



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament (Virtual)

**Tuesday 26 January 2021**

**Session 5**



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# Scottish Parliament

Tuesday 26 January 2021

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

## Time for Reflection

**The Presiding Officer (Ken Macintosh):** *[Inaudible.]*—our proceedings, as we always do, with time for reflection, for which our leaders are Lucy Craven and Zuzanna Wisniewska, who are lessons from Auschwitz ambassadors with the Holocaust Educational Trust.

**Lucy Craven (Lessons from Auschwitz Ambassador, Holocaust Educational Trust):** Hello. My name is Lucy Craven, and I am speaking to you today with Zuzia Wisniewska. We are former students of Knox academy and we are here to share our reflections on learning about the Holocaust and its contemporary relevance through taking part in the Holocaust Educational Trust's lessons from Auschwitz project.

As part of the project, we were fortunate to hear the first-hand testimony of Holocaust survivor Eva Clarke BEM. Eva told us that she was born in Mauthausen concentration camp just days before it was liberated. She also spoke about her parents' experiences of camps and ghettos. Although Eva and her mother survived, both her father and her brother were murdered.

Hearing Eva's testimony enabled me to rehumanise the 6 million Jewish men, women and children who were murdered in the Holocaust. When we visited the site of the former Nazi concentration and death camp Auschwitz-Birkenau, Eva's experiences stayed with me the whole time. As I walked along the railway track at the entrance to the camp, I thought of the journey that her mother and father would have made.

We must see beyond the numbers and remember that the victims of the Holocaust were people, the same as you and me, who had their lives cruelly taken away.

**Zuzanna Wisniewska (Lessons from Auschwitz Ambassador, Holocaust Educational Trust):** Before visiting Auschwitz-Birkenau, I did not know what to expect. Once there, I found it hard to comprehend that I was standing at the site that I had learned about, at which more than a million people had been murdered.

Once we had returned home, I began to grasp the importance of visiting such a site and its contemporary relevance. I began thinking about my role in ensuring that the Holocaust is never

forgotten. Lucy and I decided that we wanted to share what we had learned and to encourage other students at our school to remember the Holocaust. We chose to deliver a reflective lesson to a junior class, looking at pre-war Jewish life and photographs of the communities that were torn apart and destroyed by the Holocaust.

It is important that young people ensure that the testimonies of survivors such as Eva Clarke are never forgotten. Such experiences serve as a reminder of what can happen when hate is left unchallenged.

This year, Holocaust memorial day's theme is "Be the light in the darkness". We will stand against hatred only when we choose to be kind and choose to be the light.

**The Presiding Officer:** Thank you very much, Lucy and Zuzanna. I am sorry that you were not able to join us in person because of the restrictions this year. That was a very powerful contribution. Thank you.

## Business Motion

14:03

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-23697, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, which sets out a revision to this week's business and a suspension of the standing orders.

*Motion moved,*

That the Parliament agrees—

(a) to the following revision to the programme of business on Wednesday 27 January 2021—

delete

5.40 pm Decision Time

and insert

5.25 pm Decision Time

and (b) that, for the purposes of consideration of the University of St. Andrews (Degrees in Medicine and Dentistry) Bill at stage 1, Rule 9.6.3A be suspended.—  
[*Graeme Dey*]

**The Presiding Officer:** There is no indication in the chat function that any member wishes to speak against the motion.

The question is, that motion S5M-23697 be agreed to.

In this case, only if they disagree with the motion should members indicate anything in the chat function, by typing "N".

No member has indicated that they disagree with the motion.

*Motion agreed to.*

## Topical Question Time

14:04

### Domestic Abuse

**1. Rona Mackay (Strathkelvin and Bearsden) (SNP):** To ask the Scottish Government what support is available to anyone experiencing domestic abuse, in light of reports of an increasing number of referrals by the National Society for the Prevention of Cruelty to Children. (S5T-02630)

**The Minister for Older People and Equalities (Christina McKelvie):** It is deeply concerning that referrals to services have increased during the pandemic. It is important to stress that lockdown restrictions do not prevent a person and their family from leaving their home if they are escaping domestic abuse and that Police Scotland continues to prioritise domestic abuse cases.

We encourage anyone who is experiencing domestic abuse to get in touch and get the support that they need by using Scotland's domestic abuse and forced marriage helpline, which can be contacted at any time of the day on 0800 027 1234.

We are working tirelessly to ensure that front-line services continue to support adults and children who experience domestic abuse, and we are providing additional funding of more than £5.75 million to services such as Scottish Women's Aid, Domestic Violence Assist and Rape Crisis Scotland, to ensure that they can meet increasing demand. We have also worked closely with the United Kingdom Government on a codeword scheme in participating pharmacies, which will offer help in communities.

**Rona Mackay:** The NSPCC warns that referrals are likely to rise further under the current lockdown restrictions, and it is urging people to speak out if they have concerns about a child's safety or wellbeing. Will the minister please say again how people should raise the alarm if they are concerned that someone might be experiencing domestic abuse?

**Christina McKelvie:** Yes. I urge anyone who suspects that a child might be at risk of harm to contact their local authority social work department or to contact the police on 101, or on 999 if they think that the child is in immediate danger. It is important to make the point that the person does not need to be sure that the child or young person has been harmed; it is okay to report a suspicion. The NSPCC helpline, on 0808 800 5000, provides information on reporting concerns about a child who is at risk of harm and advises on child protection. Its website provides further information. As I said, Scotland's domestic abuse and forced

marriage helpline can be contacted at any point in the day and provides information and guidance.

**Rona Mackay:** Will the minister take this opportunity to make victims of domestic abuse aware that support services remain open so that people can access the help that they need and that lockdown restrictions do not prevent someone from leaving home if they are escaping harm?

**Christina McKelvie:** Yes. A priority for the Scottish Government during the pandemic has been exactly that—to highlight services via many avenues, including social media, and to ensure that services advertise the support that they can give. That includes Police Scotland, which is still there for anyone who is experiencing domestic abuse. I say to anyone in that situation: please get in touch if you need help—do not delay.

The rules on being safe from Covid-19 do not prevent anyone from seeking help, including by leaving their home. We have published guidance to make that absolutely clear. I encourage anyone who is experiencing domestic abuse to seek support by using the helpline on 0800 027 1234. I cannot overemphasise that, and I ask members to share the number with as many contacts and in as many media outlets as they can.

**The Presiding Officer (Ken Macintosh):** There are two supplementary questions. The first comes from Rhoda Grant.

It looks as though we are having trouble connecting with Rhoda Grant. The other supplementary—

Ah, there is Rhoda.

**Rhoda Grant (Highlands and Islands) (Lab):** Thank you, Presiding Officer.

Given that children can be the victims of abuse, does the cabinet secretary agree that the Domestic Abuse Protection (Scotland) Bill should be extended so that its protections apply equally to children in their own right?

**Christina McKelvie:** Rhoda Grant knows that the bill is going through the parliamentary process—I think that stage 2 is coming up soon. I will take her point away and have a conversation with the Cabinet Secretary for Justice, who is leading on the bill, and will then come back to her on the matter. I do not quite know where the bill process is at, but I will ensure that I get the information from the cabinet secretary and come back to Rhoda Grant.

**Shona Robison (Dundee City East) (SNP):** In an answer to Rona Mackay, the minister mentioned the new codeword scheme, whereby someone who is suffering domestic abuse can discreetly find a safe space at one of many high street pharmacies. It is an important service. Will

she say more about how the new scheme will be rolled out and publicised to ensure that women get the support that they need from the service?

**Christina McKelvie:** We were very pleased to support the implementation of Hestia's safe space scheme, which was introduced in pharmacies in May last year. We worked with the UK Government on the development of the codeword scheme for victims of domestic abuse, to ensure that those who experience it can be signposted to the right support pathways in Scotland.

We will continue to work with the UK Government and our partners in Scotland to monitor the implementation and delivery of the codeword scheme and to understand how we can best support, enhance and promote the delivery of that model in Scotland.

The scheme is currently being delivered in Boots stores in Scotland, and, last year, I had the pleasure of meeting Marc Donovan, who is the chief pharmacist for Boots in the UK. We discussed the importance of ensuring that the scheme is properly evaluated and that stores work with local communities to embed the scheme and link in with local support groups.

### Prisons (Remand Population)

**2. Liam McArthur (Orkney Islands) (LD):** To ask the Scottish Government what its position is on reducing the remand population, in light of reports that it has nearly doubled since April 2020 and that people awaiting trial are restricted to their cells for 23 hours a day. (S5T-02631)

**The Cabinet Secretary for Justice (Humza Yousaf):** Decisions on bail, remand and sentencing in individual cases are, of course, matters for independent courts and are based on the circumstances that are before them.

I agree, generally, with the member's position that there are far too many people on remand as a percentage of our prison population in Scotland. We know that remand can have a damaging impact, akin to short sentences, on housing, families and employment. All of—[Inaudible.]

**The Presiding Officer:** We seem to have lost connection to the cabinet secretary. Mr McArthur, I do not think that you got a chance to hear the full answer, but please ask your supplementary question. We will see whether we can get the cabinet secretary back.

**Liam McArthur:** I acknowledge the point that I heard the cabinet secretary make about the risk of reoffending that can arise because of short sentencing and people being on remand.

The number of people on remand in Scottish prisons is high and is rising. Last summer, Her Majesty's Inspectorate of Prisons confirmed that

the level in Scotland is more than double that in England, and the situation has only become worse since then.

People are still waiting to have their case heard but are being asked to spend 23 hours a day in a cell. Given the effects of imprisonment on reoffending rates, overuse of remand creates bigger problems for the future—as the cabinet secretary acknowledged. Therefore, why does it appear that there is so little confidence in the alternatives that are available, and what guidance has been issued on the use of remand, particularly during Covid?

**The Presiding Officer:** Thank you, Mr McArthur. I do not think that we are going to get the cabinet secretary back. The good thing is that you have had a chance to put your point on the record, so hopefully you will get a written response to your questions.

A number of members had hoped to ask supplementary questions, but I do not think that we can get Mr Yousaf back. I am therefore going to move on to the next item of business.

I suggest to Mr McArthur that, because he has read them out, his questions have been put on the record and he will receive a written answer from the Government. I suggest to other members that they submit written questions. If Mr McArthur wants to ask a second supplementary question, he might wish to send that through me to the cabinet secretary, and we will try to get a response from him. I apologise for the fact that we were unable to maintain that link.

*The cabinet secretary lodged a written answer in the Scottish Parliament Information Centre, Bib no 62188.*

## Covid-19

14:13

**The Presiding Officer (Ken Macintosh):** The next item of business is a statement from John Swinney on Covid-19. The Deputy First Minister will take questions at the end of his statement. I encourage all members who wish to ask a question to let me know by typing an “R” in the BlueJeans chat function.

14:14

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** I would like to update Parliament on the current position in relation to the Covid pandemic. I will not announce any changes to the current restrictions, but I will set out some additional support for students and outline our current thinking on issues such as travel restrictions.

First, though, I will give an overview of the current course of the pandemic in Scotland and to do that, I will give a brief summary of the latest statistics. The total number of positive cases reported yesterday was 1,049. That represents 9 per cent of all tests carried out and takes the total number of positive cases to 174,002.

I can also confirm that by 8.30 this morning, 437,900 people had received their first dose of the vaccine. That includes 51 per cent of all 80-year-olds living in the community. There are 2,010 people now in hospital, which is a reduction of six from yesterday, and 149 people are in intensive care, which is a decrease of two from yesterday.

I also regret to report that in the last 24 hours, a further 87 deaths have been registered of patients who first tested positive over the previous 28 days. The total number of deaths under that measure is now 5,796. Once again, I send my condolences to all those who have lost a loved one during the pandemic.

The figure for new deaths that I have just read out is heartbreaking and the number of new cases and of people in hospital continues to be of deep concern to the Government. However, recent figures should also provide us with cautious confidence that the lockdown restrictions are beginning to have an effect. At the start of the year, in the seven days to Friday 8 January, an average of 2,356 people in Scotland were testing positive for Covid every day, which is 302 new cases for every 100,000 people in the population. Last week, in the seven days to last Friday, that number had fallen from 2,356 to 1,384. That is approximately 180 new cases for every 100,000 people.

There now seems to be little doubt that the lockdown restrictions are reducing case numbers, rather than simply stabilising them, but case numbers remain far too high. In fact, they are still more than a third higher than they were just one week before Christmas, and of course, because we have had high infection rates for many weeks now, our national health service is under considerable strain. As Parliament has just been advised, there are currently around 2,000 people in hospital with Covid, which is about 500 people more than was the case last April. There are approximately 150 people in intensive care with Covid, which is fewer than in the spring of last year, but it still puts a significant burden on the NHS as it tries to handle other winter pressures.

We are now seeing some evidence that hospital numbers may be starting to stabilise, but they will take time to fall and, at the moment, any relaxation of restrictions could cause them to increase further. All that means that although we are definitely seeing signs of improvement, the position in Scotland remains precarious. As a result, at this morning's Cabinet meeting, as I have indicated, we decided not to make any changes to the current lockdown measures—they will remain in place until at least the middle of February.

That means, among other things, that there is no change to the current position in relation to education. Remote learning for school pupils will continue to be the default position and we will provide a further update on education arrangements next week. For university and college students, plans for a staggered return will be kept under continuous review.

The current restrictions are tough, and the Scottish Government is constantly assessing whether there is additional support that we can provide to the organisations, businesses and individuals who need it most. In relation to business, it is worth noting that this week, new funds are being launched to provide support for brewers, travel agents, our wedding industry and indoor football centres.

In relation to support for individuals, I have just mentioned our colleges and universities. The pandemic has caused additional financial difficulties for students—for example, many students who were reliant on part-time jobs have found themselves out of work. The on-going restrictions around student accommodation are also causing difficulties for students and educational institutions. The Scottish Government has decided today, therefore, to allocate a further £30 million of support, £10 million of which will be used to help colleges and universities that have lost revenue—for example, if they have refunded rents for accommodation that is not being used—and £20 million of which will provide further

hardship support for students, including students who are having to pay rent on properties that they cannot occupy.

We are hugely grateful to our students and educational institutions for the way in which they are co-operating with us and helping us to tackle Covid. We hope that that support will help them to manage as they do that.

This morning, the Cabinet also discussed the support grants that are paid to people who are self-isolating. We will make an announcement soon on extending eligibility for those grants, and Parliament will be updated at the earliest opportunity. Providing help for those who need it most, while they are self-isolating, is the right thing to do, and it will help us to keep the virus under control. It is one way in which we can strengthen our test and protect system in the weeks and months ahead.

Travel restrictions will also play an important part in keeping the virus under control, by reducing the risk of new cases and new variants being imported. We have engaged with the United Kingdom Government for some time on improving border controls. We have had discussions on measures such as quarantine hotels, but we have not yet been sighted on what the UK Government intends to announce or when it intends to make an announcement. I understand that that decision has been deferred to this evening.

Border controls will work best on a four-nations basis. If, for example, Scotland established a supervised quarantine regime and England did not, that could be problematic if unrestricted travel between Scotland and England resumed.

The Scottish Government believes that a comprehensive system of supervised quarantine is required, so I can confirm that the Scottish Government will initially go at least as far as any UK Government announcement does in enhancing quarantine arrangements, including through the use of hotels. If the UK restrictions are at a minimal level, we will look at other controls that we can announce—including additional supervised quarantine measures—to protect us further from importation of the virus, and we will set them out next week.

Any additional travel restrictions will create further difficulties for our aviation industry, and we believe that the UK Government should provide support that recognises that. Any support for the aviation sector that the UK Government provides will be passed on to the sector in Scotland through consequential funding.

In addition to travel restrictions and the test and protect system, our vaccination programme will play an increasingly vital role in keeping the virus under control. We have now given a first dose of

vaccine to more than half of the over-80-year-olds in Scotland. In addition, 95 per cent of older care home residents and 95 per cent of front-line health and social care workers have received their first doses. Letters are going out to people in the 70 to 79 age group, and we expect to have given a first dose of vaccine to everyone in that age group by the middle of February.

In time—not immediately, but in the near future—vaccination should start to significantly reduce the number of people who die from Covid. In the longer term, as more and more people are vaccinated, we should see an impact on hospital admissions and transmission rates.

Ultimately, the vaccination programme—combined perhaps with some continuing restrictions—offers us a way out of the pandemic. However, as I have outlined, very strict restrictions continue to be necessary in the immediate future. As part of that, it is essential that people who have had the vaccine continue to follow the rules and that we all still physically distance from such people.

I know that the restrictions remain difficult for people across Scotland to endure, but they are essential and they are working. They are reducing case numbers and, by doing that, they are saving lives. I appeal to members of the public to stick to the letter—and the spirit—of the rules.

If you live in a level 4 area—level 4 applies to the whole of mainland Scotland—you must stay at home, unless you are going out for an essential purpose. Do not have people from other households in your house and do not go into theirs. Work from home wherever that is possible and, if you are an employer, support your employees to work from home if they can. Follow the FACTS advice at all times when you are out and about.

By doing that, we can protect ourselves, our loved ones and our communities; we can relieve some of the pressure that health and care workers face; and we can keep the virus under control while vaccinations proceed. Please stay at home, protect the national health service and save lives. I express the Government's thanks to everyone who is doing exactly that.

**Jamie Greene (West Scotland) (Con):** I thank the Deputy First Minister for advance sight of his statement. We offer our condolences to those whose loved ones have lost their lives in recent days.

We heard this morning, from education expert Professor Lindsay Paterson, that the learning experience of half our school pupils is still not satisfactory. We know that, despite the best efforts of our teachers, the plans for online learning are still letting down many parents and pupils. We

welcome the extra funding that was made available today for students who are at university. The Conservatives had called for that. I hope that we will see some urgency from the Scottish Government in giving all pupils the online learning experience that they deserve, and in preventing the attainment gap from growing even wider.

Today, I want to ask the Deputy First Minister about our key weapon in the fight to get our pupils back into the classroom and to get life back to normal for everyone. The Scottish National Party's Covid vaccine roll-out has been slow and sluggish. Yesterday, the First Minister tried to blame that on delayed figures. We can see from today's statement that that is simply nonsense. People do not understand why the Government has half a million doses of the vaccine sitting there, unused. The SNP's vaccination plan says that those doses are available for "next day delivery", but we know that the vaccines are not getting out to general practitioners quickly enough.

Dr Andrew Buist, of the British Medical Association in Scotland, said this morning that reaching the target of vaccinating all over-70s by the middle of February is a big ask. We have had many reports today from over-70s across the country being told that they will have to travel miles from their GP to get the vaccine. That is the postcode lottery that we have been warning about for months. We must end the vaccine postcode lottery.

Will the Deputy First Minister commit to publishing each health board's vaccination plan so that the public know what is going on, right across Scotland? In the light of the BMA Scotland's concerns, is he fully confident that the target to vaccinate all over-70s and clinically vulnerable people by the middle of February will still be achieved, or has that target now slipped, just as the target to vaccinate the over-80s did?

Finally, can the Deputy First Minister explain to everyone who cannot understand what the hold-up is why half a million doses of the vaccine are not getting out faster to our GPs and into people's arms?

**John Swinney:** There was a vast amount in that question, Presiding Officer, so if you will bear with me, I will walk my way through all the different topics.

First, on education, I listened to Professor Lindsay Paterson on the radio and was encouraged to hear him say that there has been significant strengthening of delivery of remote learning in January 2021. That is a fair reflection of the superb efforts that are being made by our teaching profession.

Education Scotland has already published the first of the thematic reviews of the approach that is

being taken by local authorities. It presents encouraging news about how education is being delivered to children and young people around the country. Our educators are doing everything that they can do to ensure that the needs of the children and young people in their classrooms are adequately met by delivery of education. Huge progress has been made, which is having an impact on the education of children and young people around the country.

Secondly, I will move on to issues around the vaccine. As I have rehearsed—and as other ministers have—there are not, in our hands in Scotland, 500,000 doses of the vaccine that can be used at this present moment. More vaccines have been allocated to Scotland than the number that we have in our hands. Those will be drawn down as soon as the distributors are able to verify the supplies and to distribute them to us in Scotland. That is the orderly path that we are taking.

We are on course to complete vaccination of all over-80-year-olds by the end of the first week in February. The progress that has been made reaffirms the pattern of delivery. Letters are now arriving at the households of individuals in the over-70s group, inviting them to come for their vaccinations.

Some of the vaccinations will be given in centres other than local general practices, but that is for a very good reason. Many of those centres will undertake vaccination in significant volumes, which is more suited to delivery of the Pfizer vaccine because it comes in much larger batches than the Oxford-AstraZeneca vaccine. There is a clear rationale for taking that approach.

I reassure the Parliament and members of the public that good progress is being made on delivery of the vaccine to the over-80s. We have already reached more than 95 per cent of care home residents, whom we know are most at risk of morbidity from Covid. We have reached the majority of over-80s and the task will be completed by the end of the first week in February. We will then move on to complete first doses for the next priority group by the middle of February, as we announced.

**The Presiding Officer:** I hope that not all questions will be quite as long as Mr Greene's.

**Jackie Baillie (Dumbarton) (Lab):** I thank the Deputy First Minister for the advance copy of his statement. I, too, regret the further deaths from Covid in Scotland and send condolences to all those who are affected.

We know that many families are worried about the continuing closure of schools. There are multiple cases of families in my constituency—and, indeed, across Scotland—who are struggling

to home school their children. Education Scotland points to a lack of Chromebooks and poor information technology and broadband, and teachers report lack of support and guidance. Children are simply falling through the gaps, and far too many are being left behind.

Local councils are struggling to provide the resources for the scale of the education challenge that they face. Today, we heard from Audit Scotland that councils have a staggering budget gap of £767 million as a result of Covid. Why, therefore, is the Scottish Government sitting on £800 million of unspent money from the UK Government for Covid-related expenditure? Why is it not being allocated to help struggling families to home school their children? Why is the SNP not putting our children's education and wellbeing at the very top of the agenda?

**John Swinney:** That was Jackie Baillie's familiar take on all education issues, but—of course—it is far from the reality. The Government has provided resources to support delivery of education in the exceptional circumstances that we face. We provided money to recruit 1,400 additional teachers and in excess of 200 additional support staff to our education system. A couple of weeks ago, I allocated £45 million to assist delivery of education through recruitment of more staff or enhancement of IT connectivity for individual pupils.

The Government has also already provided £25 million for the purchase of Chromebooks and connectivity solutions for 70,000 pupils the length and breadth of the country, which is the estimated number of children and young people who had difficulties accessing technology. Local authorities provided us with the figures. The Government has provided a huge amount of financial support to assist delivery of education at local level.

Education Scotland has provided what I would describe as well-received curricular advice for the education system. That advice has been endorsed by the education recovery group, which, of course, includes local authorities and professional associations.

In addition, Education Scotland has been working with local authorities on the online learning resources that are provided by e-Sgoil and by the west of Scotland and Tayside collaboratives. They provide more than 500 recorded lessons that can be utilised by schools around the country, in addition to tutorial support for senior-phase pupils who are in pursuit of their qualifications.

A huge amount of very welcome support is available to educators around the country. We will continue to enhance that support as each week goes by. I thank members of the teaching

profession for the extraordinary efforts that they have made to ensure that young people are well supported through remote learning, in the difficult circumstances that we face.

**Willie Rennie (North East Fife) (LD):** [*Inaudible.*]—back at the beginning of the vaccine programme, but the explanations simply do not add up any more. Scotland is around 140,000 vaccines behind where we should be, compared with the equivalent in England. The programme in England is getting faster; in Scotland, it is getting slower. It may take more time to vaccinate care home residents, but that should not hold back the rest of the roll-out of the vaccine. I listened carefully to his earlier answer, but is the Deputy First Minister really denying that he has any vaccines in storage that could be with GPs?

**John Swinney:** There are obviously vaccines that are being distributed to general practitioners at present, and there will be supplies available in general practices. Clearly, if a GP gives a commitment to vaccinate an individual in several days' time, they must be confident about the supplies that they have. For a vaccination that is to be undertaken on Friday, for instance, the GP will have to be confident that they have a supply in store to enable that to happen.

We are of course constantly distributing supplies to general practitioners. They will continue to be drawn down according to the requirements and needs of GPs in fulfilling the categorisation that has been agreed through the acceptance by the Government of the priorities of the Joint Committee on Vaccination and Immunisation.

We are drawing down the vaccine to enable us to fulfil the commitments that we have given in the priority groupings within the timescales that are set out. It is a pretty understandable and simple point that GPs will have to be assured, when they are giving commitments to members of the public that vaccinations will take place, that they have the supplies available to them to enable them to undertake those tasks. That is of course what GPs and others in the health system are focused on ensuring is the case.

**Patrick Harvie (Glasgow) (Green):** I am grateful for the advance copy of the statement.

I welcome the progress towards a quarantine policy for new international arrivals, in particular the use of quarantine hotels, which has been successful in many other countries. Will the availability of hotel capacity place a limit on the number of daily arrivals, ensuring that we do not have people arriving with nowhere to send them to if they are required to quarantine?

More important is that if quarantine hotels are to be an effective policy for the relatively small number of international travellers, why is that

approach not also being taken for the much larger number of people in our population who are required to self-isolate? Some of the countries that have been most successful in tackling Covid have been much more ambitious about supported self-isolation. The quarantine hotel policy should reflect our approach to those people who need to self-isolate, too.

**John Swinney:** There are two distinct but related issues in the question that Patrick Harvie has put to me. The first relates to quarantine hotel arrangements. Mr Harvie will understand that the Government is considering many of the details about that question, and we will update Parliament at the earliest possible opportunity. That work is very actively under way in the Government just now.

I do not think that there would be an issue about capacity being available. There is clearly capacity in the hotel sector, given the absence of tourism and business travel activity at present. I do not think that there would be any operational challenges in that respect. We must ensure that there is an aligned system so that all cases can be properly dealt with as appropriate.

On the questions regarding self-isolation, as I indicated in the statement, the Government has already put in place measures on self-isolation financial support. We are considering that afresh to determine whether it is adequate, and we will make further announcements on that in due course.

Patrick Harvie's substantive point is correct: one of the most effective ways to interrupt the spread of the virus is by ensuring that individuals self-isolate when they test positive. That will be easier for some individuals, given their domestic and financial circumstances, than it will be for others. We must approach that issue respectfully. The Government is working to determine the appropriate level of support to enable that.

**The Presiding Officer:** All the parties have had long opening questions. I hope that we will make progress through the other questions.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** Will the Deputy First Minister highlight the funding that is available to taxi operators? They do not seem to be eligible for the taxi and private hire drivers support fund, yet they often cover the costs of licences and overheads for their drivers.

**John Swinney:** The eligibility criteria for that scheme have been set out. If a taxi operator meets those criteria, they will be able to receive appropriate financial support. I encourage taxi operators to consult the criteria and to identify the routes by which they can access the financial support that is available for the taxi sector.

**Brian Whittle (South Scotland) (Con):** As more of the most vulnerable people are vaccinated, that will have an effect on the need for restrictions. What modelling has the Scottish Government done to adapt restrictions and to develop a road map out of those restrictions as more of the most vulnerable are protected? I am especially concerned about people's access to loved ones in care homes and in the impact that vaccines will have on those care homes.

**John Swinney:** I understand the significance of Mr Whittle's question and the sensitivity and necessity of people being able to visit their loved ones in care homes.

The Government is anxious to stress the importance, even once a vaccination has taken place, of individuals following the rules on physical distancing and the wider regime that we have put in place to prevent circulation of the virus. We are worried that there is a sense that the pressure is off once people have been vaccinated. The pressure is not off, as Covid will still be in our communities. That is why I made a point in my statement about the importance of continuing to follow the rules and restrictions that are in place, even after people have been vaccinated, in order to provide the maximum protection for our society.

We will continue setting out the safe way to proceed, but I stress the importance of following the rules that are in place to minimise the spread of the virus.

**Clare Adamson (Motherwell and Wishaw) (SNP):** A number of businesses in my Motherwell and Wishaw constituency have been unable to access financial support as they lack a business bank account. Will the Scottish Government consider widening its support schemes to allow local authorities to verify applicants in other ways, such as through their council tax or their VAT registration, in order to get financial assistance to businesses that do not have a business bank account?

**John Swinney:** Our framework is based on the fact that most businesses will have business bank accounts, but we have recently widened the eligibility criteria to give some flexibility to local authorities to use other data, if they are satisfied that a business is operating in the way we would ordinarily expect. There is now more flexibility for local authorities to use other evidence, in addition to the existence of a business bank account.

**Rhoda Grant (Highlands and Islands) (Lab):** After Covid business support funds are announced, there is a delay while the Scottish Government issues the criteria for those funds to councils. That creates delays and, because the moneys are ring fenced, it makes it difficult for councils to meet specific needs in their areas.

Although discretionary funds are available, those are comparatively small. Will the Deputy First Minister consider removing the ring fence from all Covid business support funding and allow councils to deal with the differing needs of their communities?

**John Swinney:** I understand the difficulty, but I invite Rhoda Grant and members to reflect on the fact that the Government is often encouraged to put in place specific funds for specific sectors in order to assure them that financial support is available. I was asked by Mr McMillan just a short time ago about the support that is available for taxi drivers, for example. There have clearly been parliamentary and community proposals for such ventures to be brought forward.

There is a need to reflect both the general levels of business support, which the strategic business framework fund that we have in place is designed to do, and the specific funds that are available for individual sectors in order to try to ensure that we meet the needs of everybody in these circumstances. We move at pace with local authorities to agree the eligibility criteria to ensure that we can distribute money as quickly as possible. That is very much the thinking that goes into the approach behind the various schemes that we have in place for local authority distribution.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** In my constituency, food bank volunteers in Penicuik have already received their first vaccination from NHS Lothian, which defended that by saying that the Scottish Government guidance was not clear. Category 2 of the JCVI priority list refers to

"front-line health and social care workers",

as does as NHS Lothian's frequently asked questions website. I applaud the value of the contribution of food bank volunteers, but I would not define them as front-line social care workers. Is NHS Lothian just plain wrong?

**John Swinney:** We expect all health boards to follow the clear guidance that the JCVI has set out. Further detail on that has been provided by the chief medical officer for Scotland to aid understanding. The guidance is clear and unambiguous about the criteria. I assure Christine Grahame that the Government is setting out a clear and simple message about the priorities that the JCVI has set. It is prioritisation based on the risk of exposure to Covid and the risk of mortality. A serious set of criteria has been set out and I think that the criteria are clearly understood by all.

**Edward Mountain (Highlands and Islands) (Con):** In remote Highland communities, vaccination of the 80-plus group is patchy. I hear of some GPs who will receive their first batch of vaccine for that group only this week, which

makes the original target of vaccinating the over-80s by the end of January unachievable. Can you confirm that the revised target for completing vaccination of the 80-plus group by 6 February will be met in the Highlands and Islands? The GPs are not convinced, so if the target is not met, what additional support will the Scottish Government provide to speed up vaccine roll-out across my region?

**John Swinney:** Mr Mountain's question gets into some of the detail that I rehearsed with Jamie Greene earlier. Obviously, there will be challenges for some of the more remote communities in the Highlands and Islands because of the vaccine batch sizes. The batch size for the Oxford-AstraZeneca vaccine is 80 or 100 and, if memory serves me right, the batch size for the Pfizer vaccine is much closer to 1,000. Obviously, there are constraints on the opportunities to utilise the different vaccines in different parts of the community.

I assure Mr Mountain that very good progress is being made by NHS Highland in distribution of the vaccine, and we are confident that the targets that we have set of completing the vaccination exercise for the over-80s will be met by the end of the first week in February. We believe that the supplies are available to ensure that that is the case, and I know that general practitioners are wholly committed to ensuring that that can be done in the timescale that has been set out.

**George Adam (Paisley) (SNP):** Does the Deputy First Minister agree that ending the furlough scheme in March could cause further uncertainty for businesses and their employees? Surely I am not the only MSP who dealt with issues as a result of constituents losing their jobs or facing uncertainty in the chaos that ensued at the end of last year. Is the Scottish Government making representation to the UK Government to ensure that businesses will have greater clarity and certainty, should current restrictions need to stay in place beyond March?

**John Swinney:** The extension of the furlough scheme, albeit that it came at the last minute, was very welcome and has provided important stabilisation support in the economy. We believe that there is a strong argument for it to be maintained, and we are making those representations to the United Kingdom Government. We hope that it will recognise that the gravity of the economic challenge that we face merits the continuation of the furlough scheme for an extended period.

**Jenny Marra (North East Scotland) (Lab):** Why have unpaid carers moved down the vaccination priority list from the first wave to group 6, which will be vaccinated in May?

A constituent of mine has been refused the Covid-19 vaccine because of an allergy to penicillin. Given how many people have such an allergy, does that not mean that large numbers of people will be excluded from being vaccinated? If the Deputy First Minister does not have the answer to hand, could he write to me on the issue, please?

**John Swinney:** On the first question about the priority for the vaccine, we are following the advice that has been given to us by the Joint Committee on Vaccination and Immunisation, which we believe to be a robust and reliable assessment of the groups who face the greatest risk from the virus. We are following its advice to ensure that we reduce the risk of mortality as a consequence of the virus.

On the second question, about a constituent's case, I will explore the issue directly and arrange for the health secretary to reply to Ms Marra. Obviously, it is important that clinical advice is offered in all circumstances in relation to the virus. I will ensure that that detail is supplied to the member in due course.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Finances are dire for families at this time. The £20-a-week uplift in universal credit has been an essential lifeline for hard-pressed families, helping them to keep their heads above water during the pandemic. However, the Westminster Government is intent on removing that crucial extra funding, which will plunge already struggling families into financial turmoil. What discussions has the Scottish Government had with the Westminster Government about extending that vital support?

**John Swinney:** Mr Lyle is correct that that funding is a critical lifeline support for individuals in our society. The Scottish Government has written on four occasions to the United Kingdom Government to press for continuation of the uplift. Obviously, that is a live issue in the UK Government and Parliament, and we will continue to add our voices to the necessary and legitimate argument in support of continued payment of the uplift to ensure that that vital support is made available to members of the public.

**The Presiding Officer:** Thank you very much, Deputy First Minister and colleagues. We will have to conclude that item of business. I apologise to Pauline McNeill, who was waiting to ask a question.

## Scotland's Vision for Trade

**The Deputy Presiding Officer (Lewis Macdonald):** The next item of business is a statement by Ivan McKee on Scotland's vision for trade. The minister will take questions at the end of his statement, so there should be no interventions or interruptions.

14:55

**The Minister for Trade, Innovation and Public Finance (Ivan McKee):** The Irish philosopher Edmund Burke once said:

"Free trade is not based on utility but on justice."

That concept and belief sit at the heart of "Scotland's vision for Trade", which I am pleased to publish today. It is a vision that shows how trade can advance Scotland's economic, social and environmental aims and sets out our principles for the type of trading relationships that we want Scotland to have both now and in the future. Its publication today is timely, because it comes during an unprecedented period of disruption and uncertainty. The pandemic continues to impact on our health and wellbeing, our businesses and the economy. At the same time, the decision to take Scotland out of the world's largest single market and customs union will be hugely damaging for our country and our economy.

In such a challenging context, trade is all the more important as a means of delivering sustainable, inclusive growth and contributing to a wellbeing economy, because it drives improvements in living standards and generates higher incomes for workers. Scotland will continue to support free and fair trade that works for all, while standing against protectionism. Doing so is absolutely compatible with and fundamental to balancing our economic, social and environmental aims and ambitions. Decisions on trade might create tensions but, guided by our principles, we will always aim to strike that balance.

"Scotland's Vision for Trade" sets out a principled approach to navigating the complexity of the trading environment both now and in the future. That includes not only the challenges of today—the significant shocks of Brexit and Covid—but likely and foreseeable trends and developments. The trade-related decisions that we take will have important and far-reaching implications for current and future generations, so it is only right that we take a considered approach to them—one that is founded on the principles and values that reflect the country that we want to be and the trading relationships that we want to have.

At the heart of our approach sits a set of five principles that will be our constant guide in our

future decisions on international trade: inclusive growth; wellbeing; sustainability; net zero; and good governance. Of course, it is businesses that trade, but to avoid their doing so in a damaging vacuum the Scottish Government believes that it is important to set the tone so as to encourage values-based economic development both at home and elsewhere. In addition, actions speak louder than words, which is why our vision applies those five principles to the biggest trade issues that our economy, our people and the planet face today.

In identifying those issues, we also set out the levers that the Scottish Government can use to direct, manage and shape international trade flows and their impacts. However, other levers are currently reserved to the United Kingdom Government. Although the Citizens Assembly of Scotland has strongly called for the Scottish Government and the Scottish Parliament to seek greater powers to negotiate our own trade relations, currently we must press for Scotland's interests to be properly identified, protected and enhanced in the UK's trade negotiations.

Members will know that the Scottish Government has consistently made a powerful case for a formal and comprehensive role for devolved Governments in all stages of the development of future UK trade arrangements. Despite the obvious strength of our case, we have been frustrated by the UK Government's failure to engage meaningfully with us or, indeed, with any of the devolved Governments. So far, the UK Government has chosen to focus on a series of ad hoc free trade agreements in order to reach its trade goals. However, if we are to conduct a consistent, coherent and successful trade policy, a broader range of tools will be needed. "Scotland's Vision for Trade" therefore also sets out the Scottish Government's asks of the UK Government, using that vision to influence the approach that it will take in developing trade agreements with other countries and blocs.

We will seek to apply the five trade principles in our vision to today's biggest trade challenges for Scotland's economy, our people and the planet. We want our economy to grow and to be globally competitive, entrepreneurial, inclusive and sustainable. To achieve that, we will work to influence the trading environment so as to maximise our competitive advantages and improve market access for our businesses in goods and services. We will do so in a coherent and strategic way, by supporting traders in navigating preferential trade terms in free trade agreements, thereby driving up the utilisation of such agreements. More important, we will seek to improve the trading environment for Scottish businesses and sectors that share our values, by

targeting market access barriers beyond free trade agreements.

We will also support business in engaging with the World Trade Organization architecture to reduce unnecessary technical barriers to trade for goods and to seek mutual recognition agreements for key sectors. For services, barriers on mobility, establishment and qualifications need to be addressed.

However, in taking advantage of the trade opportunities for our economy, we must constantly seek the right balance between competing priorities in our trade decisions. Some examples include: drawing advantages for Scotland from the growth of digital trade, while balancing that with the importance of data protection and establishing Scotland as an ethical digital nation; being part of global value chains, while balancing that with supporting our local businesses; and seeking opportunities for regulatory co-operation with others, while regulating—where we have the power to do so—in the public interest.

The European Union is our closest and largest international export market and EU trade continues to be our priority; we will not lose sight of that in the months and years ahead. The UK's trade and co-operation agreement with the EU is a bad deal for Scotland, so we ask the UK Government to prioritise building on it in a way that upholds high standards—for example, through mutual recognition agreements for key sectors.

For Scotland's people, we will use our trade principles to increase wellbeing and opportunity through trade, while reducing inequality. International trade has contributed to a rapid increase in growth and living standards globally. However, the benefits of trade have not reached everyone—there are clear winners and losers. Although we are committed to taking advantage of the benefits that trade liberalisation can bring for people, we recognise that globalisation and trade bring challenges that must be managed and addressed.

We need to understand better the differential impacts of trade across our society, particularly in order to advance our fair work agenda. Championing Scotland's trade interests does not prevent us from considering how the impacts of trade are experienced by different people in different sectors and across different geographies. That means identifying and engaging with all sectors, communities and individuals impacted by economic shifts that result from global developments or from trade decisions and, where necessary, working to ensure just transitions to the sectors and technologies of the future.

We can do that by ensuring that our labour market, education, skills and regional development

policies consider the impacts of trade. It also means applying our principles to trade decisions in a way that supports fair work and wellbeing. My recent announcement of a new model of Scottish green ports, focused on inclusive growth, fair work practices and delivering a net zero economy, is an example of that.

The voices of consumers are often excluded from trade policy, so we will protect, serve and empower them. We will also ensure that our policies on trade always support and seek to protect our public services.

The Government remains absolutely committed to protecting our national health service from predatory and harmful trade agreements and we will continue to insist that the UK Government makes that a red line in any trade negotiations.

Our trade principles aim to have a wider global impact that will benefit our planet. We are determined that Scotland will be a good global citizen, so our approach to trade must contribute to addressing global challenges such as the climate emergency and global inequality.

We will use trade as a lever to drive progress towards our climate change targets and improve our international environmental impact. An example of that is our commitment to ending all overseas trade support and promotion activities that are solely focused on fossil-fuel goods and services by the time of COP26—the 26th conference of the parties. Scotland's trade support will be provided to businesses that align with our climate priorities.

We will also use the vision for trade to set out the sort of trading partner we want to be as a Government—collaborative, inclusive and innovative. To do so, we will promote our trade principles internationally and play an active and visible role on the global stage on issues that matter to Scotland.

We support strong global governance to provide collective solutions to transnational challenges, with the rules-based system of the WTO as a core part of that, driving up standards through international co-operation.

We want to build global trade relationships with like-minded countries, organisations and businesses, finding common cause based on our trade principles—for example, through encouraging UK participation in the agreement on climate change, trade and sustainability group at the WTO.

We will respect international law, support human rights and seek to build international relationships on trade that support developing nations and address global inequality. We will expect the same of the UK Government. We will call on

Westminster to make compliance with fundamental human rights and with the Paris agreement absolute red lines for the initiation of free trade agreement negotiations.

By publishing “Scotland’s Vision for Trade”, we are setting out our stall for the future—we are openly, transparently and unapologetically setting high standards for ourselves and for others. We intend to use our trade vision as a working document, to test future trade-related policies, to monitor its effectiveness through a set of indicators, and to publish an annual trade policy review setting out how we have tackled trade-related challenges in line with the principles and approach set out in the vision.

We are clear about the kind of country that we want to be, with strong principles to guide how we do business around the world so that people, businesses and other Governments know who we are and what we represent as a nation. We want Scotland to be a successful trading nation, but we want to be known as much for how we trade as for what we trade—our economy, our people and the planet require it.

**The Deputy Presiding Officer:** The minister will now take questions on the issues raised in his statement. I intend to allow around 20 minutes for questions, after which we will move on to the next item of business.

**Maurice Golden (West Scotland) (Con):** I thank the minister for advance sight of his statement.

I very much welcome the minister’s commitment to inclusive growth, wellbeing and reaching net zero. The Scottish Conservatives believe that we can achieve all those things while protecting jobs and ensuring that no community is left behind. However, from reading between the lines in the minister’s statement, it seems that he does not agree. He states that, before the end of the year, the Scottish National Party Government will end

“all overseas trade support and promotion activities”

for industries that are based on fossil fuels. Those words alone will cause uncertainty for those who are looking to invest in Scotland’s oil and gas sector and for companies that are based in Scotland that export oil and gas—*[Inaudible.]*—all over the world. The SNP is delivering a hammer blow to the north-east and to wider Scotland with that approach. Will the minister clarify his comments and explain exactly what the impact of the commitment will be for North Sea oil and gas?

**Ivan McKee:** That is a very strange question from Maurice Golden. If we are serious about net zero, we need to be serious about the transition but, based on that question, it is clear that the Conservatives are not.

In our programme for government two years ago, I think, we made a commitment to end support for trade missions that focus solely on fossil fuels, and we have now clarified the position on that and have said that it will happen by the time of COP26 in Glasgow later this year. That means that businesses that are focused solely on exports of fossil-fuel goods and services will not be supported by our overseas development agencies. We are working with the sector to clarify any areas that might need to be clarified around the edges of that statement, but it is clear.

Before Covid, I was in Boston with a trade mission involving successful Scottish businesses, mostly from the north-east of Scotland, all of which started life in the oil and gas sector and all of which are transitioning extremely successfully into the renewables sector. We were there to sell that Scottish technology and expertise to businesses in the US that want to establish offshore renewables industries. Scotland has great strengths in that area. The transition is real, and we are moving forward with it. The oil companies understand that, as does the supply chain in the sector. It is a shame that the Scottish Conservatives clearly do not understand it and that their commitment to low carbon and net zero is a bit of a charade.

**Alex Rowley (Mid Scotland and Fife) (Lab):** The most recent target to grow international exports by 50 per cent between 2010 and 2017 was missed. Then, two years ago, the Scottish Government published another strategy, “A Trading Nation—a plan for growing Scotland’s exports”, which included £20 million of funding over three years. How much of that funding has been spent, to date? Does the Government intend to increase the funding in the light of the pandemic? I note that there was no mention of funding in the minister’s statement. Will this latest strategy be funded, or is it just wishful thinking?

**Ivan McKee:** To be clear, the document that I am talking about today is a vision statement that will allow us to assess trade-related decisions that we need to make in the real world to navigate the complexities of the global trade environment. It will allow us to take policy positions on what requires to be done. The member can read through the 90-odd pages of the document at his leisure. It sets out in great detail the 11 global challenges and how we will use the levers that are at our control to make policy decisions on how we address and tackle those challenges.

The document is not a policy statement about how we will increase exports, although that is an important issue that is tackled by “A Trading Nation”, as the member rightly identified. The document that I am talking about today is our vision statement. It is about how we address what are often complicated balances in the global

trading environment and how we work with others to deliver on that.

The member asked about the money that has been spent. We have a commitment to grow our exports, and the very substantial and well-received document “A Trading Nation” delivers on that for us.

It is clear that Covid and the very hard Brexit that the UK Government has championed have had a detrimental impact on that, but we remain committed to driving forward the more than 100 actions in “A Trading Nation”, and I meet officials on a monthly basis to that end. We are committed to delivering on that and to ensuring that Scotland’s exports continue to grow despite the challenges that we face.

**Annabelle Ewing (Cowdenbeath) (SNP):** It is, of course, vital that Scotland’s vision for trade has fair work at its heart, so can the minister provide any further detail on how specifically the Scottish Government will promote key fair work principles as far as trade is concerned?

**Ivan McKee:** Fair work is absolutely central to our economic policies and, rightly, to our approach to trade. Promoting fair work and high labour standards at home and abroad is central to our work in those areas. We oppose trading partners undercutting production costs to gain unfair advantages by failing to enforce labour standards and worker protection.

I can give some examples of that. Last week, I unveiled our Scottish model of green ports to create an exemplar for the use of fair work practices. It sets a high bar for businesses that want to work with the Scottish Government to promote trade and regional development across Scotland. Our approach to skills is designed to equip individuals to make the transition to sectors that are growing as a consequence of shifts in global trade. There are many other examples.

As Annabelle Ewing rightly identified, fair work is central to our approach to economic development and to our international trading relationships.

**Graham Simpson (Central Scotland) (Con):** I welcome the statement on page 35 of the accompanying document, “Scotland’s Vision for Trade”, in which the Scottish Government accepts that the UK Government has a “global influence”, which could

“create an open trading landscape for Scottish businesses”.

I want to ask the minister about free ports, which are also mentioned in the document. I had a go at getting an answer on this one last week, but failed. How many free ports does the minister anticipate opening in Scotland? How far behind the opening of free ports in England will we be in time terms?

**Ivan McKee:** Our position on that has been very clear. The UK Government has identified a model that calls for 10 free ports to be established across the UK. The Scottish green port model will ensure that anything that happens in Scotland complies with our very high standards of fair work practices and our transition to net zero.

We are in discussions with the UK Government at the moment. I would be happy for there to be more than one green port in Scotland, but we need to discuss that with the UK Government, and we are continuing to do so. Depending on the success of that model, there would be scope to roll it out further to support regional economic development across Scotland to those high standards.

**The Deputy Presiding Officer:** Thank you. Willie Coffey—

**Ivan McKee:** I am sorry, Presiding Officer; I would like to comment on the timing issue. I am very conscious of that issue, which I discussed again on Monday with more than 60 representatives of ports and businesses from across Scotland.

We found out about the UK Government’s proposals only in the middle of November, and we have moved extremely quickly to where we are today. In March, we will release our bid prospectus, which will provide businesses with a three-month opportunity to apply for green port status. We will follow up on that as quickly as we can, so that we can move forward with the agenda in that timeframe.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** We have increasingly focused on building our reputation and relationships globally around key products that represent our strengths and our values, not least the products of our food and drink industry. However, we have also seen how fragile global trade can be.

How does the minister see the Scottish Government’s vision for trade helping to further promote Scotland the brand and create more resilience in our relationships internationally and within Scotland?

**Ivan McKee:** We see great coherence between promoting a values-based approach to trade and promoting the provenance of Scottish products in our food and drink sector, in particular. Those premium goods and services chime well with that approach.

We think that the trade vision sends a clear signal to international trading partners that Scotland is serious about this and that we are very focused on Scotland the brand and on strengthening that brand. There is recognition that it represents high-value products and services,

and the values very much align with that. We see the vision not only as an opportunity to make a statement about values, but as an opportunity to support Scottish businesses to trade more internationally.

**Sarah Boyack (Lothian) (Lab):** Small businesses are facing extraordinary times. The continued restrictions are risking some businesses going to the wall and, with the added pressure of the transition out of the EU, it is critical that the Scottish Government provides support to small and medium-sized enterprises in order to enhance exports and help our economy recover. How will the minister provide practical help to small businesses in order to boost exports?

**Ivan McKee:** The trade vision sets out our vision for how we trade. It does not specifically address support for businesses. That is done through “A Trading Nation” and the on-going work of our enterprise agencies and the Scottish Government.

However, the member will be clear about the positions that we have taken to pressure the UK Government to deal with the disgraceful mess that it has made with Brexit. That has caused huge difficulties for our seafood exporters, for example, and the pressure that my colleague Fergus Ewing has applied to the UK Government has led to support from the UK Government for that sector.

We continue to work through Scottish Development International and Scottish Enterprise to support export businesses in these difficult times, and particularly SMEs, which are a core focus of the work that we are taking forward through “A Trading Nation”. As I said, I meet officials very regularly to push forward the more than 100 actions that we have outlined to deliver that. Despite the restrictions that have been put in place by Brexit and the difficulties of the current pandemic, that work remains an absolute focus in order to increase Scotland’s exports, particularly from our very successful SMEs.

I regularly take part in trade missions—at present, they are virtual—and I engage with Scottish SMEs and international partners. In fact, I took part in one this morning to support Scottish trade with France.

**Willie Rennie (North East Fife) (LD):** In the past, the Scottish Government has sought to promote trade deals with places such as Qatar, as well as the infamous fake deal with the Chinese railway company. Both had suspect connections with human rights abuses. Would the principles of human rights and inclusive growth that the minister has just set out have halted those initiatives by the Scottish ministers just a few years ago?

**Ivan McKee:** I think that the vision is very clear and that we have addressed those important issues. We have put on paper—in what I hope the member will agree is a substantial document—what those issues are, and we have identified and outlined the levers that we have to influence and control things where we can. I think that any deal that came forward now would be assessed on the basis of the values that are addressed in the document.

I make no secret of the fact that some of the challenges can be difficult to assess, but we are clear now and going forward that that is what the vision is there for. It is there to address in particular those specific examples where there may be issues that need to be considered.

As I have said clearly both in my statement and in the document, we will produce openly and transparently an annual assessment of how we have addressed those trade challenges with regard to the principles in the document. I hope that the member will welcome that.

**Patrick Harvie (Glasgow) (Green):** I am grateful for advance sight of the statement. It includes some fairly predictable capitalist assumptions, such as that trade drives improvements in living standards and generates higher incomes for workers. It can do that, or it can do the opposite. However, the statement at least begins to put some principles into the debate on trade, such as the first indication that the Government might be willing to withdraw political support from the lethal fossil-fuel industry.

Will the Scottish Government act in accordance with the principles of those at Westminster who voted against trade agreements with countries that perpetrate genocide? Will we ensure that we are not seeking advantage through such trade deals that are signed in defiance of those principles? Can the minister identify areas where he would like to see less trade, such as through the eradication of the arms trade, as well as those areas where he wants to see more?

**Ivan McKee:** There were a few points in there. On genocide and the UK Government’s Trade Bill. Scottish National Party members were clear in our position that the UK Government should not be taking forward trade deals with regimes that are guilty of genocide.

On arms, it is also quite clear that Scottish Enterprise and enterprise agencies do not support businesses that manufacture munitions in Scotland. Any support is very clearly for diversification away from the arms industry and to other—[*Laughter.*]—Patrick Harvie is laughing, but it is true, and he should look at the reality of that. I do not know why he has a problem with our creating jobs in sectors that are not related to the

arms industry, because that is exactly what we are doing.

My final point is that I always find it bizarre when Patrick Harvie and others champion protectionism and speak against free trade in what is a Trump-like approach to international relations. Free trade is good. It opens windows and thus increases the ability of people and societies to generate wealth. That is the reality. A narrow-minded and protectionist approach such as Patrick Harvie's does nobody any good. We have articulated that very clearly as one of the key principles.

There are of course winners and losers. We understand that very clearly. Central to our vision is how the Government tackles that, through just transition processes in the energy sector and elsewhere, and how it handles transition in a way that drives up overall living standards and makes sure that the societies and individuals in those parts of Scotland that are at risk of suffering as a consequence of trade are supported to manage through those transitions, so that we can minimise the impact on them and support them to take advantage of the opportunities that trade opens up.

**The Deputy Presiding Officer:** I ask for succinct questions and answers, please, so that we can get other questioners in.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** The UK Government's Brexit deal has thrown up considerable barriers to trade with the EU, and all against the will of Scottish voters. Will the minister confirm that Scotland's trading strategy will continue to develop and grow Scotland's strong trading relationship with the EU?

**Ivan McKee:** The member is absolutely correct. The UK's deal with the EU is a bad deal for Scotland. That will become more apparent over time. The Scottish Government remains committed to strengthening, where we can, our relationship with our partners in Europe and with the EU, and to working with those like-minded countries, through whatever channels are available, to strengthen good governance across the global trading environment.

**Jamie Halcro Johnston (Highlands and Islands) (Con):** Although the minister claims that the EU is our closest and largest international export market, the rest of the UK is Scotland's largest market for trade—it is the destination for more than 60 per cent of our exports. Why do he and the SNP continue to push for breaking up the UK, which would put up barriers with our largest market, thus risking jobs and livelihoods? Does he accept that leaving the UK single market would be hugely damaging to our country and economy?

**Ivan McKee:** As we have seen and continue to see, the people of Scotland are recognising, in

ever greater numbers, that Scotland's position would best be served by being outside the UK. Internationally, countries of Scotland's size that have far less natural resource than we do have been much more successful in building fairer and wealthier societies, as a consequence of having a full range of levers at their disposal for maximising the benefits of their economy and resources for their people and societies. People recognise that Scotland's future lies in that direction.

Our trade vision identifies the levers that Scotland and the UK each have for influencing trade agreements, and what we seek to do to influence the UK. However, we all look forward to the day when all those levers will be controlled by a Scottish Government that sits in Edinburgh and is elected by the people of Scotland as an independent country.

**John Mason (Glasgow Shettleston) (SNP):** How do Scottish Development International and the enterprise agencies fit into the vision?

**Ivan McKee:** They have key roles, because a lot of what we are talking about is to do with understanding what is happening in reality. SDI's global network is extremely useful in that it feeds back data and what is happening on the ground, and that helps us to understand opportunities as well as barriers to market access and how to tackle them. Gathering that information helps to inform a more rounded picture of the global trade environment and how we can seek to influence it and support businesses to export. It enables us to understand what information will help us to make clearer judgments on trade-related decisions, in line with the principles that we articulate in the vision document.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** We need to ensure that there is a green recovery from the coronavirus crisis. Can the minister provide further information on how Scotland's trade strategy will contribute to that?

**Ivan McKee:** We absolutely do. The challenges that we face are significant. We have written the vision for trade document to be for now and for the future, as I said. It establishes principles on which we will reflect year after year as we navigate our way through complex international trade issues, in the current constitutional situation and in the future. As we come out of the pandemic, we hope that the vision will provide a springboard from which to develop and take advantage of our policies, with the principles that it espouses very much at its heart.

**The Deputy Presiding Officer:** I am grateful to the minister and to members.

I suspend the meeting briefly to allow all the participants in the next debate to take their places. Please do not go away or log off.

15:26

*Meeting suspended.*

15:38

*On resuming—*

## **University of St. Andrews (Degrees in Medicine and Dentistry) Bill: Stage 1**

**The Presiding Officer (Ken Macintosh):**

Thank you, colleagues. The next item of business is a debate on motion S5M-23946, in the name of Jeane Freeman, on the University of St. Andrews (Degrees in Medicine and Dentistry) Bill, at stage 1. I invite all members who wish to contribute to the debate to type "R" in the chat box.

I call the Cabinet Secretary for Health and Sport, Jeane Freeman, to speak to and move the motion.

It looks like I spoke too soon. I will have to suspend the meeting until we make sure that the cabinet secretary has a proper connection.

15:39

*Meeting suspended.*

15:47

*On resuming—*

**The Presiding Officer:** Welcome back, colleagues. We will try again. Our online meetings would not be the same if we did not have a few connectivity issues.

I remind members that the next item of business is a debate on motion S5M-23946, in the name of Jeane Freeman, on the University of St. Andrews (Degrees in Medicine and Dentistry) Bill at stage 1. I invite all members who wish to speak in the debate to put an "R" in the chat box, so that I can make sure that everyone is on board.

15:48

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** I am pleased to open the debate on the general principles of the bill. I thank the Health and Sport Committee for its careful scrutiny of the bill and for its support for the bill's general principles. I also thank the Finance and Constitution Committee for its consideration of the bill.

I am grateful to the organisations and individuals who provided evidence to the Health and Sport Committee. The committee has delivered a fair report on the bill and the evidence that it received. The Government's response to the report has been provided to Parliament; I hope that members had the opportunity to review it, ahead of the debate.

This technical single-purpose bill has been welcomed and supported by the majority of stakeholders. The bill's purpose is to repeal an archaic, unfair and, arguably, anticompetitive prohibition that prevents the University of St Andrews from awarding medicine and dentistry degrees. The prohibition, which was put in place more than 50 years ago, was always intended to be transitional, so it is no longer appropriate for it to remain in law. It was put in place by the Universities (Scotland) Act 1966 in order to give immediate effect to the separation of Queen's College in Dundee from the University of St Andrews, so that it could form the University of Dundee. That purpose has clearly been achieved; the University of Dundee has long since become a reputable and well-established higher education institution.

The University of St Andrews has educated students and has contributed to the rich tapestry of our higher education world in Scotland for more than 600 years, but no other higher education institution in Scotland or the United Kingdom is prohibited by primary legislation from awarding degrees in any discipline. It is clear that the 1966 act did not intend to prevent future competition between the University of St Andrews and any other higher education institution in Scotland or the UK. By removing the prohibition, the bill will create a fairer higher education sector and will enable all our valued institutions to maximise the options that they offer to students in Scotland.

The bill has been introduced to enable the University of St Andrews to award, jointly with the University of Dundee, primary medical qualification degrees to students on the Scottish graduate entry medicine programme—ScotGEM—in advance of the first cohort graduating in 2022. ScotGEM is Scotland's first graduate entry programme for medicine, and formed part of a package of initiatives that were announced by the Scottish Government in 2016 to enhance the national health service workforce of the future.

It was always intended that the degree would be jointly awarded; as such, it is highly valued by its students, as the committee heard. The degree is delivered in collaboration with the University of the Highlands and Islands and a number of partner health boards. It has a specific focus on general practice and remote and rural working, with the aim of retaining as many doctors as possible within NHS Scotland, following their graduation.

I acknowledge that a small number of stakeholders have raised concerns about what they consider to be the potentially negative impact on the University of St Andrews being able to offer its own PMQ degree in the future. Those concerns are precisely why medicine and dentistry are controlled subjects. It is so that policy decisions

can be made by the Government of the day, in collaboration with others, on the number of undergraduate medicine and dentistry students there are at any time, and on distribution of those students across higher education institutions and across clinical placements in the NHS.

Although the University of St Andrews might well have the ambition to offer its own PMQ degree in the future, the bill neither determines nor provides for that. I am pleased that the Health and Sport Committee's stage 1 report acknowledges that important point. The question of a higher education institution being able to offer a degree in either of the controlled subjects of medicine or dentistry—and, if so, the number of places that it is able to offer—is subject to separate financial and regulatory controls and to decision-making processes that involve the Scottish Government, the Scottish Funding Council, NHS Education Scotland, the General Medical Council, our health boards and others.

Given that the University of St Andrews, together with the University of Dundee, has already been awarded the ScotGEM programme, the immediate effect of the bill will be to allow St Andrews university to award the ScotGEM PMQ jointly with Dundee university. During stage 1 evidence, we heard that that is the clear expectation of ScotGEM students. We also heard how passionately they feel about their unique identity as students of both universities.

Once again, I thank the Health and Sport Committee for its scrutiny and its agreement that it would be fundamentally unfair for any part of the prohibition to be retained, given that it was only ever intended to be transitional.

Scotland's higher education sector faces significant challenges, given the constraints on immigration, the consequences of European Union exit and the likely decrease in the attractiveness of studying abroad that will result from the coronavirus pandemic. There are also significant challenges to overcome in creating and growing a more sustainable medical workforce.

Removal of the prohibition will allow greater flexibility in addressing those challenges, by creating a fairer higher education sector, thereby enabling all Scotland's valued higher education institutions to maximise the options and opportunities that they offer to students in the future. It is fair and right that ScotGEM students will be able to graduate with the jointly awarded degree that they believed they were studying for, reflecting both their studies and the incredible work that has been done by the universities of Dundee and St Andrews in establishing such a successful and innovative programme.

I move,

That the Parliament agrees to the general principles of the University of St. Andrews (Degrees in Medicine and Dentistry) Bill.

**The Presiding Officer:** Before I call the party spokespeople to give their opening speeches, I call Lewis Macdonald, who is convener of the Health and Sport Committee.

15:55

**Lewis Macdonald (North East Scotland) (Lab):** I am pleased to speak in the debate as convener of the Health and Sport Committee as we consider the bill at stage 1. As we have heard, this is a fairly straightforward single-purpose bill and our report, which supports its general principles, was agreed to without division.

I thank all those who assisted the committee with our scrutiny, those who responded to our call for views and those who gave oral evidence. We were particularly pleased to hear directly the views of students on the Scottish graduate entry medicine, or ScotGEM, course, whose impending graduation next year prompted the introduction of the bill at this time.

As we have heard, the bill seeks to remove a legislative prohibition that prevents the University of St Andrews from holding qualifying examinations or awarding degrees in medicine or dentistry. The ScotGEM course that prompted the introduction of the bill provides for Scotland's first graduate entry medicine degree, which is completed over four years and results in a primary medical qualification as a bachelor of medicine and bachelor of surgery or MBChB. It is aimed at graduates who are interested in a career in general practice and provides a focus on rural medicine and healthcare improvement—areas where there is an acknowledged shortfall in meeting future needs.

As we have heard, the course is jointly provided by the University of St Andrews and the University of Dundee, in collaboration with the University of the Highlands and Islands, and the first cohort of students is set to graduate in 2022.

We heard from their representatives that ScotGEM students enrolled on their programme of study with the clear expectation that their degree would be jointly awarded by the University of St Andrews and the University of Dundee. We heard that, for a number of students, that joint award was an important factor in their decision to apply. If the bill were not to be passed, the ScotGEM students' degree would be awarded by the University of Dundee only.

It was striking that some of the greatest reservations about the bill were expressed by the principal of the University of Dundee. While ScotGEM is a promising example of collaboration

between Dundee and St Andrews, the roots of the ban on St Andrews awarding primary medical qualifications lie in the complex and long-standing relationship between the two neighbouring seats of learning—at times as partners and at times as competitors.

That complex relationship will no doubt continue to evolve after the passage of the bill, but the committee was encouraged that the ScotGEM initiative would produce positive outcomes next year and beyond. Under the initiative, students can receive a bursary of £5,000 a year for up to four years, as long as they commit to working an equivalent number of years for the NHS in Scotland. It would be interesting to know how many years of service have been committed to by the current cohort of students in exchange for that financial support.

Beyond ScotGEM, the bill's policy memorandum highlights—as the cabinet secretary has just done—that the University of St Andrews and seven other institutions have submitted bids to

“develop proposals for a new medical school”

as part of a process that has been put on hold as a result of the Covid pandemic.

The question of where any new medical school should be located was clearly not one for us to consider in the context of the bill, although it will no doubt be of great interest to future health committees. While the bill is necessary for St Andrews to be considered in that context, it does not automatically enable the university to award primary medical qualifications beyond the current ScotGEM programme. As we have heard, doing that would also require both regulatory approval and financial support, as is the case for existing medical and dentistry schools.

The cabinet secretary told the committee that she would expect future consideration of proposals for a new medical school to look at undergraduate numbers, anticipated flow for associated clinical placements, issues of access and skills retention and workforce demands.

The committee heard concerns about the potential impact that a new medical school at St Andrews might have on the viability of existing schools, especially regarding clinical placements for students. Although such a process does not arise directly from the bill, we have recommended that any future consideration of proposals for a new medical school should take into account the wider evidence that we heard on NHS recruitment and retention and on widening access to medicine.

The committee unanimously supports the general principles of the bill and looks forward to seeing it progress to stage 2.

16:00

**Donald Cameron (Highlands and Islands) (Con):** I am delighted to open for the Scottish Conservatives. We support the general principles of the bill. Although its subject matter is more technical than in most health debates, it is important, for reasons that I will come on to.

The bill intends to amend the Universities (Scotland) Act 1966 to remove the provision that prevents the University of St Andrews from awarding degrees in medicine and dentistry. That will allow those on the ScotGEM course to receive a joint degree in medicine from both the University of St Andrews and the University of Dundee. That course was created as a result of shortages of general practitioners and shortages in rural medicine.

The bill seeks to right an historical anomaly. The prohibition was intended to be temporary and originated when the University of Dundee was created as a separate institution in the 1960s, when the clinical school previously used by the University of St Andrews became part of the new University of Dundee.

The bill will allow students taking the ScotGEM course to receive a joint degree from both institutions. It is worth remembering that the ScotGEM course is run in collaboration with the University of the Highlands and Islands. It is generally believed that, by removing the prohibition, the bill will create a fairer higher education sector and enable all of Scotland's institutions to maximise the options and opportunities that they offer. That is significant in and of itself and shows that the bill is not merely about a technicality.

The ScotGEM course is important because it was initiated to address workforce shortages in rural areas, which face difficulties in recruiting and retaining GPs. As a member for the Highlands and Islands, I am aware of the issues that we face in my region. Scotland has always had a higher number of GPs per capita than in other parts of the UK, due to our unique geography of sparsely populated rural areas and high-density urban ones. Both require more GPs per head than might normally be the case.

This is where I must strike a more critical note. The Scottish National Party Government has presided over a GP crisis. A hard-hitting report by Audit Scotland in 2019 said that the Government was ill-equipped to sort out Scotland's GP crisis and would struggle to meet its commitment to recruit an extra 800 family doctors in the next decade. Between 2009 and 2019 there was a reduction in the number of GP practices, while the size of the average practice patient list increased.

That is a long-standing problem. In 2008, the British Medical Association warned Nicola Sturgeon, who was then health secretary, that Scotland faced a severe shortage of GPs. There is still a significant shortage of GPs in Scotland. It is no wonder that the Royal College of General Practitioners in Scotland predicts that there will be a shortfall of 856 full-time-equivalent GPs this year.

Others have mentioned the concerns that were raised about the bill, which it is worth acknowledging. There is a fear that the bill might lead to the University of St Andrews setting up its own medicine degree. The Aberdeenshire health and social care partnership is concerned about the effect that that could have on the recruitment and retention of school leavers and graduates in the north-east.

Others have argued for a partial, rather than a complete, removal of the prohibition on St Andrews awarding medicine degrees. The University of Dundee has argued that an independent medicine degree at St Andrews could have a negative impact on teaching capacity in the area. Those concerns should be recognised.

Scottish Conservatives agree with the Health and Sport Committee's view that the bill is important. We support it at stage 1 and look forward to seeing how it progresses through Parliament. It is important to acknowledge some of the concerns that stakeholders have raised at stage 1, as well as the worrying context of Scotland's continuing shortage of GPs.

16:04

**Alex Rowley (Mid Scotland and Fife) (Lab):** I am pleased to be speaking in this debate on the University of St. Andrews (Degrees in Medicine and Dentistry) Bill. Labour welcomes the bill's introduction. I thank the Health and Sport Committee for its work on the stage 1 report that it produced and thank respondents for all the evidence submitted on the bill.

I have had the privilege of visiting the school of medicine at St Andrews on a number of occasions and have seen at first hand the excellent facilities there and spoken to some of the exceptionally talented researchers and scientists working for the school. The facilities at the university are first class, and students from all over the world are well placed to start their careers in medicine from St Andrews.

As members will no doubt be aware, the University of St Andrews was founded in 1411 and is the oldest university in Scotland and one of the oldest in the world. It plays a major role in the Fife community, being one of the largest employers in Fife and providing over 2,500 jobs directly in the

region. That is coupled with the fact that it made over £152 million in export earnings for Fife in 2018-19, a figure that is equivalent to nearly 8 per cent of all Fife exports.

The bill before us today is a positive one in that it will rectify an issue that resulted in the university not being able to confer degrees in medicine directly. This Fife university is one of the most prestigious in the world and it will be able to confer medicine and dentistry degrees directly, in partnership with the University of Dundee, for the ScotGEM programme, which I hope will attract more students, researchers and academics from all over the world to Fife, benefiting the local community and generating money for the wider local economy.

The bill's policy memorandum states:

"Scotland's higher education sector is facing significant challenges given the constraints on immigration, the consequences of EU exit and the likely decreased attractiveness of studying abroad as a result of the public health pandemic. There are also significant challenges to overcome in creating and growing a more sustainable medical workforce. Removing the prohibition entirely allows greater flexibility in addressing these challenges, by creating a fairer higher education system and enabling all of Scotland's valued institutions to maximise the options and opportunities they offer to students in Scotland."

I largely agree with that rationale. Given that the bill will allow the University of St Andrews to play a key role in the ScotGEM programme, which is aimed at increasing careers in general practice and has a focus on rural medicine and healthcare improvements, I believe that it is a welcome move for Scotland.

If the pandemic has taught us anything, it is surely to recognise the vital role of our NHS and its medical practitioners and the need to attract more medical professionals and general practitioners. That might be one of the biggest takeaways from these turbulent times. I welcome the stage 1 debate today and look forward to the bill making its way through Parliament.

16:08

**Willie Rennie (North East Fife) (LD):** In essence, the bill is a simple one that will bring the school of medicine in the University of St Andrews more in line with the other medical schools across Scotland. Its purpose is to correct an unintended consequence from 55 years ago. The bill is a sensible measure that is almost administrative, but it is certainly the right thing to do.

Probably constituted by the issuing of a papal bull in 1413, the University of St Andrews is today a thriving and successful global university where students from all over Scotland mix with students from across the globe. As the MSP for North East

Fife, I see that myself weekly. The university is an amazing institution.

Today, we are correcting the unintended consequences of the Universities (Scotland) Act 1966, which separated the University of St Andrews from Queen's College in Dundee, which formed the University of Dundee. As there was no major teaching hospital in the St Andrews area, the logical step to take was to award the clinical part of the medicine degree offered at the time to the new university across the Tay. Therefore, the 1966 act removed the power to grant undergraduate and postgraduate degrees in medicine, midwifery and dentistry by default.

The University of St Andrews continued to offer a three-year undergraduate BSc in medicine, which is then used to gain entry to three further years of training at universities with full medicine degree awarding abilities. Therefore, a major part of students' training is undertaken at the University of St Andrews.

With such a long and prestigious heritage, it is only right that the University of St Andrews should be able to move forward. I argue that it should be able to operate on an equal basis with other universities in relation to any current or future developments, or commissions, for a new medicine or dentistry degree provider. This change would support the development of the medical workforce in Scotland and give students a choice of universities.

One of the first steps would be for the university to be able to award, as we have heard, the ScotGEM primary medical qualification jointly with the University of Dundee, which would, in effect, renew the partnership of 55 years ago in a new way. ScotGEM students enrolled to their programme of study with the clear expectation that that would happen. It is the right step to take and it is the fair thing to do.

Through the bill, we will be able to resolve the anomaly that exists. The University of St Andrews is the only academic institution in the UK that is legally barred from awarding primary medical qualifications.

Let us progress the bill. It is the right thing to do. It gets rid of the anomaly—a mistake, effectively—from 55 years ago. That is why I support the bill.

16:12

**Emma Harper (South Scotland) (SNP):** I welcome the opportunity to speak in this important stage 1 debate on the University of St Andrews (Degrees in Medicine and Dentistry) Bill. I thank all who gave evidence to the Health and Sport Committee and the committee clerks.

As the cabinet secretary said, this technical bill will, by repealing a section of the Universities (Scotland) Act 1966, remove an unfair and anti-competitive prohibition that prevents the University of St Andrews from awarding medicine and dentistry degrees. That is welcome, as it affords the University of St Andrews equality of competition and educational opportunity.

As the deputy convener of the Health and Sport Committee, I participated in the scrutiny of the bill. The committee produced a short report in which we overwhelmingly supported the principles of the bill.

We had only one recommendation. Although discussions around proposals for a new medical school have been postponed due to the Covid-19 pandemic, the committee considers that it would be prudent, when those discussions resume, that consideration is taken of the wider evidence that we heard on NHS recruitment and on helping to support widening access to medicine degrees.

On that point, I would like to raise awareness of the local campaign work across Dumfries and Galloway for a new medical school for Scotland to be located in the region, possibly at the site of the Crichton campus, which is already home to the University of Glasgow and the University of the West of Scotland. I ask the cabinet secretary to keep that in mind as we move forward, and I will continue to engage with her and local campaigners on the issue.

The bill will allow the University of St Andrews to award a joint degree with the University of Dundee for the purposes of the ScotGEM programme, which other members have spoken about. ScotGEM, which I have discussed in the chamber and in committee previously, is operational across Dumfries and Galloway and other parts of Scotland, and is being provided by the University of St Andrews and the University of Dundee, in collaboration with the University of the Highlands and Islands.

It is Scotland's first graduate entry programme with a strict focus on rural medicine. The first cohort of students is expected to graduate in 2022. If the bill is not passed, their degree will be awarded solely by the University of Dundee. The timing of the Scottish Government's introduction of the bill is therefore welcome, as will it enable the universities of St Andrews and Dundee jointly to award the degree to ScotGEM students.

It is simply unfair for any academic institution to be prevented from offering a degree in a controlled subject that its counterparts elsewhere can offer. Indeed, it is only fair to implement the bill for the ScotGEM students who are currently on the programme, who signed up on the promise of gaining a unique degree that would be sponsored

by both universities. In the committee's first evidence session on the bill, the health secretary said that it is

"clearly the expectation of students who enrolled for this special course and who hope to graduate shortly"—[*Official Report, Health and Sport Committee*, 8 December 2020; c 22.]

that they be awarded a degree from both universities jointly.

I again welcome the bill and its very real implications for the University of St Andrews and for ScotGEM students, some of whom are currently learning and practising across Dumfries and Galloway. I also emphasise the importance of providing greater access to medicine for students across Scotland, and I support any work that is being done to bring a medical school to Scottish rural areas, including Dumfries and Galloway, in the future.

16:16

**Liz Smith (Mid Scotland and Fife) (Con):** I welcome Alex Rowley's earlier comment that if ever there were a time for us to be reminded of the importance of our medical professionals, it is now. The Covid-19 pandemic has demonstrated their outstanding contributions as public servants, through the exercise of their professional skills in an ever more challenging world and through their dedication to their patients and colleagues.

The pandemic has also exposed the huge pressures under which those people have often had to operate, and the need for Scotland to train more doctors, dentists and other medical professionals. In particular, we want doctors and dentists who are schooled in our universities to have more job opportunities once they have graduated—including, of course, in Scotland, which involves ensuring that we update the relevant legislation.

The Covid-19 pandemic has shown the benefits of our outstanding university research programmes, which is another reason why this particular legislative change is welcome. Top-class research must be accompanied not only by much greater collaboration in higher education but by universities working with other sectors and with their local economies, including in rural areas.

The legislative change that we are considering will provide significantly greater benefits for the whole of Fife, by delivering better primary care and providing new incentives for clinical research in the life sciences. In the longer run, when Covid-19 is controlled effectively and—we hope—one day eradicated, there will be debates and inquiries about the structure of our health services. However, it is already certain that there must be a much greater focus on the delivery of primary

care. Fife has already experienced more than its fair share of challenges in that respect. The issues with out-of-hours services in St Andrews a couple of years ago highlighted that accessibility to primary care is a key issue, especially in our most rural communities.

If the bill is passed, full medicine degrees will still require ScotGEM and GMC accreditation, but the change will make for much greater fairness and will ensure that there will be a level playing field on which the University of St Andrews can participate equally with other PMQ-awarding universities. That was acknowledged by the cabinet secretary herself, during the committee's recent evidence sessions, and it is very much in line with the views of the principal of the University of St Andrews, Professor Sally Mapstone. The cabinet secretary also acknowledged that the bill aims to take practical steps to make participation in higher education feasible for more people, which is in line with the Scottish Government's agenda on widening access.

There is no doubt that higher education faces immense challenges, and not just because of Covid-19. Last week's budget briefing from Professor Gerry McCormac and Universities Scotland, which I and other members attended, laid bare the extent of the financial challenges in Scotland, most especially when it comes to funding support for teaching. I hope that the Scottish Government recognises those ahead of the budget on Thursday. The briefing also exposed the challenges that Scotland faces on our outstanding record in attracting research funding, which we must not lose. St Andrews has always been a key part of such research, which is another reason why the bill is so important. I am therefore happy to support it.

16:19

**Daniel Johnson (Edinburgh Southern) (Lab):** It gives me great pleasure to speak to the motion, and I will vote in favour of the bill. As members may know, I take a great interest in St Andrews—such a great interest that I sometimes wonder whether Willie Rennie thinks that I am planning an annexation.

My interest largely extends from the fact that I am a St Andrews graduate, but I am also the grandson of a St Andrews graduate. My grandmother graduated from St Andrews with an MBChB in 1945, having also been one of the first female presidents of the Bute Medical Society in St Andrews. What is all the more remarkable—if being a woman doctor in 1945 was not sufficiently significant—is that she did so having completed a modern languages degree at St Andrews by the age of 19. In some ways, the bill is correcting a

historical anomaly; my grandmother could have benefited from it.

However, the wider point is that St Andrews has a long and well-established tradition of delivering medical education. Medicine was founded at St Andrews in 1897 by the Marquess of Bute, the then rector. It was only in 1967 that that was interrupted, but St Andrews continued to offer medical education by offering degrees that conferred a BSc in Medical Sciences, with students then going on to complete their medical training in Manchester.

In response to the concerns that some have raised that the bill may lead to competition, I would say that, in a sense, the current situation has led to medical graduates being lost from Scotland. With medical students starting their medical training in St Andrews and then moving to Manchester, we lose doctors, which we can ill afford to do. St Andrews has a long-established and largely continuous heritage in medical training.

St Andrews also has a reputation for innovation—the ScotGEM degree programme is an example of that. Helping people to change careers and move into medicine is a good idea. When people leave school, what they want to do is not always obvious to them; certainly, academic excellence at school is not necessarily the best indicator of who is suited to a career in medicine.

Moreover, we need more doctors, and not just in general practice. In Scotland, the number of doctors per capita is lower than it is in most other Organisation for Economic Co-operation and Development countries. The average across the UK is 2.9 doctors per 1,000 people, and Scotland is slightly ahead of that figure. However, the average across the OECD is 3 per 1,000, and in Germany and Austria, it is approaching 5. Quite simply, we need more doctors, including GPs. Therefore, enabling St Andrews to train more doctors is undoubtedly a good thing and not something to be cautious about.

As I have said, St Andrews has established itself as a centre of innovation, not just historically but in more recent times. For such a small university, it has a number of innovations, such as the combined heat and power centre that it has established in Guardbridge, along with business incubators. The innovation that we see with the degree programme stands in that context.

We should be seeking to enable St Andrews to innovate more across all its subject areas, but in particular in medicine. The bill enables the university to continue to innovate in the future. It is clear that we must support the bill so that we can have more doctors entering the profession through more routes, and more flexible routes, and so that

we can support the continued innovation in medicine and other subjects at the University of St Andrews.

16:24

**George Adam (Paisley) (SNP):** I am a member of the Health and Sport Committee and I am pleased to take part in the debate. This is the very first time that I have had to deliver a speech remotely, so I apologise in advance if anything should go wrong.

The debate has been interesting. Daniel Johnson almost took on a Stewart Stevenson-esque tone in the part of his speech when he went through his family tree and spoke about those who were alumni of the University of St Andrews.

Donald Cameron is a member of the Health and Sport Committee, so it was surprising to hear him say something a wee bit different from what the committee discussed. In effect, we agreed that the bill is a way forward to ensure that we can get more GPs to work in our communities, particularly in rural areas, so that was a surprising speech from Mr Cameron.

As others have said, the bill is very technical. As the cabinet secretary said, it seeks to remove an archaic, unfair and anti-competitive prohibition that prevents the University of St Andrews from awarding medicine and dentistry degrees. I could stop there and save us all three or four minutes of our lives, but I will endeavour to go a little further.

As has been said, the prohibition was created in the mid-1960s to accommodate the separation of Queen's College from the University of St Andrews so that Queen's College could form the University of Dundee. That happened before I was even born. I am now 51 years old, and I assume that the bodies have achieved everything that they wanted to achieve by doing what they did way back in the 1960s. I know that the world of academia does not like change but, surely, after half a century, an argument can be made to look at things a wee bit differently and move forward.

One important point is that no other higher education institution in Scotland or the United Kingdom is prohibited by primary legislation from awarding degrees, in any discipline. It is clear that the Universities (Scotland) Act 1966 did not intend to prevent future competition between the University of St Andrews and any other higher education institution in Scotland or the rest of the UK. The bill will embed a fairer higher education sector and enable our valued institutions in Scotland to maximise the options that they offer students.

The Health and Sport Committee considered the bill at stage 1 and supports the principles of the

bill. Repealing the provision in the 1966 act will allow the university to award a joint degree with the University of Dundee for the purposes of the ScotGEM degree.

The Scottish Government has timed the introduction of the bill to enable the University of St Andrews to award jointly with the University of Dundee medicine degrees to Scottish graduates from the medicine programme in advance of the first cohort graduating in 2022. Surely that is a good thing.

In my opinion, it is wrong to prevent any academic institution from offering a degree in a controlled subject in which its counterparts elsewhere can offer degrees. The committee heard evidence from other institutions, which, from what I could see, feel a bit threatened by the University of St Andrews getting involved in the field. However, the idea of competition and further options for students is a good thing.

Sometimes, we all broadly agree a way forward for a bill. Those times do not come around very often, but this should be and is one of them. I believe that the bill presents a positive way forward for the institutions involved. I encourage colleagues to agree with the bill's general principles and to vote for it at decision time tonight.

**The Presiding Officer:** We move to the closing speeches.

16:28

**Claire Baker (Mid Scotland and Fife) (Lab):** I am pleased to close the debate for Labour and to support the stage 1 report and the general principles of the bill. The bill is a short one with a clear intent, and it has our full support. It has been interesting to read and listen to members talk about why St Andrews is in the unique position of not granting degrees in medicine or dentistry.

The cabinet secretary will know that I have raised the difficulties that come from a shortage of GPs. There are shortages in Kirkcaldy in particular, but there are challenges with recruitment across Fife and other parts of Scotland. The difficulties that health boards and integration joint boards face in recruiting and retaining GPs and primary care staff are well known. There has been a steady flow of retirements and resignations in Fife, and it is proving very difficult to replace those people.

In Fife, a number of GP practices operate with closed lists and a number have had to come under the control of NHS Fife. Too many practices rely on locum cover and are described as being high risk. The situation has also led to difficulties in delivering out-of-hours services in local hospitals. Other members have referred to the situation in

St Andrews and to the closure of a palliative care ward in Methil when a responsible medical officer could not be identified.

There are a number of solutions and responses to the crisis in GP numbers. In response to the questions that I have raised, the cabinet secretary has often highlighted the ScotGEM programme. As a Mid Scotland and Fife MSP, I am pleased that the course—which is the first graduate entry medical degree that is aimed at graduates who are interested in a career in general practice—has been developed. The focus on rural medicine and healthcare improvement is welcome, and I support the financial incentive that is offered. We are competing in an international market for healthcare staff, and I hope that graduates of the ScotGEM programme decide to commit to the NHS on graduation.

The model that has been created at St Andrews and Dundee universities is innovative, and I welcome the fact that the first students are due to graduate in 2022. It is interesting to see the students' backgrounds, the different workplaces that they have come from and the variety of experience that they bring to the course. Their expectation is that they will graduate with a joint degree in medicine from St Andrews and Dundee, and the short bill before us will enable that to happen.

As other members have highlighted, the repeal of the legal prohibition on the awarding of medicine and dentistry degrees is broader than the intention and aim of the bill. During the evidence stage, that raised questions about the interest that the University of St Andrews has expressed in awarding medicine degrees, in addition to the joint degree that graduates of the ScotGEM programme will be awarded.

The Aberdeenshire health and social care partnership and the University of Dundee have expressed a preference for a partial removal of the prohibition. The partnership between Dundee and St Andrews universities has led Dundee university to express concerns about training capacity for its students if St Andrews university were to start awarding medicine degrees, and about its ability to place students in local hospitals. In other words, it is concerned about capacity and competition. The AHSCP is concerned about the impact on the retention of school leavers and graduates in the north-east if St Andrews university were to change its offer.

St Andrews university has argued—rightly, I think—that complete removal of the prohibition is needed to address the issue of fairness and to allow it to compete with other institutions. The policy memorandum says that the prohibition

“is unfair, anti-competitive and serves no legitimate purpose in today's context.”

As the cabinet secretary said, she does not support a partial removal of the prohibition. She argues that it was always intended to be temporary, and that it is unfair. It is unclear whether the ScotGEM programme was the catalyst for that change or whether that argument had already been had and won.

Although the bill will allow St Andrews university to award medicine and dentistry degrees, a number of measures will have to be taken first: the GMC must approve such institutions, and there are financial restrictions. St Andrews university has made its intention clear and has submitted a bid as part of the open competitive commissioning process to develop proposals for a new medical school that was set out in the 2019 programme for government. While that process is currently suspended, the bill will allow St Andrews to pursue its plans.

When any decision is made, it will be important to consider the points that have been made on widening access, NHS recruitment and the potential impact on the north-east. However, such decisions are outwith the immediate concerns of the bill. I fully support what the bill seeks to achieve as regards the ScotGEM programme, and I think that there is a positive case for St Andrews university to expand its offer in the future.

16:32

**Brian Whittle (South Scotland) (Con):** I am very pleased to close the debate on behalf of the Scottish Conservatives and as a member of the Health and Sport Committee.

I would like to start by reiterating comments that Liz Smith and others have made about how pertinent the bill is. It is true that Covid has focused all our attention on the importance of our healthcare sector. We cannot say enough that we are eternally grateful. Liz Smith also talked about the important work that universities do in research and innovation. The University of St Andrews has always been to the fore in that regard.

As others have said, the aim of the bill is to remove a legislative prohibition that prevents the University of St Andrews from holding qualifying exams and awarding degrees in medicine and dentistry. The reason for taking action at this time is to allow the university, jointly with the University of Dundee, to award undergraduate primary UK medical qualifications to Scottish graduate entry medicine students.

The first set of students are due to complete their four-year course and graduate in 2022. The premise of the bill, as set out in the policy memorandum, is that the prohibition is unfair and

anti-competitive and no longer serves a purpose and that, therefore,

“In removing the prohibition, the Bill creates a fairer higher education sector and enables all of Scotland’s ... institutions to maximise the options and opportunities they offer to students in Scotland.”

The bill’s importance is evident from the well-documented background, which is that Scotland is generally short of general practitioners. Donald Cameron rightly raised that issue, suggesting that we are about 850 GPs short of the number we need. Therefore, any move to tackle that long-standing issue should be given due consideration, especially for people in rural communities. That is a situation that the Scottish Government has presided over. On the lifting of the prohibition being targeted specifically at the lack of GPs in rural areas, I note that my area, like Donald Cameron’s, suffers from that.

There was widespread general support for the repeal of the prohibition in both written submissions and oral evidence. One of the main reasons for that support was that it would bring the University of St Andrews into line with other medical schools in Scotland and allow it to award the ScotGEM PMQ jointly with the University of Dundee. As our convener said, ScotGEM argued that students enrolling in the programme of study were given a clear expectation that their degrees would be jointly awarded by the University of St Andrews and the University of Dundee.

The University of Dundee, however, supported the prohibition being removed only partially, for the purposes of ScotGEM, with it remaining in place for all other degree-awarding purposes. According to the policy memorandum, that was on the basis that there would potentially be adverse and unintended consequences for the education and training environment in Scotland. The committee explored that issue, asking, in effect, whether the bill would serve only to dilute the number of graduates across more universities. The cabinet secretary gave us assurances that that would not be the case.

We support the ScotGEM programme and we support the removal of the prohibition in order to allow the University of St Andrews to award degrees in medicine and dentistry. We recognise that the prohibition is unfair and that it was not intended to remain in place permanently. For that reason, a partial removal of the prohibition would not be appropriate. The issue of whether the University of St Andrews will compete to establish a new medical school is not provided for in the bill and it does not require additional legislative changes.

Discussions about proposals for a new medical school have been postponed, but we consider that it would be prudent, when they resume, for them

to consider the wider evidence that we heard on NHS recruitment and the widening of access to medicine during our scrutiny of the bill.

We will support the bill at stage 1 at decision time this evening and we look forward to it progressing to stages 2 and 3.

16:36

**Jeane Freeman:** I am grateful to members for their contributions. I found them all very interesting. They included a degree of history and a degree of insight. I am particularly grateful for the level of support that members are offering the bill at stage 1.

As colleagues said, it is a single-purpose bill. I emphasise that so that we are all clear that the passing of the bill, once it has gone through stage 2 and come back to Parliament at stage 3, will neither be determinative nor provide for the University of St Andrews to offer a full PMQ medicine degree on its own. That is a matter for future discussions. Claire Baker set out clearly what will need to happen should we have another medical school that is separate from the existing medical schools.

I want to single out a few points that have been made. I particularly agree with the points that Alex Rowley made in expressing his support for the bill. Willie Rennie made the point, again in support of the bill, that the University of St Andrews is the only higher education institution in the whole UK that is barred from offering a degree in a discipline. What we are trying to do, as members have acknowledged, is simply to remove a prohibition that was never intended to be anything other than transitional and whose continuance is unfair on the particular institution but also on higher education across Scotland as a whole.

Emma Harper made an important point about the importance of rural medicine, which I will return to, and Liz Smith made an important point with respect to research.

On rural medicine, I agree with Daniel Johnson’s point. I would never gainsay the challenges that we have in general practice and other areas of our NHS, and there is a lot of work for us to do in rebuilding our health service following the pandemic. I hope that that will not necessarily be done exclusively on a business-as-usual basis but will involve some of the innovative thinking and delivery with which we have seen our health service respond to the pandemic.

However, I make the point in passing—I am sure that Mr Cameron could not help himself—that Scotland has more GPs per 100,000 of the population than any other part of the United

Kingdom. Of course, we seek to increase that and improve on that position.

That brings me to ScotGEM, which is a very innovative programme that is designed and delivered by both the University of St Andrews and the University of Dundee. They are to be congratulated on that. It has a number of special elements, such as the use of general practitioners as clinical teachers and a focus on rural practice and rural medicine. In my two years as health secretary, I have understood very clearly that there is much about the delivery of rural medicine that is important for those in more urban settings to learn from.

I was asked about the bursary. For every year of bursary, students commit to working for NHS Scotland for one year, on graduation. Ninety-four per cent of the current ScotGEM cohort of 165 students have made that commitment. It is clear to me that those students will be retained by NHS Scotland for at least an initial period—and, I am sure, for much longer.

Daniel Johnson made well a point about ScotGEM offering us an insight into the widening ways in which people can access routes into medicine, and I hope that we will see more such innovative approaches to medical undergraduate education.

In conclusion, I repeat my thanks to members. The bill has a single purpose but is very important. I am grateful for members' support. I hope that Parliament will agree later to support the general principles of the bill at stage 1, and I look forward to stages 2 and 3.

**The Presiding Officer:** That concludes the debate on the University of St. Andrews (Degrees in Medicine and Dentistry) Bill. As the cabinet secretary has said, the vote on the bill will come at decision time. I warn members that we are running about 25 minutes late, following the earlier connectivity issues.

## Post-mortem Examinations (Defence Time Limit) (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Lewis Macdonald):** The next item of business is a debate on motion S5M-23803, in the name of Gil Paterson, on the Post-mortem Examinations (Defence Time Limit) (Scotland) Bill at stage 1. I invite members who wish to speak in the debate to press their request-to-speak buttons now, and I call Gil Paterson to speak to and move the motion.

16:42

**Gil Paterson (Clydebank and Milngavie) (SNP):** I am delighted to open the debate on the general principles of the Post-mortem Examinations (Defence Time Limit) (Scotland) Bill. The bill has been a long time in the making. I began it quite some time ago, in 2016, following a meeting with my constituent Pamela Munro, whose 15-year-old daughter, Paige, was murdered on 19 March 2016. Despite the charging of a suspect within a week of Paige's death, a defence post-mortem examination was not held until 15 April, and her body was released to her family on 18 April—30 days after her murder. There was no transparency in the procedure. That caused a great deal of distress to Paige's family, who lost the chance to properly say goodbye to her.

The anguish and pain that they experienced is, thankfully, unimaginable to most of us. However, it is my belief that there is no reason why any family should have to live with such uncertainty over when the body of their loved one will be released following a murder. Even one such incident is, in my view, totally unacceptable. I therefore propose in my bill simple measures to increase transparency in the system, to help families to better understand what is happening, and to lead ultimately, I hope, to the faster release of the bodies of the deceased.

When a person dies in suspicious circumstances, a post mortem examination is carried out for the Crown Office and Procurator Fiscal Service, usually within a few days of the death. There is also scope for a further post mortem examination, known as a defence post mortem, to be carried out on behalf of an accused.

There is no time limit within which a defence post mortem must be instructed or take place. The bill would rectify that by introducing an extendable 14-day time limit in which a defence post mortem examination could be instructed. The time period would begin from the day on which the defence team received the result of the Crown post mortem examination. If the defence team needed more than 14 days to decide whether a further PME was

needed, it would be able to apply to the court for an extension. It could do so more than once. Such an approach would protect the accused person's right to a fair trial. The defence would have to give reasons each time it applied for an extension. That should be a spur to action, reducing the likelihood of long delays.

Members will be aware that, due to time constraints, the Justice Committee was unable to reach a view on whether it supported the general principles of the bill. In its response to the committee's stage 1 report, the Scottish Government, too, did not give a definitive view.

Since the report was published, the Cabinet Secretary for Justice and the Lord Advocate have expressed concerns about the bill. It is unfortunate that those concerns seem to be based largely on a misunderstanding of what the bill is trying to do and how it would work. For example, the Lord Advocate and cabinet secretary suggested that the 14-day time limit would be insufficient, as it takes about that time to make available the findings of a Crown Office PME. My intention was always that the 14-day time limit would begin only after the initial findings of the PME had been made available to the defence, to allow the defence 14 clear days to make an informed decision. I believe that that is exactly what the bill would achieve, but, if there is any doubt on that score, I am open to amending the bill at stage 2 to put the matter beyond doubt.

I acknowledge that the Crown Office has put in place a protocol with the aim of minimising delays and improving information sharing. I have supported the protocol and I am on record as welcoming its introduction. However, the protocol is not binding and, in the long term, a change of leadership or approach might mean that it is not observed. Rules on timescales for defence PMEs must be put in statute, to ensure that they continue in the long term.

It is unfortunate that there is a dearth of forensic pathologists in Scotland, which leads to delays in the carrying out of defence PMEs. I do not deny that that is a major problem that needs to be addressed, but I do not see how that could be done through legislation. Work to increase the number of forensic pathologists could complement my bill and should not be a substitute for it.

As I said, the bill has not been subjected to the full scrutiny that we, in the Parliament, expect to take place at stage 1, but that is not a reason to reject it at stage 1. There is scope for further scrutiny to be undertaken at stage 2, so I urge members to consider the bill's merits and what it is trying to achieve and to give it the benefit of the doubt at decision time tonight.

I thank everyone who has supported the bill. I move,

That the Parliament agrees to the general principles of the Post-mortem Examinations (Defence Time Limit) (Scotland) Bill.

**The Deputy Presiding Officer:** I call Adam Tomkins to speak on behalf of the Justice Committee.

16:49

**Adam Tomkins (Glasgow) (Con):** This is the second of two members' bills that have come to the chamber for debate this month after having been examined by the Justice Committee. As I explained in the debate last week on Claire Baker's Culpable Homicide (Scotland) Bill, the Justice Committee has been unable to devote to the two bills the full and detailed consideration that they deserved. In part, of course, that is due to the pandemic and its impact on parliamentary business, but in greater part it is due to the quantity of Government legislation that has somewhat deluged the committee and that we are currently wading through.

The committee treated Mr Paterson's bill in the same way as it treated Ms Baker's, which was debated last week. That is to say that we took evidence from the member in charge of the bill and published a short report inviting the Government to respond in advance of today's stage 1 debate. Accordingly, we took evidence from Mr Paterson in September and published our report in November, and the Government's response was received in January. I thank both Mr Paterson and the cabinet secretary for their co-operation and understanding of the constrained circumstances under which the Justice Committee has to operate now.

The evidence that we took and the views that were submitted to Mr Paterson's consultation raised three matters that I should draw to the attention of the chamber. First, it has to be said that the problem that Mr Paterson's bill seeks to solve does not appear to arise very often. Despite the fact that Mr Paterson told us that the problem is fairly common, the most recent year for which statistics are available suggests that only two post mortem examinations were requested by the defence—only two in an entire year. That does not lessen the very real anguish that a family might have to endure in any particular case in which the body of the deceased cannot be released. However, it does suggest that the number of occasions on which the problem arises is very small.

Secondly, submissions from the Faculty of Advocates and others suggest that, when there is a problem, it is caused by a shortage of available

forensic pathologists. If that is the problem, legislating for a maximum period of time within which the defence can request a post mortem examination, as the bill does, is not going to solve it.

Thirdly, the committee's attention was drawn to a protocol, published by the Crown Office in 2018, that—as Mr Paterson acknowledged—has been helpful in addressing the issues. On that point, I highlight the view of the Law Society of Scotland, which said that

“a reasonable amount of time should be allowed to ascertain how the protocol is working ... in practice”

before the Parliament legislates on the matter.

In the light of those considerations, the Justice Committee came to the following conclusions. First, it is important that the body of a deceased relative is released to the grieving family in a timely fashion, keeping delays to a minimum. Secondly, the number of times when that fails to occur are few and far between; nonetheless, each delay will cause considerable pain and distress for the family involved. Finally, although the committee had some sympathy with the policy intentions that underpin the bill, we noted a range of issues that were raised with the member in charge of the bill. I have outlined those to the chamber in my remarks this afternoon.

Taking all of that into account, the Justice Committee was unable to make a recommendation to the Parliament on the general principles of the bill, and I will leave it there.

16:52

**The Cabinet Secretary for Justice (Humza Yousaf):** I begin, first and foremost, by paying tribute to Gil Paterson for his dedication to the issue over several years, and for his hard work in introducing the bill that is before us. I know that he has engaged with successive justice secretaries, the many interested parties and the Parliament's non-Government bills unit to get to this point.

It is right to acknowledge, at the beginning, the importance and sensitivity of the issue that the bill addresses. The experiences of Paige Doherty's family that Gil Paterson has so clearly set out are unimaginably awful. Again, I can only express my condolences to her family and all the families who have been affected.

Paige's case is not the only one of this kind about which we have heard in the Parliament. In the past, some families have experienced the distress of losing a loved one in appalling circumstances that have been made worse by having to wait for the body to be released. They were right to expect that something should have been done to stop that from happening, and

something has been done. That was acknowledged by Gil Paterson and reiterated by the convener of the Justice Committee, from whom we have just heard.

In consultation with the Faculty of Advocates, the Law Society of Scotland and forensic pathologists, the Crown Office has agreed to and published its forensic pathologist consultation protocol. That gives defence agents increased confidence in the initial examination and therefore crucially avoids multiple post mortem examinations without compromising the integrity of the justice process.

The protocol has been extremely successful. Gil Paterson indicates that between December 2018 and December 2019, only two defence post mortems were requested. The most recent information given to me by the Crown Office is that there have been no defence post mortems since July 2019. In almost 100 homicide cases reported, there has been not a single defence post mortem. As the bill consultation concluded in early April 2019, the success of the protocol, which was published in October 2018, could not yet, in fairness, have become apparent. Circumstances have moved on and the issue has progressed.

The bill was introduced in a period of unprecedented difficulty, so scrutiny was never going to be straightforward; the convener of the Justice Committee has just reflected on that. The committee was unable to make a recommendation and, somewhat unusually, turned to the Government for a view. Given the inability of the committee to scrutinise the bill fully or make a recommendation, the lack of oral evidence taken and my concern that the bill would, inadvertently of course, make the situation worse for victims, I cannot in good conscience support it progressing to stage 2. I know that that will be of great disappointment to Gil Paterson, but I hope that he and everybody will understand that all of us have only the victims and their families at the forefront of our minds.

I did not benefit from the evidence from interested parties that would usually form a key part of stage 1 scrutiny of the bill. Although the bill is undoubtedly well intentioned, it is unlikely to lead to fewer or quicker defence post mortems. In fact, it is difficult to achieve fewer than none at all, as is currently the case. Conversely, my concern is that by requiring defence agents to put up or shut up, as it were, it is very likely to encourage them to put up. The bill is likely to compel defence agents to meet the requirements of their professional responsibilities by instructing their own examination. Indeed, the timetable allows them little other choice. There is a real risk that the bill would thus lead to more defence post mortems, rather than fewer. I am also concerned

about the possible implications of the requirements to make applications to the court. That may require the disclosure of details of investigations that are being undertaken. In some cases, the next of kin may also be the accused or be under suspicion.

The 14-day time limit is the issue that gives me the most concern. The bill states that that would run from the notification of the cause of death, which Mr Paterson reiterated. However, the mere cause of death tells defence agents very little; only with the production of the draft full post mortem report can they make an informed decision on whether to require their own examination. The Crown indicates that the production of such a draft takes, on average, 14 days, which leaves no time to make a decision.

There are further drafting problems, but the overriding consideration is that any imposition of a time limit—whether that is 14 days or longer—is much more likely to do harm than good. Thanks to the success of the protocol, we are in an enviable position on post mortems.

I ask the Parliament to recognise the significant progress made with the development of the protocol. In addition, given the lack of scrutiny of the bill at stage 1 and the Scottish Government's policy concerns, we simply cannot support the bill progressing to stage 2.

**The Deputy Presiding Officer:** Members will be aware that we are running significantly behind as a result of technical difficulties earlier this afternoon. Therefore, before I call the remaining opening speakers, I call on the Minister for Parliamentary Business and Veterans, Graeme Dey, to move a motion without notice to delay decision time to 5.45 pm.

*Motion moved,*

That, under Rule 8.14.3, the debate be extended by 25 minutes.—[*Graeme Dey*]

*Motion agreed to.*

16:59

**Liam Kerr (North East Scotland) (Con):** The Scottish Conservatives will vote against the bill at decision time, but I make it clear that that is a finely balanced decision, because we have a great deal of sympathy for what Gil Paterson seeks to achieve. He argued his case clearly in his letter of 22 January, to which I will return.

The member's bill would establish a 14-day time limit on the defence requesting a second post mortem examination. The rationale is that that would reduce delays in releasing bodies to grieving families, which would reduce the grief that victims' families feel and give increased certainty about the timing of the process and about when

funeral arrangements could be made, which would protect families from further trauma.

That must be the right way to go. I say that with authority because, as we set out last autumn, that precise change will form a key part of our proposals for the victims law that we intend to introduce early in the next parliamentary session. However, we cannot move Gil Paterson's bill on to stage 2 today.

First, I am deeply uncomfortable with the legislative timetable in the justice portfolio and its impact on our ability to scrutinise proposed legislation. We consider the bill in a context in which the Justice Committee's convener described the committee as being awash and deluged with legislation and in which the Scottish Government has declined to reduce the legislative workload on the committee.

This morning, the committee debated amendments to the Defamation and Malicious Publication (Scotland) Bill. Tomorrow is the deadline for lodging amendments to the most controversial bill in Scottish Parliament history, and the daily list shows that more than 100 amendments have already been lodged. On Thursday, the Parliament will debate the Domestic Abuse (Protection) (Scotland) Bill at stage 1, and we will then look at amendments to that.

The Parliament must pass robust, scrutinised and enforceable legislation, yet the member concedes in his letter of 22 January that

"No substantial evidence on the Bill has yet been taken."

That is because, as he acknowledges, the Justice Committee was unable to take evidence before issuing its report, in which it was unable to reach a conclusion because of its inability to scrutinise a bill that the member accepts is not without its flaws as drafted, even if he is right about the Crown Office response, although I prefer the cabinet secretary's submissions on that. The convener's remarks on serious challenges that the committee reviewed were well made.

Gil Paterson suggests in his letter that a full suite of evidence could be taken at stage 2, but I do not see how that is possible alongside making the appropriate amendments to address the many concerns that the written submissions have raised. Given the timeframe that we have, it would be irresponsible to move the bill to stage 2. The families who have perhaps been let down by the current mortem process would also be given false hope if the bill moved to stage 2. However, it is important to reassure them today.

All too often, victims are an afterthought in our justice system. The Scottish National Party has, for example, failed to deliver on my demands for Michelle's law and the victim notification scheme. I

commit here and now that, if I am in a position to do so after the election, I will introduce a victims law that includes the change that Gil Paterson seeks, so that it can be interrogated, scrutinised, amended and implemented. I will work collaboratively on that and use the work that the member has done. I ask the cabinet secretary to make a similarly firm commitment in closing that, regardless of who finds themselves in government, he will promise to work with the Scottish Conservatives to implement that measure after the election.

The Scottish Conservatives have the greatest sympathy with victims and their families, but more time is needed to ensure that the bill would work for victims and deliver, and the Justice Committee and the Parliament do not have that time. I look forward to implementing such proposals in the future.

17:03

**Rhoda Grant (Highlands and Islands) (Lab):** I congratulate Gil Paterson on introducing the bill. [*Inaudible.*—to introduce a member's bill, so it is a success to reach this stage.

The bill addresses the delays that are faced by families whose loved ones have been murdered. It would try to speed up the time that it takes to release a body for burial. The time that is spent waiting is heartbreaking for families. If we can try to make that terrible situation easier, we should do so.

Concerns about the bill have been highlighted. Would it do what it intends to do? Would it bring earlier closure for families? The truth is that we do not know. The bill has not been scrutinised, so we are unable to take a view on those issues. We know that the bill aims to make things better for the families. It seeks to limit the length of time during which the defence in a criminal case can request a second post mortem. The aim is to ensure that victims' bodies can be returned to their families as quickly as possible, without hindering the criminal justice process.

The Scottish Government and the Crown Office have highlighted a number of issues regarding the bill. They say that the 14-day time limit is not workable. However, Gil Paterson made it clear that that timeframe could be extended if required and that the clock would not start before the defence had received a copy of the Crown's post mortem report. That provision is intended to speed up the process and thereby make it easier for families, but it requires to be examined and it is unfortunate that that did not happen in committee prior to this stage 1 debate. That scrutiny needs to happen before the bill proceeds so that, if the bill needs amendment to make it workable, that can

be done at stage 2. There are other concerns regarding unintended consequences of the bill that could undermine its policy intention. Those need to be examined and the provisions amended, if possible.

We are told that at present there is a lack of forensic pathologists in Scotland able and willing to carry out post mortems and that that is the main cause for the long delays experienced by grieving families. We are told that the bill will do little to address that core issue and, should the bill lead to an increase in second post mortems, it could result in longer waits. However, it is unclear to me why the bill should lead to more post mortems being carried out. Again, that has not been properly examined at stage 1.

The Cabinet Secretary for Justice concluded that, without full consideration of the issues, the Scottish Government was unable to take a final position and would not vote in favour of the general principles of the bill tonight. However, it is unacceptable for us to vote the bill down simply because there has not been enough time for scrutiny. That is not to say that we do not need scrutiny—we do and that would have to be carried out before stage 2. If there were not time to do that scrutiny at stage 2, then the bill would run out of time and fall.

We owe it to families to leave the bill open to proceed if there is time. If we cannot make the bill workable, we can vote it down at stage 3. If we support the bill tonight, we would still not give it our final approval until it had been scrutinised and amended. I urge members to vote for the bill tonight.

17:08

**Liam McArthur (Orkney Islands) (LD):** This is the third of three member's bill debates that I have covered recently, following our consideration last week of the bills that had been introduced by Daniel Johnson and Claire Baker. It is fitting to acknowledge the tremendous amount of work that has been put in by Gil Paterson and his team, as well as his passion to see changes made that might improve the lives of those who are affected by delays in carrying out post mortems.

Although the Scottish Liberal Democrats will not be able to lend our support to the bill, we applaud its underlying motivation, which is a desire to address legitimate concerns about the anguish caused to individuals and families as a result of delays in our justice system. Whatever the explanation for those delays—however reasonable and justified they might be—it does not necessarily diminish the impact that they have on those affected. Mr Paterson's intention of reducing the pain and distress that are experienced by

loved ones in the midst of an already traumatic time is highly commendable.

The pain and heartbreak of losing a loved one is difficult to bear and hard to process. Losing a loved one in what are considered to be suspicious circumstances only compounds that. When everything else seems difficult to understand, many find comfort in a process. Often, families bind themselves to the routine of a funeral and burial that also allows for the natural process of grieving to take place. At the same time, however, justice requires due process. Piecing together what happened is often the only way of providing families with any clarity, as well as closure.

That said, any delays to post mortems have to be minimised as far as possible. They are not fair to anyone involved. They are in no one's interests. I am glad to see that things have moved on since the awful death of Paige Doherty, which did so much to inspire Gil Paterson's commitment to addressing the issue.

The forensic pathologist consultation protocol for post mortems appears to have added important boundaries to the circumstances in which defence agents can request post mortems. On the face of it, that seems to have helped by increasing the confidence in post mortems in the first instance and reducing the need for defence agents to intervene. As we have heard, cases of a second post mortem being sought now look to be extremely rare. For that, Gil Paterson deserves credit and thanks.

I appreciate that Mr Paterson will be disappointed if the bill does not proceed to stage 2, as appears likely. However, I hope that he can take some satisfaction from knowing that he has helped to create the impetus for changes that can and will make a difference.

17:10

**John Finnie (Highlands and Islands) (Green):** At decision time, the Scottish Green Party will support the general principles of the bill, which is what we will be voting on. The bill might not be the finished article, but we have heard from Mr Paterson that he is more than happy to engage with others to provide clarification.

The bill is about the defence having access to a post mortem rather than having to rely exclusively on the one that is provided by the Crown Office and Procurator Fiscal Service. Crucially, it is about timing. We are told by the Crown Office that it takes, on average, 14 days before it can send the result of a PM to the defence. Could that be improved? There are issues relating to the number of forensic pathologists and to conflict.

Mr Paterson is to be commended, because his work has driven the creation of the protocol, but it is not the finished article. The cabinet secretary talked about—I hope that I am quoting him correctly—the success of the protocol. First and foremost, it is a protocol, not a legislative requirement.

I take issue with the cabinet secretary saying that Mr Paterson's proposal will give defence agents little choice but to go ahead with a post mortem. Our legal system is full of time restraints and requirements, and I think more of defence agents than that.

It was suggested that an accused might be a family member of the deceased, but we must deal with such situations at the moment. The idea that the bill will have no merit because of issues relating to the disclosure of such information seems to be entirely fanciful.

I take a rights-based approach. When Mr Paterson approached me—I should declare that I am a signatory to the bill—my initial concern was that I did not want the bill to do anything that would deny the defence the opportunity to have full access to all evidence that could be exculpatory, and I am entirely satisfied that it does not. In his letter to the committee, Mr Paterson told us that no other jurisdiction has such an open-ended approach.

The shortage of pathologists should be dealt with. We know that there are shortages of professionals in various fields, and that that can give rise to a conflict of interests.

Some members have alluded to the Law Society's evidence. I thought that its comments about video evidence and "best evidence", which is a legal term, were very good.

In the brief time that I have left, I want to talk about parliamentary scrutiny, which has been entirely back to front in this instance. The proposer of the bill is the last person whom the committee should see, not the first person. We should hear from the member after we have heard and addressed concerns.

I know full well the work that has gone into the bill. I do not doubt that there are some genuine concerns, but the bill is a worthwhile proposal. It would cause detriment to no one; it is about enhanced practice. The bill should not fall because of the administrative process of scrutiny or, in this instance, a lack of scrutiny.

Other members have alluded to the situation with Claire Baker's Culpable Homicide (Scotland) Bill, which was debated last week. That was another bill that sought to directly address widespread public concerns.

I agree with Mr Paterson that agreeing to the general principles of the bill does not imply that it should be passed at stage 3; rather, it confirms that the proposal is a good idea that is worthy of further examination. That there might not be time or capacity to carry out that examination does not suddenly negate the bill's merits. It is the merits of the proposal, not our procedures, that we are adjudicating on at decision time. The bill is a sound proposal, and I urge members to support it at decision time.

**The Deputy Presiding Officer:** We move to the open debate. I ask for three-minute speeches, please.

17:14

**Kenneth Gibson (Cunninghame North) (SNP):** I thank my colleague Gil Paterson for introducing the bill and for his hard work and tenacity on behalf of victims and their families over many years. The bill is sympathetic and understanding of the grief and anguish felt by those who have lost a loved one, often in the most appalling circumstances, and it reflects a desire to reduce delays or difficulties in allowing grieving victims' families to hold a funeral following the release of the body. However, there is no evidence to suggest that delays in the return of bodies are caused by inappropriate action or inaction on the part of defence agents.

Since October 2018, there has been a non-legislative forensic pathologist consultant in place to give defence agents greater confidence in initial post-mortem conclusions and to avoid multiple post-mortem examinations without compromising justice. As we have heard, in the year after the protocol was passed, only two defence post mortems were requested, with none since July 2019. That shows that the protocol is working. The Law Society of Scotland suggested that an evaluation of the protocol's success or otherwise should be undertaken to establish whether there is any absence of due diligence in relation to its application by the defence and whether further measures are needed.

In its current form, the bill could create more defence post mortems rather than fewer. If applications are based on an arbitrary timescale, the provisions could have the opposite effect to the bill's intentions and could inadvertently exacerbate the stress and pain that are experienced by families.

A defence with only 14 days to request a post mortem before losing its right to do so is much more likely to request one. An increase in applications, which the Law Society says is inevitable, would burden courts with the time and the associated costs needed to support such a

process, while it is reasonable to assume that an increase in applications resulting in more post mortems would also be felt by forensic pathologists—of which there is a shortage, as we have heard.

Further scrutiny—of both the bill and the protocol—is required to investigate how best to improve the bill and to ensure that it has no unintended consequences. Covid-19 and the measures that it necessitates continue to impact on the workings of the Parliament. In its stage 1 report, the Justice Committee indicated that it was unable to provide the necessary level of scrutiny, as lockdown restrictions delayed the committee's hectic work programme. Indeed, this feels like *déjà vu*, given that we were in exactly the same position only five days ago with Claire Baker's Culpable Homicide (Scotland) Bill.

Presiding Officer, one wonders why bills are being brought forward to stage 1 without effective scrutiny, which is undoubtedly leading to disappointment both for the member concerned and for those supporting the bill's aims. We must deliberate consistently and without fear or favour.

The bill before us comes from a place of humanity and a strong desire to help families who are enduring unimaginable grief. Without appropriate scrutiny, however, we risk passing legislation that is incomplete, possibly with unintended and unforeseen consequences.

It is therefore with great regret that I cannot support the bill today.

17:17

**James Kelly (Glasgow) (Lab):** I pay tribute to Gil Paterson for the amount of work that he has put into pursuing the bill and into an issue that he has raised consistently in Parliament. The objective of the proposed legislation is to provide an appropriate time limit in which defence agents can request a post mortem. Mr Paterson has highlighted a very important issue. There is no doubt that for people to lose a loved one in very difficult circumstances is stressful enough without the body not being returned to the family after an appropriate time so that they may have proper closure and bury the person with dignity.

Although I do not disagree with the statistics, I felt that, in quoting recent statistics on the number of post mortems that have been requested, Adam Tomkins and Humza Yousaf tried to minimise something that is a significant issue for people who have been affected. Mr Paterson gave the example of his constituent.

The Government's reservations about the bill were recorded in its letter to the Justice Committee. Fundamental to that has been the 14-

day time limit that is proposed in Mr Paterson's bill. Mr Paterson dealt with that point well in his response to the committee and to all MSPs. He has shown that he is prepared to be flexible on that; I think that the issue could be explored further.

My point about evidence and the timetable is one that I made last week during the debate on Claire Baker's Culpable Homicide (Scotland) Bill. While there is a question mark over the date of the election, we should allow the bill to pass at stage 1 and we should take forward its general principles, because there might be additional time available if the election is delayed.

We must remember that a bill moves through the stages in order to allow issues to be raised, changes to be made and more evidence to be heard. The issues that have been identified in the bill could still be addressed further down the line; it could be fixed and become a more appropriate piece of legislation.

With that in mind, I urge members to support the bill at decision time.

17:21

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** It is customary to begin a speech by saying how pleased one is to be taking part in the debate. That is, unfortunately, not the case for me today. To say that the Post-mortem Examinations (Defence Time Limit) (Scotland) bill, which was introduced by my friend and colleague Gil Paterson, is well intentioned is an understatement. I know how passionately he feels about the bill, which he has been working on throughout the session, and I know how hard he has worked. It therefore pains me to say that I am unable support the bill at stage 1.

We heard in Gil's opening speech that he was moved to help the family of his constituent, Paige Doherty, who was brutally murdered. Their experience of the post-mortem judicial process was one that no family should have to go through. Gil vowed to do what he could to lessen the pain of any family facing a similar tragedy in the future.

The cabinet secretary has highlighted the reasons why he and the Lord Advocate cannot support the bill. The Law Society of Scotland and others also raised concerns. Alongside the technical reasons that have been cited, I know, as a member of the Justice Committee, that through no fault of Gil Paterson, there was no time to scrutinise the bill or to take evidence from stakeholders or the judiciary.

In its stage 1 report, the Justice Committee noted that its ability to scrutinise the bill in depth had been constrained by the current pandemic

and by the sheer volume of other business that the committee was dealing with. As a result, the committee made no recommendations to the Scottish Parliament on the general principles of the bill.

Crucially, the cabinet secretary has confirmed something that we have heard members say about the new protocol for post mortems, which is being successfully followed. As a result of that protocol, no delays have occurred since July 2019. I believe that the light of heightened publicity that Gil Paterson has shone on the issue at every opportunity is largely responsible for effecting that change.

I know that it will be of little comfort to Gil if his bill is not passed at decision time, but I believe that his campaigning on the issue has already made a hugely positive impact on the process. He should be commended for that, as Liam McArthur and others have said. Without Gil's caring efforts to help Paige Doherty's family, the process might never have been reviewed, and many more grieving relatives might have faced that same trauma.

I say with great sadness that I will be unable to vote for the bill at decision time.

17:23

**Rhoda Grant (Highlands and Islands) (Lab):** This has been a short debate, but one in which Gil Paterson has highlighted the heartache that any delay in releasing the body of a loved one can cause to a family. The plight of Paige Doherty's family moved him to introduce the bill. It shows how a constituent's lived experience can influence what happens here in Parliament. I commend Gil for that.

Members have suggested that the bill would affect only a small number of people. That might be right, but we are talking about a difficult point in people's lives—one that can have a lasting impact.

We need to make legislation that works not only for the majority of people but for minorities, no matter how small. Gil Paterson has made it clear that the proposed 14-day cut-off is not an issue, because it refers to 14 days from the date when the state's post mortem findings have been received by a defence team. The bill would give the defence team the ability to extend the period by giving it 14 days to decide whether it needed a second post mortem and to apply for an extension to allow it to do that.

Many members have welcomed the protocol that has been put in place as a result of Gil Paterson's bill; the cabinet secretary and Kenny Gibson told us that the protocol is working. However, James Kelly was right to say that that

should not minimise the heartache that is faced by families. We need to ensure that the protocol not only works now but continues to do so. The bill could provide the opportunity to enshrine the protocol in legislation, through an amendment.

John Finnie talked about the lack of pathologists, which is an issue that causes delay not only for people in the circumstances that Gil Paterson is trying to address but in all other circumstances that require post mortems. What is the Government doing to ensure that adequate numbers of pathologists are trained, and that they will be available to carry out those difficult tasks? It would be good to hear in its summing-up speech what the Scottish Government is doing to deal with the issue.

It takes time to introduce a bill. Adam Tomkins explained the difficulties that the Justice Committee has faced with Government legislation and the time that it takes to consider it, as well as members' bills. It is not the committee's fault that there is not enough time, but surely that is not a good way to treat members' bills. Government bills continue to go through Parliament without delay, but members' bills are being lost at an early stage. Kenny Gibson seemed to blame members for that, but we all know how difficult it is to introduce a member's bill. I am glad that Rona Mackay made it clear that it is not the member's fault when their bill is not properly scrutinised.

As I said last week with regard to Claire Baker's Culpable Homicide (Scotland) Bill, agreeing to the motion to pass the bill at stage 1 tonight would not mean that it would be passed at stage 3. In addition, as James Kelly said, if the election is delayed, there will be ample time to carry out the scrutiny that is required to amend the bill and make it right. If there is no time to carry out that scrutiny, the bill will fall, so we would lose nothing by letting it proceed tonight in the hope that we will have time to amend it later, and make a difference to people's lives.

17:27

**Gordon Lindhurst (Lothian) (Con):** Justice should be paramount in any criminal justice system and should have two ends: protection of the innocent, including victims of crime, and conviction of the guilty. Part of protecting the innocent is minimising the trauma caused to the innocent, such as by the death of a loved one.

The bill has commendable intentions and was well worthy of consideration. I recall clearly the conversation that I had with Gil Paterson towards the beginning of this parliamentary session, in which he set out to me his purpose in bringing the matter before Parliament, and I have no doubt of his sincere intentions in doing so.

A number of issues in the bill that is before us have rightly been pointed out as needing attention. I say "rightly" because, more so than headline politics, law is a matter of detail that directly affects the individual, particularly in traumatic circumstances. It is also key to a fair justice system that the accused individual and his counsel should have fair opportunity to a full and proper defence against charges brought by the Crown.

Evidence from the Faculty of Advocates reflected what appears to be a systemic lack, over many years, of forensic pathologists who are available and willing to carry out examinations and to prepare reports, which is an area that the Scottish Government is responsible for. The law can say what it likes, but it is ineffective without the proper training, organising and resourcing of the various roles found in a properly functioning criminal justice system. Realities on the ground need to be observed when it comes to legislation.

In the case of homicide, in particular—this view is shared across the justice system and several of its professional bodies—examinations can be complex and bringing charges can take a great deal of time. A two-week limit on a request for a second post mortem might be too short for an informed position to be reached. However, the Scottish Conservatives have called for reasonable limits as part of our victims' law proposals, to improve victims' situation through criminal justice reform.

The bill seeks to deal with one of many issues that require to be addressed—hopefully sooner, rather than later. It is unfortunate that it cannot be dealt with in this parliamentary session.

17:30

**Humza Yousaf:** I thank all those who have contributed to the debate. Once again, I pay tribute—as everyone else has—to Gil Paterson's hard work on the bill. As I said in my opening speech, this is an important and sensitive matter. We have been able to demonstrate again the importance that the Parliament attaches to sparing victims in extremely disturbing cases unnecessary distress.

I will address some of the issues that members have raised. I think that John Finnie said that progressing the bill would cause no detriment whatsoever. I would be keen to explore that with him in greater detail, perhaps after the debate, given that, as I articulated in my opening speech, the crux of the matter is the concern of the Government—and of the Crown Office, as is clear in its letter to the Justice Committee—that the bill has the potential to make the situation worse. Of course, that is unintentional, but the 14-day time

limit would ultimately make the situation worse for victims.

Some members have said, and Mr Paterson has reiterated, that the 14-day time limit would be extendable—indeed, it could be extended many times—but that does not address the issue. If the time limit were extended and there was a delay in releasing the body, that would only compound the trauma for the victim's family as opposed to relieving that trauma, which is the very issue that the bill seeks to address.

A number of members have also talked about the protocol. I reiterate my strong belief that the protocol has been and is being successful. I note also that the Law Society of Scotland, in its briefing to MSPs, mentions that it believes that there should be more time to explore whether the protocol is working successfully before we, as a Parliament, introduce legislation.

I hope that it is of some consolation to the victims whose experiences we are discussing that there has not been a single defence post mortem request made since July 2019. I know that that may be of cold comfort because of the impact that the cases will have had on them, but I hope that it is of consolation that the new defence protocol seems to be working.

The issue of scrutiny is important. A number of members believe that further scrutiny can take place at stage 2. However, the Justice Committee's convener was robust in saying that the committee is struggling for time because of Government bills, and I accept that the committee is progressing a lot of vital Government business. We are, of course, also in the midst of a global pandemic, and I think that it would be churlish not to recognise the impact of that on our collective legislative timetable.

The Government's position remains that there are significant fundamental policy problems with the bill. The most concerning of those is the 14-day limit. I will not go into that in detail, because I have only a little bit of time in which to conclude my remarks. However, at best, the 14-day time limit would, I think, force defence agents to speculatively request a post mortem. At best, that would create scheduling problems for premises and pathologists. However, at worst, if an examination went ahead, it might delay the release of a body, all because of an artificial statutory deadline. Some members have said that it might be possible to address such issues by amending the bill, but I do not think that it could be amended sufficiently to improve on the current situation, in which there is no limit on defence post mortems.

A number of members have asked for further details of how post mortems are conducted and of

the issues around the recruitment of pathologists. I will pass those requests on to the Lord Advocate, who, as members will know, as the head of the Crown Office and Procurator Fiscal Service, has responsibility for matters regarding post mortems, and I will ensure that his responses are provided to members.

As I said at the beginning of my remarks, no one should detract from the hard work that Gil Paterson has done on this incredibly sensitive issue, which has been driven and motivated only by the desire to do right by victims and their families. He will be disappointed by the lack of support for his bill—indeed, I have spoken to him and he has expressed that disappointment to me. However, regardless of whether members intend to support or oppose the bill at decision time, I hope that it is understood that all of us have only the victims' best interests at the forefront of our minds.

**The Deputy Presiding Officer:** I call Gil Paterson, the member in charge of the bill, to wind up the debate.

17:36

**Gil Paterson:** I will address issues that have been raised in the debate. First, though, it would be remiss of me not to thank everyone in the Parliament's non-Government bills unit for their sterling assistance with my bill over a long period of time. I also thank all the representatives of agencies to whom I spoke and whom I met who are directly involved in the delivery of post mortems in the justice system and who assisted me.

The bill is a simple measure, but it would bring significant benefit to families who lose loved ones in murder cases. I believe that we can assist them in their time of desperate need by putting in place a time limit that begins as soon as the defence is in receipt of the findings of a first post mortem report. I ask members to listen to that timescale carefully—I stress that it is in the bill. Most post mortems are carried out on behalf of the Crown Office. The bill would give the defence 14 clear days to instruct a post mortem on its own behalf. It would also allow a court to extend that time period multiple times, provided that good reasons were given.

It is worth noting that Scotland is unique in its approach to post mortems. I have researched the subject and have been unable to find any other legal jurisdiction in any country in the world that automatically allows a second post mortem to be held on demand by the defence. Most allow a second examination only after application has been made to a judge or a coroner and after good reasons have been provided.

The Crown Office and the Cabinet Secretary for Justice have raised objections to the bill, but I suggest that, if they consider that I have got those aspects wrong, they have not clearly understood my bill. Apart from my own, no evidence on the matter has been presented to the Justice Committee. For that reason alone, I urge members to support my bill, as that would allow the committee to take further evidence on and fully consider the concerns that have been raised by the Crown Office.

Some members have mentioned the Crown Office protocol, which I welcome. It is good, but on its own it is not enough. My bill would not alter or limit the protocol in any way; its purpose is to complement it and make it more effective. Without the bill's provisions being in place, the defence could still delay for as long as it liked in deciding on a second post mortem. There is nothing that the Crown Office, operating through the protocol, or the courts or the Government could do to force it not to do so, simply because allowing a second post mortem to take place on demand and without limitation is currently the law of Scotland.

I do not want any repeat of what happened in 2016 to families whose children—one of them only 15 years of age—had been brutally murdered. Those families were then caused further distress by the imperfections of our uncaring post mortem system. I am asking for support for my bill tonight for the benefit of families who face a similar tragedy in the future. Voting for the bill tonight will, at the very least, allow the Justice Committee to take the vital evidence that I agree is needed, including on the point that was raised by the Crown. That would allow the Parliament to take a fully informed decision on whether to pass the bill when it reached stage 3.

Presiding Officer, the families have only one ask of us—it is to have their children back as soon as possible, to help them to grieve and to simply lay their children to rest. That is all.

**The Deputy Presiding Officer:** Thank you very much. That concludes the debate on the Post-mortem Examinations (Defence Time Limit) (Scotland) Bill. It is now time to move on to the next item of business. At this point, I will hand over to the Presiding Officer.

## Decision Time

17:41

**The Presiding Officer (Ken Macintosh):** There are two questions to be put as a result of today's business. The first question is, that motion S5M-23946, in the name of Jeane Freeman, on the University of St Andrews (Degrees in Medicine and Dentistry) Bill at stage 1, be agreed to.

If members disagree, I ask them to put an "N" in the chat box function of the BlueJeans app. There is no need to indicate if you agree.

There is no disagreement, so we are all agreed.

*Motion agreed to,*

That the Parliament agrees to the general principles of the University of St. Andrews (Degrees in Medicine and Dentistry) Bill.

**The Presiding Officer:** The next question is, that motion S5M-23803, in the name of Gil Paterson, on the Post-mortem Examinations (Defence Time Limit) (Scotland) Bill at stage 1, be agreed to.

Again, I ask members to put an "N" in the chat box if they disagree.

That is not agreed. There will be a division. In order to vote, we must temporarily suspend the broadcast to allow members to access the voting app.

17:42

*Meeting suspended.*

17:50

*On resuming—*

**The Presiding Officer:** Thank you, colleagues. We will move straight—*[Inaudible.]* I think that you were having difficulty hearing me, but you should be able to hear me okay now.

We move to the vote on motion S5M-23803, in the name of Gil Paterson, on the Post-mortem Examinations (Defence Time Limit) (Scotland) Bill at stage 1. This will be a two-minute vote.

The vote is now closed. I encourage any member who was not able to vote to let me know in the chat box.

A couple of members would like to make points of order. I will call them shortly. I ask any other members who had difficulty voting to let me know in the chat box. I can assure Gil Paterson that his vote was registered.

I call David Stewart to make a point of order.

**David Stewart (Highlands and Islands) (Lab):**

I had some difficulties with voting, Presiding Officer. I would have voted yes.

**The Presiding Officer:** Thank you. You will be added to the voting register.

**For**

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beamish, Claudia (South Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Fee, Mary (West Scotland) (Lab)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kelly, James (Glasgow) (Lab)  
 Lamont, Johann (Glasgow) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 Marra, Jenny (North East Scotland) (Lab)  
 McNeill, Pauline (Glasgow) (Lab)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Smith, Elaine (Central Scotland) (Lab)  
 Smyth, Colin (South Scotland) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Wightman, Andy (Lothian) (Ind)

**Against**

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Reform)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bowman, Bill (North East Scotland) (Con)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Peter (North East Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 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)  
 Greene, Jamie (West Scotland) (Con)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Harris, Alison (Central Scotland) (Con)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lockhart, Dean (Mid Scotland and Fife) (Con)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)  
 MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Martin, Gillian (Aberdeenshire East) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Mason, Tom (North East Scotland) (Con)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)  
 Rumbles, Mike (North East Scotland) (LD)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Scott, John (Ayr) (Con)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Highlands and Islands) (SNP)  
 Tomkins, Adam (Glasgow) (Con)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wells, Annie (Glasgow) (Con)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**Abstentions**

Neil, Alex (Airdrie and Shotts) (SNP)

**The Presiding Officer:** The result of the division on motion S5M-23803, in the name of Gil Paterson, on the Post-mortem Examinations (Defence Time Limit) (Scotland) Bill at stage 1, is: For 26, Against 90, Abstentions 1.

*Motion disagreed to.*

**The Presiding Officer:** That concludes our business this evening. We will be back in a hybrid meeting of Parliament tomorrow.

*Meeting closed at 17:56.*



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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