlight it.

18:02

The Minister for Children and Young People (Maree Todd): I congratulate Angela Constance on securing the debate, and I am pleased to be able to respond on behalf of the Scottish Government.

I welcome the opportunity to mark the fantastic work that has been done by the Scottish

guardianship service during the past 10 years. The partnership between Aberlour and the Scottish Refugee Council has supported trafficked and unaccompanied asylum-seeking children and young people arriving alone in Scotland, reaching nearly 700 children and young people across 29 local authorities.

I have listened carefully to the range of comments and issues raised during the debate and reassure members of the Scottish Government’s commitment to support the work of the guardianship service. As part of that commitment, the Government has funded its work with £2.25 million during the past 10 years and has incorporated long-term support for guardianship of separated children in the Human Trafficking and Exploitation (Scotland) Act 2015. That will help vulnerable children to navigate the complexities of the UK asylum and immigration systems, engage with statutory services and build new lives in Scotland.

It is a strange time in the world, and the pandemic has left many people feeling isolated and alone. That feeling might be unfamiliar to some, but for many unaccompanied young people it is very familiar. They arrive alone in a strange country, with an unfamiliar language and culture, and with absolutely no reason to trust adults or authority. That is why the work of the guardianship service is vital for those young people.

Navigating the complex systems and processes that those young people have to face immediately upon arrival to this country would be a daunting task for any adult, let alone a child who is on their own. The guardians help those young people make sense of the world around them and help them to participate in decisions that are made about them. The young people often do not speak English and are understandably confused and afraid. It is the role of the guardians to build a relationship and gain their trust and friendship, which is no easy task given the circumstances. The guardians provide a voice for the child until they are empowered enough to speak for themselves.

As many members mentioned, the UK asylum system has been in the news recently—and not for good reasons. What is often lost in asylum processes, and indeed in news reporting about asylum, is the human factor. Asylum so often becomes a politicised issue when really it is an issue about humanity and compassion.

Like everyone in the Parliament, I was deeply saddened to learn of the tragic loss of life after a boat carrying migrants sank off the coast of northern France last week. The lives lost included two children, aged five and eight. A baby is still missing. My thoughts and prayers are with the

families and loved ones of the family who lost their lives.

The UK Government is closing the door on safe routes of arrival for unaccompanied asylum-seeking children at a time when those vulnerable children need it most. Last month, the UK Government, including five Scottish Tory MPs, rejected an amendment to the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, which aimed to ensure one of the few remaining safe and legal routes for very vulnerable children to travel to the UK to seek asylum remains open. I welcome the UK's renewed commitment, in an amendment to the bill in the Lords, to the principle of family reunion and supporting vulnerable children. The English Channel must not become a graveyard for children. It is the most basic test of our fundamental humanity—to reunite children with their family and to protect them from harm.

Scotland has a long history of welcoming refugees and asylum seekers. We want to continue to be that welcoming country and to work constructively with the UK Government. However, the Scottish Government will go further in the way that we help separated children and bring a distinct flavour of compassion and support to an area over which we currently have no control. The work of the guardianship service should be an example to the rest of the UK of how we should welcome those who come to our country in distress, needing help, looking for an opportunity to rebuild their lives and to contribute to their new home.

I turn to the specific points that Angela Constance raised in her speech. On the issue of training social workers, the support guidance by COSLA on migrants' rights and entitlements to services provided by local authorities offers general guidance for practitioners supporting unaccompanied asylum-seeking children. However, I acknowledge that national guidance is required for the multi-agency practitioners who support unaccompanied asylum-seeking children. We are looking at developing that as a priority. I would be happy to work with those with an interest in that.

Angela Constance also mentioned free travel for under-19s. Our current plans for the eligibility for the under-19 free bus scheme are based on residence in Scotland. If an asylum seeker is able to prove residence in Scotland they would be eligible to apply for a free travel card under the scheme.

There is much more that I could say. The debate has been wonderful and demonstrates that we are all very proud of the guardianship service. A great deal of work is taking place to ensure that vulnerable children and young people arriving

alone in Scotland are cared for, protected, integrated and seen as assets to Scotland.

I thank members for their contributions to the debate. I am proud to close a debate that I know will gain the support of all members from across the chamber, on a service that shows Scotland at its best and leading the way on the issue. It shows that our ambition for Scotland to be the best place to grow up absolutely extends to those who make Scotland their home.

I finish by repeating Angela Constance's words when opening the debate, which I found very moving. Those words are addressed directly to the children and young people, "Welcome to Scotland. You're ours. You're part of our family now."

Fàilte a-huile duine.

Meeting closed at 18:10.

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