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Tuesday 19 January 2021

Session 5



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Scottish Parliament

Tuesday 19 January 2021

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

Time for Reflection

The Presiding Officer (Ken Macintosh): Good afternoon. I am sure that colleagues are aware of the health measures that we have put in place around the building, but I remind members that, in the chamber, nobody has to cross in front of or behind another member when accessing their desk. If you use the gangways and aisles, you should be able to get to your seat without crossing in front of or behind another member. It is for that reason that I come in through the entrance on the other side of the chamber, rather than through the Presiding Officer's entrance.

Our time for reflection leader today is Father Piotr Rytel, who is the parish priest at Our Lady of Mount Carmel Roman Catholic church in Banff.

Father Piotr Rytel (Parish Priest, Our Lady of Mount Carmel RC Church, Banff): Presiding Officer and members of the Scottish Parliament, thank you for the opportunity to address you today. I thank Stewart Stevenson MSP for the nomination to speak. It is an honour to be here.

My pilgrimage in the journey of my Catholic faith in Scotland began in 2013, when the Right Rev Hugh Gilbert OSB, the Roman Catholic Bishop of Aberdeen, was searching for a suitable candidate to help the growing number of Poles in the north of Scotland who were seeking pastoral support. I was appointed as a parish assistant at St Mary's Catholic church in Inverness. My mission then, and now as a parish priest at Our Lady of Mount Carmel Catholic church in Banff, not only focused on Polish chaplaincy but extended to English-speaking members of the church.

As you know, with current difficulties growing from Brexit and Covid-19, we have to focus even more on the needs of every single individual living in Scotland, and to give them all the support that they need. As a priest, that involves touching on social care and welfare, as well as on individuals and their personal development.

Not every eastern European is coming to Scotland to work in food processing or to do other such work. There are many ambitious people who need support in fulfilling their dreams and aspirations in their chosen country of Scotland. They want to use their talents so that they are fulfilled, both for their own benefit and to make this country better and more prosperous. We are the

new Scots, too. In Galatians chapter 3 verse 28, St Paul wrote:

"There is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female; for you are all one in Christ Jesus."

In the light of those words, there are no natives and foreigners. Everyone who wants to live and grow in this country is equal.

We recognise the current need to develop diversity and inclusion. Incomers to this country want to fulfil their dreams, and we need to make sure that their freedom to profess their faith and to maintain their native languages and national identities is cherished and encouraged.

I ask of you, please, that the Scottish Parliament continues to do what is so very much appreciated by people of faith, wherever they are from, and that you continue to support and respect everyone who wants to call Scotland their home.

The Presiding Officer: Thank you, Father Rytel.

Business Motion

14:05

The Presiding Officer (Ken Macintosh): Our next item of business is consideration of motion S5M-23898, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a revision to today's business and a suspension of standing orders.

Motion moved,

That the Parliament agrees—

(a) to the following revision to the programme of business on Tuesday 19 January 2021—

delete

5.55 pm Decision Time

and insert

6.10 pm Decision Time

(b) that, for the purposes of consideration of the legislative consent memorandum on the Covert Human Intelligence Sources (Criminal Conduct) Bill, Rule 9B.3.5 of Standing Orders be suspended.—[*Graeme Dey.*]

Motion agreed to.

Topical Question Time

14:05

Fishing Communities (Compensation)

1. **Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** With your indulgence, Presiding Officer, I thank my constituent who has just given our time for reflection.

To ask the Scottish Government what discussions it has had with the United Kingdom Government regarding compensation for fishing communities, in light of the disruption at ports since the end of the European Union exit transition period. (S5T-02617)

The Cabinet Secretary for Rural Economy and Tourism (Fergus Ewing): No substantive discussion on a compensation scheme for Scottish fishing communities has taken place, and it is simply unacceptable for the UK Government to launch such a scheme without consulting the Scottish Government. The deal that was reached with the EU demonstrated the UK Government's profound lack of knowledge of, or concern for, Scottish seafood interests. The industry will rightly be concerned that delivery of the compensation scheme will be in the same vein. However, this Government will continue to stand up for Scottish fishing, and we will do everything that we can to ensure that the compensation scheme reflects the real and lasting damage that has been done to the Scottish seafood sector.

Stewart Stevenson: Right now, shellfish exports are being spoiled beyond usefulness because barriers exist where there were none a month ago. When does the cabinet secretary, or when do his colleagues, expect to have interaction with the UK Government about proper compensation funds from that body, which would keep afloat the many small businesses that are vital part of distant coastal communities?

Fergus Ewing: On several occasions, in representing the Scottish Government at the EU exit operations committee, I have made it clear that the UK Government—having sought Brexit, delivered it in a cack-handed way and ignored the advice of the Scottish Government and of industry to seek a grace period—is now responsible, and solely so, for the losses that have arisen as a result of its failings. I have made it clear that compensation is required, including early last week at an XO meeting. I have repeated that call when attending other XO meetings on behalf of the Scottish Government.

To date, the UK Government has not given the Scottish Government any details of the package. Yesterday, in an apparently off-the-cuff remark,

the Prime Minister indicated that the package for the whole UK industry might be as little as £23 million. To put that in perspective, I point out that last year the Scottish Government delivered to the Scottish sector alone Covid compensation and support of £23.5 million.

However, I expect that the UK Government will need to start communicating with us on the matter, and I have called upon it so to do.

Stewart Stevenson: Today in Peterhead, there were but a few hundred boxes of fish in a market that was built to process 10,000 boxes each day. The quotas for the next six years involve no meaningful expansion of catching opportunity—indeed, they include some critical reductions. That is due in no small part to Westminster incompetence and deliberately chosen trade-offs. What options exist to remedy that for fishermen in the north-east, across Scotland and, for that matter, across the UK?

Fergus Ewing: The reduced prices and reduced availability of fish at market are, sadly, direct results of the Brexit boorach. I stress that my imperative—my number 1 priority—is to make sure that we in Scotland, working with local authorities, with Food Standards Scotland and with DFDS and other hubs, resolve the difficulties as far as is within our power. I have had detailed discussions, of course, with the leading stakeholders in the fishing sector across the whole of Scotland, and will continue to do so.

It is difficult for me to see that the problems can accurately be described as “teething problems”, which is the phrase that UK ministers use. I fear that the problems are more serious and deep seated. Indeed, there are so many of them—57 varieties, as I told the XO committee last week—that it seems to me that the UK should seek a derogation from the EU in relation to the requirements. Probably the only reason why it does not do so is that the request might be rejected because the UK Government has forfeited goodwill in the EU.

Jamie Halcro Johnston (Highlands and Islands) (Con): The UK Government has taken responsibility for its share of the problem that the sector has faced over the past few weeks and has stepped up with a £23 million compensation fund. It is clear that the Scottish Government was not prepared for the end of the transition period. Can the cabinet secretary state unequivocally whether the delays that were caused by Food Standards Scotland—an agency for which he is responsible—have now been sorted out?

Fergus Ewing: I am sorry that the Scottish Conservative representative is making that serious allegation, on which Mr Halcro Johnston has not provided me with a shred of evidence to back it

up. It is quite astonishing that a member of this Parliament should make such allegations without checking the facts.

The facts are that the Scottish Government was working flat-out in the run-up to Brexit and for years before it, and that it joined the industry in asking for a derogation period. That was not because problems have arisen through there being insufficient staff in FSS and local authorities, but because the UK Government decided not to take, from me and from the industry in Scotland and elsewhere, the advice that it should seek a necessary period in which to try a wholly untested system, in order to ensure that the difficulties and huge complexities arising therefrom could be addressed, and so that the plethora of public bodies involved could successfully work together to navigate that system.

I find it extraordinary that the Scottish Tories do not accept responsibility for the Brexit boorach that they have created, and that not one of them has yet had the guts to admit that the deal is a bad deal for Scottish fishing.

Beatrice Wishart (Shetland Islands) (LD): The fishing industry has been used as a political football and there is anger in the Shetland fleet. It is just a month since I was told by Michael Gove that the Government would

“ensure that, in Kent, we do not have the type of traffic disruption that some have feared.”—[*Official Report, Culture, Tourism, Europe and External Affairs Committee*, 15 December 2020; c 13.]

However, that is precisely what has happened.

My colleague Alistair Carmichael led an urgent debate on the matter at Westminster last week. It is time that politicians and all parties and Governments worked together to find the solution. Will the cabinet secretary push for real focus across Government, so that short-term disruption does not turn into long-term loss for parts of our fishing industry?

Fergus Ewing: I assure Beatrice Wishart that over the past five years—and especially during the past two years—Scottish Government officials and I have worked tirelessly to impress on UK colleagues just how important it was to be prepared for the disruption that Brexit would cause, with an estimated 150,000 export health certificates being required. We worked tirelessly and ceaselessly to prepare; now we are doing the same to resolve the difficulties.

As I made clear, the first priority is to get things started. The sad thing is that, because we are not an independent country that has full control of all such matters, we are dependent on Her Majesty’s Revenue and Customs—UK customs—which does not recognise types of Scottish fish, to do the job for us. Sadly, It has been found wanting.

It is only because of the pressure that the Scottish Government has brought to bear over the past week that the Prime Minister has been shamed into making off-the-cuff remarks about making compensation payments. That could—to be frank—have been avoided, had the UK Government done its job properly in the first place.

Royal Hospital for Children and Young People

2. Alex Cole-Hamilton (Edinburgh Western) (LD): To ask the Scottish Government when the opening of the Royal hospital for children and young people will be completed. (S5T-02619)

The Cabinet Secretary for Health and Sport (Jeane Freeman): In May last year, I informed Parliament that work on the hospital was expected to be completed by 25 January 2021, but I highlighted at the time that Covid-19 might adversely affect the timeline. As a result of a key engineering team needing to self-isolate for two weeks and other Covid-related amendments to working practices, the completion date of the hospital has been delayed by two weeks, until 8 February.

It is important to recognise that a number of services transferred safely to the new site in May, including out-patient services at the department of clinical neurosciences, neurophysiology and diagnostic radiology. In mid-July, we moved neurosurgery, along with neurosurgery theatres and interventional neuroradiology. Finally, in respect of children's services, neurology and orthopaedics transferred over the summer, while children and adolescent mental health services transferred earlier this month.

Alex Cole-Hamilton: The hospital has been at Sciennes Road since 1895. Staff are very fond of it, but they will be looking forward to the benefits of 21st-century facilities. The latest construction hold-up, announced on Friday, will not be much of a surprise to those who have been waiting years already. There is a lot for the public inquiry to get to the bottom of. A freedom of information request from the Liberal Democrats last week revealed that we have already paid £28 million in repayments for the building. However, we are hopeful that the end of this building saga is now in sight, so that we can get on with treating people in a better setting.

Transferring services in winter can be tough at the best of times, so how will the Government and the health board ensure that that happens smoothly in these worst of times? What is the timeframe for the transfer of each remaining department and service? The cabinet secretary has told me that the 2,000 snagging issues that were previously identified have been resolved, but what expectation is there of further snagging?

Jeane Freeman: The final transfer of services will be made exactly as all the others have been until now, which is in direct consultation with the clinical teams involved and in a timescale and manner that the clinical teams are content with. Consultation with clinical teams on patient safety and the management of all the other demands on their time has been a feature throughout the process. Remember that, earlier this month, a further set of services were transferred.

The completion date of 8 February allows a six-week notice period for service migration, which we would expect to happen around 22 or 23 March, depending on the hospital and services being able to manage all the other demands on their time and the clinical teams being content.

The out-patient services that remain at Sciennes are cardiology, haematology, complex respiratory—including cystic fibrosis—the plastics dressings clinic and, of course, the emergency department.

The additional cost—the payments that have been made by NHS Lothian, having taken ownership of the hospital, to enable the new hospital to meet its contractual obligation—is payment for a site that is now considerably occupied. Occupation of the hospital will be complete around 22 or 23 of March, when the final services will transfer over into a safe, effective and highly-valued site that offers the best of new design and technologies for the children of Lothian.

Alex Cole-Hamilton: Can we take it from that answer that 23 March or thereabouts will be the date on which there will cease to be patients at the old Sciennes building?

There have been terrible twists in the story of this pandemic. Has the Government explored retaining the old building until the pandemic is over, in case there is another twist in the story and we need greater hospital capacity? From an infection control perspective, extra space is potentially really valuable. Have any discussions taken place with the site developers, who might understandably be eager to get to work?

Jeane Freeman: There were about six questions in there. If Mr Cole-Hamilton would like to write to me, I would be happy to answer them in detail.

I have put a deliberate caveat on the final transfer in March because, of course, clinical teams need to be content that that is the right, safe and proper time to do it, bearing in mind what they are experiencing and responding to—admirably—in relation to the current pandemic. Let us be clear about that caveat.

In terms of how that transfer will take place and what will happen to the existing site, NHS Lothian and the Scottish Government will continue to be in discussion with the clinical teams and the leadership of the existing hospital as they move to the new hospital, as well as with the planned purchasers of the site at Sciennes, in order to make sure that we have maximum flexibility without unnecessary additional cost, so that we can finally complete the transfer to a site that is now safe.

Miles Briggs (Lothian) (Con): What impact has the delay had on other NHS Lothian infrastructure projects? Ministers recently told NHS Lothian that they will not provide the money for the replacement Princess Alexandra eye pavilion, for example. Can the health secretary guarantee that future projects in NHS Lothian that require investment will not pay the price for the delays and mismanagement of the new sick kids hospital?

Jeane Freeman: Later this afternoon, Mr Briggs and I will have a conversation about the position on the eye pavilion. There has been no impact on other infrastructure projects. I made it clear at the time when I halted the move that the additional cost of making the new site good and safe would be borne by the Scottish Government, and that is the case. There is no direct impact on other areas of infrastructure in NHS Lothian or elsewhere. Mr Briggs and I will discuss this afternoon how we can ensure that modern services are available and improved for the citizens of Lothian in ophthalmology and other related matters.

The Presiding Officer: Apologies to members whom I could not call. We now move on to the next item of business.

Covid-19

The Presiding Officer (Ken Macintosh): The next item of business is a statement by the First Minister on Covid-19. The First Minister will take questions at the end of her statement. I encourage all members who wish to ask a question to press their request-to-speak button.

14:22

The First Minister (Nicola Sturgeon): I will update Parliament on the Cabinet's review of the current lockdown restrictions, which took place earlier today. I will report on some cautious grounds for optimism, I am pleased to say, but I will also set out why it is vital, in order to protect the national health service and save lives, to stick with the restrictions for a further period. I will set out what that means for the timing of getting children back to school, which, of course, remains a priority for all of us. Finally, I will touch on other aspects of our response to Covid, including control of borders, the further expansion of testing and the progress of the vaccination programme.

First, though, I will give a brief summary of the latest statistics and then seek to put them in some context. The total number of positive cases reported yesterday was 1,165, which is 11.1 per cent of all tests carried out, and the total number of cases now stands at 164,927. I can also confirm that, by 8.30 am today, 284,582 people had received their first dose of vaccine. I will come back to the issue of vaccination and the progress of that programme later on in my statement. There are 1,989 people now in hospital with Covid, which is an increase of 30 from yesterday, and 150 people are in intensive care, which is an increase of four from yesterday. I am very sorry to report that, in the past 24 hours, a further 71 deaths have been registered of patients who first tested positive over the previous 28 days. The total number of deaths under that daily measurement is now 5,376. Once again, I send my deepest condolences to everyone who has lost a loved one in the course the pandemic so far.

As those figures demonstrate, case numbers are still high. According to the most recent seven-day average, they stand at more than 200 per 100,000 of the population, and the pressure on the national health service continues to be severe. In short, we are still in a very precarious position.

However, all that said, we see some signs for optimism in recent days. We believe that the lockdown restrictions and the sacrifices that everyone continues to make are beginning to have an impact. Case numbers, which had been rising rapidly, appear to have stabilised and even to have declined. In the week to 14 January, there

were, on average, about 1,900 confirmed new cases per day, which was an 18 per cent reduction on the previous week. Test positivity has also declined slightly, as has the number of cases per 100,000 of the population. The new, faster-spreading variant is now the dominant one that is circulating in Scotland, but the proportion of new cases with the S-gene dropout that is indicative of the new variant appears to have stabilised at about two thirds.

All of that is encouraging and is a signal that the lockdown restrictions are working even against the faster-spreading variant. However, it is important first to be cautious. We need those trends to continue in order to be more certain that this phase of the epidemic is on a downward trajectory. Secondly, we need to be realistic that any improvement that we are seeing at this stage is down to the fact that we are staying at home and reducing our interactions. Any relaxation of lockdown while case numbers remain very high—even though they might be declining—could quickly send the situation into reverse, especially as the faster-spreading variant is now dominant. That would further accelerate and intensify pressure on the NHS.

As we have learned throughout the pandemic, the incubation period and the infectious path of the virus mean that pressure on the NHS—in the numbers of those who are being hospitalised and who require intensive care—continues to increase for a period even after case numbers start to decline. The pressure on the NHS is already acute. As of today, just under 2,000 Covid patients are in our hospitals, which is about 30 per cent more than at the peak of the first wave, last April, and means that about 80 per cent of the NHS Covid surge capacity is being used. The number of Covid patients who are in intensive care remains below the peak of the first wave, but it has increased by more than 90 per cent since the turn of the year.

When we take account of Covid and non-Covid patients, about 260 patients in total are in intensive care beds across Scotland, which compares with a normal intensive care unit capacity of about 170. The pressure that the NHS faces right now is real and severe, and it is, of course, having a significant consequential impact on non-Covid elective care. The number of new cases in the past couple of weeks also means that the pressure is almost certain to rise for a further period. All of that means that we cannot afford to see the rate of infections start to rise again, which it could all too easily do from such a high baseline if we started to interact with one another more than we are doing now.

For all those reasons, the Cabinet decided this morning to maintain the restrictions that are in

place. That means that the lockdown restrictions—including the strict stay-at-home requirement—will remain in place across mainland Scotland and some island communities until at least the middle of February. The Cabinet will review the situation again on 2 February.

I will cover two specific issues in a bit more detail. The first is a specific local change that we decided this morning to make. There is a significant outbreak of Covid on the island of Barra, which is part of the Western Isles. As of yesterday, there had been 39 confirmed positive cases, and more than 10 per cent of Barra's population had been required to self-isolate. There is a significant concern that, without additional measures, the outbreak could spread more widely across the Western Isles, and there is concern about the potential impact on care home and clinical services.

For those reasons, the national incident management team has recommended and the Cabinet has decided—in consultation with the local authority and the local health board—that Barra and Vatersay, which is connected to Barra by a causeway, should move from level 3 to level 4 at midnight tonight. That means that the same lockdown restrictions as are in place on mainland Scotland—including the requirement to stay at home except for essential purposes—will apply there, too. The change, which we will keep under review, applies only to Barra and Vatersay and not, at this stage, to the Western Isles more generally. All affected businesses—including hospitality and non-essential retail, which will require to close—will be eligible for business support. As the outbreak comes under control, which we hope will happen relatively soon, we will consider how quickly Barra and Vatersay can move back to level 3.

The second aspect of the restrictions that I want to talk about is of nationwide and significant interest and relates to our schools and nurseries. School buildings and nurseries have been closed to most children since the start of term and we indicated previously that the earliest possible date for a full return to school premises was 1 February. Getting children back to normal schooling as soon as possible is a priority for us all.

I know how much work teachers, school leaders and other staff are doing to support home learning and I am very grateful to them for that, but I also know how challenging and stressful this situation is for families. Above all, I understand how difficult, distressing and damaging it is for children and young people to have their education and their normal interactions with friends so disrupted. However, our reluctant judgment is that, at this stage, community transmission of the virus is too

high—and is likely to remain so for the next period—to allow a safe return to school on 1 February. Therefore, the Cabinet decided today that, except for vulnerable children and children of key workers, school and nursery premises will remain closed until mid-February. We will review the situation again on 2 February and I hope that then, we will be able to set out a firmer timetable for getting children back to school.

I can say this today: if it is at all possible—as I very much hope it will be—to begin even a phased return to in-school learning in mid-February, we will do that. However, I also have to be straight with families and say that it is simply too early to be sure whether and to what extent that will be possible. I will update Parliament again as soon as we have completed the review, taking advice from our clinical advisers, on 2 February.

Although I do not imagine that anything that I have said today will have been unexpected, that does not make it any less difficult for all of us—individuals and businesses—to live with the restrictions for a further period. I continue to be very grateful to people across the country for their patience and resilience in the face of this extraordinary challenge. The fact is that, for now, the restrictions remain necessary. Staying at home is essential to protect the NHS and save lives.

However, important though the lockdown is at this stage, I know the damage that it does. That is why the other aspects of our overall effort to control Covid and find a path back to greater normality are also vital. I want to touch briefly on three strands of that wider approach. The first is border control. Suppressing the virus within our own borders is our most immediate challenge. However, as we do that, it is also important to reduce the risk of new cases coming into the country from elsewhere. That is all the more essential as the virus mutates and new variants emerge.

For example, the new variant that has emerged in Brazil, and which is causing concern, has already resulted in the four United Kingdom nations imposing a travel ban on a number of countries. As a result of a more general concern about the importation of the virus, other new travel restrictions are also now in effect. All travel corridors have been suspended, which means that, with some limited sectoral exceptions, everyone arriving in Scotland now has to isolate for 10 days, no matter what country they are coming from. In addition, anyone travelling here must test negative for Covid no more than 72 hours before arrival.

We will continue to assess what further restrictions are needed, and how they should be enforced, so that we can manage the risk of importing new Covid cases as well as we possibly

can. However, the strong advice—reinforced in law—is that no one should be travelling at all just now, either within Scotland or to and from the country, unless it is absolutely essential. Restricting travel continues to be a regrettable but vital part of our overall effort to control Covid and, to be clear, it is likely to remain so for some time yet.

Secondly, we are continuing to expand the use of testing within Scotland, including the more widespread use of asymptomatic testing. The health secretary announced on Friday the start of asymptomatic testing for all care-at-home workers. We are also further increasing our fleet of mobile testing units. The mobile units will soon be capable of serving up to 84 different communities at any one time. Shortly, in partnership with local authorities, we will set out our plans for large-scale community testing of people without symptoms. That will build on, and take account of the learning from, the pilots conducted before Christmas.

All these measures are important and will continue to be so in the months ahead. However, nothing is more important right now than the continued roll-out of vaccines. The vaccination programme is progressing well and is picking up pace. We are now vaccinating more than 100,000 people a week. That number will increase progressively from here on and, assuming that we receive the supplies that we expect, we are on track to be vaccinating 400,000 people a week by the end of February.

I must stress that the figures that I am about to give, to share a sense of progress so far, are estimates based on management information. Official detailed statistics will continue to be published weekly, in addition to the overall figure that we publish daily. As of today, I can report that more than 90 per cent of care home residents—the top priority group—have now received their first dose of vaccine. Indeed, a number of health boards have now given the first dose of vaccine to 100 per cent of their care home residents. In addition, more than 70 per cent of care home staff have had their first dose of the vaccine, and more than 70 per cent of all front-line health and care workers have also received their first dose.

We made a deliberate decision, in line with the Joint Committee on Vaccination and Immunisation's advice, to focus first on elderly care home residents, because we know that they have the greatest vulnerability to becoming ill and dying from the virus. We have seen that very painful reality in recent months. Consequently, ensuring that that group benefits from the protection of the vaccine as quickly as possible is likely to have the biggest and most immediate impact on saving lives.

For obvious reasons, vaccinating in care homes is more time consuming and labour intensive than doing so in the community. That is why, at this stage, overall figures are lower than they are in England, where more over-80s generally but a lower proportion of care home residents have so far received the vaccine. However, our pace of progress in the over-80s group is also now picking up. We estimate that between 15 and 20 per cent have already had the first dose, and we are on track for all over-80s and everyone else in JCVI groups 1 and 2 to have been offered the first dose by the start of February.

By the middle of February, we expect to have completed first doses for all over-70s and all those who are deemed to be clinically extremely vulnerable. People in those groups will start to receive appointments for February in the coming days. We then aim to complete first doses for everyone who is over 65 by the start of March, and to give first doses to everyone on the JCVI priority list by early May.

That means that, in about three months' time, approximately 3 million people in total will have received at least the first dose of the vaccine—that is, of course, the majority of our adult population and includes everyone over the age of 50 and many younger people with an underlying health condition. The rest of the adult population will follow after that just as quickly as supplies allow.

I am well aware of how much understandable and legitimate interest there is in the vaccination programme. It is the biggest and, undoubtedly, the most significant logistical operation in Scotland's post-war history. The Scottish Government will provide Parliament and, of course, the public with regular detailed updates on progress.

However, although there is no doubt that vaccines give us real hope for the future and will help us significantly on the path back to greater normality, it is important at this stage to add a note of perspective. The vaccination programme across the UK is focusing initially and rightly, on the JCVI's advice, on those who are most vulnerable. That means that it is unlikely to have a significant impact in the immediate future on overall population-wide case numbers. That, we hope, will come later. However, we expect that vaccination will have an earlier impact in reducing the burden of severe illness and death. I am sure that everyone will agree just how important that will be.

My second point of perspective is that experts cannot yet tell us whether, or to what extent, the vaccines stop transmission of the virus. We know that they alleviate the burden of serious illness, which is extremely important, but we do not yet know whether they stop us getting and passing on the virus. That means that certainly for now—and, possibly, for some time to come—there will be a

continued need for all of us to play our part in suppressing transmission in the ways that we have been doing for the past few months. Obviously, I hope that that will not entail the strictest form of lockdown for too much longer, but some mitigations—for example, physical distancing, hygiene measures, face coverings and possibly travel limitations—are likely to be necessary for some time yet.

All of what I have just said is an essential part of being open and transparent with the public about the challenge that we, in common with the UK and other countries, still face. However, none of it should detract from the fact that now, more so than at any time since the start of the pandemic, we have hope of a path to much greater domestic normality, which we all crave. For now, progressing along that path requires continued discipline and sacrifice from all of us. Lockdown, including the stay-at-home requirement, however tough it is—and it is really tough—continues to be necessary, so I am asking everyone to please stick to the letter and the spirit of the lockdown rules.

We should not be thinking in terms of the maximum interactions we can have without breaking the rules. Instead, we should all be thinking every day about how we can reduce our interactions as far as we can to remove as many opportunities as possible for the virus to spread. Therefore, except for genuinely essential purposes, please continue to stay at home. Please—and this is vital—do not have people from other households in your house and do not go into theirs.

Work from home whenever possible, and remember that, if you are an employer, you have a legal duty to support your employees to work from home as far as possible. Follow the FACTS advice at all times when you are out and about.

That is how we best look after each other. It is how we can help our health and care workers manage the pressure that they currently face, and avoid adding to it, and it is how we continue to slow down the virus while the vaccines get on with doing their work. I know that it feels hard. I know that it is hard, but I also know that it is working. It is already saving lives. So please stick with it.

Stay at home. Protect the NHS. Save lives.

The Presiding Officer: The First Minister will now take questions.

Ruth Davidson (Edinburgh Central) (Con): Parents, pupils and teachers all expected today's news. Indeed, it was almost pushing credibility to tell parents that schools would be closed until 1 February, reopen for a week and then shut again for the half-term break seven days later. All that they asked was for the Government to be straight

with them from the start. Parents, pupils and teachers will be concerned about the impact that this on-going disruption will have on children's education. The way that we get pupils back into school and everyone back to some normality is by rolling out the vaccine as quickly as possible. During the weekend, we saw the Scottish National Party's vaccine roll-out lag behind its own targets. As of yesterday, the Scottish Government has taken receipt of 717,000 doses of the vaccine, but more than 400,000 have yet to reach patients.

The Scottish Conservatives called for Scotland to roll out the vaccine in care homes first. Although that is being done, it does not explain how slowly the vaccine is reaching general practitioners' surgeries and, eventually, the public. On "Politics Scotland", Dr Andrew Buist, the chairman of the British Medical Association Scotland and a GP, said that

"the supply of the vaccines so far has been quite patchy".

Today, he was asked whether GPs and others could

"work faster at getting those 700,000 into arms".

He replied:

"Absolutely. I mean, the workforce is there and that's why it is so incredibly frustrating when the patients want the vaccine, we are very keen to give it to our patients, but we just don't have the vaccine in our fridge."

Every member can attest to the fact that people across Scotland are anxious to know when they will be called. I quote:

"My Mother is approaching 85 and lives in East Lothian. My Father-in-Law is 80 and officially shielding following a serious procedure in August. He lives in West Lothian. At this moment in time, neither of them has received any letter or form of correspondence regarding the vaccine."

"I am becoming increasingly frustrated at the limited information on when my 81 year old housebound mother in law will receive her vaccine. She lives in EH2."

"My father, who is nearly 94 and in poor health and who lives at home with a live-in carer in your constituency has not yet had a letter from his GP surgery."

"I am 84 and whilst in a shop last week I announced that it was my birthday and still awaited my jab. That is nothing, said the shop owner, my mother is 93 and still awaiting hers."

All our inboxes will be the same. People are not only anxious; they are concerned that they will get left behind. On their behalf, I ask the First Minister for an explanation of the following.

We know how many doses of vaccine have so far been delivered to Scotland. We know how many GP practices have agreed to take part in the process, and GPs know who their patients are and how to contact them. The only thing that is missing is that too many practices across Scotland have not yet actually received any supplies. Can the First Minister explain why that is, where the hold-

up in the system is and what she is doing to unblock it?

Last Wednesday, the health secretary said that the vaccine would be rolled out seven days per week. Yesterday, we saw reports that the NHS Louisa Jordan was closed on Sunday and no vaccinations took place there. Can the First Minister confirm whether that is the case? With 400,000 doses as yet undelivered, can she tell us when the roll-out will go to seven days a week?

The First Minister: The NHS Louisa Jordan will now be open seven days. There was a particular issue on Sunday—I believe with pharmacy—that meant that it could not operate that day. However, it will be open seven days. On Saturday, 5,000 vaccinations were done during the course of the day, and it is expected to increase the number of vaccinations that it does.

I will tackle as many of Ruth Davidson's points as I can. I set out in some detail the strategy that, for good and important clinical reasons, we have followed in the early stages of the vaccination programme to protect most quickly those who are most vulnerable to becoming seriously ill and dying.

More than 90 per cent of Scotland's care home residents have been vaccinated. That is, by some considerable distance, a higher percentage than the position in England, with which we are being compared. We are now picking up pace in vaccinating the over-80s in the community. We are not behind our targets. We expected to be vaccinating in the region of 100,000 people per week in January; in the most recent week, we exceeded 100,000 vaccinations. The figure is progressively increasing and we have set a target—supplies permitting—to reach 400,000 per week.

All four nations are working to the same target of completing the vaccination of JCVI priority groups 1 and 2 and then, by mid-February, groups 1, 2, 3 and 4. We may be going about that in a slightly different order, but we are all following the same targets.

I will be—perhaps brutally—blunt about supplies. Last week, we published detailed estimates of supplies for now and for well into the future. We put those estimates in a document that went on the web and was circulated. I hope that I am not about to use unparliamentary language: the United Kingdom Government had what I can describe only as a hissy fit about us doing that. We agreed, in consultation with the UK Government, to take away the publication of those supply figures.

For reasons of commercial confidentiality, the UK Government does not want us to be open about supplies. Although I do not necessarily

agree with the reasoning behind that, we have agreed to the request. Now we have the UK Government briefing and spinning misleading figures about supply. It must be clear about which approach it wants us to take. Supplies are allocated to and drawn down by Scotland, and we vaccinate as quickly as we can. That will continue to be the case as we go through the different groups in our vaccination programme.

Ruth Davidson read out some emails from people in the over-80 category who have not yet been vaccinated. I have had emails from people in that position too; I have also had lots of emails from people over 80 who have had their vaccination. All over-80s will be vaccinated by the start of February. By definition, there will still be some who have not yet had the vaccination. Teams around the country are working hard on that.

Let me recap. By the start of February, not only all over-80s but all care home residents and staff and all front-line health and care workers will have been vaccinated. By mid-February, the over-70s and those who are classed as clinically extremely vulnerable will be vaccinated. That will happen not only in GP surgeries but in community and mass vaccination centres. By the start of March, all those in the over-65 age group will be vaccinated. By early May, everybody on the JCVI priority list, including those of us who are over 50—I hesitate to say that that includes me—and younger people with underlying health conditions will be vaccinated.

The vaccination programme is the Government's highest priority. We continue to ensure that it is rolled out as quickly and as effectively as possible, but I do not and never will apologise for prioritising the most vulnerable.

Jackie Baillie (Dumbarton) (Lab): I thank the First Minister for advance sight of her statement.

Although I welcome the First Minister's grounds for cautious optimism, she also acknowledged that we have some way to go. The roll-out of the vaccination programme is critical to progress. The Scottish Government's target is to vaccinate priority groups 1 and 2—about 560,000 people—by the first week of February. We are about half way there. Is the First Minister confident that she will meet that target by 1 February? Will she say what is being done to ramp up the programme to meet the target?

Secondly, this morning, the BMA was still reporting "patchy" distribution of the vaccines. GPs are ready and desperate to start the vaccination programme. We hear that 400,000 doses of vaccine are apparently available in Scotland. If that is the case, will the First Minister tell us when those will be distributed to GPs so that they can

proceed quickly to vaccinate those who are over 80?

Finally, I welcome the involvement of the Army in the logistics of setting up 81 new vaccination centres. That is positive news. When does the First Minister expect those centres to be in place?

The First Minister: A number of centres are already operational and others will come on stream over the next period. It will not be a case of their all coming on stream on the same day. As we have been doing all along, we will align the centres coming on stream with the supply of vaccine that we have. I will not repeat the points that I made to Ruth Davidson on whether we can be open and transparent about the number of doses and the supply that we have and expect. We tried to do that last week and it did not meet with everybody's approval. However, I am happy to republish what we published last week if the UK Government is now willing for us to do that.

On the doses that are in Scotland, many have already been put into people's arms, and the rest will meet the target by the start of February. On the allocation of doses, I remind people that, until relatively recently, we had JCVI advice to hold back 50 per cent of doses and to give the second dose within three weeks. Therefore, we had been holding back doses, but they are now flowing through the system because the advice changed.

Yes, I am confident that we will meet the early February target for groups 1 and 2. To recap, those are care home residents, almost all of whom have already been vaccinated, care home staff, front-line health and care staff and the over 80s group. It was always the intention to increase vaccination progressively as supplies increased and the infrastructure came on stream. As I said, we are already vaccinating at the rate of more than 100,000 a week and I am confident that, supplies permitting, we will meet the targets that we have set after that.

The Army has been involved to a greater or lesser extent, depending on which phase of our epidemic response we have been in, since the outset. The Army was based in St Andrew's house for a significant number of months last year and I am grateful to it for the logistical support that it has given us, as it has done for the other nations across the UK, on personal protective equipment, supply chains and, in the early stages of the NHS response, the NHS Louisa Jordan.

I am also grateful to the Army for some logistical support that it is giving us now around the vaccination programme. However, the programme involves people at all levels of Government, people in the NHS and many in our country's community health services. That is right and

proper because it is the most important task that the Government has right now.

Patrick Harvie (Glasgow) (Green): Nobody will be happy about keeping schools closed to most pupils for longer, but nobody should be surprised, either. We have been clear that full re-opening can happen only when that is safe. School staff, pupils and parents will want to know what additional measures the Government is putting in place to ensure that re-opening schools will be safe for everyone when the time comes.

Although we are all eager to see the vaccine programme delivered quickly, the First Minister is clearly indicating that that will not mean life getting back to normal straight away. If measures such as social distancing will remain necessary, is it not also clear that supported isolation will remain a high priority over the weeks and months ahead and that both the UK Government and the Scottish Government need to make major improvements on that?

The First Minister: The most important thing that we have to do to get schools back safely is to suppress the levels of community transmission. When we opened schools in August—it was an achievement by teachers and other staff in schools that they remained open from August right through to the Christmas break—we said that a precondition of schools remaining open was relatively low levels of community transmission. We do not have low levels right now, but I hope that, over the next few weeks, we will return to a situation that allows schools to open. We will then continue to liaise with councils, teachers and individual schools, as we have done throughout the pandemic through the Covid-19 education recovery group, to make sure that all the appropriate mitigation steps are in place as well.

As the vaccination programme rolls out in this first phase of the JCVI priority list, many teachers will be in the priority groups. As I have said before, when it rolls out to the rest of the population, I hope that we can see teachers vaccinated as well in an early phase of that next part of the programme. We are also planning—we will do this on a test basis over the next period—in-school lateral flow testing and at-home polymerase chain reaction testing for school pupils and staff. We hope to have a more widespread testing approach in schools when schools return.

Therefore, we are progressing a range of measures that are intended to ensure that, when schools go back, which I hope will be quickly—although not as quickly as I know that parents want—we are able to keep them open safely.

On some mitigations being required even with the roll-out of the vaccination programme, I am not saying anything that other Governments all over

the world are not saying, too. There is much that we must still understand about the impact of the vaccine on transmission. It will absolutely—I am confident about this—offer us the path back to greater normality. However, for a period, it may well be that we have to do other things as well, and it is important to be up front about that.

Our continuing to self-isolate when we have the virus is one of those things. We have put in place the outreach service through local authorities. We have already expanded eligibility for the self-isolation support grant and, as I think that I said last week, we are looking again at how we can widen that further. We will continue to take great care to do what we can to support people when they have the virus or are required to self-isolate because of it.

Willie Rennie (North East Fife) (LD): Last week, the health secretary admitted that 200,000 doses of the vaccine were in storage in England. This week, we hear that that figure might have doubled. Today, I have heard that GP practices in Fife are cancelling vaccination appointments, because they have run out of vaccine. Is the First Minister seriously saying that all the problems with the supply of vaccines into Scotland are to do with the production and not the Government's distribution system? Will she admit that she has got a problem with distribution?

The First Minister: No, I will not. As all Governments do, we face a big challenge in making sure that, as vaccine is allocated, there is a supply flow. We get an allocation of doses, which we then draw down. Those are transported to Scotland, distributed further and then get to the point at which they are injected into people. We have to keep that supply flowing. I have already said why we have agreed not to talk about supply numbers, although I am happy to do that if the UK Government has a change in heart about it.

Of course, we have a restriction on the use of the Pfizer-BioNTech vaccine in some settings, because of the particular logistical issues with it. Therefore, we are prioritising the Oxford-AstraZeneca vaccine for GP practices and we have been using the Pfizer-BioNTech vaccine in care homes, 90 per cent of whose residents have been vaccinated.

I do not underestimate the issues. I regularly have, and as recently as late yesterday had, detailed discussions with the Scottish Government team of officials leading on the work. I do not underestimate the on-going challenges, but I do not think that it would be right to say that the programme is not progressing well. We have prioritised vaccination in a particular way, and we will continue to increase the pace of it in line with the priorities and targets that I have set out.

Annabelle Ewing (Cowdenbeath) (SNP): As the MSP for Cowdenbeath, I know how vital equality of educational opportunity is for the life chances of young people. Will the First Minister outline what Scottish Government support has been put in place to support digital inclusion in Fife and across Scotland to ensure that pupils are not losing out on their education?

The First Minister: I thank Annabelle Ewing for raising a question that I think everyone agrees is of fundamental importance. It is such a regret to all of us that children are having another period of learning out of school and at home, and I know that family and parents are struggling considerably with that.

In the past week or so, I have had a great deal of feedback to the effect that the provision of online education is much better than it was in the first lockdown; nevertheless, it is still a struggle for families to cope with the juggling of work and looking after and schooling their children. It is important that we recognise the equality impacts of the pandemic and ensure that we level those as much as possible and, in particular, give younger people in more deprived areas greater access to online provision.

Since the start of the pandemic, we have invested £25 million to support digital inclusion specifically among school-aged children, supplying digital devices across all local authorities, benefiting around 70,000 children and young people. Just last week the Deputy First Minister announced an additional £45 million of funding to assist with remote learning, and Education Scotland has published information on entitlements for remote learning, balancing live learning and independent activity, which will be regularly monitored. The first overview report on remote learning is due later this week. We continue to treat these issues with the utmost seriousness.

Maurice Golden (West Scotland) (Con): The extension of the lockdown will mean that business support funding to protect jobs is more important than ever. Reports on the ground indicate that councils are being overwhelmed as they try to process business support payments, with Scottish National Party ministers having created a complicated and convoluted support system, so much so that SNP ministers are apparently considering outsourcing some schemes away from councils. Can the First Minister confirm whether that is the case? If so, which support payments will be outsourced?

The First Minister: What I can confirm is that we are exploring all options to get money to businesses as quickly as possible, something that the Conservatives have called on us to do—and rightly so. We will continue to look at the

administrative support that we give to local authorities to help them to allocate money as quickly as possible.

We have a large number of funding streams for different sectors and different parts of the economy. This is no criticism of anybody—I understand why this has been the case—but that is in large part due to the plethora of calls for different funding streams to be allocated to different parts of the economy. We will continue to seek opportunities to streamline that as we go forward, as it is very important that businesses get money as quickly as possible.

This is management information that was published earlier this week. Between the start of the pandemic in March and the beginning of October last year, 383,000 business support awards were made, totalling £2.3 billion. Between October and December, an additional £60 million was paid out to businesses through a variety of different schemes. There will be a further allocation of money, including one-off top-ups for hospitality and leisure, paid at the end of January. That is an on-going priority, to which we continue to give attention, and that includes the different ways in which we can improve the speed of money getting to where it is needed.

Bruce Crawford (Stirling) (SNP): GPs in my Stirling constituency are receiving vaccine, some later than others, which is not entirely unexpected. However, for maximum clarity for people watching at home, could the First Minister confirm that the distribution of vaccine supplies to general practices is co-ordinated by the UK logistics company Movianto? Can she also confirm that it is that company, and not NHS boards, that is responsible for vaccine delivery to thousands of sites across the UK, including direct delivery to general practices in Scotland? Finally, will she confirm that, while the level of supplies will undoubtedly vary, people should be reassured that the vaccine deployment is on schedule, despite the noise from the Opposition to try and make it seem otherwise?

The First Minister: It might be helpful—and I will ask the health secretary to do this in short order—to set out to MSPs exactly how the distribution process works. Movianto is a key part of that, and general practices will order from the distributor, but health boards of course have a big role in that, too, as does the Scottish Government by way of co-ordination. It would be useful—if this has not already been done—to set that out for greater understanding.

As for what we are absolutely certain of at this stage, it is always possible that there will be interruptions to supply but, based on our expectations right now, we are confident of the supplies, which allow us to meet the targets that

we have set and I have reiterated today around the milestones that we will meet for the key JCVI groups, with the over-80s being the first, after care homes, in the order of priority to be completed at the start of February. We will of course keep MSPs and the wider public up to date with any supply issues and any implications that they will have on the overall delivery programme.

Rhoda Grant (Highlands and Islands) (Lab): I have been contacted by a constituent on Mull, who told me that the slow vaccine roll-out is causing alarm across the island and that the vaccine will not arrive until the beginning of February, by which time, the First Minister stated today, all over-80s elsewhere will have had their jabs. The Cabinet Secretary for Health and Sport reassured the Parliament that there would be no postcode lottery with the vaccines, especially in rural areas, where there has been inadequate testing. Can the First Minister reassure people over 80 on Mull that they will have their vaccine before the beginning of February?

The First Minister: All over-80s are to be vaccinated by the first week in February. I will look into the particular issues that the member has raised about Mull and come back to her as soon as possible. I know from the information that I have been given by the team in the Scottish Government that some of our island communities have had the fastest pace of vaccination, perhaps because of the nature of the population groups that are being vaccinated, but I will look into any particular issues that might exist in relation to Mull and get an answer as soon as possible.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): The First Minister described the situation as “precarious” and pressure on the NHS as “severe”, yet despite the actions of the majority, who are observing the Covid rules, on my brief walks I see groups who are ignoring social distancing and a supermarket with no directional arrows and lax social distancing—it has even run out of hand sanitiser at the entrance. What more can be done to drive home to an offending, selfish minority the impact that they are having on the rest of us and on lockdown? What more can be done to get supermarkets to return to the Covid security measures of last March?

The First Minister: Those are important issues. First, I want to again thank the majority of people who are abiding by the restrictions—and it is very difficult for everybody to do that. If it was not the case that the majority of people were abiding by the restrictions, we would not be seeing these albeit cautious signs for optimism that I spoke about earlier.

Of course, we want to increase compliance as much as possible. I will take away the repeated

point about supermarkets. Supermarkets have made a lot of commitments in recent weeks about strengthening some of the mitigations, including being much tougher on the wearing of face coverings, which I welcome. However, it is important that all supermarkets do that and we will continue to have a dialogue with them about that.

To individuals, I would say that I know from personal experience that it can be very easy on the spur of the moment to let your guard slip and forget a face covering or perhaps forget that you have to keep a 2m distance. We all have to constantly remind ourselves of that.

To people who perhaps think that this is all fake and that it is not something to be taken seriously, I say that you are wrong—you are flatly wrong. We only have to look at the number of people who are seriously ill in our intensive care units right now to know that. People are losing their lives; there are bereaved families the length and breadth of this country. You are not just putting yourselves at risk—you are putting others at risk.

This is a time—more so, perhaps, than at any other time in our lifetime for most of us—when we are all so interdependent that anything that we do to flout rules or decide that they are not important does not just affect us; it potentially affects everybody around us, including the people we love. I make an appeal to anybody who is in that category to please think again. This is serious and it is affecting many people very severely, and if we do not all abide by the restrictions, it will get worse, not better, and nobody wants to be in that position.

Jamie Greene (West Scotland) (Con): If schools remain closed to the majority of pupils, the Government has to ramp up efforts to prevent our most disadvantaged pupils from falling further behind in their education. Can the First Minister therefore shed some more light on what the phased reopening of schools might look like and what criteria will need to be met for ministers to give the go-ahead to get these young people back into the classroom, where they belong?

The First Minister: No, I cannot give more detail on that right now, because if I did, I would not be being straight with people about the uncertainties that still lie ahead. I will give more detail to the extent that it is possible to do so as soon as we have had the 2 February review.

What I will say right now is that we will do everything that we can to, at the very least, begin a phased return from mid-February. Clearly, we have the mid-term break in February; the dates for that vary around the country. In terms of the criteria, as I said earlier—in response to Patrick Harvie, I think—we need to get levels of

community transmission much lower than they are right now. That is the most important thing.

The rest of us have a part to play in making sure that that happens. As I have said before, I do not think that anybody should see this as a binary choice between schools being open and schools being closed. I am simply saying this by way of illustration, not as an indication that this is a definite decision, but if it is possible, for example, to have younger children back before older children or to have schools in parts of the country where transmission is lower back earlier than schools in parts of the country where it remains higher, we will look at all of that. We want to get as many children as possible back to in-school learning as quickly as we can. However, it must be safe both for children and for those who work in our schools.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): I have been receiving inquiries from NHS office support staff who believe that they could perform the majority of their work from home but who are being denied or refused the chance to do so as a result of a lack of remote access tools such as laptops or supported virtual private network access. Given that working from home is the default position, what guidance and support is being given to NHS boards with regards to home working for staff, and what avenues are open to those who feel that their concerns are not being addressed?

The First Minister: We are clear that anyone who is able to work from home right now must do so. That is a statutory requirement, and we are clear that all employers, including the NHS, should facilitate that whenever possible. Obviously, as I think we all recognise, given the nature of what the NHS does, that is not possible for everybody who works in it, but it will be possible for some who work in the NHS and, where it is possible, it should be facilitated. Employers must make every effort and they must be flexible in their approach. That must include considering individual circumstances and providing staff with relevant and necessary equipment, information technology services and infrastructure.

If Maureen Watt wants to pass the specific issues that she is raising in more detail to the health secretary, I am sure that she will look into them. That will help us to assess whether we can do more to help NHS boards to help their staff work from home where that is possible. Furthermore, we would expect staff to engage with the trade unions and employee directors should they have any concerns about the issue.

Iain Gray (East Lothian) (Lab): I understand that the vaccination programme is following JCVI priorities, but I have been contacted by 20 school hub staff in my constituency who have to continue

to work with vulnerable young people up to the age of 17 or 18 who have complex needs. They point out that that requires providing care that is very similar to that provided by front-line care workers, who have been prioritised for vaccination. Will the First Minister acknowledge that they may have a point and reconsider the prioritisation of additional support workers in school hubs?

The First Minister: I have already acknowledged that publicly. In fact, I discussed it directly with Larry Flanagan of the Educational Institute of Scotland yesterday, in the context of one of my regular meetings with the Scottish Trades Union Congress. The issue is not so much about reprioritising additional support needs staff who are in those circumstances; it is instead about treating certain ASN staff more as social care staff, given the nature of what they do, and I have undertaken to go back to the EIS with more detail on that as soon as we can. I recognise the point, and I hope that we will resolve it to everybody's satisfaction soon.

Emma Harper (South Scotland) (SNP): I have been contacted by many constituents across Dumfries and Galloway who supply close-contact services, such as James Devlin, who is a driving instructor. Because they are newly self-employed, they cannot provide enough income information to meet the criteria for the business support that is available. Although I welcome the Scottish Government's announcement of the newly self-employed hardship fund and the mobile close-contact fund, I am concerned about the timeframe for the money going into constituents' bank accounts. Can the First Minister indicate when those funds will be available and how my constituents in Dumfries and Galloway can apply for them?

The First Minister: As Emma Harper indicated, we have set aside funding of £15 million for mobile close-contact services in particular and £15 million for the second iteration of the newly self-employed hardship fund, which we first introduced in April to recognise and mitigate the financial challenges for those who were not able to access the UK Government's self-employed income support scheme. We will provide more information on both those funds over the remainder of this month so that money starts to flow from them.

The £30 million local authority discretionary fund is empowering local authorities to direct funding to specific groups or sectors in their areas where they think that there is a particular need that might not be catered for by some of the more general funds. That includes supply chain businesses. To go back to the point that I made earlier about building up a complexity of provision, we will continue to take account of particular needs, even in terms of some of the smaller parts of the

economy, to ensure that we get funding to as many people as possible.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): It has been reported that of 700,000 doses, approximately 35,000 are expected to be wasted. What appropriate planning arrangement does the Scottish Government have in place to ensure that hard-working general practitioners and their teams can know exactly how many Covid vaccine doses they will receive per week so that they can manage and reduce that waste? Is there flexibility to use the projected 5 per cent of vaccines that would otherwise be wasted to vaccinate other groups, such as front-line police officers, as suggested by Calum Steele of the Scottish Police Federation, or, indeed, key workers?

The First Minister: If I may say so, there was quite a lot of misunderstanding in that question, which even a cursory reading of the deployment plan that we published last week would have cleared up, so I recommend it to anybody who has not had the chance to read it. Members will find that it no longer includes clarity on expected supplies, because the UK Government asked us to take those figures out of the document, but if it is now happy for us to put them back in, that would answer part of Rachael Hamilton's question. The Conservatives who are keen to know what the supplies are might want to make that case to their UK Government colleagues.

On wastage, I would recommend reading the deployment plan, which, for planning purposes—as I understand it from my clinical advisers, this is an international standard when it comes to planning for wastage—makes an assumption that up to 5 per cent could be wasted. That takes account of what we hope will not happen, but we have to plan for what might happen—a large-scale freezer might fail, or there might be some other large, unforeseen and unexpected problem in the supply that means that that quantum could be wasted. However, that is not what we expect the wastage rate to be, so we cannot start allocating those doses to other groups.

In fact, our experience in the programme so far is that the actual wastage is around 1 per cent. We try to get that down, and we will continue to do that as far as that is possible. That will involve things that will always happen, such as spillages or broken vials. We will try to ensure that the wastage is as minimal as possible and nowhere near 5 per cent.

Again, I recommend to all those who might not have got round to it yet that they read the deployment plan that we published last week, as the answers to such questions are all in there.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): The recruitment of vaccinators to deliver the various Covid vaccines is well under way. Quite rightly, the focus is on the recruitment of registered healthcare professionals. A constituent of mine who is an airline pilot informed me that in England, some pilots and cabin crew are now assisting as vaccinators, following appropriate training. How is the recruitment of vaccinators in Scotland progressing? Might there be a need to widen out the recruitment to other groups of workers, depending on the success of the recruitment campaign?

The First Minister: The recruitment of vaccinators is progressing well. I am looking for the specific number in my folder; I think that it was 5,000, but from what the health secretary tells me, I think that 7,000 people have gone through or are going through that training. Currently, we have active in the vaccinator programme the number of vaccinators that we need to match the vaccine supplies that we have, and that number will scale up as the supplies scale up. We included in the deployment plan that we set out last week detail of the number of vaccinators that we will require when the programme is at its peak, when we can support that with the supplies.

The process is going well, but we will keep that under close and on-going review, as we will do with all aspects of the programme.

Liz Smith (Mid Scotland and Fife) (Con): The First Minister will be very aware of the comments that Scottish Care made last week about the concerns about the anti-vaccination movement targeting many of our care homes. Could she update the chamber on what action the Scottish Government is taking to counter that?

The First Minister: I share the concerns of Scottish Care. We are putting in place a number of things, such as webinars with staff to address directly some of the concerns that they might have. Some concerns might be legitimate, but others might be being fuelled by the anti-vax movement, which we must be careful to ensure is not allowed to cause damage to the programme here or in any other country. In response to an earlier question, I referred to discussions that took place yesterday with the STUC, which made the helpful offer to be part of that discussion with staff so that we can encourage maximum uptake.

When I first heard about the issue, I was concerned, and I am still concerned, but the figures on uptake among members of the social care workforce that I reported earlier give me cause for reassurance. As I said earlier, more than 70 per cent of care home staff have now been vaccinated with the first dose. Overall, in terms of NHS and social care front-line staff, the figure is

also above 70 per cent. That suggests that there is good, positive uptake, but we want to get it as high as possible.

We all have a part to play in making sure that those ridiculous, unfounded and baseless fears and smears that are spread around by the anti-vax movement do not get any purchase at all.

The Presiding Officer: I have three further supplementaries, and I think that we have time to squeeze them all in.

Stuart McMillan (Greenock and Inverclyde) (SNP): Earlier, the First Minister spoke about funding to assist businesses. Will she clarify whether pet grooming businesses can access support through the strategic framework business fund, given that, by law, they must remain open for essential services that, if not carried out, would negatively impact an animal's welfare?

The First Minister: My apologies—it may be my hearing rather than a general problem, but I did not catch all of Stuart McMillan's question. I think that he was referring to pet services. Our funding streams take account of the needs of businesses that are not legally required to close, but are restricted in what they can do. That is important. If Stuart McMillan could email my office later with the fine detail of his question that I might have missed, I will make sure that he gets a full answer as soon as possible.

Neil Findlay (Lothian) (Lab): This week, I was contacted by a senior consultant, who advised that significant numbers of vaccine shots are being wasted in their hospital because they have no standby system for the use of any excess. When they raised the matter with management, they were told in no uncertain terms that they should keep quiet about it. This is not about spillages or broken vials, but excess vaccine that they want to put in the arms of patients. Will the Government look closely at having a standby system through which the vaccine can be used up?

The First Minister: As far as I understand it, boards have standby plans in place, but I will get health secretary to follow that up, to make sure that they are all working as they should be.

If they are experiencing something that is of concern to them, no member of NHS staff should keep quiet about it—I have always been clear about that.

It is in the interests of nobody—certainly not the Scottish population, and not me or the Government—to have a single dose of the vaccine wasted in a way that is avoidable. In a vaccination programme, there will always be some unavoidable waste, which we want to minimise. However, the suggestion that we would not take seriously any reason why there may be avoidable

wastage does not make sense. Anybody who hears about such things should tell us straight away, so that we can get on to and resolve the issue. For the smooth and efficient operation of the process, it is important that there are plans in place to deal with people not attending appointments, or other issues, so that doses of the vaccine are being used to the maximum extent.

John Scott (Ayr) (Con): The vaccination supplies for the over-80s and under-80s that are reaching GPs in Ayrshire and elsewhere appear to be patchy—that is beyond dispute. Is there a particular reason why delivery of vaccinations to GPs surgeries has become such a postcode lottery, and what is the Scottish Government doing to resolve the matter?

The First Minister: The word “patchy” is being used, but it is not necessarily one that I would use. As the supply, particularly of the AstraZeneca vaccine, continues to increase, things will even out. It is not a postcode lottery—it is about getting supplies as quickly as possible to GP surgeries.

As I said earlier, there are logistical restrictions around the use of the Pfizer vaccine in GP surgeries. As we speak, GP surgeries will be vaccinating over-80s, and that will continue to pick up pace. We are getting towards 20 per cent of the over-80s nationwide having already had the first dose, which will increase progressively as we get towards the target of all over-80s by the start of February.

The Presiding Officer: That concludes our statement on Covid. I encourage all members who are leaving the chamber to use the aisles and gangways, and not walk behind or in front of other members or their chairs.

Covert Human Intelligence Sources (Criminal Conduct) Bill

The Deputy Presiding Officer (Lewis Macdonald): The next item of business is a debate on motion S5M-23884, in the name of Humza Yousaf, on the Covert Human Intelligence Sources (Criminal Conduct) Bill legislative consent motion. I invite members who wish to speak in the debate to press their request-to-speak buttons now.

15:25

The Cabinet Secretary for Justice (Humza Yousaf): I have lodged the motion in order to update the Scottish Parliament on the Scottish Government's position on the United Kingdom Government's Covert Human Intelligence Sources (Criminal Conduct) Bill. The bill completed its report stage in the House of Lords on 13 January, and its third reading is scheduled for later this month, on 21 January. The bill aims to provide an express statutory power for certain public authorities to authorise a covert human intelligence source—otherwise known as a CHIS—to participate in criminal conduct in cases in which that is necessary and proportionate.

The Scottish Government laid a legislative consent memorandum on 4 December 2020. In that memorandum, and during the evidence session with the Justice Committee on 15 December, I confirmed that the Scottish Government cannot recommend that the Scottish Parliament give its consent to the bill because, despite considerable debate and discussion with the UK Government, safeguards are missing that are, in my view, essential to regulating the very significant power to authorise criminal conduct that is being granted.

Neil Findlay (Lothian) (Lab): Does the cabinet secretary consider that the greatest safeguard would be for the Scottish Government to bring forward its own legislation in that area, which would allow the issue to be debated seriously through our political system, and for members to make a decision on it?

Humza Yousaf: I agree, and I will suggest that we progress in that way. I will get to that in a little more detail very shortly.

There have been some limited improvements but, unfortunately, I remain unconvinced that sufficient safeguards and protections are built in to the bill. Throughout the bill's passage through the Westminster process, I have continued to have dialogue with the Rt Hon James Brokenshire, who I understand has taken a period of curative leave, so I wish him a very speedy recovery.

I have been paying close attention to the debates during the passage of the bill, in the hope that a four-nations agreement would be reached. However, I am disappointed to report that, despite very candid engagement with the UK Government, it has not made amendments to the bill that would have addressed my concerns. In my view, which I know many members share, the bill remains deficient.

There has been no movement towards prior judicial approval by a judicial commissioner at the Investigatory Powers Commissioner's Office. Prior approval has always been my preference. That is supported by the Lord Advocate, from his perspective as head of the system of prosecution, as well as by the chief constable. Having followed the debate at Westminster, I can say that my preference for prior judicial approval has become stronger.

I know that the Law Society of Scotland, which has sent a briefing to MSPs, shares that view on prior approval. By providing—before any activity takes place—independent judicial scrutiny of the decision that is reached by the authorising officer for criminal conduct authority, prior approval would, in my view, go a long way towards addressing the legitimate concerns that have been expressed in various quarters.

During the House of Lords stages of the bill, the need to address non-permitted conduct in some way in the bill has also been raised. It has also been raised by many respected human rights organisations. I acknowledge and share that concern, but I also recognise, of course, that that issue is not always straightforward, especially if it is not dealt with on a four-nations basis. Nevertheless, I am not convinced that the bill adequately covers the matter.

I know that the Conservatives have relied on the Human Rights Act 1998, but Conservative members will forgive me for saying that theirs is the party that has instructed a review of that act, so their position is somewhat disingenuous.

This is a complex area of law; I acknowledge that the forthcoming Court of Appeal judgment might require a legislative remedy. That point allows me to close in on the point that Neil Findlay made. We will not know until that judgment is known what, if any, remedial action will be required to amend the Regulation of Investigatory Powers (Scotland) Act 2000. As the Scottish ministers cannot recommend to the Parliament that it consent to the bill, there might be a need for emergency or expedited legislation to cure an immediate consequence arising from the Court of Appeal judgment, when it is known. That would, of necessity, be no more than a sticking plaster to ensure the security of police operations. If such a measure is required, it will be only a stop-gap to

allow for a full assessment of the court judgment, which will, in turn, inform any subsequent measures that this Government or a future Government, post elections, has to put in place. We will do that in the fullness of time and with full parliamentary scrutiny.

I am unable to recommend to Parliament that it consent to the bill.

I move,

That the Parliament agrees not to consent to the UK Covert Human Intelligence Sources (Criminal Conduct) Bill, as it contains insufficient independent oversight and satisfactory safeguards.

The Deputy Presiding Officer: I ask for three-minute speeches from front-bench members, please.

15:31

Liam Kerr (North East Scotland) (Con): I thank the cabinet secretary and, especially, the relevant agencies for their engagement on the matter. In my three minutes, I will argue against the motion and ask Parliament to give legislative consent.

The cabinet secretary has said that covert human intelligence sources

“can be vital to the gathering of sometimes lifesaving intelligence that cannot be gained any other way, or to disrupting serious crime and security threats to the nation.”

He went on to say that in Scotland the activity is used to tackle organised crime groups that are

“involved in drugs and weapons running, human trafficking, child sexual abuse rings and terrorism plots”,

and he concluded that a source’s

“participation in criminal activity may at times be necessary”.

The ability to carry out that vital work currently lacks a statutory foundation. A court case that relates to covert sources has been brought against the UK, and the Court of Appeal will soon promulgate its judgment on the case. It is possible that the court will find that the current system of covert surveillance is unlawful. In that event, the UK will have no basis for undertaking covert surveillance into, for example, terrorism, cybercrime, people trafficking and drugs running.

The UK bill anticipates that and sets a statutory framework that will allow our security services and police to continue to protect us. It contains provisions to ensure that such practices can continue in Scotland—hence the request for legislative consent.

In 2019, the independent Investigatory Powers Tribunal said that the policy of authorisations that the bill enshrines

“has been exercised with scrupulous care ... so as to discharge ... essential functions in protecting national security, whilst giving proper regard to ... human rights”.

The UK Government has tried to accommodate requests from the Scottish Government, including a request for an agreement from operational agencies to discuss a memorandum of understanding with the Crown Office and Procurator Fiscal Service.

However, the cabinet secretary is asking Parliament not to consent to the bill. If Parliament does not consent, the UK Government will remove Scotland from the bill’s provisions. The practical impact of that will be that agencies such as Police Scotland will continue to rely on existing legal bases for authorisation. The Court of Appeal will then give its ruling. Should that ruling find against the current practices, the UK approach will allow crime prevention through covert monitoring to continue in England and Wales, whereas in Scotland all such practices will have to cease immediately. Our police will not be able to conduct activity that the cabinet secretary himself has described as being

“vital ... to disrupting serious crime”.

As the cabinet secretary acknowledged, this Parliament would then be required—in the middle of the pandemic—to convene to debate and try to pass emergency legislation, in order to put the conduct on a clear and consistent statutory basis. Every day that would pass without that emergency legislation being in place would be another day on which organised crime, cybercrime and human trafficking could continue unhindered by covert monitoring.

The bill is vital and provides a clear and consistent statutory basis for activity by public authorities to keep the public safe. Failure to give consent risks leaving Scotland’s people exposed. That would be deeply irresponsible. I cannot believe that any MSP would countenance such a situation and vote to create it.

15:34

Rhoda Grant (Highlands and Islands) (Lab): We support the Scottish Government in rejecting the bill.

Covert human intelligence is carried out in several ways, but can mean a police officer infiltrating a criminal organisation, or police officers gaining intelligence from people who are in, or are close to, criminal gangs.

There are a number of issues with the bill. Officers infiltrating criminal gangs will be involved in criminal activities, and legislation overseeing that activity requires to be cognisant of the stresses that those officers are under. It is crucial

that oversight be provided by an independent commissioner and that such oversight happens before any criminal activity takes place.

If an officer is to be placed covertly in a criminal gang, the parameters for that activity should be signed off beforehand. If those parameters need to change, that must also be signed off before immunity from prosecution can be given. The bill is not strong enough on that, and allows for a crime to be committed before it is signed off by a commissioner. That does not provide the correct balance of authority.

There are some crimes that surely cannot ever be sanctioned by the state, including murder, rape and torture. If a covert officer finds themselves in a position in which they believe that they must commit a crime that has not been sanctioned but they have no time to seek authority, that must be examined through the criminal justice system. If that officer believed that they had no choice, and that not carrying out the crime would have endangered their lives, the courts would not find against the officer because they would have acted in self-defence. If an officer believes that they can justify the action, they should have no fear of prosecution; indeed, if it were not in the public interest to do so, they would not be prosecuted at all.

If covert intelligence comes from an informant, the police cannot be responsible for that person's behaviour and the state cannot give them immunity from prosecution, because many of those people are often involved in criminal activity.

The other issue with the bill is to do with where covert intelligence can take place. We have all heard examples in which covert intelligence has been placed within legal organisations, such as trade unions and climate-change activist groups, which are important parts of a functioning and open democracy. To infiltrate the lawful activities of such groups is an assault on all our freedoms. Operations cannot be used for political purposes and must be reserved for the most serious criminal activity only.

We have all heard of cases in which covert officers formed relationships and even had children while undercover, having deceived women into believing that they were someone they were not. That is rape. A person cannot give consent if the person to whom they are giving consent does not exist. If required, the Scottish Government must introduce its own legislation with the right checks and balances.

Scottish Labour cannot support the legislative consent motion and therefore supports the Scottish Government's motion.

15:38

John Finnie (Highlands and Islands) (Green): I do not dispute that there is a need for covert work, and I acknowledge that that may involve some lawbreaking. I am referring to dangerous work such as that which colleagues have outlined. Scottish Greens would welcome legislation in the area—just not this legislation—that, as other members have said, aimed to provide an express statutory power to authorise a covert human intelligence source to participate in criminal conduct when it was necessary and proportionate to do so. However, most people would not see it as reasonable, necessary or proportionate for torture, murder and sexual violence to be included in any such authority.

This is about the express limits of legislation. Amnesty International, of which I declare I am a member, says:

“Without express limits”—

good grief, even the United States has express limits on what can be authorised—

“at the authorising stage, we worry that even improved oversight would leave too great a scope for abuses.”

There was also talk of oversight by commissioners. According to Amnesty, the Investigatory Powers Commissioner has said that

“MI5 systematically kept vital information from him to falsely justify surveillance warrants, and suggested that the agency is failing to reliably record the kinds of crime in which their agents become involved.”

As others have said, the Covert Human Intelligence Sources (Criminal Conduct) Bill relies on the Human Rights Act 1998 as a safeguard, but the UK Government, which is seeking to sanction crimes committed by armed military abroad, does not believe that the act applies to abuses committed by its agents.

Mr Pat Finucane, a human rights lawyer in the north of Ireland, was murdered by the UK state; the UK Government's inquiry, led by Sir Desmond de Silva QC, confirmed that and the UK Prime Minister at the time, David Cameron, apologised for it. We know that members of the public still have grave concerns about the untimely deaths of others such as Hilda Murrell and Willie McCrae. We know that UK state agents have stolen the identities of dead babies and have formed intimate relationships that have rightly been referred to as state-sanctioned rape. We also know about complicity in rendition—the use of Highlands and Islands airports for abduction and torture.

Judicial oversight, prior or otherwise, would not be enough to secure Scottish Green Party support for the legislative consent memorandum, simply because we do not trust the UK's state agents. Greens do not want potential human rights abuses

including murder, torture, punishment shootings, kidnap and sexual offences or conduct that would interfere with the course of justice being

“rendered lawful for all purposes”.

For all those reasons and more, we oppose the granting of consent and will support the Scottish Government’s motion.

15:41

Liam McArthur (Orkney Islands) (LD): As others have said, the existence of and need for undercover agents is widely accepted. That circumstances may arise as part of such work that force the individual to act outwith the law is a natural, if uncomfortable, extension of that concept. Having such an option available to our law enforcement agencies is in the interests of our national security. For example, the intelligence gleaned from infiltrating a terrorist group intent on committing atrocities could save lives. Indeed, it already has. Stepping outwith the law may be necessary to do that effectively. However, it is also right that the authorisation of criminal conduct by covert human intelligence sources is set within a robust legislative framework. In that regard, the bill is overdue, but it is also deficient.

Unfortunately, the proposals that have been put forward by the UK Conservative Government overstep the mark. My Liberal Democrat colleagues at Westminster, working with other parties, have sought to make changes that would deliver a more proportionate but effective set of legal safeguards. Although there have been successes, too often, UK Conservative ministers have refused to budge, so we have a bill that places no limits on the type of crime, including rape, torture and even murder, that could be authorised and no requirement for prior judicial approval of authorisations. All of that leaves open the prospect—the risk—of anything being licensed

“in the interests of the economic well-being of the United Kingdom”

or for the purpose of “preventing disorder”. That is not the way to build public trust and confidence, nor is it the best way to protect public safety.

The powers that we are debating today are necessary but must be drawn proportionately and with human rights very much in mind. Unfortunately, despite the best endeavours of Liberal Democrats and other parliamentarians at Westminster, as well as the efforts of the cabinet secretary and his officials, such proportionality has not yet been achieved.

This is genuinely not a position any of us would have wished to find ourselves in. Legal certainty is needed, not least by those we ask to carry out these highly sensitive, difficult and often

dangerous roles on our behalf. Scottish Liberal Democrats will continue to work constructively with colleagues across the chamber to make sure that that is secured—if necessary, through urgent legislation—but we cannot support the provisions that are set out in the bill.

The Deputy Presiding Officer: I call Neil Findlay for a brief open-debate contribution.

15:44

Neil Findlay (Lothian) (Lab): Is it two minutes, Presiding Officer? Thank you for calling me.

I have campaigned on this issue for a decade, because the spy cops scandal was one of the great policing scandals of our time. More than 1,000 social justice groups such as the Stephen Lawrence campaign, involving MPs, trade unions and environmental activists, were infiltrated by agents of the state, some using the identity of dead children and some having intimate relationships with women who bore their children while they were living under an assumed identity.

The bill seeks to introduce a power to provide officers and agents with advance, prospective immunity from prosecution for criminal acts up to and including murder, with no limit on that power. Such immunity from prosecution goes to the very heart of our legal system—no longer will every citizen be equal before the law. We know the scandals that have emerged under the current system, in which there is no immunity from prosecution. Imagine the sort of abuses that would happen if there was full immunity from prosecution. That would be a departure from legal norms and another human rights scandal waiting to happen.

Scotland has its own legal system, and, if the Scottish Government and the Parliament want to legislate on the subject, we should debate and scrutinise such legislation. Let us not accept the proposal that Priti Patel or any other Home Secretary could authorise an order under the bill to give MI5, MI6, police officers, the Gambling Commission, the Food Standards Agency or the officers of many other bodies carte blanche immunity from prosecution for crimes committed in the name of the state.

No one argues that undercover police officers’ work is not important in dealing with terrorism, organised crime or drugs, but the bill is not the way to address the matter. Liam Kerr seems to want people to be given immunity for actions up to murder, which would be regarded as lawful. That would be extraordinary. As a campaigner on the issue, I ask anyone to read the testimonies of victims who have come before the undercover policing inquiry and then ask themselves whether

they are doing the right thing in rejecting the LCM and supporting the bill.

Prior approval of immunity would not be a safeguard. We should introduce not total criminal and civil immunity but a public interest defence that can be considered before any court proceedings—that is the way to go. Let us reject the bill, which is an affront to our democracy, to our legal system and to the Parliament, and introduce legislation that we can debate and discuss.

15:46

Humza Yousaf: I am conscious of the time, so I will aim most of my remarks at addressing the issues that Liam Kerr raised. I appreciate his acknowledgement of the engagement that I have had with Opposition members, and I know that Police Scotland also spoke to them when they required additional briefing.

I am certain that Liam Kerr acknowledges that the Scottish Government understands that, in some cases, covert sources must break the law, whether that is the Misuse of Drugs Act 1971 or other legislation, to safeguard themselves and ensure that their position and important operations—which might involve drugs, human trafficking or child sexual exploitation—are not compromised. I hope that it is understood that the Scottish Government comprehends entirely that CHIS must break the law in some cases.

I will respond to Liam Kerr's remarks. He asks the Scottish Government and the Parliament to agree to a bill that sanctions covert sources breaking the law without any prior independent judicial oversight, which reputable and respected human rights organisations have raised huge human rights concerns about. The bill does not make it clear that conduct such as murder, torture or sexual violence is not permitted, and Liam Kerr asks us to agree to that because it might be the easier of the two options that we have. It might be the easier option, but it is not the morally correct or most principled route for us to take.

Liam Kerr talked about a hard cliff edge. I recognise that there is a remote possibility of it, but an immediate hard cliff edge is unlikely. Given all the operational challenges that he mentioned, the Court of Appeal is unlikely to make a determination that creates such operational difficulties for law enforcement agencies and the security services. However, I accept his point that that could happen. In the unlikely scenario of it happening, the Parliament might have to reconvene to approve emergency legislation. If we introduced such legislation, it would be a sticking plaster and a stopgap to preserve police operations, but—I hope that this addresses some

of Neil Findlay's points—I give the absolute assurance that any Scottish emergency legislation would guarantee prior judicial oversight.

I also guarantee—I can make this guarantee only on behalf of the SNP Government—that if, after digesting the Court of Appeal judgment, we determined that a bill was required, the SNP Government, if re-elected, would introduce such a bill, to be discussed with Opposition colleagues. We would do that with full parliamentary scrutiny. I know that Neil Findlay is standing down, but we would speak to other Opposition members about the approach that such a bill should take in relation to a public interest test or any other red lines or important principles that they thought should be included.

The bill's third reading will take place in the House of Lords on 21 January. The UK Government has confirmed that it will table amendments removing the bill's provisions relating to RIPSAs and the amendments to the Regulation of Investigatory Powers Act 2000—RIPA—for devolved purposes. We await the Court of Appeal judgment to discover the extent of its impact—if there is any—on law enforcement operations in Scotland, and I will then carefully consider what further action is required.

The Deputy Presiding Officer: That concludes the debate. I remind members to observe social distancing requirements, including when leaving and accessing their seats in the chamber.

United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Lewis Macdonald): The next item of business is a debate on motion S5M-23883, in the name of John Swinney, on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, at stage 1.

15:51

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): At a time when our country is wrestling with the difficulties and challenges resulting from Covid—the disruption to our lives and the burden and sense of loss being carried by every citizen of Scotland—this debate marks a moment of enormous historical significance and, if I may say so in the current context, of joy for our country. It is a moment of commitment to the future of every one of our precious children in Scotland. It is a moment in which our Parliament takes the first step in legislating for the assurance of the highest level of rights for every child in Scotland.

Scotland is set to be the first nation in the United Kingdom to fully and directly incorporate the United Nations Convention on the Rights of the Child into our domestic law. In doing so, Scotland will act as a leader in human rights internationally, and across the nations of the United Kingdom.

Alex Cole-Hamilton (Edinburgh Western) (LD): I congratulate the cabinet secretary on an excellent bill. Does he agree that in order to be world leaders in children's rights, we need to have an age of criminal responsibility that is above the internationally prescribed minimum? Can he confirm to Parliament when the Age of Criminal Responsibility (Scotland) Act 2019, passed by the Scottish Parliament to lift the age of criminal responsibility from eight to 12, will be commenced?

John Swinney: The issues in relation to the age of criminal responsibility have been well rehearsed in Parliament and will continue to be debated as a consequence of the passage into law of the bill that we are considering this afternoon.

The bill incorporates into our domestic law the significant elements and issues of the UN convention that are within the competence of the Scottish Parliament, enabling Scotland to live up to and build on the important journey that we have started to ensure that we have the highest level of rights in place in our country. That moment should

be marked and celebrated by Parliament today. It helps that the Equalities and Human Rights Committee has unanimously recommended to the Parliament that the general principles of the bill be agreed to.

At this important stage in the bill's passage, I want to take time to congratulate those who have advocated for such a bill for many years. It is with their insight and passion that Scotland is now ready to take this momentous step on its journey towards fully realising children's rights.

I am grateful to the children's rights organisations and the many children and young people who have been champions of the need for incorporation of the UNCRC since its ratification in 1991. I congratulate those champions on getting us to this important part of our rights journey.

I also extend my sincere gratitude to colleagues in public authorities. Despite the extremely challenging circumstances of the Covid-19 pandemic, they have proactively engaged with the Government and have shown their support for the bill's principles. I will continue to give careful consideration to the support that public authorities need in order to fully realise the ambition in the bill. My officials are working closely with a range of stakeholders to ensure that accessible guidance, training and other materials are put in place as part of the implementation plan, in order to support public authorities, practitioners, children and families. The Government is committed to maintaining that collaborative approach through the passage of the bill, its commencement and its implementation.

I want to celebrate the work of the Equalities and Human Rights Committee and how it engaged with, and listened to the views of, children and young people during its stage 1 evidence taking. More than 50 written responses were received from children and young people. In addition, the committee organised seven events to engage with children and young people who would not ordinarily provide their views directly to Parliament.

The bill's importance to the real-life experience of children and young people can be felt in this quote. One child was reported by the committee to have said:

"I think that if the Bill becomes a law, it will make so many vulnerable and poor children and families feel much more protected".

That is the strongest commendation from children in our society.

The committee's engagement makes clear the excitement that children and young people feel about realising their rights and the rights of others. Their engagement with the parliamentary process also demonstrates how important it is that children

and young people are fully recognised as people in their own right, and that they have a voice to claim their rights.

I express my gratitude to the committee for its commitment to supporting children as rights holders and as active participants in the decisions that affect them. The committee's work is inspiring, and I hope that it acts as a great source of encouragement for other committees and decision makers and shows what can be achieved if we listen carefully to our children and young people.

On 18 January, the Scottish Government published its response to the recommendations in the committee's stage 1 report. I welcome the report and its recommendations. As set out in the Government's response, I intend to lodge amendments that will deliver on a large number of the committee's recommendations.

In line with my strategic commitment to a maximalist approach to incorporation, within the limits of the Scottish Parliament's competence, the bill intends to ensure that compatibility with the UNCRC requirements is required in every instance in which public functions are undertaken. The Government is confident that the bill as drafted would not enable a public authority to contract out its obligations under the bill.

However, I have listened carefully to the case for making it clear that those undertaking functions pursuant to contracts or other arrangements with public authorities should also be subject to the requirement not to act incompatibly. I am pleased to confirm that the Government will lodge an appropriate amendment to strengthen the protection that the bill provides in that regard. Children and young people deserve to have their rights prioritised and upheld by all those undertaking functions, including those who are paid to undertake functions on behalf of public authorities.

Guidance to support public authorities and those undertaking functions of a public nature to fulfil their duties under the bill will be provided as part of the implementation programme. That guidance will be developed in partnership with the bodies that will be affected.

The bill as drafted already recognises the importance of non-binding sources of interpretation that courts may take into account when they are determining a case. Such sources include the preamble to the convention, the first and second optional protocols and articles that have not been included in the bill because they fall outwith the powers of the Scottish Parliament. In line with the committee's recommendation, the Government will lodge an amendment that will expand that list to include sources that emanate from the United Nations Committee on the Rights

of the Child. Although it is the contents of the UNCRC requirements that are authoritative, the amendment will recognise the important role that the UN Committee on the Rights of the Child plays in supporting the effective implementation of the convention across the world.

I highlight that the Government will also lodge an amendment to strengthen the children's rights scheme obligation on the Scottish ministers, as recommended by the committee. Section 11 of the bill requires that the Scottish ministers publish a children's rights scheme, setting out the arrangements that ministers have made, or propose to make, to fulfil the duty not to act incompatibly with children's rights.

I am very happy to make clear that ministers will always be required to include and report on the topics listed in the bill.

The scheme will also be strengthened by requiring updates on arrangements to promote a child-friendly complaints mechanism and ensure effective access to justice for children and young people. Those improvements will ensure that Scottish ministers fulfil their role as leaders in children's rights.

The committee asked for the bill to be commenced six months after royal assent. I continue to give serious consideration to balancing the current, extraordinary demands on public bodies with the ambition to deliver legal protection for children's rights as soon as possible.

The impact of the Covid-19 pandemic has been felt acutely by children and young people. It has disrupted their lives in previously unimaginable ways. Respect for children's rights in tackling the adverse effects of Covid-19 is critical.

The impact of the pandemic and the United Kingdom's withdrawal from the European Union will continue to place additional burdens on children and young people for years to come. The bill is essential to our recovery and to getting the fairer and more equal society that the Scottish Government wants for Scotland's future. As such, I am keen to avoid allowing an extended period of time to elapse before the commencement of the bill.

I acknowledge that the bill provides an opportunity to protect the rights of children and young people who have been significantly impacted by the current crisis, and I am also aware that there is support from a range of stakeholders for early commencement.

I want to be clear that it is my expectation that readiness for commencement of the bill should be a priority for all public authorities. I would expect those public bodies already to deliver their services to children and families in Scotland in a

way that respects children's rights, and I will consider further the issue about a commencement date as we reflect on all the important issues that I have put on the record.

I believe that this bill is an important step in supporting children and young people in fully realising their potential. There is a broad consensus that the incorporation of the United Nations Convention on the Rights of the Child into domestic law will advance children's rights across Scotland. It is time for Scotland to enshrine children's rights in Scots law and help to make Scotland the best place in the world for our children to grow up in.

The bill paves the way to ensuring the rights of every single one of our precious children in Scotland.

I move,

That the Parliament agrees to the general principles of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

The Deputy Presiding Officer: I call Ruth Maguire to speak on behalf of the Equalities and Human Rights Committee.

16:02

Ruth Maguire (Cunninghame South) (SNP): I am pleased to speak on behalf of the Equalities and Human Rights Committee in the debate. It has been 30 years since the UK ratified the UN Convention on the Rights of the Child, which, under international law, sets out the civil, political, economic, social and cultural rights that all children are entitled to. I agree with the Deputy First Minister that progressing this legislation is a moment of joy in what are very difficult times for everyone.

Incorporating the most widely ratified human rights treaty in the world into Scots law is a landmark moment for Scotland. The new bill legally obliges public authorities—including the Scottish ministers—to respect children and young people's rights, and it places them under a duty not to act incompatibly with the UN convention. The bill will allow children and their representatives to take public bodies to court for breaches of their rights. The bill was the focus of the committee's work during the latter part of last year.

We welcome the Scottish Government's maximalist approach, which seeks to go to the very boundary of legislative competence to ensure that children and young people's rights are respected and protected and can be fulfilled to their fullest extent in Scotland.

In keeping with that maximalist approach, the committee considers it vital that children have their

rights protected, respected and fulfilled as a matter of urgency. That is why we have urged the Scottish Government to amend the commencement provision to ensure that the legislation comes into effect six months after the bill receives royal assent. I appreciate the Deputy First Minister's assurance that serious consideration is being given to that important matter.

To inform its scrutiny of the bill, the committee issued a call for evidence that ran from 7 September to 16 October 2020. We received 153 written submissions about the bill, largely from organisations in the public and third sectors.

Children and young people are at the heart of the bill, which is why the committee also held a dedicated call for their views. The associated facilitators pack—developed with the assistance of Together Scotland, the Children's Parliament and Children in Scotland—was crucial to the success of that call. It is evidence of the effort and skill of those groups that the committee received more than 50 responses from children and young people, which came from individuals, primary schools, high schools, modern apprentices and children's organisations. We thank everyone for sharing their knowledge and time. Creativity and innovation did not stop there. Responses included reflective writing, drawings and stop-motion videos. I invite members to look at the ideas that we were sent.

We know that children are not a homogeneous group. With the assistance of many voluntary groups, such as the Scottish Children and Young People's Centre for Justice and Aberlour guardianship, we listened and spoke to children under 12 years old, young people between the ages of 12 and 18 and young carers, refugees and asylum seekers. We spoke to minority ethnic young people; children and young people with additional support needs; care-experienced children and young people; lesbian, gay, bisexual, transgender and intersex young people; and those with experience of the youth justice system. Through those varied activities, we came to a real understanding of what they hoped that the bill would achieve for them.

At the Children's Parliament session, young participants said that adults sometimes do the wrong thing because they do not understand children's rights. One example given was:

"If a child doesn't know how to tie their shoelaces, then people teach them. If a child doesn't know how to behave, then people punish them. That makes no sense."

Young refugees told us about the importance of article 22 of the UNCRC, which says that they have the same rights as children born in that country. They told us that that meant they could dream of a future and could receive an education

and access health services like people living in Scotland. They said that they would feel isolated if they did not have those rights.

Our child-friendly version of the stage 1 report, published simultaneously with the requisite report, ensured that children and young people have a report that speaks to them about their interests. It shows how their views were listened to and taken account of in the committee's considerations and explains what happens next to the bill. If any of the children and young people who helped us are watching, I place on record and say directly to them that we thank them for their valuable insights and their help.

Almost everyone who shared their views with us through submissions, oral evidence or participation, whether they were academics or children, had one thing in common: overwhelming support for the bill. The bill has the potential to put children's rights at the very centre of public authority decision making.

However, we believe, as the evidence to the committee has shown, that there are areas where the bill can be improved.

For example, we called for the definition of "public authorities" to be widened to ensure that organisations such as private schools, housing providers, residential care settings and childcare providers are not excluded from the legal obligations in the UNCRC. Experience with the Human Rights Act 1998 has shown that courts have defined the term "public authorities" too narrowly, exempting private or voluntary bodies when they are carrying out public functions. The committee believes that that must not be the case under the bill, so we recommended that the Scottish Government consults the main stakeholders to investigate how the definition of a so-called "hybrid public authority" could be tightened to avoid similar issues arising. We welcome the Scottish Government's commitment to lodge an amendment to strengthen protection in that area.

Under the bill, as well as the children's commissioner having the ability to take cases, children and representatives acting on their behalf will be able to challenge public authorities in court for infringing their rights. The bill would allow the courts to strike down legislation that is incompatible with any UNCRC requirements.

However, submissions to the committee raised concerns about the accessibility of the existing courts and tribunals service to children. Our report called on Scotland's top judge to reflect on that evidence and to provide an update on the progress being made towards developing a child-friendly court system in preparation for the new legislation. We look forward to receiving a

progress update that will inform the amending stages of the bill.

We made further recommendations aimed at improving access to justice for children and young people; for example, in relation to ensuring that judicial remedies for infringements of children's rights are effective in practice. Rosemary Agnew, the Scottish Public Services Ombudsman, considered it important that remedies should drive organisational change and, vitally, should consider what children might want as a remedy. We are pleased that the Scottish Government has agreed to amend the bill to require courts and tribunals to ask for the child's views on what would constitute an "effective remedy". The committee, however, asks the Scottish Government to reconsider its position on altering the definition of a remedy so that it is "just, effective and appropriate".

One of the bill's key operational mechanisms is the requirement on Scottish ministers to make a children's rights scheme to set out how they will comply with the duties in the UN convention. Many stakeholders argued that the scheme could be strengthened to include measures to support children with protected characteristics and those in vulnerable groups. Juliet Harris from Together Scotland referred us to our consultation events, as they showed that particular children struggle to access their rights, such as children whose first language is not English, those who might face food poverty or those who cannot go to school.

Oonagh Brown from the Scottish Commission for Learning Disability called on the scheme to refer to the UN Convention on the Rights of Persons with Disabilities, so that young people with learning disabilities, alongside those with other protected characteristics, see themselves in the bill. Otherwise, the bill might not be seen as being helpful to them in realising their human rights.

Further inclusions were called for: access to advocacy support, legal aid, human rights education and a child-friendly complaints mechanism. Each one is fundamental to ensuring that children's rights are made real in practice.

We welcome the Scottish Government's intention to strengthen the scheme by requiring ministers to include arrangements for child-friendly complaints mechanisms and ensuring effective access to justice for children and young people. It would be helpful if the Deputy First Minister could clarify whether those amendments will address concerns around protected characteristics and vulnerable groups.

I will finish with a quote from a young engagement participant from the Carers Trust Scotland, who said:

“The UNCRC needs to be ‘out there’ and be known. Unless it is known about it’s just ‘there’ We need a public conversation about UNCRC and young people in Scotland.”

That highlights the critical importance that implementation plays in the bill’s success. We must not just have the bill “there” or think that now that the UNCRC is being incorporated, that is all that we need to do. We need to make sure that the bill works to advance the culture change that we all want to see for our children and young people now and for future generations.

The Equalities and Human Rights Committee supports the general principles of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

16:13

Alexander Stewart (Mid Scotland and Fife) (Con): I am delighted to open on behalf of the Scottish Conservatives in this important stage 1 debate. I extend my thanks to the committee clerks and all those who provided extensive evidence on a complex subject.

We are nearing the end of a long journey, during which this matter has been debated at various stages in different parliamentary sessions at Holyrood. For the Scottish Conservatives, the journey has been a long one. Back in 2013, the then Education and Culture Committee was asked to provide evidence on the Children and Young People (Scotland) Bill. The Scottish Conservatives agreed, like other parties across the chamber, that we had an obligation to deliver better legislation and enhance the protection of young people. Members will know, however, that we did not agree to some of the final key provisions in that bill.

With regard to the initial discussions during evidence taking for stage 1 of that bill, when the incorporation of the UNCRC into Scots law was mooted, our concerns were largely due to some issues about how the provision would be implemented. For example, we raised concerns about the fact that on certain points of law in relation to the possibility of the incorporation of the UNCRC into Scots law, there were differences of opinion between the Scottish Government advice and the legal profession, and between the Scottish Government and the then Scotland’s Commissioner for Children and Young People.

Members present at that time know that the Government, in citing its own concerns, quoted Professor Kenneth Norrie, who said:

“to incorporate the convention into the domestic legal system of Scotland would be bad policy, bad practice and bad law.”—[*Official Report, Education and Culture Committee*, 3 September 2013; c 2682.]

We have moved a long way during the past seven years.

Although the Equalities and Human Rights Committee’s stage 1 report is unanimous in its recommendations as to why the principles in the bill are the right ones, I want to address some practical issues that were identified in it.

What is needed to be put in place to ensure that we have good law? I remind members that legislation, if it is to be defined as good law, depends on whether it has clarity of purpose, whether it can be understood in simple language, whether it has a strong evidence base, whether it is workable and whether it is accepted by the public at large.

With those criteria in mind, I think that that last aspect is a given, namely because the public, and the clear majority of key stakeholders, want to see the bill passed, as they recognise that the enhancement of the protection of young people is vital.

However, there are some hurdles that require to be overcome before the bill becomes good law. That will require amendments at stages 2 and 3. In its briefing note, Families Outside spoke about the need for amendments in order to strengthen many areas, including access to free legal advice; improving data collection and supporting monitoring and evaluation; training for ministers, civil servants and politicians to ensure a better understanding; and promoting best practice for children’s rights. All those suggestions have merit, and amendments on them may well be lodged at stage 2.

The Scottish Prison Service and the Scottish Courts and Tribunals Service may well need to be included in the public bodies listed in section 16 of the bill, given their role in helping to secure the rights of children.

As a member of the Equalities and Human Rights Committee, I am most grateful for the support that we received from individuals and groups that would benefit from the bill when we were gathering evidence. Extensive work was done to ensure that we captured the views of many organisations, groups and individuals. The evidence from the children and young people’s groups, human rights experts, public authorities and members of the legal profession showed considerable support for the changes to legislation and strengthening of children’s rights.

As a committee, we believe that, on balance, the approach in the bill is appropriate. However, some people want to raise issues, such as the potential risk of incorporation being seen as achieving the minimum of UNCRC standards.

Part 3 of the bill covers the children's rights scheme. Several of those who responded to the calls for evidence, and some of the people who gave oral evidence, spoke about the safeguards and the language in section 11(3), arguing that they needed to be strengthened. I heard the cabinet secretary say in his opening speech that that section needs to be strengthened, which is to be welcomed.

The bill states that the scheme "may" introduce certain arrangements around children's rights. Many stakeholders have called for that to be a requirement.

The scheme also mentions protected characteristics and vulnerable groups. The lack of access to advocacy, human rights education and a child-friendly complaints mechanism should be considered, as there are gaps in supporting children in the provisions.

There was strong support for section 40, which is on commencement. However, many witnesses and respondents to the call for evidence talked about the lack of a commencement date in the bill and the need for that date to be clear. We have heard today that the cabinet secretary is looking seriously at when commencement will take place.

It must be acknowledged that children and young people have been significantly impacted during the pandemic. Children must have their rights respected and fulfilled as a matter of urgency. Therefore, it is vital to ensure that a generation of children and young children do not suffer long-term impacts from the current crisis that they face.

The bill must have some content on raising awareness, and we must ensure that barriers to the good work that is being undertaken are removed. Indeed, much of that work has been achieved.

We in the Scottish Conservatives fully support the move to ensure protection for children and young people and to enhance their rights. There is no doubt, however, that the bill raises many questions, and we must all acknowledge that much progress will be required to achieve the bill's aims, through the stage 2 and stage 3 amendments that may well come forward—not least in relation to how the eventual legislation will work alongside the United Kingdom Human Rights Act 1998. We must recognise the various technical challenges that incorporating the UNCRC into domestic law may bring, with the potential for conflict caused by clashes between rights set in the reserved law and those within the UNCRC itself.

The bill must not result in endless clashes of legislation and long-lasting legal battles. That is not what we want to achieve; what we want to

achieve is support. We support the general principles of the bill, and we will lodge amendments at stages 2 and 3.

16:21

Mary Fee (West Scotland) (Lab): It is a privilege to speak in this stage 1 debate on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and to open for Scottish Labour. The significance of the proposed legislation cannot and should not be underestimated. It will have a life-changing and lifelong positive impact on all our children.

As a member of the Equalities and Human Rights Committee, I thank my fellow committee members for the consensual and productive way in which we have all approached the bill. I also take this opportunity to thank our clerks for their hard work and dedication. Given the slightly more rushed timetable than we normally expect, I am grateful for their tireless efforts to get us to this stage.

I also thank the various organisations and individuals who presented written and oral evidence to the committee. We cannot do our jobs without their valuable input, so their time and expertise are very much appreciated.

The bill represents a pivotal piece of legislation, which I fully support in principle. Any bill that we pass that makes our access to human rights more robust is one that we should all wholeheartedly support, no matter the party of which we are a member.

For me, one of the biggest takeaways from the evidence sessions is that here in Scotland we are so fortunate to have so many organisations looking out for the best interests of our children. That is what the bill seeks to achieve. Through strengthening access to children's rights, we are acting in their best interests.

Children in Scotland who are under the age of 16 cannot vote so, unlike the majority of the population, they have no choice in who represents them in Parliament. That is why it is our responsibility to be the best possible voice for our children. We must always seek to protect them, to improve their life chances and to ensure that they grow up in a safe and secure environment that will enable them to become citizens who live lives of fulfilment.

Every choice that we make in Parliament that directly impacts on a child's life must be taken that much more seriously. Incorporation into Scots law of the United Nations Convention on the Rights of the Child will give our children more power over their own lives—it will give them their own voice more.

There is an old saying that children should be seen and not heard. I disagree with that. When children are heard, we get to understand a different point of view. Sometimes we learn from children, rather than the other way around. If a child is in pain and we ignore that pain, that pain will not just go away; it will become chronic. When we respect and empower our children we can support them better and end any potential cycle of pain for them.

I thank the Deputy First Minister for attending the committee and for his comments on our stage 1 report. However, I have a couple of issues that I would like to raise. I think that we need an amendment to ensure that the definition of “public authority” is robust. An updated definition would make the bill stronger and ensure that there are no problems with clarity down the line. That should be a priority at stage 2, so I welcome the comments that the Deputy First Minister has already made in that regard.

I appreciate that the Scottish Government intends that commencement of the bill will happen as soon as possible, but we all have different interpretations of what that means. I therefore express my support for a specific commencement timetable being published. The bill is desperately needed, so it is crucial that we are all on the same page. A timetable would allow us to do our job and to hold the Government to account.

I would also like to make it clear that it is very important to ensure that children are made aware of what the bill will mean for them. Children will not use the tools that are available to them if they do not know how to use them. We know that some children will have more difficulty than others in accessing the information. That key issue was highlighted in evidence sessions.

Ample resources to reach children in marginalised communities are needed. Children who are part of the Gypsy Traveller community, children who are refugees and children who are affected by imprisonment are just a few of the groups that need those resources. Those are all groups of children who might face more discrimination than others, so it is vital that they understand how they can use their rights in practice.

In closing, I note that we know that this has been an incredibly tough year for children—from having their education interrupted to spending but little time with family and friends, and with the uncertainty of what the future holds for them. By passing the bill, we can give them back some certainty. We can give them empowerment over their own lives and we can ensure that they can always access their rights in a court of law. When we not only protect but respect our children, we give them room to flourish.

I look forward to listening to the contributions of members from across the chamber. I give my commitment and the commitment of the Scottish Labour Party to work, as the bill makes its way through Parliament, with the Deputy First Minister, colleagues from across the chamber and organisations that work daily to support and protect Scotland’s children.

I look forward to decision time, when Parliament will agree to pass the bill at stage 1.

16:28

Ross Greer (West Scotland) (Green): This is the first stage in a historic process for the Parliament and for Scotland’s young people. It is an important milestone in the wider efforts to codify international human rights treaties in our domestic law.

I would be remiss, as a former member of the Scottish Youth Parliament, if I did not start by congratulating the Scottish Youth Parliament for having brought us to this point. Without its work and that of the Children and Young People’s Commissioner Scotland and many others, this day would probably still be some way off.

The UN Convention on the Rights of the Child is a landmark document. It recognises that children in particular need strong rights protections that are tailored to their needs and which are, critically, accessible to them. What value are rights if children cannot exercise them?

The UNCRC incorporates civil and social rights together in one document, thereby recognising that those rights are interlinked and that children’s wellbeing cannot be assured without both sets of rights. After all, how useful are civil freedoms when one is starving or being denied healthcare? Too often, when poverty and inequality are widespread, civil rights are exercisable only by those in society who are already privileged—those whose economic needs are already being met.

Historically, many treaties have separated civil and social rights in different documents. An obvious example of that is the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Another example is the European convention on human rights and the European Social Charter. Separation of those rights has tended to undermine the legal protection of social rights in particular. Debates continue about the justiciability of social rights because they lack the history of court enforcement that characterises the development of civil and political rights.

The move towards neoliberalism and austerity economics, especially in the past decade, has seen social rights in the United Kingdom being

attacked and undermined. Across the world, there are many constitutional orders that include social rights and afford them some level of protection. Unfortunately, that is not the case here, which is one reason why our integration into Scots law of the United Nations Convention on the Rights of the Child is so significant. We have seen the economic and social rights of children being violated, as successive UK Governments have, for example, cut services and social security provisions, and introduced expanded conditionality to the welfare system. When cuts have been criticised by UN rights experts, the UK's Conservative Government has, disgracefully, attacked those experts.

By placing civil and social rights side by side, the UNCRC seeks to ensure a holistic approach that upholds the wellbeing of children. By transposing the convention directly into our domestic law, the bill will open the possibility of legal enforceability of the social rights that are contained in the convention. It is truly hard to overstate how significant that development could prove to be. The social rights of children and young people are critical, but we have seen how easily they can be cast aside without legal enforcement.

In addition to the prospect of legal enforcement, the bill will introduce other ways to protect and uphold rights. It will introduce a children's rights scheme that is designed to ensure that children can participate in decision making that affects them, and it will place a duty on public authorities to act in a manner that is compatible with the convention. Those, too, are welcome steps forward. From my involvement in establishing East Dunbartonshire's youth council, I can think of a number of examples in which such a duty having been placed on the local authority would likely have led to different outcomes.

There are certainly areas in which the Government could go further. The Scottish Youth Parliament has called for the children's rights scheme to be made stronger—in particular, in relation to support for vulnerable children. The Scottish Youth Parliament has also called for the definition of "public authorities" to be expanded to include private companies that deliver public services. The Greens are happy to support those calls, and I welcome the cabinet secretary's commitment in his opening speech to strengthening the latter provision.

One issue of enforcement about which there has been significant debate is whether Parliament can, in essence, bind its future self by striking down new legislation that is incompatible with the rights of children. That was considered by the Equalities and Human Rights Committee. I appreciate its work on that and the valuable

inclusion of the issue in its report. Several academics have provided particularly useful supplementary evidence.

Constitutional protections that override primary legislation are a central feature of most constitutional orders, but it is a feature that is alien to a UK that is instead—to our detriment, I think—based wholly on the principle of parliamentary sovereignty, and whose constitution is muddled, to say the least. The Scottish Government has opted for a system of declaration of incompatibility for future legislation, believing that powers to strike down future legislation go beyond the competence of Parliament. However, that view has been challenged by academic experts.

I would like a more substantial response from the Government. In particular, I encourage the Government to take up Dr Boyle's recommendation to seek views from a broad range of experts in constitutional law. With our being so close to dissolution, there is a danger that the rush to ensure that the bill is passed on time will result in significant issues being underexplored. That should not be the case with a bill that is of such constitutional significance.

Although all those matters are of immense importance, they are also unavoidably a bit dry and abstract. That happens with constitutional law, sometimes. I do not want to lose sight of the fact that the bill will, for a long time to come, have a transformative effect on the lives of children and young people in Scotland. It will be part of the legacy that every one of us in Parliament leaves, and it will benefit our most vulnerable young people especially. I was struck by the comments that the committee convener, Ruth Maguire, read out, which came from young refugees in Scotland.

It is for all those reasons that the Greens are, of course, happy to support the bill at stage 1.

16:34

Alex Cole-Hamilton (Edinburgh Western) (LD): I thank the Equalities and Human Rights Committee's clerks, and I thank the witnesses—in particular, the children and young people who gave us very full evidence during our consideration. I also pay tribute to two old colleagues of mine: Juliet Harris, who is the director of Together, the Scottish Alliance for Children's Rights; and Bruce Adamson, who is the Children and Young People's Commissioner Scotland. They are long-standing friends who have fought tooth and nail to get us to this point, so it is to their credit that we are here.

I also want to do something uncharacteristic, which is to congratulate the Government heartily on an excellent piece of proposed legislation. It has surpassed my expectations and those of

many people in the sector, which is to the Government's credit.

For me, today in many ways represents the penultimate step towards the realisation of a goal that I have been striving for all my adult life—as a youth worker, as an officer in a children's charity and as chair of the Scottish Alliance for Children's Rights. Indeed, more than seven years ago, I gave evidence to the Education and Culture Committee on behalf of the children's voluntary sector. I was the opening witness in stage 1 consideration of the Children and Young People (Scotland) Bill in 2013, and I might well have been the first person to articulate the desire to incorporate the UNCRC into Scots law. I said:

"we want ... what you want, which is to create a Scotland that is the best place in the world to grow up in."

By "you", I meant the Government. I went on to say:

"For us, the most elegant roadmap to that, and the most elegant solution against the international standard, is to incorporate the United Nations Convention on the Rights of the Child into Scots law. Until we do something like that, or we build the provisions into the way in which we make policy, we will forever be behind those countries that have already incorporated the UNCRC".—[*Official Report, Education and Culture Committee*, 10 September 2013; c 2715.]

Today, we are a step closer to that end, and I am heartily proud of that.

In the bill, we are recasting how we organise the conduct of human affairs in this country in a way that will put children and their interests at the heart of everything that we do. I congratulate the Government on that. However, the bill will serve the children whom it is designed to serve only if it is a living, breathing document that we come back to, refer to and remind ourselves of time and again.

We would do well to remind ourselves that the UNCRC is only the foundation on which rights are built—as the international community has determined, it represents the de minimis position—and is part of a much wider ecosystem that is updated every year. Therefore, I heartily agree with the Equalities and Human Rights Committee's recommendation that courts and tribunals must pay heed to things such as optional protocols, general comments and concluding observations. So, too, must the Government in its application of the convention.

The cabinet secretary was kind enough to take my intervention about the age of criminal responsibility. I think that he rather suspected what was coming. In general comment 10 it is stated that the international belief of the United Nations Committee on the Rights of the Child is that no country can be observant of human rights if it has an age of criminal responsibility that is not higher

than 14. Ours remains 12—in fact, we have not even achieved an age of criminal responsibility of 12, so I hope very much that we can improve on that.

The committee also believes that public authorities must, as they make policy, exhibit due regard for children's rights, in addition to acting compatibly with the UNCRC. That means that public bodies and authorities must bake children's rights into policy from inception, rather than just thinking about them in the latter stages and merely checking policy against a children's rights impact assessment. Children's rights should be at the heart and in the fabric of everything that we decide to do.

The bill will be as good only as the justice that is afforded to the children who seek it. At the moment, navigation of our justice system is, for the very young, an incredibly intimidating prospect. That is why the Equalities and Human Rights Committee has called on the Lord President, Lord Carloway, to look at reform of the criminal justice system to make courts child friendly or, at least, to make access to justice more child friendly. It has also asked the Government to consider the implications for legal aid, so that no child is prohibited from reaching out for justice on the ground of cost.

Improvement of the remedy does not stop at providing access to the courts; it involves hearing the views of children about what would make their journey better and what would right the wrong that they have experienced. Our hearing the voice of children should be at the heart of every remedy that we offer them.

On reporting, ministers must make the legislation a live document, so it is good that they have committed to coming back to Parliament to report on evidence of rights transgression in our communities and our public bodies. However, they should also say what action they intend to take on deficiencies that they identify.

Finally, it is important that ministers do not have an option in relation to child rights and wellbeing impact assessments: those should be done for every policy. It is easy to think that certain aspects of our legislation are not relevant to children, but children are stakeholders in our community. We are custodians of their future, so we should think about that for every piece of legislation that we deal with.

Finally finally, we have covered several times the issue of commencement, on which I intend to lodge an amendment at stage 2. A bill is only window dressing unless it becomes an act and is delivered on the ground. I am concerned that the Age of Criminal Responsibility (Scotland) Act 2019, which we passed two years ago, has still not

commenced. Rights will be made real only once they are real on the ground. Therefore, I ask the cabinet secretary to meet me to consider my suggested amendment to commence the act six months after its receipt of royal assent.

This is a great day for Scotland. I will close with the words of Nelson Mandela, who said that

“there can be no keener revelation of a society’s soul than the way in which it treats our children.”

The Deputy Presiding Officer (Christine Grahame): I was somewhat amused by your “Finally finally”, which a few members use.

16:40

Gillian Martin (Aberdeenshire East) (SNP): I will talk about the outreach that the committee did on the bill. It is important to stress how valuable and comprehensive it was, and to commend the children and young people who took part. Their insights, sharing of first-hand experience, and sheer enthusiasm for the legislation were really quite something.

It is clear that the UN Convention on the Rights of the Child means an awful lot to the young people in Scotland. Over a month, we had eight planned sessions with children and young people, as well as our public committee meetings with stakeholders. We had sessions with children and young people of all ages, young people with disabilities, care-experienced children and young people, asylum-seeking children, and young people who have been the victims of trafficking. We heard from young people with experience of the justice system, and from children of different ethnicities, as well as our new young Scots who are coming to us from countries across the world.

I was particularly struck by the strength of feeling on the UNCRC and children’s rights from looked-after children and care-experienced young adults. They are young people who have felt in the past that their rights were not being communicated to them or addressed, particularly with regard to seeing their families and being involved in shaping decisions around their future. Many times, we heard that the UNCRC rights should be built into, and be apparent in, the everyday practices of the institutions and services that those children and young people interact with, as well as the people with whom they come into contact. The guidance that is delivered as part of the legislation will be just as important as the wording of the bill.

In private session with a wide range of children and young people, we heard some compelling evidence on how their views should be at the centre of decisions that are made about them. Actually, to be blunt about it, decisions should not be made about them, but with them, and our recommendations strongly reflect that. Much of

our stakeholder evidence and submissions for our public sessions centred around that issue, too. Many stakeholders called on the children’s rights scheme to

“include a specific requirement on Scottish Ministers to report on topics relating to access to justice, including ... avenues of redress when things go wrong ... support for children with protected characteristics or vulnerabilities”

and “child-friendly complaints procedures”, and to include the right to “advocacy services” and “legal aid”.

Josh Kennedy of the Scottish Youth Parliament said that child rights and wellbeing impact assessments

“should be published in a child-friendly format”,

and that children’s participation in decision making should be mandatory. I agree with him.

Another thing that young people were particularly clear on was that children should know their rights, and that, as the UNCRC is incorporated into law, more work should be done to ensure that education on those rights is done throughout childhood. That view was particularly clear in the sessions that we had with children who had experienced the justice system and the care system. In any given situation, their clear understanding of their rights should be ensured. A young person with experience in the justice system told us that

“A lot of professionals automatically assume as young people with lived experience we know about our rights when we don’t.”

It is one thing to have rights enshrined in law, but it is quite another to have those rights proactively and appropriately communicated by professionals to children in a range of settings.

That leads on to more general issues of education on children’s rights. It is true that a lot of those will not necessarily fit into, or be appropriate to, the bill; however, I was pleased to hear that the Deputy First Minister was mindful of the importance of rights education, not just for children but for the professionals who come into contact with children and young people.

I am pleased to say that there is also a child-friendly version of our stage 1 report, which practises what we preach. We feel that child-friendly communication from all public bodies that interact with or make decisions that affect children should involve documentation and materials that are easily read and understood by children. We also recommended that those should be in a range of languages.

The convener and I spent a great Saturday morning with Licketyspit theatre company, which works with young children across communities in Glasgow. In spending time with it—for some of

which I had a toy caterpillar on my head—and taking part in its games and songs about children’s rights, it was clear to me that even the youngest children can get a handle on their rights if the communication is appropriate. It also helps if it is fun, which that morning definitely was.

I close by thanking the committee clerks and the outreach team. The work that they put in to gather children’s views was absolutely outstanding. It is on the outreach and evidence gathering that the report’s recommendations—and, ultimately, the success of the bill—will stand. It is already a great bill, and I am proud that Scotland is playing its part in fully realising children’s rights. The testimony of children in our scrutiny, and the Deputy First Minister’s clear and compassionate acknowledgement of what they have said, are set to make it even better.

16:46

Jamie Greene (West Scotland) (Con): For the avoidance of doubt, I start by saying that Scottish Conservative members support the bill in principle. If we voice technical concerns, that is a reasonable approach; it does not mean that we do not share the ambitions of the members of the committee or of the stage 1 report.

I thank the members of the Equalities and Human Rights Committee, its convener, its clerks, and those who co-ordinated the committee’s work during what was a very difficult time for pulling together its stage 1 activity, as I know that that is not easy. I was briefly a member of that committee, and I know that its members—including Alex Cole-Hamilton and Mary Fee, who have spoken—are so passionate about the topic. I also know that a tremendous amount of stakeholder engagement took place in difficult circumstances.

When the bill was introduced in Parliament and the Cabinet Secretary for Education and Skills made a statement, I pledged that Conservative members would support measures that enhanced the rights of children both in our domestic law and in international conventions. That remains the case. However, the bill has been a long journey because, despite the convention’s having been agreed to in 1989, it has not been widely implemented, nor, I think, often understood. Scotland will be among the first countries in the world to implement it.

UNICEF has pointed out why the bill is so important and why such conventions are so relevant in today’s world. I quote:

“Millions of children continue to suffer violations of their rights when they are denied adequate health care, nutrition, education and protection from violence. Childhoods continue to be cut short”.

I think that we have made progress, both domestically and internationally, over the past 30 years, but surely what has happened in the past 12 months has only added to those pressures. Coronavirus has served to magnify many of those challenges, not just in Scotland, but throughout the world. I quote again from UNICEF:

“Children are not the face of this pandemic. But they risk” becoming “its biggest victims”, because “for some children, the impact will be lifelong.”

Here in Scotland, we know that Covid is exacerbating challenges that children face in our most disadvantaged communities and in households with less income. They have inevitably suffered through school closures, household job losses, exposure to substance abuses in their houses, domestic violence, and that lack of physical daily interaction and intervention from teachers who are trying their best, but who cannot protect every child in every household all the time.

I know that members’ inboxes will have been filled up over these past few months with a range of views on lockdown measures, restrictions and closures, and on the very issue of what state intervention is and what our rights and freedoms normally are—especially the rights of young people to an education, to social interaction, to exercise and to sport. I argue that we do not always need legislation or philosophical debates on rights in order to improve people’s quality of life or make good existing deficiencies in their rights.

Solutions in that regard often lie at the door of Governments. On the attainment gap, housing quality, the quality of the school estate, training and employment opportunities, the funding of outdoor learning and sport, meaningful LGBTI-inclusive education and young people’s experiences in care and interactions with the justice system, the Government has control over levers that could improve outcomes for young people in Scotland.

That said, incorporation of the UNCRC is a powerful method of putting those rights into law. Queen’s University Belfast found that incorporation “had significant effect” in the places where it happened.

The convention contains a number of obligatory and optional protocols to be considered by those who ratify it. They are wide ranging and their introduction is no mean task for a Government. Conservative members stand ready to work with the Government and the other parties to ensure that we enhance children’s rights in Scots law.

However, we must make good law. There are outstanding questions about whether and how the bill might conflict with other human rights legislation, as Alexander Stewart said. Will it

interact and conflict with the Human Rights Act 1998 or the provisions in the European convention on human rights? If there is a conflict, which provisions will take precedence? Who will decide that? What assessment has been made of any interplay in the bill between devolved and reserved matters? How will such issues be dealt with on the least political basis possible? If there are changes to relevant United Nations conventions after the bill is passed, what effect will they have on Scots law? How will we keep pace? Is keeping pace necessarily a good policy if we do not know what changes will be made? Measures and mechanisms must be put in place to deal with conflicts quickly and easily.

I am aware of the time constraints, but it would be remiss of us to talk about young people's rights without reflecting on the views of the Scottish Youth Parliament, which has been engaging with members of all parties. It supports the bill and has made a number of asks that I promised to mention in the debate. I know that at stage 2 the committee will, in good faith, consider the voices of young people.

I have talked about our technical issues with the bill, but it is not all doom and gloom; I take the cabinet secretary at his word when he says that he will approach stage 2 constructively, as will we. However, I am nervous, because—and this is my only reservation—we are trying to cram seven long years of hard work into seven short, frantic weeks, ahead of an election and in the middle of a pandemic. The work will progress at pace; it must also do so precisely. I am told by members who have been here much longer than I have that this Parliament has a habit of rushing through bad law in the closing days of a session—[*Interruption.*]

The Deputy Presiding Officer: Mr Greene must close, so he cannot take an intervention.

Jamie Greene: Given the genuine cross-party ambition to improve outcomes for all young Scots, let the bill not become one of those bad laws.

16:52

Fulton MacGregor (Coatbridge and Chryston) (SNP): It gives me great pleasure to speak in today's historic debate. We often use the word "historic" in this Parliament, but we rarely use it as appropriately as we do today. I hope that at decision time we will come one crucial step closer to passing a groundbreaking bill that has the potential to improve the lives and life chances of Scotland's children and young people.

Until the festive recess, I was a member of the Equalities and Human Rights Committee, which had the privilege of taking the bill through stage 1 and gathering evidence. I was initially disappointed to leave the committee, and it is fair

to say that it was a great honour to have been involved in the progress of the bill so far. I will stay involved throughout the remaining stages.

I thank all members of the committee and the clerks for their scrutiny of the bill. We had really good evidence sessions from stakeholder groups and we held a huge number of outreach events so that we could engage directly with young people, to inform our stage 1 report, as the convener said—she will probably not mention this herself, so let me say that I think that she went to every single outreach event.

If anyone needs more convincing of the historic nature of the bill, they should take a look at the letter and briefing from the Together Scotland alliance of more than 50 organisations that work day in, day out with children and young people and have fought for a long time for the incorporation of the UNCRC into Scots law.

By incorporating the UNCRC into Scots law, we will build children's rights into the fabric of decision making in Scotland. The bill will revolutionise the way in which we listen to children and take their rights into account. It will mean that children and young people are involved in the decisions that affect their lives, and that children's rights are always respected, protected and fulfilled by public authorities, which will be under a statutory duty to do so. The bill ultimately shifts the balance of power and allows our children to use the courts to enforce their rights when they are not upheld.

I welcome the Scottish Government's response to the stage 1 debate. It is fair to say, as Jamie Greene did, that there were few areas of disagreement. There was greater scrutiny of the more technical points; perhaps, in the committee's view, that scrutiny strengthened the bill. One area where I welcome the Scottish Government's response is in relation to the children's rights scheme, which the committee heard a lot of support for during its evidence gathering. The committee asked the Scottish Government to strengthen section 11(3) by amending "may" to "must"; I am pleased that that has been agreed to. I am also pleased that the Scottish Government will introduce an amendment to strengthen the scheme by requiring ministers to include arrangements in respect of child-friendly complaints mechanisms and ensuring effective access to justice for children and young people.

Those changes, among others, particularly in section 11, are important to ensure that those who deal with children do so in a child-friendly manner and that children who may not normally engage with the process—the so-called hard-to-reach children, for want of a better term—are given the opportunities that others are given. We heard a lot in our outreach sessions about how important it is that all children and young people, from a variety

of backgrounds and communities, feel included. I pay tribute to Mary Fee, who talked about the Gypsy Traveller community as an example of that.

There are areas in which there is scope for further amendments—mostly of a technical nature—at stage 2. One such area, in which there will perhaps be a bit more debate, is the commencement provision, which other members have mentioned. Together and the 50 or so children's organisations are calling for commencement within six months of royal assent, citing Covid-19 and Brexit as factors. At this stage, I would tend to agree—I know that the cabinet secretary is still considering it. The pandemic is placing pressure like never before on our statutory bodies, but that is heavily and significantly outweighed by the impact that it has had on children's rights. With school necessarily disrupted on public health grounds, restrictions on when children can see relatives and friends, children's futures in doubt and their health needs impacted, it has never been more vital that children's rights are upheld and protected with every measure possible. The pandemic has also laid bare the inequalities that exist—a point that was well made by Social Work Scotland in its submission.

On top of that, children in Scotland are faced with Brexit—again, it is not of their own doing and, in this case, is something that the adults who care for them and had the right to vote did not even vote for. It is shameful that children's rights have been walked all over in that regard. Given the double whammy of Covid and Brexit, Scottish children's rights should get additional protection as quickly as possible.

Overall, this is a significant and historic bill which, assuming that it is passed, may well be one of the most important laws that is passed by this Parliament. Organisations and political parties are largely united about Scotland becoming the first country in the UK to incorporate the UNCRC into law.

I finish by paying tribute to my constituent Ryan McShane, who many members, including the Deputy First Minister, know. As a care-experienced young person and advocate of children's rights, this will be an important day for him, and he can be very proud. I would like it placed on record here in our Parliament that I am grateful for his input on the bill to the committee and directly to me as his MSP. Ryan's input, experience and insights, and those of all the young people who were engaged in the process, have been invaluable and much appreciated, so I thank them.

I urge Parliament to vote for the principles of the bill at stage 1.

16:59

Elaine Smith (Central Scotland) (Lab): I welcome the Equalities and Human Rights Committee's support for the incorporation of UNCRC into Scots law, which is long overdue, and its work on the stage 1 report. I also congratulate and thank the children and young people, and all the campaigners, who have worked tirelessly to arrive at a point where children's rights will be enforced instead of being an option.

Presiding Officer, you may recall that my first members' business debate, on 3 February 2000, was about the UNCRC and the work being done by statutory and voluntary bodies at national and local levels to uphold the UN convention. I focused at the time on the child's right to play. I also called for full implementation of the statutory role of the children's commissioner to be introduced in Scotland, and I am glad that we now have that.

In that speech I highlighted a local project in Kirkshaws, Coatbridge, where parents, mainly women, worked against the odds to transform a local derelict site into a multipurpose play area suitable for all from toddlers to teenagers. Their motivation was the apparent connection at that time between the lack of facilities for play and leisure in Kirkshaws and young people becoming involved at an early age with alcohol, drugs and vandalism. I am happy to say that the project, Parent Action for Safe Play, has been positive for many children and young people over the years; such a project shows what respecting the rights of children looks like in practice when the abstract legal position may seem more difficult to grasp.

The right to play and have safe places to play is one of the many children's rights that have been seriously affected by the current pandemic. Access to something as fundamental as fresh air and a small piece of open space has been denied to many children, particularly those living in poverty. During the pandemic, vulnerable children have been included with the children of key workers among those who can still attend school, but to fulfil our obligations to those children, we need to identify that they are actually attending. I know that NSPCC Scotland is concerned that, given the low attendance by vulnerable children last lockdown, there will be a similar pattern this time.

The Scottish Government's report in April recognised that the number of vulnerable children will increase because of the additional pressures that are being placed on families and communities by the Covid-19 pandemic. I hope that the Government is doing its best to standardise how schools encourage vulnerable children to attend and to contact children and families when they are not attending. Vulnerable children must be visible in the data to ensure that families who are

struggling can access the help that they need. Eradicating poverty is key to children's rights but the soaring levels of poverty coupled with the ending of the £20 increase in universal credit will drive more families into poverty.

The ethos running through the UN convention is that of provision, protection and participation. The three key principles that should be applied through Scottish law and policy are those of non-discrimination, the child's best interests being a primary consideration in all actions concerning children and the child's view being given due weight. As I said in that first debate more than 20 years ago, mindsets need to change and the mainstreaming of the interests of children must become second nature. The pandemic has shone a light on all inequalities and the incorporation of the UNCRC into law will ensure that authorities have to take it into account when developing policy, not only in response to an emergency but at all times.

Fundamental to respecting the rights of children is understanding that some groups of children find it harder than others to have their voices heard, which some members have already mentioned—in particular, children who are looked after in a variety of situations by local authorities, those with disabilities, those living in poverty and those whose parents have no recourse to public funds.

Another area where we can show our commitment to children's rights is in the provision of meals to children out of school, the nutritional standard of those meals and whether it is better to give parents cash payments. We are talking about the most fundamental right for children not to suffer hunger, which is why my proposed right to food (Scotland) bill is very much part of the debate on how we treat children. My previous member's bill, which became the Breastfeeding etc (Scotland) Act 2005 was also focused on children's rights and was aimed at protecting the child's right to be breastfed in public.

The Scottish Human Rights Commission has stated that

"Incorporating international human rights treaties into domestic law is a critical component of securing their realisation."

I note that the committee has responded to the requests from many stakeholders including Together Scotland to amend the commencement provision at stage 2 to ensure that the bill commences six months after royal assent, and I note the cabinet secretary's comments on that. I hope that sufficient help will be given to public authorities to prepare for that and that the Government agrees to look into it, as outlined at the start of the debate by John Swinney.

The financial memorandum focuses on the costs of awareness raising about rights, but I am not convinced that it fully addresses the situation that our councils find themselves in. We know that they are struggling to deliver an ever-increasing number of services that the Scottish Government has passed on without sufficient funding.

From nurseries and schools to decent housing, reliable and preferably free broadband, suitable devices for study and the space and opportunity to play, we need to commit to what incorporation will look like in practice. We need the political will, together with the essential funding, to ensure that Scotland truly becomes a world leader in protecting the rights of children and young people.

17:05

Rona Mackay (Strathkelvin and Bearsden) (SNP): The bill that we are debating is crucial to our nation's future and I will be delighted to agree to its general principles at decision time—in fact, to quote the cabinet secretary, that will be a joy. The bill is crucial because it underlines the commitment of the Scottish Government and the Parliament to giving children a voice and respecting their rights.

Children are Scotland's future. I could not be prouder that Scotland is set to become the first country in the UK to directly incorporate into domestic law the UN Convention on the Rights of the Child. I congratulate the Equalities and Human Rights Committee on all its hard work on the bill.

By implementing the convention to the maximum extent that is possible under the Parliament's current powers, we will build children's rights into the fabric of decision making, which is entirely as it should be. It is crucial that the bill also allows for incorporation of the UNCRC articles that currently go beyond the Parliament's powers, if the powers change in the future. The bill will deliver a proactive culture of everyday accountability for children's rights across public services.

Since I was elected in 2016, four acts have stood out for me above all the other important acts that we have passed—the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019, the Domestic Abuse (Scotland) Act 2018, the Children (Scotland) Act 2020 and John Finnie's Children (Equal Protection from Assault) (Scotland) Act 2019. Those acts lay the foundation for a systemic shift in the emphasis on children's rights—from a society in which children have traditionally not been consulted on a host of issues to one in which they are listened to and respected.

The bill is a significant step towards a future that is based on tolerance, equality, shared values and respect for the worth and human dignity of all

people, whatever their age. It is one of the most significant pieces of legislation since devolution to help all children to reach their potential. It will include rights on health and education; disabled children's rights; rights on leisure and play, fair and equal treatment and protection from exploitation; and the right to be heard. Those rights will apply to every child and young person, whatever their ethnicity, sex, religion, language, ability or other status is, whatever they think or say and whatever their family background is.

The bill will mean that children and young people are involved in the decisions that affect their lives and that children's rights are always respected, protected and fulfilled by public authorities. Public authorities, including the Scottish ministers, will be under a statutory duty not to act incompatibly with the UNCRC's requirements, as set out in the bill. If authorities act incompatibly, children, young people and their representatives will be able to use the courts to enforce children's rights. That will deliver a proactive culture of everyday accountability for children.

In a private evidence session on the Children (Scotland) Bill, the Justice Committee heard from young people from Yello!, which is the young expert group for the improving justice in child contact cases project, who were supported by Scottish Women's Aid and advocacy workers. All had experienced a fraught journey through the justice system. Their evidence was intensely moving and compelling, and their bravery and honesty were awesome.

The young people spoke about their experiences of being victims of domestic abuse and pawns in horrible adult mind games; about their feeling of not being listened to and not feeling safe; about no one asking what they wanted when they were in court; about being invisible; and about being made to have contact with someone whom they did not feel safe with. In short, adults made decisions for them without consulting them. On the day when we heard that evidence, the young people from Yello! were the adults in the room, and they made the Children (Scotland) Bill their bill, as it should be. I was delighted to hear about the child-friendly report that the Equalities and Human Rights Committee produced.

Care-experienced young people also contributed much to the Children (Scotland) Bill with their powerful evidence. That is why I am so pleased that the UN Convention on the Rights of the Child (Incorporation) (Scotland) Bill will put power in the hands of children and young people and will reaffirm our commitment to making Scotland the best place in the world to grow up in.

It is clear from the responses to the Scottish Government's consultation that there is

widespread support for directly and fully incorporating all the rights that the convention sets out. Many organisations have expressed a wish for the bill to come into force without delay; I, too, wish for that, and I am pleased that the Government will consider that at stage 2.

I am also pleased that the committee's recommendation to change the wording in section 11 from "may" to "must" has been agreed by the Government.

Bruce Adamson, the Children and Young People's Commissioner Scotland, said:

"The bill is really strong. It builds on an understood framework that we already know through the Human Rights Act 1998 and, importantly, it strengthens it."—[*Official Report, Equalities and Human Rights Committee*, 19 November 2020; c 2.]

The bill contains specific measures to remove barriers that children and young people may face in realising their rights and accessing justice. Those provisions include giving the Children and Young People's Commissioner Scotland the power to raise claims in the public interest.

Juliet Harris, of Together, the Scottish Alliance for Children's Rights, said:

"the process of incorporation brings about a culture change in which children and young people are better recognised as rights holders".—[*Official Report, Equalities and Human Rights Committee*, 26 November 2020; c 2.]

A former member of the Scottish Youth Parliament for LGBT Youth Scotland, said:

"It is easier to look at a written document that says that these are the things I should have, rather than kind of guessing what you think you should have. This is empowering for me as a young person."

The bill will require that ministers publish a children's rights scheme setting out the arrangements that the Government intends to put in place to fulfil the duty to act compatibly with the incorporated UNCRC rights and obligations. The Government and public authorities will also be required to report on steps that they have taken to be compatible with the incorporated rights and obligations.

In conclusion, the bill is a game changer for children and young people. It is a milestone for Scotland. I will be very proud to support its general principles at decision time.

17:11

Alison Harris (Central Scotland) (Con): As a member of the Equalities and Human Rights Committee, I am pleased to speak about children's rights today. I hope that we are able to do the issue justice in progressing the bill over the few weeks that we have left in this parliamentary session. It appears that there is broad agreement

across all parties that the issue of children's rights should be absolutely paramount. That sentiment is supported by Scotland's major public sector bodies, too.

It is imperative that Scotland catches up with the other countries that have successfully implemented such legislation. The evidence is clear. A study commissioned by UNICEF found that in every country where it has been brought in it has had a significantly positive impact. The report states:

"Successful CRC implementation is key to the realisation of children's rights ... where this has happened, it has had significant effect."

We want it to have that impact here, too. That is what our young people need.

From speaking to young people who would benefit most from the legislation, some things are abundantly clear. First, it cannot simply be another paper commitment. The content of the bill must become a reality for young people in Scotland—it must not be just the usual warm words. Young people need the Government to put someone by their side to protect their rights. Many of the provisions in the bill should make that happen. It is vital that vulnerable young people know that we are on their side.

Although it is impossible to disagree with the aim of strengthening children's rights, the Equalities and Human Rights Committee received several submissions that raised potential technical problems and unintended consequences. Although we accept and support the basic principles set out in the bill, there is no getting away from the fact that there is potential for problems. For example, there was concern that only public bodies would be covered by the legislation. That does not take into account private companies that operate contracts on behalf of the public sector—for example, a firm that looks after severely disabled children as part of a local authority arrangement.

We also heard from those who were worried about some vulnerable young people who may reach the age of 18 and effectively become age-barred from support. The bill should create the potential to ensure that people are not allowed to disappear from the radar. The transition into adulthood for those young people and their families can be the most challenging times of their lives.

Some witnesses spoke of the time limits and their fears that a person may want to take retrospective action later in life when they realise that their rights were infringed when they were a child or find that they are finally able to confront the fact that their rights were infringed.

We must also think about the finances. There is no point in passing legislation such as the bill if the resources to support it are not put in place. It is imperative that we are up front and honest about costs. It would be damaging if the initial costs of the bill were set out, only for them to significantly increase over time because of add-ons.

The public expect the state to invest in such bills, but they also expect their money to be used wisely and to be shown the benefit of financial commitments. The Faculty of Advocates has already raised concerns that the £2 million that has been mentioned is not a realistic figure. It pointed out to MSPs that

"the financial consequences are potentially very significant and likely to be underestimated in the Financial Memorandum."

In addition, concern was expressed in the committee's report that the Scottish Government has not yet given a timeframe for when the bill will come into effect. Timing is important, and it cuts both ways. When the bill is finally passed by Parliament, the Government has a duty to get moving and implement the principles that are voted for, but the process cannot be rushed. I am very concerned that we are only a couple of months from the end of the parliamentary session, yet this enormous bill still has to clear notable stages. If we hurry the bill through and make bad law, the consequences for young people could be severe and could leave us all in a worse situation than we are in currently.

As well as the shortness of time, we have to bear in mind how much parliamentary business is dominated by Covid-19. The pandemic is not only limiting the number of days that we meet; it also dominates the agenda when we are here. That is, of course, understandable, but it adds pressure to an already tight timeframe.

Rarely have children's rights been put under more pressure than they have been during the coronavirus crisis. Whether it is through schools closing, exams being cancelled or the loss of social opportunities that generations before them got to enjoy, the odds are stacked against vulnerable children in Scotland. It is not a case of making sure that children know their rights but of adults and public organisations taking responsibility for those rights.

The Scottish Conservatives will vote for the general principles of the bill, and we will scrutinise any aspects of it that need to be further strengthened as it progresses through stages 2 and 3.

The Deputy Presiding Officer: We move to closing speeches. Mr Gray, you will need to put your card in for anything worth while to happen. After all this time—it is so easily done.

17:17

Iain Gray (East Lothian) (Lab): I am delighted to find myself closing the debate for the Labour Party, because incorporation of the UNCRC into Scots law is a policy that we have long supported and believe to be overdue. Looking back, I saw that Kezia Dugdale was pressing for it 10 years ago, when I was her leader, and it also featured in our manifesto for the last Scottish Parliament elections. I am therefore delighted that the Government has introduced the bill and that it has support across the chamber.

Support for incorporation has also grown outside Parliament over the years, especially in Scotland's youth and third sectors, which include the very organisations that understand the real impact that incorporation into Scots law will have on the lives of our young people.

Several members have referred to Together, the Scottish Alliance for Children's Rights. It is an unprecedented alliance of 50 member organisations that welcome the introduction of the bill as a step forward for Scotland in helping to ensure that a comprehensive approach is taken to children's rights. Alex Cole-Hamilton was right to say that the bill has lived up to the sector's expectations.

Incorporation of the UNCRC will finally provide a proper framework for the provision of children's rights in every part of Scotland and at every level of government. It will lead to greater consistency in children's rights—in particular, as many members have referred to, their right to be heard and to take part in decision making that affects them. A number of committee members have said that listening to children and giving them a part in decision making, for which the committee should receive credit, has been an important part of the process.

Wales, like Scotland, has previously passed legislation requiring ministers to have regard to the UNCRC. Indeed, the Children's Commissioner for England is required to have regard to and monitor the implementation of the convention. However, the Deputy First Minister was quite right when he said that the bill will make Scotland the first country in the UK to make the convention and the rights under it fully legally enforceable. We can be proud of that.

Of course, we are not the first country in the world to take this step, and Alison Harris was right when she said that international evidence shows that in countries where incorporation has taken place and the UNCRC has formal status, outcomes for children have clearly improved. Incorporation does that by becoming an influential touchstone for decision makers that is effective across legislation, policy and practice. That results

in a culture change that directly impacts on the application of children's rights principles in national law and policy.

Ross Greer made the important point that incorporation of the UNCRC through the bill that is before us could be seen as a dry legislative process, but the fact of the matter is that incorporation will affect the real, daily lives of children across Scotland.

The passing of this legislation may be a necessary condition for the culture change that we want to see but, as a number of speakers have said, it is not sufficient. We and our successors will have to show ourselves as being up to the challenge of making these rights real.

Our track record is not always the best. Mr Cole-Hamilton was right to point out that it is years since we passed a law to raise the age of criminal responsibility to 12 and patted ourselves on the back for doing so. However, that law has never been commenced and, by the standards of the UNCRC, would not be enough: the age of criminal responsibility should be 14. Today, our age of criminal responsibility remains eight.

Alex Cole-Hamilton: Does Iain Gray recognise that, at eight, the age of criminal responsibility in Scotland is lower than it is anywhere else in the British isles and in those human rights exemplars, Russia and China, on which we would otherwise sit in judgment?

Iain Gray: That is the case, and it makes it worse to know that we passed legislation to move on from that position but that that law has not been commenced. That is why many members of the committee who spoke in the debate made it clear that they continue to believe that we should amend the bill during stage 2 to insert a commencement date. I hope that the Deputy First Minister will consider that.

A number of speakers have talked about the UNCRC in the context of the Covid crisis. They were right to do so, because that is another area in which we have not always been as cognisant of children's rights as we should have been. The Children and Young People's Commissioner Scotland has consistently been critical of Government, believing that ministers have not done enough to protect children's rights to an education in the light of school closures. Meanwhile, the "SQA: Where's Our Say?" project has given voice to young people who believe that the certification appeals process breached their rights.

My point is that children's rights are a real thing that affect children's real, day-to-day lives. In fairness, Mr Swinney and the SQA have acknowledged that, which we hope will lead to a different approach in the months ahead as we

continue to try to deal with the impact of the pandemic.

Children's rights are much more than an intellectual or cultural construct; they impact powerfully on children's lives. Therefore, the legislation that we will proceed with today is of critical importance to future generations. I believe that the general principles of the bill will pass later, and that that will be a good afternoon's work by the Parliament.

17:24

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I am delighted to close the debate on behalf of the Scottish Conservatives and I place on record my thanks to the Equalities and Human Rights Committee for its work on the bill. It has taken some time but we are finally here, albeit with a worryingly short time to see the bill pass through Parliament.

The UNCRC was a milestone treaty that recognised the importance of childhood and the unique needs of children across the globe at a time when children's rights had been ignored for many years. It is heartening to hear the passion for the bill that has been exuded by many members, particularly Alex Cole-Hamilton and Mary Fee.

Alison Harris rightly said that vulnerable people should know that we are on their side. The Scottish Conservatives want to see children and young people included in all aspects of life. We will support the general principles of the bill at stage 1. However, during its later stages, we will seek to lodge amendments to ensure that the bill is strengthened to reflect the concerns of a range of stakeholders, including public authorities, the Children's Parliament, the Scottish Youth Parliament, the Law Society of Scotland and organisations that are involved with children's rights.

As with all legislation, we must first analyse what current legislation fails to achieve. The bill is not a silver bullet. There is already a host of legislation covering numerous aspects of the UNCRC, from the Children (Scotland) Act 1995 to the Children's Hearings (Scotland) Act 2011. Right now, we could go further to protect and uphold children's rights by using current legislation. The bill must require any future legislation to be assessed for its compatibility with UNCRC requirements.

Scotland's children have been let down on a range of issues. John Swinney is right to want a fair and equal society for children—we all do. He talks about the effects of the pandemic but we know that there were deficiencies that left children in Scotland behind before the pandemic. Without

re-running the wide-ranging and strong arguments that the committee heard in evidence, I hope that the bill will improve outcomes for all children in Scotland, especially in education.

I echo what Iain Gray said in his closing speech for Labour. Whether we are talking about falling standards in our schools, the SQA exam results fiasco or the disproportionate effect of the Covid-19 pandemic on children and young people, children across the country have a right to a good education and to development. Since day 1 of the pandemic and the subsequent lockdown, children's right to education has been hindered. Lindsay Paterson, professor of education policy at the University of Edinburgh, has collated research that estimated the educational gap caused by the schools shutdown.

The Cabinet Secretary for Education announced an additional £100 million to be invested over the coming years to tackle the impact of lockdown on schools and pupils, but we still hear of pupils in deprived areas being unable to keep up with online teaching due to a lack of technology. Children across the country are having their teaching hours cut due to remote learning, while some in rural areas—including many of my constituents—struggle to gain access to the full range of online tools because of poor broadband, as mentioned by Elaine Smith.

Some newly formed groups might ask whether children's rights have been respected in the balance between health risks and educational development. Jamie Greene raised the question whether children have the right to social interaction.

In her submission to the consultation on the incorporation of the UNCRC, Dr Tracy Kirk of Glasgow Caledonian University highlighted the damage caused by the SQA exams fiasco last August. She believed that children's right to be listened to had been ignored. Regarding that process, all the groups that took part in the committee's engagement work mentioned the lack of redress as an example of a time when young people's voices had been ignored. One young person said that the 2020 SQA process had been "a kick in the teeth"; they went on to say how that had impacted on their mental health. As Mary Fee said, the bill will give children more power.

I am concerned about the impact that the bill could have on children who receive their education on a different side of the border from where they live—for example, they come from England but attend school in Berwickshire. There are questions about how the bill would work with the UK Human Rights Act 1998, especially in relation to children from England who attend Scottish schools. That should be clarified, and I intend to pursue the issue.

My colleague Alexander Stewart has already made the point that section 11(3) requires strengthening. Fulton MacGregor also raised the need for the Scottish Government to strengthen that section by amending the wording from “may” to “must”, so that a children’s rights scheme must be set out in the bill. I believe that the Scottish Government is committed to doing that.

Many of my colleagues who spoke in the debate raised the concerns of stakeholders such as the Law Society of Scotland, noting the number of duties that the bill places on public authorities and that that number is likely to grow. We do not yet know how much it will cost to provide UNCRC training to staff in public authorities and the private contractors that public authorities use. That could have significant financial implications.

The bill as introduced will have to be amended at stage 2. In the short time frame that we have, we will work with parliamentary colleagues to make good law and not bad law to incorporate the UNCRC into Scots law, as far as that is possible within the Parliament’s powers. We will support the bill’s general principles at decision time.

The Deputy Presiding Officer: I call the Deputy First Minister, John Swinney, to close the debate for the Scottish Government.

17:30

John Swinney: I draw the debate to a close with a word of thanks to members of the Scottish Parliament across the political spectrum for their contributions to the debate and the support that has been expressed for the legislation that is before Parliament at stage 1. It is properly reflective of a landmark day when Parliament considers legislation of this magnitude.

That has been helped, of course, by the Equalities and Human Rights Committee’s scrutiny of the bill. I am grateful to the committee’s convener, Ruth Maguire, for her remarks about the bill and issues that arise from it. I will say a bit more about the commencement issues in a moment, but she specifically raised with me the issue of ensuring that children with protected characteristics are recognised in the bill. I fully support that objective, but the mechanism with which the Government has opted to take the issue forward is, in essence, that of incorporating article 2 of the UNCRC, which assumes that children’s rights are guaranteed without discrimination. That provides a universal protection for children and avoids the necessity for specific lists of protected characteristics. We will obviously reflect further on the convener’s points, and I am happy to engage further on that question, but that is the approach that we plan to take.

Neil Findlay (Lothian) (Lab): I have not been following the bill closely, but an answer that I got today to a parliamentary question said that the Government did not know how many children were not accessing online learning, which is similar to the point that Elaine Smith made earlier. Given that the Government is deciding on budgets to provide additional resources to local government but does not know the extent of the problem, how would the bill being implemented ensure that situations like the one that I described were not repeated and that all children had access to online learning?

John Swinney: Mr Findlay clearly has not been following the debate. We did a data collection exercise with local government last summer, which identified 70,000 young people who did not have digital connectivity. We therefore put money in place that enabled 70,000 young people to get digital connectivity, and we continue to engage with local authorities on that question. That deals directly, and firmly, with Mr Findlay’s particular point.

Looking at the question of commencement, I acknowledge the significance of the committee’s point in relation to commencement timetables. I will also address some of the issues that Alex Cole-Hamilton put on the record, because, as is often the case with Mr Cole-Hamilton, things are not always as he sets out to the Parliament. In relation to the commencement of the Age of Criminal Responsibility (Scotland) Act 2019, the first set of commencement regulations came into effect on 29 November 2019, removing the offence ground for referring a child under 12 to a children’s hearing and commencing provisions for victims. Since then, it has been possible to refer a child under 12 to a children’s hearing only on welfare and protection grounds, which means that it has not been possible since the end of 2019 for children under 12 to obtain criminal convictions. To all intents and purposes, therefore, the age of criminal responsibility is, in effect, 12.

A complex set of regulations has to be put in place. The second set of regulations was put in place on 30 March 2020 and the third set on 30 November 2020, and part 1 of the 2019 act will be commenced as part of the final set of commencement regulations that are planned for autumn 2021.

Alex Cole-Hamilton: Will the cabinet secretary give way?

John Swinney: I simply put that detail on the record to make it clear that what Mr Cole-Hamilton put on the record earlier is not a clear, accurate and comprehensive distillation of what has happened.

The Deputy Presiding Officer: Before you take the intervention, cabinet secretary, I say to Alex Cole-Hamilton that he should not keep on his feet. I do not want to have two members on their feet at the same time.

John Swinney: I give way to the member.

Alex Cole-Hamilton: My apologies, Presiding Officer.

I am very grateful to the cabinet secretary for giving way. I am also grateful to him for illuminating members about commencement, because some of that was news to me. However, is that consistent with the warm words that we have heard in the chamber today about children's rights? Our age of criminal responsibility, when it finally reaches 12, will still be two years south of the UN Committee on the Rights of the Child's recommended international minimum.

John Swinney: I am grateful to Mr Cole-Hamilton for confirming to Parliament that his earlier comments were not well informed and that he did not actually catch up on the detail. I suspect that that reinforces my earlier point that we should consider very carefully the points that he puts on the record before we accept them to be accurate.

The age of criminal responsibility is an issue on which Parliament has legislated. Obviously, the contents of the bill provide us with the opportunity to consider such issues, and the Government's commitments in the area do likewise.

I agree very much with the sentiment expressed by Iain Gray, Ross Greer and Mary Fee about the importance of the legislation having an impact on the lives of children and young people. It is critical that the bill is brought to life by ensuring that children have a different experience in our society.

There are challenges and multiple factors that the Government must weigh up in how we respond to the application of the rights of individuals in our society during the Covid pandemic. Yes, of course, children are entitled to education, and they are receiving it through the delivery of remote learning, because we would not be doing children or anyone in our society any favours if we did not take the measures necessary to suppress the prevalence of the coronavirus. However, there will be competing factors that affect how we can enable individuals to exercise their rights.

I pay tribute to Mary Fee, who has given a huge amount to the debate over many years and has championed many of the issues. I was particularly heartened by her comments, and those of Elaine Smith, about the bill. One of Elaine Smith's points, which I very much agree with and commit to, was about the importance of changing mindsets through the passing of the legislation. It is

fundamental that we do that as a consequence of the proposed changes.

Gillian Martin highlighted the importance of communicating the rights that the bill will assure, and the Government commits itself to supporting such an endeavour. I know that many stakeholders would be willing participants in that process.

An issue that was raised by Alexander Stewart and Jamie Greene is the interaction between the rights that are being assured in the bill and other human rights legislation. As members know, and as has been acknowledged in the debate, I have taken a maximalist approach. I have sought to ensure that, within the constraints of the legislative framework in which we operate, we do as much as we possibly can to assure the incorporation of the maximum range of rights of the United Nations Convention on the Rights of the Child into Scots law where we have the legislative competence to do so.

There are, of course, areas in which I would like to assure rights further. However, I fear that some of that context might well be eroded by the approaches that the United Kingdom Government is taking in relation to the Human Rights Act 1998 and the European convention on human rights. I worry that our maximalist position in the bill might find itself rubbing up against an approach to rights in the United Kingdom that might erode some of the things that we, in this Parliament, might well believe to be important, valuable and requiring to be assured. However, because of changes to rights legislation elsewhere, those issues might be taken outwith our competence to resolve. It is something that the Parliament must be mindful of as we consider the questions that are before us in relation to the bill.

Rona Mackay described the bill as a "game changer for children" and "a milestone for Scotland." Those words convey an appropriate sentiment with which to close my speech as I commit the Government to engaging constructively with the committee at stage 2 on the issues that I have raised and on the other issues that have been raised during the debate, as well as to finding ways of addressing the aspiration that all members have for us to successfully incorporate the United Nations Convention on the Rights of the Child into domestic Scots law. At a moment when we can assure children of their rights within our country, we will do everything within our legal framework to ensure that that is the case. We must then build on that by ensuring that an awareness and understanding of those rights is there for every child and that they can experience and live with those rights here, in Scotland.

Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill: Stage 3

The Presiding Officer (Ken Macintosh): Our next item of business is a stage 3 debate on motion S5M-23606, in the name of Daniel Johnson, on the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill. Before the debate begins, I am required under the standing orders to decide whether any provision in the bill relates to a protected subject matter; that is, whether it modifies the electoral system and franchise for Scottish parliamentary elections. In this case, my view is that no provision of the bill does any such thing. Therefore, it does not require a supermajority in order to be passed at stage 3.

17:42

Daniel Johnson (Edinburgh Southern) (Lab): I will start the debate with not my own words, but those aimed at Jackie McKenzie, a petrol station worker who simply asked someone to wear a mask. For doing so, she was threatened with the following words:

“I’d get a test if I were you. I’ve got Covid.”

Sadly, her experience is far from unique. Shop staff have been spat at for asking customers to social distance, and stock has been deliberately smashed in retaliation for item limits being imposed. Nor is Jackie’s experience—and that of hundreds and thousands of retail workers—confined to lockdown and the pandemic. Jackie told me that for her, as for countless other shop workers, abuse is now seen as just part of the job—something that each worker is expected to handle every single day.

According to the Union of Shop, Distributive and Allied Workers, 15 retail workers are assaulted on an average day in Scotland. In a given year, one in three will be threatened and three in five will be abused. Those figures have all doubled since the onset of Covid.

As a former retailer and someone who is still connected to the industry, as a member of the trade union USDAW, as a member of the Co-operative Party and as a Labour MSP, I mean not just to make a declaration of interests; I mean to make a declaration of intent. Violence, threats and abuse should not be and should never be just part of anyone’s job. Let us make the bill and the vote on it tonight the first step in saying that enough is enough, that these acts of violence must end and that, when shop workers do their job, keeping us safe and upholding the law, they will have the

fullest possible protection of the law. That is what my bill seeks to deliver.

As well as creating a new statutory offence of assaulting, threatening or abusing a retail worker, it creates a statutory aggravation to that offence if it occurs while enforcing a statutory age restriction. The aggravation element of the bill stems from a basic principle: that when people are tasked with upholding the law, they should have the protection of the law.

Shop workers are personally liable for upholding the law regarding age-restricted items. Failure to ask for proof of age can result in fines or imprisonment. However, it is a sad fact that the denial of a sale after a proof-of-age check is the single biggest trigger factor for dreadful incidents—or it was until Covid-19 and the enforcement of social distancing overtook it.

The bill recognises the broad range of contexts in which age-restricted goods and services are sold as well as the changing nature of retail, in that people are now as likely to buy online and have goods delivered as they are to make in-store purchases. The bill defines retail work beyond the retail context, covering those working in bars, restaurants and hotels. Similarly, it will cover those delivering online orders, who are required to ask for identification when dropping off age-restricted items.

The bill will have two additional benefits. It will act as a clear signal of the seriousness with which such crimes will be regarded and it will ensure that we are able to measure such crimes, which it is currently difficult to do. We are able to do so through the Emergency Workers (Scotland) Act 2005, which is used on average 300 times every single year, but it cannot stand alone, so I was pleased to hear confirmation from the Minister for Community Safety at stage 1 of the bill that the Scottish Government is committed to developing an awareness-raising campaign to coincide with the implementation of the bill. That is vital to ensure the success of the legislation and I would be interested to hear about any further details that the minister might have.

I thank everyone who has worked so hard to get the bill to stage 3. I thank the members and clerks of the Economy, Energy and Fair Work Committee for their diligent stage 1 report. I also thank fellow members from across the chamber for their input and co-operation. I would particularly like to thank the minister, Ash Denham, and acknowledge her constructive and productive engagement on behalf of the Scottish Government. I offer my particular thanks to my trade union, USDAW, as well as to GMB, Unite and the other trade unions that supported the bill, along with the Co-operative Party. I also thank retail groups such as the Scottish Retail Consortium and the Scottish

Grocers Federation for being behind the bill from the very start and for demonstrating the consensus between workers and employers on the issue.

Above all else, I say thank you to the thousands of shop workers who have supported the initiative. I say thank you to them for the job that they do, keeping us fed, keeping us safe and upholding the law. Finally, I had better remember to move the motion in my name.

I move,

That the Parliament agrees that the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill be passed.

17:48

The Minister for Community Safety (Ash Denham): In the short time that is available to me for the stage 3 debate, I too will begin by thanking retail workers right across Scotland for their outstanding contribution to helping to get communities through these extremely challenging times. I appreciate all the hard work and commitment of those working in the retail sector in Scotland. That is even more the case now, because of the increased number of infections that we have seen across Scotland and the pressure that that puts on us all, including those within the retail sector who are serving communities.

I thank the Economy, Energy and Fair Work Committee for its excellent scrutiny of the bill, the clerks to the committee and all those who gave evidence. I also want to give credit to Daniel Johnson for managing to navigate the member's bill process, which I am sure is not easy, with help from the officials in the non-Government bills unit. It is no mean feat to get a member's bill to this point, so I congratulate Daniel on managing to do it.

The bill has progressed through scrutiny in the midst of Covid-19 and that has undoubtedly helped to shape how that scrutiny has been undertaken. At all times, but especially at the moment, workers in retail roles should feel safe, supported and protected by our criminal laws. Although they are protected by a wide range of existing criminal laws, many have not felt safe or protected when exposed to verbal abuse, threatening and abusive behaviour and physical attacks. There is no excuse for such behaviour and criminal laws have a key role to play.

I fully support law enforcement agencies taking robust enforcement action to deal with any attacks and threats that are made against retail workers, if those agencies consider that to be necessary in any given case. I hope that the bill, when passed, will make the general public think more about their behaviour when they interact with retail workers,

especially in the current difficult and challenging times.

The bill will ensure that the seriousness of offending against retail workers is highlighted through a specific offence. The court, when sentencing, will assess whether higher sentences are required in the context of age verification. The bill will also allow for better data to be collected over time. The parliamentary process has resulted in an amended bill that now strikes the appropriate balance.

Legislation has a key role, but it is not the answer to everything. That is why the Scottish Government is developing an awareness-raising campaign that will highlight the importance of reports being made when retail workers are attacked, threatened or abused during their work. I will be able to give members more information on that shortly.

The Scottish Government will support the bill at decision time, and I urge all MSPs to do likewise.

17:51

Maurice Golden (West Scotland) (Con): The debate is a fitting opportunity to recognise the enormous contribution that retail workers have made to keep Scotland going during the pandemic. Throughout lockdowns, they have kept us fed and supplied with medication and have often provided people with their only human contact. We owe them all a huge debt of gratitude.

Sadly, it is far too common for retail workers to face abusive and even violent behaviour. One statistic in particular illustrates just how common it is: the Scottish Grocers Federation found that an astonishing 99 per cent of workers had experienced incidents of violence or physical abuse. By anyone's measure, that is a staggering number. Given that, according to USDAW, the average shop worker is abused, threatened or assaulted more than 20 times a year, there is a clear need to act.

It has been encouraging to see support from across the chamber for greater protection, even though there have been points of disagreement. The inclusion of the provision on obstructing or hindering a worker would have created a new offence, which risked diluting the special protections that are given to emergency workers and would have overlapped with existing offences. I am pleased that, now that that provision has been removed, the Scottish National Party can join us in supporting the bill.

However, there is a dangerous irony here, because the maximum penalty in the bill is 12 months' imprisonment or a £10,000 fine, but the SNP's presumption against short sentences

means that, in effect, there is a ban on sending anyone to prison who is convicted under the new law.

Ash Denham: Does the member accept that it is patently evident that a presumption is not a ban?

Maurice Golden: It is patently evident that the SNP is soft on crime and soft on criminals.

I commend Daniel Johnson for introducing the bill and for the exemplary way in which he has guided it through Parliament, but we should remember that Labour supported the presumption against short sentences. I raise that point because I support the bill and want it to succeed. That position is shared by the Association of Convenience Stores, which is fully supportive of the bill but which has concerns over sentencing.

Daniel Johnson: I wonder whether I might return us to a point of consensus. I thank Maurice Golden for his complimentary remarks. Will he get in touch with his colleagues in Westminster and urge them to support the similar moves there by my colleague Alex Norris?

Maurice Golden: I am sure that my colleagues who ably represent Scotland will look favourably on any reasonable proposed legislation that is put before the house, as they always do while representing Scotland and standing up for Scotland's interests.

If the bill is to act as a deterrent, it must not be seen as soft justice. As I noted at stage 1, sentencing alone is not enough, and a serious look needs to be taken at how the number of incidents can be cut through rehabilitation programmes for offenders who are dependent on alcohol and drugs, especially given the rising trend in incidents that involve intoxication.

Finally, perhaps the most important point when it comes to tackling abusive behaviour over the long term is that we must ensure that incidents are properly reported. We have heard much about the low rate of reporting, which has previously been raised by me and others, such as the Federation of Small Businesses. According to its research, 28 per cent of businesses have experienced threatening behaviour but just one in 10 reports it. The hope is that the creation of a new statutory offence will provide greater legal clarity and thus victims will be encouraged to report incidents. That will be crucial for monitoring the effectiveness of the bill and for recognising where any further interventions, such as adjusting sentencing, might be necessary.

I thank Daniel Johnson for introducing the bill. It enjoys cross-party support because it seeks to do what is right—to protect shop workers, who keep this country going, and to allow them to work free

from fear and violence—and the Scottish Conservatives very much look forward to supporting it.

17:56

Pauline McNeill (Glasgow) (Lab): I want to say a huge thank you to Daniel Johnson and the Scottish Government for coming together and making sure that the Parliament focused on the needs and rights of retail workers, who are key workers.

Fifty-six per cent of retail workers are women. On the whole, they are among the lowest-paid workers in the country, and many of them have no unions to turn to. I believe that the bill sends out the message that retail workers are important in our economy and should be protected.

Matt Hancock said that the Covid-19 death rate among male shop workers was 75 per cent higher than it was among the general population, and 60 per cent higher among women who work in retail. That is what persuaded him to introduce the wearing of masks in shops.

At Christmas, many shop workers do not even get 24 hours off, as they have to come back for the boxing day sales. Work is being done to recognise the conditions that shop workers often work under, but there is a lot more work to be done there.

At the start of the pandemic, when most of the country retreated to the safety of their homes, retail workers rolled up their sleeves and got on with the task of keeping shops open for the rest of us. Those who work in pharmacies, supermarkets, post offices, jewellery shops and clothing stores have been vital in ensuring that the country has been kept running from day to day as smoothly as can be expected in a national crisis, and they deserve our gratitude and respect.

However, although most of the public appreciate the work that shop workers do, unfortunately, as we have heard, some do not. I was appalled to find out that, on average, 15 retail workers are assaulted every day in Scotland. Throughout the pandemic, I have been shocked to read about some of the abuse that shop workers have faced. In the "Freedom from fear" survey by the retail trade union, USDAW, which was my first union, more than 2,000 retail staff indicated that abuse towards shop workers had risen during the pandemic, with 76 per cent of those who were questioned saying that abuse had been worse than normal and more than half saying that they had been threatened by a customer. That is totally unacceptable. There have also been outrageous reports of workers being told by customers that they have the virus. Daniel Johnson told us about the case of Jackie. One national retailer

experienced more than 100 incidents a day of threats of coughing and spitting.

It is clear that such abuse cannot continue. It heavily affects the mental and physical wellbeing of front-line shop workers, and it is understandable that some say that they feel anxious about going into work.

In late November last year, a Co-op spokesperson said that violent abuse and antisocial behaviour had become normalised and was at unprecedented levels. On average, the Co-op reports 133 incidents of abuse a day. Across the UK, the supermarket chain has invested £70 million in security measures for staff, including body-worn cameras. It is shocking that the abuse has been so severe that it has felt the need to do that.

Such antisocial behaviour is unacceptable, and some of it has been fuelled by conspiracy theories. One supermarket worker said:

“A couple have behaved really awfully—we had one gentleman come in with no mask, filming the store, shouting abuse, telling us we were all robots for the government.”

Sadly, there are many workers who have come to believe that the abuse that they experience from the public at work is just part of the job, and the abuse often goes unreported to the police. Hopefully, the bill will create a public perception that retail workers will no longer be fair game for abuse. The police will have the long-overdue necessary powers to come down hard on those who assault workers.

I am delighted that the trade unions USDAW and the GMB, which is my union, and the Scottish Co-operative Party, as well as the Scottish Retail Consortium and the Scottish Grocers Federation, are supporting the bill, and have done so much work to promote it.

Anyone who has had to interact regularly with the public during the pandemic is already exposing themselves to a degree of personal risk of contracting the virus. On top of that, they should not have to fear verbal or physical abuse at work.

It was reported yesterday that UK Minister for COVID Vaccine Deployment is hoping to target key workers, such as police officers, shop workers and teachers, in the next phase of the vaccine roll-out. Although it is difficult to decide where people should be placed in the queue to get the vaccine, whatever we decide, shop workers are heroes in the pandemic, and I know that the whole Parliament is already united to protect them.

18:00

John Finnie (Highlands and Islands) (Green):
I am delighted to contribute to the debate.

Although I have not been involved in scrutiny of the bill, I have watched its progress and am pleased to see it reach this point.

Many of us will recall representations that USDAW—the shop workers union—has made to Parliament, often in the run-up to Christmas, about the terms and conditions that their members find themselves working under. It has done so to highlight a particularly important time for workers, but the union has not been neglectful of the need to have a safe working environment throughout the year. The bill will play an important role in that.

Every worker has the right to a safe and healthy workplace, but we have heard a number of shocking statistics. It is interesting that the documents that accompany the bill talk about the aim to give greater protection. I recall a conversation with Daniel Johnson when he was seeking signatures in support of the bill, during which he explained why he thought that that is important. It is about obligations that the state places on individuals to act on its behalf, and it is a compelling argument. One example is Scotland's unfortunate relationship with alcohol, and the role that retail workers play in the associated harm reduction. If they are carrying out obligations on behalf of the state, it is quite right that the state should afford them the appropriate protections.

The pandemic has highlighted the importance of our retail workers, so I join colleagues in thanking them for all their efforts. The bill is about workers in shops, bars and restaurants and the challenges that they face—on top of having to work in what, on many occasions, are not the best working conditions.

I commend Daniel Johnson for his tireless work in getting us to this point, and I appreciate the volume of work that has been involved.

The Parliament is at its best when, following the most detailed scrutiny—I know that many issues were stress tested throughout early consideration of the bill—an agreed form of words is put in place. That makes good law that is needed and will work for our communities.

I will not rehash all the statistics that colleagues have mentioned, but I note that I saw the USDAW briefing today and think that its having congratulated Daniel Johnson is entirely appropriate. Stewart Forrest of USDAW talked about shop workers having been

“on the frontline throughout the coronavirus crisis, helping to ensure our communities remain fed, despite the risks of contracting the virus.”

For that pivotal role in our communities, they deserve not simply our thanks and our admiration, but the appropriate level of protection in their workplaces.

My reflections come from my being a former shop worker and a former police officer. I am aware of how some shoplifting gangs intimidate workers by using threats of violence because they know the workers' addresses. Some of the graphic examples that are given in the USDAW briefing are of the most unacceptable circumstances for anyone to be working in, particularly given that many people assume that a shop is a relatively safe place of work.

One of the quotes in the USDAW briefing is that the

"Pandemic has brought out the worst behaviour"

in folk. However, I think that it has also brought out the best behaviour in folk and has, I hope, caused some people to evaluate what is important—such as their being able to put a loaf of bread on the table and who gets it there—and what is not.

I conclude by thanking everyone who has got us to this point—in particular, Daniel Johnson, who in a very short time will be rightly lauded for his contribution to supporting a key workforce and making things better. USDAW has described it as

"ground-breaking legislation to protect retail staff".

I congratulate him on a worthy and well-earned outcome for all his hard work.

18:05

Liam McArthur (Orkney Islands) (LD): As others have done, I congratulate Daniel Johnson and his team on their having reached this stage. The amount of work that goes into taking forward a members' bill is not always recognised. It is a process of which the Parliament can be proud, but it is certainly no easy undertaking. From our work together on the Justice Committee, I know how committed Daniel Johnson is to using the powers of the Parliament to improve the lives of the people whom we represent. That principle is very well reflected in the bill.

That is not to say that I did not initially have reservations about some of what was being proposed. I expressed them at stage 1 and directly to Daniel Johnson, albeit that I was happy to add my name as a signatory to the bill. The draft bill was certainly flawed, but it deserved to be consulted on, scrutinised and improved. I am pleased that that has happened, and I pay tribute to the committee for the part that it played.

Although the arguments for the protections that are contained in the bill were being put long before Covid came to dominate our lives, the pandemic has certainly helped, as others have said, to reinforce and crystallise the case. As in other sectors that are often unrecognised or underappreciated, the true worth and value of

retail—and of the people who work in it—have been demonstrated over the past 10 months.

Shops have always been central to the communities that revolve around them. However, that has come into sharper focus of late. In Orkney and, I suspect, in constituencies the length and breadth of the country, local shops have proved to be a genuine lifeline, with retail workers going above and beyond in order to serve their communities—in particular, the people who are most vulnerable and most at risk.

However, as I have said during stage 1, the experience of local retail workers in the early stages of the pandemic was too often not positive. Instead of thanks, they regularly faced abuse, threats and other unacceptable behaviour from some customers. I accept that they are a small minority, but that has been deeply unpleasant, all the same. Panic buying created problems where they should not exist, and staff who were doing their best met abuse for simply doing their jobs.

I am thankful that much of that appears to have died away, and I think that the majority of people have taken steps to redress the balance by expressing their gratitude. Nevertheless, the situation has highlighted weaknesses in the current protections that the bill can, I hope, go some way towards addressing.

The committee heard not only disturbing evidence of the violence, threats and aggression that are faced by retail workers; it also heard concerning reports about reluctance to report such incidents to the police for fear that they would not be taken seriously. That is not acceptable and it needs to change.

When it comes to improvements to the bill, I am pleased that changes have made much clearer the behaviour that is being targeted by the legislation. That clarity will be helpful in improving public understanding and will, in turn, help to ensure greater effectiveness of the protections that are being put in place. Of course, passing legislation will not in itself prevent such problems from arising; however, it can help to raise awareness and to offer greater confidence to retail workers that the concerns that they raise will be taken seriously and acted on appropriately. Those would be no small achievements.

I do not quite understand Maurice Golden's determination, despite Scotland's already obscenely high rate of incarceration, to stuff our already overcrowded prisons yet fuller.

I finish by warmly congratulating Daniel Johnson once again, by thanking retail workers in Orkney and across the country very much, and by confirming that Scottish Liberal Democrat members look forward to voting to support the bill at decision time.

The Presiding Officer: Thank you very much. Before I call Daniel Johnson, I call James Kelly.

18:08

James Kelly (Glasgow) (Lab): Thank you for making time to allow me a brief contribution, Presiding Officer.

The point of Parliament is to make a difference. Shortly, in passing Daniel Johnson's bill, Parliament will make a great deal of difference to retail workers throughout the country who have, as other members have said, been subjected to unacceptable levels of abuse and attack. I congratulate Daniel Johnson on his success in bringing the bill through Parliament. A significant amount of work was involved.

I was lucky enough to be with Daniel at the Scotmid Co-op on Leith Walk when he launched his proposal. He has been through an arduous campaign to see the bill progress to its conclusion. He has been ably supported by USDAW and the Co-operative Party, which very much welcome tonight's progress.

As members have said, the pandemic has shone a light on the important role of retail workers, who have done a fantastic job of looking after people—particularly vulnerable people—in our communities. They have ensured that people get their shopping and are safe in shops.

We rely on retail workers to ensure that public health regulations on tobacco and alcohol are followed. That job has been particularly challenging throughout the pandemic. In some instances, unruly customers have been challenging staff as they seek to keep customers safe by making sure that everyone wears a mask, for example. Such behaviour is totally unacceptable.

It is right that we will pass the bill at decision time. It will make a difference and it will be welcomed by retail workers. It will give them protection. Retail workers have the support not just of the Parliament but of all communities throughout Scotland.

18:11

Daniel Johnson: I will carry on with a few more thank yous. First, I thank every member who has spoken in the debate. The process has been consensual and the debate has been interesting, if brief.

I thank my office team: Alan Irvine, Allana Hoggard and Michael Adamson. I also thank Stuart Tooley, who is no longer in my employment but was critical at the inception of the bill process. I also want to thank some of the people who

worked so hard behind the scenes: the support and advice of Mary Dinsdale, Kenny Htet-Khin and Andrew Mylne, from the non-Government bills unit, were critical in getting the bill to this stage.

I know that we are not meant to mention special advisers, let alone praise them, so I hope that I do not get John McFarlane into trouble when I thank him for the huge job that he did in facilitating constructive dialogue and engagement with the Government—*[Interruption.]* I will leave it there.

The process has taught me a lesson about how politics can work. We sometimes do ourselves a disservice by presenting disagreement and hostility in the chamber although, in committee rooms and in the garden lobby, we exchange ideas and work together constructively. We have certainly worked constructively on the bill and I thank every member who engaged with me on it. We should all reflect on how we could present the more constructive element of our politics. If we always present to Scotland the politics of division, we can only ever expect to be confronted with division in return.

Not just this debate, but the whole bill process has demonstrated that we care about retail workers and how they are treated and that we value the sector. The Covid crisis brought their work into sharp focus; for too long, retail and retail workers were taken for granted. I hope that the bill will act as a vital step towards correcting that and prompting a wider rethink.

We must end the assumption of ministers and legislators of all stripes and colours that public policy can be implemented free, at the press of a till button. There has been an assumption that it is quick, easy and cost free to legislate in that way, but that approach has all too often led to confrontation for retail workers. When additional restrictions are put in place and requirements are placed on retail workers to uphold the law, there must always be the means of enforcing compliance. My bill will improve the situation for workers by making clearer the law, the seriousness of penalties and the responsibility of the police when crimes are reported.

There are more fundamental social issues at play. There is a sense that someone who stands behind a counter and wears a name badge is fair game. That deeper social issue must be tackled. The bill is an important step towards giving retail workers the attention that they deserve.

Retail needs that attention now more than ever. The industry is in crisis. Even before anyone had heard of Covid, high street shop units were being left empty as retailers struggled to compete with online sellers such as Amazon.

Since the pandemic began, the sector has found itself policing social distancing at the same time as

lockdown has accelerated those pre-existing threats to the industry. In the past five years, more than 10,000 jobs have been lost from retail in Scotland, and some fear that, throughout the UK, as many as 250,000 could go as a result of the pandemic. Any other industry facing that level of disruption and job losses would have ministerial task forces, support funds and action plans.

However the industry emerges from the pandemic, it needs to be taken seriously by the Parliament and Government. The bill, if passed this evening, will not by itself solve all the issues of violence, threats and abuse suffered by shop workers, but it will create a starting point for tackling those issues, and perhaps it will send a signal to those working in the sector that, at last, they are being listened to and not being taken for granted. If passed, the bill will show Scotland leading the way in protecting retail workers, and attention will naturally turn to my Labour colleague Alex Norris MP's efforts to pass similar legislation at Westminster.

Let us lead the way. Let us mark our thanks to shop workers for the work that they do. Let us vote and ensure that violence, threats and abuse are not part of the job—not for shop workers, not for anyone.

United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill: Financial Resolution

18:16

The Presiding Officer (Ken Macintosh): The next item of business is consideration of motion S5M-23863, on a financial resolution for the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—[John Swinney]

Decision Time

18:16

The Presiding Officer (Ken Macintosh): There are four questions to be put this evening. The first question is, that motion S5M-23884, in the name of Humza Yousaf, on the Covert Human Intelligence Sources (Criminal Conduct) Bill legislative consent motion, be agreed. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. There will be a short suspension to allow members, both in the chamber and online, to access the voting app.

18:17

Meeting suspended.

18:22

On resuming—

The Presiding Officer: We are back in session, and we will go straight to the vote. The question is, that motion S5M-23884, in the name of Humza Yousaf, on the Covert Human Intelligence Sources (Criminal Conduct) Bill legislative consent motion, be agreed to. Members may cast their votes now. This will be a one-minute division.

The vote is now closed. If any members believe that they were not able to register their vote, please let me know through a point of order.

The Cabinet Secretary for Economy, Fair Work and Culture (Fiona Hyslop): On a point of order, Presiding Officer. I would have voted yes.

The Presiding Officer: You would have voted yes; I will make sure that your vote is added to the voting roll.

Jackie Baillie (Dumbarton) (Lab): On a point of order, Presiding Officer. According to my phone, there was a problem and the digital voting connection could not be started. I would have voted for the motion.

The Presiding Officer: I confirm that your vote was registered, Ms Baillie.

Finlay Carson has a point of order.

I say to Bruce Crawford that his vote was registered, so there is no need for him to make a point of order.

I will try Finlay Carson one more time for his point of order. I apologise to him—we have lost the connection with him. I will have to call the

result of the vote, but he can make a point of order later if he wishes to.

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)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 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)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)

McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Ballantyne, Michelle (South Scotland) (Reform)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harris, Alison (Central Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 McDonald, Mark (Aberdeen Donside) (Ind)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Ind)

The Presiding Officer: The result of the division on motion S5M-23884, in the name of Humza Yousaf, on the Covert Human Intelligence Sources (Criminal Conduct) Bill legislative consent motion, is: For 92, Against 27, Abstentions 0.

Motion agreed to,

That the Parliament agrees not to consent to the UK Covert Human Intelligence Sources (Criminal Conduct) Bill, as it contains insufficient independent oversight and satisfactory safeguards.

The Presiding Officer: The next question is, that motion S5M-23883, in the name of John Swinney, on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill.

The Presiding Officer: The next question is, that motion S5M-23606, in the name of Daniel Johnson, on the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill, be agreed to. As the bill is being considered at stage 3, we will have a division.

The vote is now closed. If any members believe that they were unable to access the voting app, they should let me know.

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)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Reform)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 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)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harris, Alison (Central Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 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)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mountain, Edward (Highlands and Islands) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 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)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)

White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Ind)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division on motion S5M-23606, in the name of Daniel Johnson, on the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill, is: For 118, Against 0, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Bill be passed.

The Presiding Officer: The final question this evening is that motion S5M-23863, in the name of Kate Forbes, on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill financial resolution, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.

Meeting closed at 18:32.

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

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