



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Meeting of the Parliament (Hybrid)

Wednesday 3 November 2021

Session 6



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# Scottish Parliament

Wednesday 3 November 2021

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

## Portfolio Question Time

### Health and Social Care

**The Deputy Presiding Officer (Annabelle Ewing):** Good afternoon. I remind members of the Covid-related measures that are in place and that face coverings should be worn when moving around the chamber and across the Holyrood campus.

The first item of business is portfolio questions, and the first portfolio is health and social care. I remind members that questions 2 and 8 are grouped together and that I will take any supplementaries to those questions after both have been answered. If a member wishes to request a supplementary question, they should press their request-to-speak button or indicate so by entering the letter R in the chat room during the relevant question.

To get in as many questions as possible, I would prefer short and succinct questions, and answers to match.

#### Programme for Government (Tobacco, Alcohol and Unhealthy Food and Drinks Consumption)

1. **Brian Whittle (South Scotland) (Con):** To ask the Scottish Government what progress it has made on the commitments in its programme for government to tackle the consumption of tobacco, alcohol and unhealthy food and drinks. (S6O-00303)

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** We are committed to taking bold population-wide approaches to reduce the significant harms of tobacco, alcohol and unhealthy food and drinks, which is why we will introduce a public health bill during this parliamentary session. We are in the process of developing an updated tobacco action plan to reduce smoking rates to 5 per cent or under by 2034. We are also driving forward our alcohol framework, which contains 20 actions to reduce alcohol-related harms and embed the World Health Organization's focus on tackling the affordability, availability and attractiveness of alcohol.

**Brian Whittle:** A healthy diet from an early age is a major contributor to tackling inequality and the

stubborn attainment gap, as, I am sure, the cabinet secretary would agree. Given that there is such a disparity across the country in food provision in our schools, and with so much of the public procurement purse going to importing inferior foods—despite the high quality of food produced by our farmers—does the cabinet secretary agree that it is time that the Scottish Government's public procurement policy ensures that, wherever possible, produce available through the central Scotland Excel contract is high-quality home-grown food? That would be to the betterment of our children's health and wellbeing.

**Humza Yousaf:** I certainly agree with much of what Brian Whittle said and with the importance of not just the availability of healthy food but its price relative to that of unhealthy food. I am more than happy to have these conversations with my colleagues in Government, particularly Ivan McKee, who leads on many of these matters.

I am sure that when we introduce the public health bill, which of course is a programme for government commitment, we will engage widely with colleagues across the chamber, and I am sure that Brian Whittle will want to be part of those conversations. I am happy to take away the constructive suggestions that he makes.

**The Deputy Presiding Officer:** We have a supplementary from Carol Mochan, who joins us remotely.

**Carol Mochan (South Scotland) (Lab):** The Scottish Government has committed to halving childhood obesity by 2030. Can the cabinet secretary outline what steps the Government is taking to make community sport more inclusive, accessible and affordable for families who cannot afford the expensive cost of participating in sport, to ensure that sport plays its rightful role in meeting the targets that the Government has set out?

**Humza Yousaf:** I thank Carol Mochan for that important contribution. In relation to some of the commitments in the PFG to help get us towards that target of halving childhood obesity by 2030, we have made available £650,000 to help health boards and local partners support services that encourage and reinforce good nutrition, healthy eating habits and, importantly, physical activity for children under five and their families. That goes back to Brian Whittle's point about early intervention. Some of that funding goes towards physical activity for children under five.

I will write to Ms Mochan with further detail of what we are doing to make sport as inclusive as possible, particularly for those who may find participation difficult because of the financial barriers.

**Gillian Mackay (Central Scotland) (Green):** According to research conducted by the Alcohol Health Alliance UK in 2020, more than 70 per cent of alcohol labels do not include the low-risk drinking guidelines, despite the industry reaching a voluntary agreement with the UK Government to include them. Meanwhile, the Scottish Government's research indicates that only 17 per cent of people in Scotland are aware of the chief medical officer's low-risk drinking guidelines.

People deserve to know what they are consuming and to be aware of the harm—

**The Deputy Presiding Officer:** May we have the question, please, Ms Mackay?

**Gillian Mackay:** Will the cabinet secretary consider mandating nutrition and health information on alcohol labels, to enable people to make informed choices?

**Humza Yousaf:** Yes; we are always happy to look at constructive suggestions from members of any party.

We have good four-nations discussions with the other health ministers on such issues. I have had recent discussions with Ed Argar on the Health and Care Bill, which touches on devolved competences. We do not have an agreement on the legislative consent memorandum in relation to the bill, some of which strays into the area that Gillian Mackay raised. I am happy to look at suggestions, including hers.

**Willie Rennie (North East Fife) (LD):** I am a strong supporter of alcohol minimum unit pricing. The evidence is pretty clear that it has had a significant impact. However, the value of the 50p rate has been eroded by inflation in recent years. When will the minister increase the minimum unit price beyond 50p?

**Humza Yousaf:** As Willie Rennie knows, we keep the matter under regular review. The point that he made is not unreasonable. He will forgive me for not having to hand exactly when the next review is due, but when we have undertaken it, I will write to him about the outcome.

### Dental Treatment (Access)

2. **Russell Findlay (West Scotland) (Con):** To ask the Scottish Government whether it will provide an update on what it is doing to ensure that patients have access to dental treatment. (S6O-00304)

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** I recently wrote to the profession about our plans for the recovery of national health service dental services. The letter set out a package of new improvements to support NHS dental teams in tackling the backlog of care, including enhanced examinations for all patients—

children and adults. That builds on recent funding announcements of £7.5 million for new dental drills and £5 million for ventilation improvements.

This Government's commitment is to build back NHS dentistry and ensure that NHS dental teams are focused on tackling the significant backlog in patient care. Our immediate focus is recovery; further reform will follow once the sector has been stabilised. Reform at this stage would be a disruption.

The purpose of the successful measures that we have introduced is to ensure that NHS dental services emerge well placed to care for the oral health of the whole population and that there can be a return to increased patient contact, as the wider public health position allows.

**Russell Findlay:** The British Dental Association Scotland says that four in 10 Scottish dentists could quit the NHS if Scottish Government Covid payments are withdrawn and that the cabinet secretary could be remembered as the man who killed dentistry in Scotland.

I am sure that the BDA is relieved that it will get a reply to its letter of 15 October. Does the cabinet secretary intend to sit down with the association and discuss its serious concerns?

**Humza Yousaf:** The BDA will be in a meeting that I am hosting this afternoon with a number of staff-side representatives. I have engaged with the BDA before.

I do not recognise the claims about what the BDA has suggested, but I am keen to hear more about the results of its survey.

We have invested significantly in the dental sector during the pandemic. For example, we have provided £50 million in financial support payments, in addition to between £30 million and £35 million to provide free personal protective equipment. That is on top of the figures that I mentioned—the £7.5 million for new dental drills and the £5 million for ventilation improvements. We are funding the dental sector as best we can.

We will not withdraw emergency support payments all of a sudden; we are looking to do that in April next year, to allow time to move from the current emergency arrangements to a more sustainable funding model. I am happy to engage with the BDA to discuss the issue further.

### Dental Services (Work Models)

8. **Liam McArthur (Orkney Islands) (LD):** To ask the Scottish Government what its response is to claims by the British Dental Association Scotland that "plans to return national health service practices to pre-Covid models of work may devastate dental services". (S6O-00310)

**Humza Yousaf:** As I said, I wrote to the profession recently about our plans for recovery. If the letter is not publicly available, I will put it into the Scottish Parliament information centre so that members can see it for themselves.

As I said, this Government's commitment is to build back NHS dentistry so that it recovers, and then to consider reform, but wholesale reform of the dental sector at this stage would be severely disruptive. I will not rehearse everything that I said about the substantial investment that we have made to support the sector during this difficult time.

**Liam McArthur:** I had planned to ask about the Government's commitment to maintaining support for practices in rural and island areas, yet David McColl of BDA Scotland has warned of a potential mass exodus from NHS dental services across Scotland. Will the health secretary now withdraw his proposals and think again? Given how badly the negotiations have gone, does he still have confidence in his chief dental officer?

**Humza Yousaf:** Yes, of course I have great respect for and confidence in Tom Ferris, our chief dental officer. I do not recognise some of the claims being made by the British Dental Association. I am keen to test those further with the BDA but, clearly, it has done a survey, and I have been clear in my responses to Russell Findlay and Liam McArthur that I want to sit down with the BDA: my door will be open to it for further negotiation.

I re-emphasise the point that the emergency payments are not dropping off the edge of a cliff next week, next month or even this year. We are talking about potentially moving to a position of withdrawing the emergency payments on 1 April next year. We can never be sure about these things, but I would certainly hope that we will be out of the grips of the emergency phase of pandemic by then.

However, given that the BDA has said what it has said and given the questions that have been asked by Russell Findlay and Liam McArthur, I can confirm that I will continue my engagement the BDA, in the hope of getting to a position where we can all agree on the future recovery of the dental sector.

**Jenni Minto (Argyll and Bute) (SNP):** Many of my Argyll and Bute constituents who live on islands must travel to the mainland for dental treatment, which can be expensive, and the islands that have dental practices can struggle to get the necessary staff. Can the cabinet secretary provide an update on the work that the Scottish Government is doing to ensure that patients in island communities have access to affordable dental treatment?

**Humza Yousaf:** I am not sure that I have to declare an interest, but I have two cousins who own a dental practice on one of the islands in Jenni Minto's constituency. As she can imagine, I hear from them regularly on all matters related to islands and dentistry.

I can confirm that the Scottish Government has been looking closely at access to NHS dental services in remote and rural areas over the course of our time in government. Scottish dental access initiative grants are available in the areas of Scotland where there are access challenges. The grants provide practices with capital funding to support new practice builds or the extension of existing premises that provide NHS care. We are currently conducting a review of the areas of Scotland that qualify for that support.

We have in place a range of recruitment and retention incentives, which pay up to £25,000 over a two-year period to newly qualified dentists who decide to practise in areas with access challenges. Payments are also made to dentists who return to the workforce after a break of five years or more. We are presently considering new areas to be included in those incentives.

### **Covid-19 (Booster Vaccine Appointments)**

**3. Daniel Johnson (Edinburgh Southern) (Lab):** To ask the Scottish Government what action it is taking in response to reports of patients being given appointments for a Covid-19 booster vaccine within six months of their second dose of the vaccine and who were therefore unable to have the booster at the appointment. (S6O-00305)

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** Covid-19 booster vaccinations in Scotland started as soon as possible once the Joint Committee on Vaccination and Immunisation provided advice stating that the booster dose should be offered no earlier than six months after completion of the primary vaccine course. People in Scotland are being invited for their autumn and winter vaccinations. To date, we have followed JCVI advice by inviting those who are eligible for boosters according to the same priority as for the initial vaccination programme.

Those who are eligible can receive their Covid-19 booster and flu vaccine at the same appointment. We are maximising co-administration where possible. Those who completed their primary course of the Covid-19 vaccine less than six months ago were offered only the flu vaccine and were asked to make a follow-up appointment for their Covid-19 booster, in some cases, from a given date.

Following updated advice to support operational flexibility, those attending for their flu vaccine can now, in some cases, be offered a Covid booster

from five months. The Covid-19 booster vaccine will help to extend the protection against severe Covid-19 that was gained from the first two doses, specifically against hospitalisation and death over this winter.

**Daniel Johnson:** I have been contacted by dozens of constituents who are finding navigating the system confusing, if not impossible. I will give just one example. My mother-in-law has been waiting weeks past the six-month point for her Covid booster. She has been calling the helpline every day to no avail, until today. I checked with her, and she received a letter today offering an appointment at 7 am tomorrow morning. She can make that appointment, which is different from the situation with her flu jab: she was offered an appointment in Gorebridge, which is two buses away and a two-hour round journey—and that is for a woman over the age of 70 who lives by herself.

She is not alone. Constituents are finding—

**The Deputy Presiding Officer:** Mr Johnson, could you please come to a question?

**Daniel Johnson:** Constituents are finding the situation confusing—they lack information and the helpline does not help. Does the cabinet secretary think that that is good enough? If he does not, what will he do to fix it?

**Humza Yousaf:** I will make a couple of points. We are administering a record number of flu and booster vaccines in our autumn and winter programme. I appreciate that, in some areas, it has not worked as well as it should have done. I do not know whether Mr Johnson was in the chamber for my statement yesterday, but in my response to his colleague Jackie Baillie I acknowledged that, when close to 500,000 flu and booster vaccines are administered, there are cases in which things do not work well. My offer to every member is that, if particular issues are not being resolved by their health board, I am more than happy for them to come to me.

I am sorry to hear about the difficulties that Daniel Johnson's mother-in-law has had. I am pleased that she is able to make that appointment tomorrow, but I would not expect to receive a letter for an appointment with less than 24 hours to go. I reiterate the point that I made yesterday: our autumn and winter booster and flu vaccination programme is going at an incredible pace, but there have been some glitches, particularly in areas of Lothian. If I can help any members to resolve those issues, I am more than happy for them to contact me directly.

**The Deputy Presiding Officer:** Before I call the next question, I remind members that I would like succinct questions and succinct answers from the cabinet secretary.

### **Domestic Abuse (Support for Ethnic Minority Women)**

4. **Bill Kidd (Glasgow Anniesland) (SNP):** To ask the Scottish Government what action it has taken, and will take, to support the mental and physical health of ethnic minority women who are victims of domestic abuse. (S6O-00306)

**The Minister for Mental Wellbeing and Social Care (Kevin Stewart):** We continue to invest significant levels of funding in specialist front-line services. Through our new delivering equally safe fund, we recently confirmed allocations to 13 projects that specifically support minority ethnic women who have experienced domestic abuse and gender-based violence.

Following our mental health and transition recovery plan, we commissioned research from the Improvement Service to help us to better understand and address the mental health and wellbeing needs of women and girls who are experiencing gender-based violence. That has included engagement with minority ethnic groups. A final report with recommendations will be published this winter.

**Bill Kidd:** Anyiso is an organisation in my Anniesland constituency that supports women in those difficult circumstances. It has been reported that the domestic abuse of women in ethnic minority communities often goes unreported in Scotland due to religious or cultural reasons. What measures are in place, or can be put in place, to ensure that those women are able to access the support that the minister has outlined?

**Kevin Stewart:** Domestic abuse has a devastating impact on victims and we continue to encourage all those who experience such crimes to report them and seek support. We remain committed to raising awareness of domestic abuse. Later this month, we will launch a campaign to reach those who are most at risk and ensure that survivors are aware of the support that continues to be available. We support Scotland's domestic abuse and forced marriage helpline, which is there to support anyone who has experience of domestic abuse. The helpline is available 24/7 and offers translation services for service users who prefer to use a language other than English.

I launched the communities mental health and wellbeing fund at Saheliya, here in Edinburgh, which seeks to promote the mental health and wellbeing of communities, with a particular focus on local at-risk groups, including ethnic minority women. The Government funds research that explores south Asian women's end-to-end experiences of criminal justice in the context of domestic abuse, including when seeking support

during and following domestic abuse. We expect that report to be published in December 2022.

**Pauline McNeill (Glasgow) (Lab):** A quarter of cases in the sheriff court are domestic abuse cases. The main barrier to victims of domestic abuse taking their abusers to court is the cost of, and access to, a lawyer who specialises in domestic abuse. Has the minister had, or will he have, discussions with the Cabinet Secretary for Justice and Veterans about how access to legal aid can be improved to ensure that women can access a lawyer who specialises in domestic abuse?

**Kevin Stewart:** As Ms McNeill rightly pointed out, that is more a matter for my justice colleagues. I, of course, have conversations with them regularly and will pick up with them the points that Ms McNeill made.

I am sure that all of us in the chamber are extremely supportive of Scotland's equally safe strategy, and that we want to make sure that women and girls who face domestic abuse have all the recourse that they can.

#### **Winter Pressures (Support for National Health Service Boards)**

**5. Rhoda Grant (Highlands and Islands) (Lab):** To ask the Scottish Government what assistance it is providing to NHS boards that are currently experiencing pressures ahead of winter. (S6O-00307)

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** I updated Parliament on 5 October 2021 on how we are supporting the NHS and social care services to alleviate winter pressures, including by providing £300 million to help to get people the care that they need as quickly as possible over the winter period.

Yesterday, I announced additional winter funding of £10 million for health boards in order to reduce the time that people need to spend in hospital so that others can be admitted more quickly. That funding will be targeted at enhancing local teams throughout winter—for example, through the deployment of expert physio and occupational therapy staff at accident and emergency units to triage people who are best treated elsewhere.

**Rhoda Grant:** Patients and general practitioners are raising a high level of concern about the roll-out of Covid vaccine boosters and the uptake of flu vaccinations. At a time when health boards are grappling with additional staff shortages and an increasing number of resignations, GPs in Inness and Invergordon in my region have notified NHS Highland that they will be handing back their contract from early next year.

What is the Scottish Government doing to support GPs and health boards with those issues and to alleviate the pressures on hospitals before they face the even greater pressures of the winter?

**Humza Yousaf:** A significant amount of investment has gone into our health board areas and primary care to help with some of the pressures that they are facing. However, I cannot divorce the pandemic from the current pressures. The indirect and direct pressures of the pandemic are being felt right across the NHS, from primary care and acute settings to social care. That is why the £300 million winter package that I mentioned seeks to address all those areas, including by giving an additional £28 million—speaking from memory—to primary care.

As Rhoda Grant can imagine, I regularly speak to colleagues in health boards and in organisations such as the British Medical Association, which represents doctors, about the challenges that they are facing. The Government will leave no stone unturned and will look for help wherever we can get it, including, as we have done, from the armed forces, who are helping with our vaccination programme, for which I am grateful to them.

**Sue Webber (Lothian) (Con):** Yesterday, the cabinet secretary stated:

“Facing those challenges, health and care staff on the front line continue to give their all to keep us safe, and I take this opportunity to reiterate my appreciation and gratitude for their enduring efforts.”—[*Official Report*, 2 November 2021; c 13.]

That, along with the £10 million that he announced, will not and cannot help those staff today, tomorrow or over the coming weeks.

Last-minute redeployment of nurses and allied health professionals between departments in hospitals or different hospitals in the same board is very common and has been for some time. That is now to include physiotherapists and occupational therapists being redeployed to A and E departments to triage and treat patients who would otherwise have to see nursing staff.

**The Deputy Presiding Officer:** Could we have a question, please, Ms Webber?

**Sue Webber:** However, those specialist roles have very different levels of expertise. What support and training is the Scottish Government providing to upskill healthcare professionals who are redeployed to A and E departments from clinical services elsewhere in order to keep patients and staff as safe as possible?

**Humza Yousaf:** Sue Webber will be aware that physios are present in acute settings. They are very skilled at what they do, and the level of skill

and training that they will bring to emergency departments will help to ensure that those who come into A and E with musculoskeletal conditions, for example, can be treated in the most appropriate way. Nonetheless, we will, of course, continue to work with health boards on the skilling that is required.

I am grateful to Ms Webber for her question, because it gives me another opportunity to thank our health and social care staff for all that they do for us. That is why we have record staffing numbers in Scotland and the best paid NHS and social care staff of any country in the United Kingdom.

#### **National Health Service (Negligence and Misdiagnosis) (Support for Patients)**

**6. Jim Fairlie (Perthshire South and Kinross-shire) (SNP):** To ask the Scottish Government what measures are in place to support people who have experienced long-term mental or physical harm as a result of NHS negligence or misdiagnosis. (S6O-00308)

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** The Scottish Government expects NHS Scotland to provide high-quality healthcare that is safe, effective and person centred. When unintended or unexpected harm occurs, the relevant healthcare provider will provide appropriate medical support and care that addresses the needs of the patient for as long as it is required.

An individual can make a complaint against a healthcare provider and can consider seeking compensation when that is appropriate. Legal advice and assistance can be sought through the Law Society of Scotland, and legal aid is available to people who pass the financial criteria. Compensation payments for clinical negligence take into account both physical and psychological harm that might have been caused.

**Jim Fairlie:** My constituent has suffered psychological and physical abuse as a result of the historical treatment of children with type 1 diabetes at the Cruachan home in Balerno. I ask the cabinet secretary to urge the health board to meet my constituent so that they can get the redress and closure that they so desperately deserve.

**Humza Yousaf:** Clearly, I do not know the details of the case that Jim Fairlie mentions, but I would expect health boards to be engaging. If that is not happening, I would be happy, offline, to get the details from Jim Fairlie and do what I can to encourage such engagement.

#### **Covid-19 (Vaccine Trial Volunteers)**

**7. Sandesh Gulhane (Glasgow) (Con):** To ask the Scottish Government what measures it has put in place to ensure that Covid-19 vaccine trial volunteers have the same access to public events and travel as other people. (S6O-00309)

**The Cabinet Secretary for Health and Social Care (Humza Yousaf):** All participants in a clinical trial of a currently non-approved vaccine or a blinded study were sent a paper record of vaccination certificate in September to use in place of the app. Those certificates are fully equivalent to the digital version and can be used for access to domestic venues. They will also permit smoother inbound entry to the United Kingdom.

Although the app does not currently cover clinical trials, we are working to include participant data for use in the app.

**Sandesh Gulhane:** On 2 September, the First Minister stated that nobody who participated in vaccine trials

“will be disadvantaged in any way.”—[*Official Report*, 2 September 2021; c 16.]

That position has been repeated at least five times.

However, Dr Roy Soiza, leader of the Novavax trial, tells me that there is no question but that the trialists for that vaccine have been disadvantaged. Will the cabinet secretary give me an assurance that when the Medicines and Healthcare products Regulatory Agency approves the Novavax vaccine, which is likely to happen within weeks, people who have participated in that trial will have their vaccination status recognised on the Scottish vaccination passport within a month?

**Humza Yousaf:** Of course, when or if the Novavax vaccine is approved by the MHRA, we will work as quickly as we can to ensure that our app is able to register that vaccine. My officials are working hard on that in the case that any of the non-approved vaccines are approved by the MHRA, so we will do that as quickly as we can.

#### **Social Justice, Housing and Local Government**

**The Deputy Presiding Officer:** We move to portfolio questions on social justice, housing and local government. I remind members that questions 2 and 6 are grouped together and that I will take any supplementaries on those questions after both have been answered.

If a member wishes to request a supplementary question, they should press their request-to-speak button or indicate so in the chat function by entering the letter R during the relevant question.

### Local Government (Decision Making)

1. **Jamie Greene (West Scotland) (Con):** To ask the Scottish Government to what extent it takes local government decision making into account when considering proposals previously rejected by a local authority. (S6O-00311)

**The Minister for Social Security and Local Government (Ben Macpherson):** I understand that officials unsuccessfully tried to obtain clarification from Mr Greene's office on what proposals he is referring to in his question. In the absence of that clarification, I have assumed that Mr Greene is referring to planning decision making, which is the responsibility of the Minister for Public Finance, Planning and Community Wealth, Mr Arthur.

The Government is committed to seeing the right developments in the right places. As Mr Greene knows, the right to appeal certain decisions by planning authorities is an important part of the planning system, and independent reporters make the final decision on the vast majority of appeals. Independent planning reporters take full account of the planning authority's position, alongside that of other parties involved, including members of the local community.

**Jamie Greene:** I will explain, in case the minister is not aware, that North Ayrshire Council recently rejected—unanimously, on a cross-party basis—a local wind farm proposal. That decision has been referred to ministers. I suspect that no comment will be offered on that specific case, but given that last year half of all the local government decisions that were called in by ministers were overturned, what confidence can the people of North Ayrshire have that local decision making and views are ever truly respected by the Scottish Government, regardless of which minister chooses to answer such questions?

**Ben Macpherson:** The Parliament passed a bill on the matter in 2019. I must make it clear to Mr Greene and the chamber as a whole that ministers cannot comment on live planning issues under the ministerial code, and that is right and proper.

I appreciate that Mr Greene has raised a specific issue, but I encourage him to contact the minister for planning. We will certainly make Mr Arthur aware of the issues that have been raised today.

I am sure that, if Mr Arthur were here, he would wish to state to Mr Greene that, in the most recent financial year, reporters issued 135 planning appeal decisions that granted planning permission to almost 50 per cent of cases; and that, in the same period, local planning authorities in Scotland decided approximately 25,000 planning

applications, granting planning permission in 94.5 per cent of cases.

**The Deputy Presiding Officer:** Kenneth Gibson has a supplementary question.

**Kenneth Gibson (Cunninghame North) (SNP):** The Tories rejected third-party right of appeal and supported the right of appeal for developers before the Parliament passed the Planning (Scotland) Act 2019. Although I believe that the Rigg hill wind farm development in my constituency, which is what Mr Greene's question is about, should not be approved, does the minister agree that independent reporters should be able to look afresh at that proposal and that for Scottish ministers to be accused of interference by a Tory MSP is a bit rich, given his Westminster boss's continued meddling in devolved matters?

**Ben Macpherson:** I reiterate that ministers cannot comment on live planning issues. However, I note the points that Mr Gibson has made around the process of the Planning (Scotland) Act 2019, and that the considerations around equal right of appeal and the right of appeal for developers were considered as part of that process. For clarity, the Conservatives rejected the equal right of appeal and voted for the maintenance of a developer right of appeal.

### Affordable Homes (Remote and Rural Areas)

2. **Finlay Carson (Galloway and West Dumfries) (Con):** To ask the Scottish Government what support it is providing to encourage more affordable homes to be built in remote and rural areas. (S6O-00312)

**The Cabinet Secretary for Social Justice, Housing and Local Government (Shona Robison):** We recognise that good-quality affordable housing is essential to attract and retain people in Scotland's remote and rural communities. We have committed to delivering 110,000 affordable homes by 2032, of which 70 per cent will be available for social rent and 10 per cent will be in our remote, rural and island communities. We will develop a remote, rural and island action plan to deliver that. We will invest £3.44 billion in this parliamentary session towards the delivery of more affordable homes across Scotland, with £30 million of that investment supporting the continuation of the rural and island housing fund.

**Finlay Carson:** South of Scotland Community Housing was funded after a study by Shelter Scotland identified a shortfall in rural housing supply in Dumfries and Galloway. Providing technical and professional support to 35 communities and landowners, SSCH helps to deliver affordable homes that address specific local needs. Community Land Scotland and the

Scottish Land Commission have praised SSCH's remarkable work and would like it to upgrade its operations, but the charity now finds itself in a precarious position after the Scottish Government stopped its revenue funding in March 2020. Given its proven track record in rural housing delivery, I am sure that the minister will agree that it is ludicrous that its core funding has been halted. What assurances can the minister give that its immediate future will not be in doubt?

**Shona Robison:** I will write to Finlay Carson on the specifics of South of Scotland Community Housing. However, we want to work with third sector partners, registered social landlords, social enterprises and housing co-operatives to help us deliver what is an ambitious programme across Scotland, including in remote and rural areas.

#### **Affordable Homes (Building Costs)**

**6. Mark Griffin (Central Scotland) (Lab):** I draw attention to my entry in the register of members' interests as the owner of a rental property in the North Lanarkshire Council area.

To ask the Scottish Government what its response is to a report from Falkirk Council that states that the average cost of building a new affordable home is set to rise to £240,000, from £144,823 in 2014. (S6O-00316)

**The Cabinet Secretary for Social Justice, Housing and Local Government (Shona Robison):** Current pressures on materials and supplies are contributing to rising construction costs. We are working closely with industry, through the construction leadership forum, to address the factors behind that.

We have also set up a short-life working group and are working at pace with industry on what solutions Scotland can offer to those global challenges. We operate a flexible grant programme. Local authorities and registered social landlords should apply for the grant funding that they need to deliver affordable housing projects, taking into account their planned level of borrowing and being satisfied that tenants' rents remain affordable.

**Mark Griffin:** Even with the housing infrastructure fund, which is now available only to RSLs and local authorities for affordable housing, the proposed urban social rent benchmarks are set at £78,000 and £71,500, which will leave the providers considerably short. Homes for Scotland advised that, due to infrastructure constraints, new homes on brownfield land are often commercially unviable for any housing tenure. Does the support for regenerating brownfield sites for developments of all tenure go far enough? Does the Government have plans to give further support?

**Shona Robison:** I recognise those issues and, of course, we are keeping them under review. With regard to the benchmarks, I am sure that Mark Griffin is aware of the work that has been going on with local government and the housing association movement. The new set of benchmarks will be adjusted on an annual basis to account for inflation, and, as I said earlier, we need to keep those matters under review. We do not know how short or long term the cost pressures will be, and, as I said in my initial answer, we are working through them and working with the housing sector to keep the momentum of the affordable housing supply programme going at pace.

**Jenni Minto (Argyll and Bute) (SNP):** The cabinet secretary is aware that the Highlands and Islands face distinct challenges when it comes to housing. Will she elaborate on the ways in which the Scottish Government is showing flexibility in its support for a sustainable and affordable housing strategy in Scotland's Highlands and Islands?

**Shona Robison:** Scottish Government housing staff work closely with local authorities and other stakeholders to respond to specific local challenges and locally identified housing priorities. The affordable housing supply programme has the flexibility to award grants at levels that recognise the development challenges that rural and island communities face, and, as I said in an earlier answer, support is available through the rural and island housing funds, which are backed up by £30 million of investment over this parliamentary session. Together, those funds supported the delivery of 6,000 affordable homes across rural and island Scotland over the past parliamentary session. We remain committed to the housing action plan. I had a fantastic visit to Fort Augustus, where I saw 12 fantastic affordable homes being delivered for local people.

**Liam McArthur (Orkney Islands) (LD):** Notwithstanding what the cabinet secretary said, figures last month revealed that 900 people in Orkney—out of a population of fewer than 22,000—are on the housing waiting list and face an average wait of more than two years. With Covid prompting inward migration and rapidly increasing costs, alongside the proposed removal of local connection from homelessness legislation, does the cabinet secretary really believe that the Government is doing enough to assist island authorities such as Orkney Islands Council to ensure that there is sufficient affordable housing to meet that rising demand?

**Shona Robison:** Today, and on numerous occasions, I have laid out the scope of what we are doing, such as the 100,000 homes that we have already delivered and the ambition for 110,000 affordable homes going forward.

However, we need to make sure that those homes are spread equitably. That is why we are bringing forward a specific plan for rural and island Scotland, which will give an opportunity for members such as Liam McArthur and local community organisations and housing providers in Orkney and elsewhere to input into that plan, in order to address the specific needs of their local areas. However, the scale of our ambition is hard to dispute.

**Rhoda Grant (Highlands and Islands) (Lab):** As others have said, the issues in the Highlands and Islands are particularly bad, with people moving up to the area because of Covid and people buying buy-to-let properties. Has the cabinet secretary given any thought to the Hebridean Housing Partnership's initiative to sell houses only to local people who will live and work in the area?

**Shona Robison:** I know that there have been a number of innovative ways of retaining housing stock within local areas, such as bonds whereby, if a local person or family purchases a property, it remains in the local community. Those things are not easy and there is no single solution.

Obviously, we are addressing issues regarding short-term lets and secondary letting. Councils already have the power to introduce control areas, and that power must be used according to the needs of the local area. However, if Rhoda Grant writes to me with more detail of the issue that she has raised, I will be happy to give her a more detailed response.

#### **New Affordable Housing (Energy Efficiency)**

**3. Gillian Martin (Aberdeenshire East) (SNP):** To ask the Scottish Government how its housing strategy ensures that all new affordable housing is built to be as energy efficient as possible. (S6O-00313)

**The Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights (Patrick Harvie):** All new homes that are delivered through the affordable housing supply programme meet Scottish building regulations, which set high levels of energy efficiency. We are currently consulting on improvements to those energy standards, for introduction next year, and we are strongly focused on reducing the overall energy demand in new homes.

We also aim to ensure that all new homes that are delivered by registered social landlords and local authorities will be zero-emissions homes by 2026, which, among other things, will mean greater use of off-site construction in the social rented sector to deliver high-quality and energy-efficient homes.

**Gillian Martin:** Given the on-going rise in energy costs and the impact that it will have on many of our most vulnerable people, it is vital that we do what we can to limit the amount of energy that houses require. How do we ensure that social landlords, in particular, focus on energy efficiency from the start of the process for all new builds?

**Patrick Harvie:** The Scottish Government recognises the impact of fuel costs on tenants and the need for new homes to be designed to be as energy efficient as possible. For social landlords, the affordable housing supply programme supports the delivery of high-quality, energy-efficient homes and provides additional funding where homes are built to higher levels of energy efficiency than those that are set out in the current building regulations, which makes homes even more affordable to heat.

As I said in my first answer, through the building regulations, we are also reviewing the energy standards to deliver further improvements in energy efficiency and emissions reduction for all new homes. Following the recent review of investment benchmarks, additional funding is also now available to social landlords, through the affordable housing supply programme, to install heating systems with zero emissions at point of use.

**Miles Briggs (Lothian) (Con):** Does the minister acknowledge that, as a result of the decision to halt all installations of energy-efficient oil and liquid petroleum gas heating systems, there will be unintended consequences for households that are living in fuel poverty in off-grid, mainly remote and rural communities? Many properties—20 per cent—in rural and remote Scotland are, in the Scottish Government's own research, identified as not being technically suitable for renewable technologies such as air-source and ground-source heat pumps. What impact assessment was undertaken before the minister made the announcement?

**Patrick Harvie:** No one who had already been offered an LPG system or an equivalent system has had the offer withdrawn. In fact, all those that were in the pipeline had commitments made, and those commitments were honoured.

Now, particularly as the 26th United Nations climate change conference of the parties—COP26—is taking place in Glasgow, we should all be conscious that simply continuing with some of the most polluting heating systems that are available to us is really not an option if we want to support householders in all parts of the country to reduce their emissions.

We continue to provide a wide range of interventions for those who might previously have been offered LPG systems, and we are committed

to continuing to review and improve the offer that is available.

### Rent Control

4. **Pauline McNeill (Glasgow) (Lab):** To ask the Scottish Government when it plans to introduce a system of nationwide rent controls. (S6O-00314)

**The Minister for Zero Carbon Buildings, Active Travel and Tenants' Rights (Patrick Harvie):** The Scottish Government has committed to delivering a new deal for tenants and to consulting on the options, delivering legislation and implementing an effective national system of rent controls, with appropriate mechanisms to allow local authorities to introduce local measures, by the end of 2025. We will set out proposals for taking forward that work in our forthcoming rented sector strategy, which we aim to publish for a full public consultation by the end of this calendar year.

**Pauline McNeill:** In the previous parliamentary session, I introduced my Fair Rents (Scotland) Bill, which had widespread support, including support from the minister, Patrick Harvie. A key aspect of that bill was that private rents should not be capable of being raised by more than the consumer prices index plus 1 per cent.

I was pleased that David Alexander from the property firm D J Alexander suggested in a press release recently that a system in which annual rent rises for sitting tenants were capped at 1 per cent or 2 per cent "could be workable". Do we have to wait until 2025 before at least some action is taken to protect tenants across Scotland who face exorbitant rents? I whole-heartedly welcome the proposals, but does the minister agree that we must do something before 2025? Otherwise, tenants will be priced out of their homes.

**Patrick Harvie:** We have a full programme of work to be enacted well before the end of 2025. I commend Pauline McNeill for her work on the issue in the previous parliamentary session and I hope that she will work constructively with the Government to take forward our new deal for tenants under the rented sector strategy.

Some work under the strategy will be implemented earlier. Aspects including the models of rent control need proper work to examine the range of options that exist, including those that were included in Pauline McNeill's member's bill. However, there are other options and models that we need to examine to get the system right.

In Scotland, we have already gone through a process of designing and adopting a system of rent controls that did not work. Rent pressure zones have never been used and have not changed anyone's rent. Let us not get it wrong; let

us spend the time to consult openly and get the model right. I hope that we will be able to work constructively with colleagues across the—

**The Deputy Presiding Officer:** There seems to be a technical problem. I hope that we got the gist of the minister's response. Can you hear us, minister?

**Patrick Harvie:** Yes—I can hear you fine. Can you hear me?

**The Deputy Presiding Officer:** I can hear you now; your picture froze for a moment. We will move on to a supplementary question.

**Alexander Stewart (Mid Scotland and Fife) (Con):** There is a mixed picture of the effects of rent control policies that have been introduced around the world. In Sweden, they have reportedly led to a second-hand market of sublet properties.

Several industry experts have warned that rent controls are not the answer to Scotland's housing crisis. What analysis has been carried out of the potential benefits and pitfalls of the proposed rent control system?

**Patrick Harvie:** I hope that the member will acknowledge that some of our work to develop models and consult on proposals is intended to do exactly what he asks for—it will look at the full range of potential benefits and how to avoid unintended consequences.

There are those in the private rented sector who do not have the instinctive recoil against the principle of rent controls that some might think. I hope that the member will acknowledge that continuing with the situation in which people in parts of the private rented sector are—to be frank—being price gouged is not acceptable. We need to deal with the unacceptable rent increases that some people have been living with.

**Karen Adam (Banffshire and Buchan Coast) (SNP):** I welcome the minister's assurance that reforming the private rented sector remains high on the agenda. Will he provide more detail on the Scottish Government's work on constructing a new deal for tenants?

**Patrick Harvie:** As I said, our forthcoming rented sector strategy will set out our ambitious proposals to deliver a new deal for tenants. That is a commitment in the Scottish Government and Scottish Greens co-operation agreement, which was published in August. The strategy will include plans for a new housing regulator for the private rented sector. It will include enhanced new rights for tenants, such as rights that give people the ability to decorate their homes and keep pets—things that speak to the dignity of people living in their homes. In addition, it will include restrictions on winter evictions and a range of other measures.

I look forward to publishing the strategy. I hope to have constructive engagement on the detail with members of all parties.

#### **Housing (Support for First-time buyers)**

**5. Miles Briggs (Lothian) (Con):** To ask the Scottish Government what support it plans to provide to first-time buyers. (S6O-00315)

**The Cabinet Secretary for Social Justice, Housing and Local Government (Shona Robison):** First-time buyers can access a variety of support, including the help-to-buy smaller developers scheme and the low-cost initiative for first-time buyers—LIFT. First-time buyer relief for land and buildings transaction tax means that an estimated eight out of 10 first-time buyers continue to pay no tax at all.

**Miles Briggs:** The fact is that the help-to-buy scheme in Scotland has now been shut off to first-time buyers, unlike the scheme in England. That has resulted in young Scots increasingly being denied the dream of getting on the property ladder. House builders are saying that, across Scotland, first-time buyers are not presenting.

What support do ministers plan to provide in the budget to first-time buyers? Will the cabinet secretary look to restore the help-to-buy scheme in full?

**Shona Robison:** The context is that there was a 66.5 per cent cut to the Scottish Government's financial transactions budget in 2021-22, which arose from the United Kingdom Government's spending review. That meant that difficult choices had to be made. We chose to target the limited support that was available at low-income buyers, who are the most marginal, by maintaining the LIFT scheme. It should be noted that the UK Government does not run an equivalent scheme for low-income purchasers.

Being more targeted in such support for first-time buyers is important, given that an evaluation showed that 72 per cent of first home fund buyers and 80 per cent of help-to-buy buyers would have been able to purchase a property that met their needs without Scottish Government financial assistance. If Miles Briggs and the Conservatives are saying that they want to shift money away from helping those on lower to moderate incomes to purchase a property to helping those who have more resources at their disposal, he should bring forward proposals for the budget. He should tell us where the money will come from to support those who—as I just demonstrated with those figures—would be able to purchase a house without Scottish Government assistance.

#### **Welfare and Benefits (Care-experienced Young People)**

**7. Gillian Mackay (Central Scotland) (Green):** To ask the Scottish Government how it ensures that welfare entitlements and other benefits such as council tax exemptions are taken up by care-experienced young people. (S6O-00317)

**The Minister for Social Security and Local Government (Ben Macpherson):** We are committed to maximising the take-up of Scottish benefits among all those who are eligible, and our approach to that is set out in our latest benefit take-up strategy. We are aware of the additional challenges that care-experienced young people often face in accessing entitlements. Social Security Scotland is engaging with a range of corporate parents to raise awareness of devolved benefits among that group, in line with its corporate parenting action plan.

Local authorities have a duty to promote the entitlements that they administer, including council tax reduction, and they have a statutory responsibility under the Children and Young People (Scotland) Act 2014 to provide continuing care to eligible care leavers.

**The Deputy Presiding Officer:** Gillian Mackay may ask a succinct supplementary. Please give a succinct answer, minister.

**Gillian Mackay:** I have heard from care-experienced young people that there are issues around claiming council tax exemptions for those who leave care between the ages of 16 and 18, even if they leave care during that period and then return. Can the minister advise whether that is the case? If it is, will the Scottish Government seek to address that disparity?

**Ben Macpherson:** In the interests of time, I will say that Gillian Mackay raises an important point that I am keen to take up with her in correspondence after the meeting.

**The Deputy Presiding Officer:** Thank you, minister. Before moving on to the next item of business, I remind members that Covid-related measures are in place and that face coverings should be worn when moving around the chamber and across the Holyrood campus.

## Legal Aid Solicitors (Action)

**The Deputy Presiding Officer (Annabelle Ewing):** The next item of business is a statement by Ash Regan on action by legal aid solicitors. The minister will take questions at the end of her statement, so there should be no interventions or interruptions.

14:53

**The Minister for Community Safety (Ash Regan):** I have been asked to make a statement regarding the action that is being taken by legal aid solicitors in the context of the 26th United Nations climate change conference of the parties—COP26—and I am happy to do so. I start by commending the work that justice organisations have undertaken in planning and preparing for a safe and secure COP26 event. That proportionate and effective approach is continuing now that the summit has started.

I note and share the concerns that have been expressed regarding the decision that was taken by many criminal defence solicitors not to participate in custody courts that are taking place during the period of the COP26 summit. That action withdraws support for persons who are in custody due to criminal activity that is associated with the summit, as well as for existing clients of those solicitors who are in custody for activity that is unrelated to COP26. Duty officers are unable to act for clients with named solicitors unless they are expressly asked to do so by that defendant.

The Scottish Solicitors Bar Association confirmed on Saturday 30 October, immediately before the start of the conference, that many local solicitors would withdraw with immediate effect from the general legal aid duty scheme for non-COP26 cases during the period of the conference and potentially beyond it. That was done without providing the normal notice period to withdraw from the existing legal aid duty scheme.

I turn first to the issue around COP26 custody arrangements. Proposals for a generous package of enhanced legal aid fees for COP26-related cases were developed by a working group comprising representatives of the solicitor profession, the Law Society of Scotland and the Scottish Legal Aid Board. The group submitted proposals for the enhanced funding package, which was then approved by the Scottish ministers without amendment. Subsequent proposals were also put forward for enhanced fees for non-COP26 cases in weekend courts, and those were also approved.

Based on the estimated additional levels of custody cases that have been identified by Police Scotland, the total potential value of the enhanced

package to the profession in legal aid fees over the period of the conference was up to £3.5 million. United Kingdom Government representatives subsequently confirmed that the UK Government would cover costs only up to a maximum of around half of that, which was an estimate of about £1.8 million. However, the Scottish Government has committed to underwrite the difference.

Collaborative efforts were made in advance to provide and agree a generous enhanced package of legal aid fees to support the work of solicitors during COP26. At no time during those discussions was there any indication that there was an intention to boycott the summit. It is therefore disappointing and concerning that a large number of local solicitors indicated immediately before the summit that they would boycott the enhanced legal aid fees package. The decision was also taken to boycott weekend courts, including withdrawing support for solicitors' own clients. I have seen some accounts on social media that solicitors were expected to work in those courts without additional payment, which is not an accurate reflection of the position.

We now face a situation in which, in addition to boycotting COP26 business and weekend custody courts, the profession will boycott court duty for those courts that would continue to operate business as usual during the summit. For those courts, solicitors have indicated that they will attend for their own clients.

I share the concerns about the impact of the action on defendants and on the smooth running of the courts during this time. Police Scotland has confirmed that it will take a proportionate approach to policing during the conference, including in response to protests, and will ensure that the rights to peaceful assembly and protest are met. However, it is acknowledged that there may be an increase in arrests and associated cases in police custody and custody courts during the conference.

Those courts will be supported by the solicitors who have agreed to continue to support the duty schemes. The Public Defence Solicitors Office and the solicitor contact line will provide support for police station duty. Based on current estimates of the worst-case scenario, we are reassured that the necessary mitigating measures are in place for the courts that are dealing with COP26-related cases during the summit. I am very grateful to those who are supporting that work and making a contribution to demonstrating Scotland's ability to host such an important international gathering of delegates and protesters.

I turn to the impact on day-to-day business. Again, I am grateful to the justice partners who have worked together to agree and implement mitigation actions that aim to minimise the impact

on defendants and on the smooth running of the courts. In particular, early identification of those who need representation, greater use of technology for virtual representation and flexible court scheduling are among the tools that will be used. Continuous monitoring will be undertaken so that any necessary adjustments can be made. However, the greatest risk is to those who may appear unrepresented, many of whom will have vulnerabilities associated with poor mental health or addictions. We will do everything that we can to reduce that risk.

Correspondence that has been received from local bar associations indicates that the main reasons for the boycott did not relate specifically to the enhanced fee package approved and made available to solicitors for COP26; instead, the reasons related to wider unhappiness within the profession about legal aid fees in general and the sustainability of the legal profession. That is despite significant investment being made in the legal profession. I agreed a general uplift of 3 per cent for all legal aid fees in 2019-20. In December 2020, we confirmed a further 5 per cent increase across all legal aid fees for 2021-22 and committed to a further 5 per cent increase on top of that in 2022-23.

In addition, we acknowledged the pressures that are faced by the legal profession as a consequence of the Covid-19 pandemic and agreed with the profession the allocation of £9 million in direct funding to legal aid solicitors this year. The first element of that funding was directed to those firms that demonstrated a loss of income during the pandemic, with the remainder allocated to all eligible firms to support the legal aid-funded profession's participation in the Covid-19 justice recover, renew and transform programme. Further to that, £1 million has been allocated over two years to support firms with the costs of hiring new trainees to participate in legal aid-funded work. That is a good example of us working with the profession on practical measures to strengthen capacity.

In response to the decisions on boycotting, I wrote to the presidents of the Law Society of Scotland and the SSBA on 22 October setting out my concerns and my willingness to continue to engage with the profession ahead of the conference. I met both presidents on Monday 25 October, and the Cabinet Secretary for Justice and Veterans and I met the Law Society president on Tuesday 26 October. The presidents confirmed that, even if further adjustments were made to the specific COP26 package, that would not guarantee the participation of local bar associations. That is concerning, and we must continue to focus on how we can work together in future to try to avoid similar situations.

The request from the profession is for an immediate substantial and permanent increase in all legal aid fees. That is in addition to the already agreed 13.6 per cent over three years. We have asked the Law Society and the SSBA to quantify in detail the scale of that ask. By way of illustration, each 1 per cent increase in legal aid fees equates to around £1.25 million a year. We need clarity from the profession not just on the scale of the ask but on how that investment, on top of the resources that we have already committed, will deliver genuinely improved capacity and support for those who rely on our justice systems.

In our programme for government, we committed to engage with legal professionals and other stakeholders to review the legal aid system, and to introduce a legal aid reform bill in this session of Parliament to ensure that the system is flexible and easy to access and meets the needs of those who use it. In October, we published a public consultation on reform of legal services regulation. We value the work that legal aid practitioners and the wider legal profession undertake, and we remain committed to working with them to consider what changes may be required to the statutory framework to protect consumer interests and promote a flourishing legal sector.

Finally, I know that there have been reports of an incident at Edinburgh sheriff court last weekend, which has been the subject of debate on social media. I welcomed the joint statement that was released by the Scottish Courts and Tribunals Service and the Edinburgh Bar Association yesterday. The running of the courts and the day-to-day operation of court buildings are a matter for the senior judiciary and the Scottish Courts and Tribunal Service, and it would not be appropriate for me to comment, beyond directing members to the correspondence that has already been published.

In summary, I share concerns about the current removal of services by legal aid solicitors. Our priority is to ensure the safety and security of the COP26 event, while ensuring that people are able to lawfully express their views and have their rights upheld, and to ensure that those who require legal advice receive it. Justice agencies are prepared, including for any criminal activity that arises during the event. I remain committed to working with the profession on the future sustainability of legal aid and meeting the needs of those who rely on it to uphold their rights.

**Jamie Greene (West Scotland) (Con):** I thank the minister for sending her statement in advance. Sadly, the statement will go down like a bag of sick with Scotland's criminal defence fraternity on listening to it. It pins the blame for the current

dispute solely on defence lawyers and accepts no responsibility whatsoever for the clearly deteriorating relations between our legal sector and the Scottish National Party Government.

The incident at Edinburgh sheriff court this weekend prompted serious concerns. I am, of course, pleased that constructive talks have been held since then, but the incident called into question the fundamental right of the accused to confidential legal advice, with which the state, the police and the courts can never interfere.

Scotland's solicitors are the vital cogs in our wheel of justice. They work with nothing but the highest level of professionalism and do not take disruptive action for no reason or for the fun of it. With a backlog of more than 50,000 court cases, on-going disputes over legal aid—chronically underfunded for many years—and recruitment problems in the sector, it is clear to everyone except the minister that Scotland faces an immediate crisis in its legal sector.

Why have only £2 million of the promised £9 million of the legal aid resilience fund actually been paid to firms, given that £9 million is exactly the sort of money that they need to survive?

After today's attack on our hard-working solicitors, does the minister agree with the president of the Glasgow Bar Association, who said that

"defence practitioners are always an afterthought"

of the Government? I presume that she does not.

**The Deputy Presiding Officer:** Before I call the minister to reply, I should have asked members who wish to pose a question on the statement to press their request-to-speak button. There will be around 20 minutes for the question-and-answer session.

**Ash Regan:** Jamie Greene raised a few points there. I will respond to the point about the incident that took place at the weekend. The Scottish Courts and Tribunals Service and the Edinburgh Bar Association issued a joint statement following the incident, and the SCTS has confirmed that

"Solicitors who are attending court to take instructions, provide advice and represent their clients are essential"

to court business

"and full access has been, and will continue to be, provided to court buildings and their clients held in custody."

Ultimately, the matters that have been raised are for the independent judiciary and the courts, not for the Scottish ministers.

Jamie Greene will know and understand that the legal aid budget is demand led. Expenditure is regularly above the budget and sometimes below it. Last year was an extraordinary year and spend

was below budget, but we fully expect spend to be above budget next year.

Substantial investment, in funding terms, has been put into legal aid, which I think represents the fact that the Government wants to invest in, and is interested in supporting, legal aid practitioners. If the Presiding Officer allows me, I will detail those investments. There has been an across-the-board increase in fees, which amounts to 13.6 per cent over three years; £1 million to support the cost of traineeships to address the capacity issues that were raised with me; and £9 million in direct Covid resilience and recovery funding to support legal aid solicitors. That total package of £20 million is in the process of being completely delivered. On top of that, a fee reform package on the criminal side is not yet progressed, but fee reforms will provide an increase of 16.6 per cent; on top of that again, the COP26 package is worth up to £3.5 million.

I think that that level of funding speaks for itself. It shows that the Government is listening and wants to respond to legal aid practitioners, and that we value and are investing in their work. In the case of the COP26 package, the Conservative-led UK Government will only cover £1.8 million of the £3.5 million, which demonstrates the Scottish Government's willingness to listen and act and, as usual, go above and beyond what the UK Government does.

**Katy Clark (West Scotland) (Lab):** I thank the minister for advance sight of her statement and for agreeing to give a statement today. The Scottish Labour Party supports the campaign by criminal defence lawyers for an improvement in the criminal legal aid rates, which have faced real-term cuts over many years. The minister will be aware of the anger in the profession.

The Criminal Justice Committee has been hearing evidence about the crisis in the criminal defence sector, with more experienced criminal defence agents moving to other parts of the profession at a time of a huge increase in the number of criminal cases because of the backlog created by the pandemic.

There are more than 25 per cent fewer firms registered for criminal legal aid now than there were 10 years ago. During the pandemic, a further 10 per cent fewer firms claimed legal aid fees, although I appreciate what the minister has said about the unusual circumstances, and that that decrease might be partly because of cases not proceeding. However, the minister will be aware that there has been a cut of almost £0.5 billion in the legal aid budget since 2007. Although she is correct to say that there have been some recent announcements of increases, they do not in any way compensate.

Does the minister accept that we need to recruit more lawyers to do criminal legal aid work, given the thousands of outstanding trials? Will she come forward with a plan that recognises that we need immediate long-term increases in the payments for some types of criminal legal aid case?

**Ash Regan:** I am sure that the member accepts that there are obviously constraints on public finances due to a decade of austerity from Westminster. Despite those constraints, Scottish ministers have maintained the resourcing of legal aid in Scotland and we have not cut its availability. It is a demand-led budget and all who are eligible will continue to benefit from it. I will correct the record if I am wrong, but I believe that 75 per cent of the population are eligible for legal aid in Scotland. Scotland is one of the leading jurisdictions for legal aid and we continue to invest in it.

I accept that there is discontent in the profession; I believe that I addressed that in my statement. I and the cabinet secretary have spent a considerable amount of time engaging with representatives of the legal profession in what we consider to be good faith, to listen to what the profession has to say and to work constructively to address its concerns.

Some of those concerns are obviously about fee levels, so I will repeat what I said about the money that has been invested recently. In 2019, there was a 3 per cent across-the-board rise in fees, in 2020 it was 5 per cent, and we have committed to a further 5 per cent next year.

I take on board the tone with which the member asked the question about the sustainability of legal aid into the future. She will no doubt be aware of the Martyn Evans review, and we also set up the payment advisory panel to grapple with the questions of how we modernise legal aid, make it sustainable, address capacity issues and so on. She will also know that, because of the Covid backlog, we have the recover, renew and transform programme, although I do not have time to go into that now.

We will also introduce a legal aid reform bill in the current parliamentary session, with a view to improving access to justice, which I know will be of interest to the member, achieving better overall working of the justice system, making it easier for consumers to access and use the system, and ensuring sustainability, which is key.

**The Deputy Presiding Officer:** Before I call the next member, I have allowed a certain degree of latitude for front-bench exchanges, but if we are to have any hope of getting everybody in who wishes to ask a question, I ask for succinct questions and answers.

I call Audrey Nicoll, to be followed by Russell Findlay.

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** I thank the minister for her statement and the letter sent to the Law Society of Scotland and the Scottish Solicitors Bar Association, which underline the extent of the engagement that the Scottish Government has had with the sector.

Will the minister outline what constituted the enhanced benefits package that is now the subject of disagreement among legal aid solicitors?

**Ash Regan:** A generous package of enhanced legal aid fees for COP26-related cases was developed by a working group that included representatives of the solicitor profession and the Scottish Legal Aid Board. Proposals for the enhanced funding package were made by the Law Society of Scotland and were then costed by SLAB prior to submission to Scottish ministers. The package was accepted and approved without any amendment.

The package included some significant enhancements to the fees that are normally paid for duty work and for cases arising from custody appearances. For example, the fee for any case in which the duty solicitor pleads guilty on the accused's behalf was increased from £75.71 to £578.61. Where a plea of not guilty is tendered and further work will be required under summary criminal legal aid, the fee for seeing any COP26 case to conclusion over the weeks or months after COP26 was more than doubled, from £524.53 to £1,157.22. That fee applies to both duty and named solicitors.

I have significantly more detail on that, but I can tell that the Presiding Officer does not want me to go into any further detail at this point. I have written a very detailed letter in response to the committee's request for information, which I will send to the committee today. It includes in it much more detail on the member's question.

**Russell Findlay (West Scotland) (Con):** The boycotts will have an impact on witnesses and victims. I note that the minister's statement makes no mention of victims. What consultation has the minister had with victims groups?

**Ash Regan:** Russell Findlay has asked a very fair question. My officials are working with all our justice partners to ensure that people who need legal advice can receive it and that disruption to the courts is minimal. I again take the opportunity to thank those partners for their hard work over the weekend.

I am assured that there is sufficient cover to provide legal advice to anyone who is in custody who requires it. That capacity will be monitored at

all times. Justice partners, including duty solicitors and the judiciary, are primed to assist those individuals in any way they can.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Following on from the previous question, what measures are in place to support vulnerable defendants and witnesses during Covid-19 and the current action of legal aid solicitors?

**Ash Regan:** Officials have been in close contact with our justice partners. All steps are being taken to provide advice to people who require it. A combination of things such as early identification of those who are likely to need representation but do not currently have it, the use of technology for online representation and flexible court scheduling will play parts in ensuring that vulnerable defendants are supported as much as possible. My officials are working hard with all those partners to ensure that anyone who needs legal advice will receive it, and that disruption to the courts is minimal.

**Pauline McNeill (Glasgow) (Lab):** I acknowledge that some progress has been made since 2019, but does the minister accept that we have reached a crisis point in the legal aid profession? We are losing experienced lawyers from the profession, and unfortunately the situation will be exacerbated by the huge backlog in cases, long hours, poor pay and a group of lawyers who feel badly let down and badly treated compared to other Government lawyers. Does the minister agree that there is a desperate need to resolve the situation once and for all?

**Ash Regan:** There is a need to resolve the situation, which we do not want to have going forward. As I said in my response to the member's colleague, I have spent some considerable time trying to engage with the profession. There are some quite disparate asks from different parts of the profession, so it is time to cut through that and work with the profession in order to address the issue.

There are other packages of reform on the table that may be of interest to the member and the profession. We have criminal fee reforms legislation that has been ready to be laid since January. That legislation did not proceed due to concerns from the profession about cost neutrality.

I take this opportunity to say that the reforms are not cost neutral. A detailed paper has been shared with representatives of the legal profession to clarify that the original proposals have been updated. They include the 3 per cent increase for all legal aid fees and the 5 per cent increase, and provision has been made to reinstate waiting time, which I know was an issue of interest. The total increase delivered in that package is 16.6 per cent, so it would be financially beneficial for the

profession to look at the reforms and for us to progress them.

I am willing to listen to and consider any proposal that the profession makes to me. I make that offer in good faith.

**Gillian Martin (Aberdeenshire East) (SNP):** I welcome the minister's statement and I share her worry for those left unrepresented. The minister probably alluded to this in her answer to Pauline McNeill, but could she give us an indication of the Government's vision for legal aid reform?

**Ash Regan:** In our programme for government, we committed to engage with legal professionals and other stakeholders to review the legal aid system and introduce a legal aid reform bill in this parliamentary session to ensure that the system is flexible and easy to access and that it meets the needs of those who use it.

We consulted on that reform in 2019 and stated our willingness to take forward the recommendations that will deliver that enhanced system of legal aid in Scotland. We also stated our commitment to retain a demand-led fund, with the wide scope of action that we have at the moment.

Particular consideration will be given to how more targeted and planned interventions can support user need, align with the Government priorities that we identified and assist in legal aid being rightly recognised as an invaluable public service.

**Liam McArthur (Orkney Islands) (LD):** I thank the minister for advance sight of her statement.

Access to justice relies on access to solicitors, which is increasingly challenging in parts of the country, notably the islands. With that in mind, will the minister look again at support for travel, which the Government cut in 2011? Will she agree to meet lawyers in my constituency to discuss that and wider concern about the potential for legal aid deserts to develop in some parts of the country?

**Ash Regan:** The member will have heard me say in my exchange with Pauline McNeill that we have amended the criminal fee reform package that we were discussing and are reinstating waiting times. I commit to look at travel times and will be happy to meet the member to discuss the matter in more detail, if he wants a meeting.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** The minister said that, in correspondence, local bar associations said that the issue has more to do with wider unhappiness about legal aid fees in general. That was an issue 20 years ago, when I was in practice as a civil legal aid practitioner.

With reference to the proposed legal aid reform bill, may I make a plea for my former colleagues?

Although I appreciate that the bulk of the bill will be about criminal legal aid and situations in which there is the risk of loss of liberty and a criminal record, the majority of disputes are civil disputes. I make a plea to the minister to consider the balance when it comes to civil legal aid.

**Ash Regan:** I take that very much on board. As part of the portfolio that the cabinet secretary and I share, I work on the civil side, so the issue is not lost on me.

Where the demand for legal aid has reduced, the Scottish Government has committed to work with the legal profession to bring forward reforms, including in a legal aid reform bill, during this session of the Parliament. That does not preclude more immediate adjustments to legal aid regulations, where they are justified. I think that the exchanges that I have had so far show the Government's willingness to work with the profession and listen to any proposal that comes forward. I will certainly bear in mind the member's point when we introduce the bill.

**Stephen Kerr (Central Scotland) (Con):** Nothing underlines the Government's—indeed, the minister's—chronically poor relationship with Scotland's criminal defence lawyers more than the response, on the Law Society's website, to the minister's letter of 22 October. The letter was described as “tone deaf”, “whining”, “a slap in the face” and “a patronising, condescending disgrace”—and those are just some of the comments.

The Lord Advocate said this morning that the huge court backlog will take years to address, with the biggest impact being on women and girls who are victims of serious assault and abuse. Is it not time for the Scottish Government to work with the legal sector to develop a sustainable criminal defence workforce strategy?

**Ash Regan:** I am not sure that the member was here throughout my statement, when I explained all the work that has gone on behind the scenes on the part of the cabinet secretary, officials and me. The cabinet secretary and I met legal representatives twice last week, as part of our regular engagement with the legal profession to try to resolve issues in good faith.

As I said in my statement, I have accepted all the Law Society's proposals on the COP26 duty and the weekend custody courts. We continue to offer engagement and I have written back to the profession to clarify that and to ask for engagement to continue so that we can, I hope, reach a solution.

**Maggie Chapman (North East Scotland) (Green):** That defendants could be in a situation in which they are without representation is appalling.

A foundation of our justice system must be the right to representation when needed.

The current situation is the consequence of long-term underfunding and insufficient support of our legal aid system. I express solidarity with solicitors who are taking action because of that and I thank them for the vital work that they have done, often in difficult circumstances.

The minister said that she and her officials—

**The Deputy Presiding Officer:** Please may we have a question, Ms Chapman? We are nearly out of time.

**Maggie Chapman:** Yes, Presiding Officer.

The minister said that she and her officials would do everything possible to reduce the risk of defendants appearing without representation, especially if they have vulnerabilities associated with mental health and addiction. Can she set out what those provisions and actions will entail, particularly over the next 10 days?

**Ash Regan:** I can. We have been working to ensure that those who need that legal assistance will receive it. The courts will be supported by a number of mitigations. Solicitors who have agreed to continue in the duty schemes will, of course, be available; we also have the Public Defence Solicitors Office, and the solicitor contact line will support police station duty. We will be implementing early identification of those who need representation, in addition to greater use of technology for virtual representation and flexible court scheduling. I reassure the member that we will monitor that, and we will make any necessary adjustments as they are required.

I conclude by saying that I am so grateful to those who are supporting that work.

**Jackie Dunbar (Aberdeen Donside) (SNP):** As well as the legal reform bill, what other steps are being taken to ensure the viability of legal aid in the long term?

**Ash Regan:** Secondary legislation was made in the summer in order to work with the profession on that. Regarding the long term, I have already made commitments in the chamber that we intend to retain the scope of legal aid and to ensure that it continues to have a demand-led budget.

The legal aid reform bill will be introduced in the lifetime of this parliamentary session. Through that bill, we want to make the system easier for users; we want to streamline the justice system so that it works better for everyone; and we want to address issues of capacity and sustainability. Part of that will, of course, involve funding. I assure the member that we are looking at and alive to those issues. I am sure that she will be interested in the

legal aid reform bill when it comes to the Parliament.

**Jamie Greene (West Scotland) (Con):** On a point of order, Presiding Officer. Thank you for your forbearance. This is relevant to today's statement.

In the middle of today's statement, after the lead Opposition spokespeople had sat down, members of the Criminal Justice Committee received a six-page letter, with detail relating to the content of the statement.

First, it would have been more helpful if that letter had been distributed before the statement, so that members had the opportunity to ask the minister about the content therein. Such an opportunity to review the content of the letter in advance of the statement would have afforded respect not just to members of the committee but to the entire Parliament and the wider public.

Secondly, the letter makes erroneous assertions in its opening paragraphs, on which we might have been able to challenge the minister.

I seek your advice, Presiding Officer, on how we could further guide and direct Government ministers on standards and processes, as the Parliament would deem it more acceptable to respect the amount of information that members have in advance of statements—not during or after them—and can I ask if the minister would like to respond as to whether the error today was a tardy and erroneous one or an intentional one?

**The Deputy Presiding Officer:** I will respond to the point of order that the member has just made. The chair is obviously not responsible for the timing of ministerial letters to members. The member has asked what opportunities might be available to consider the issues that are raised in the letter, which I have not seen. Many opportunities will be open to the member, and indeed other members, to raise the issues directly with the minister through the usual channels. I hope that the member feels that that will be something that he would wish to look into and take advantage of.

We will now move on to the next item of business. I remind members of the Covid-related measures that are in place. Face coverings should be worn when moving around the chamber and across the Holyrood campus.

## Early Learning and Childcare

**The Deputy Presiding Officer (Annabelle Ewing):** The next item of business is a debate without a motion on early learning and childcare: 1,140 hours and beyond.

15:29

**The Minister for Children and Young People (Clare Haughey):** Today's debate marks a significant milestone towards improving the lives and futures of Scotland's children and families. The Scottish Government's ambition is for all of Scotland's children to grow up in a country where they feel loved, safe and respected, and where they are able to reach their full potential. That ambition sits at the heart of our commitment to expanding the funded early learning and childcare entitlement, and it drives our new policies for early learning and school-age childcare in our programme for government.

Universally accessible and high-quality ELC can make a huge difference to children's lives. It helps to provide children with skills and confidence to carry into school education and is a cornerstone for closing the poverty-related attainment gap between children from the most and least deprived communities.

I am therefore pleased to confirm that, since 1 August, all three and four-year-olds in Scotland, and those two-year-olds who need it most, have been eligible for 1,140 hours of funded early learning and childcare, which is saving parents up to £4,900 per year for each eligible child.

That long-held ambition was first set out in the "One Scotland" programme for government in 2014-15. I am really proud that Scotland is the only part of the United Kingdom to offer the equivalent of 1,140 hours to all eligible children regardless of their parents' working status, thereby putting children first.

**Willie Rennie (North East Fife) (LD):** The minister and I have had an exchange in the Education, Children and Young People Committee about this, but has she made any progress on getting more eligible two-year-olds to take up their entitlement, because only about one in three is currently accessing it? Does she have an update on that provision?

**Clare Haughey:** I will touch on that in my closing remarks. I am sure that Mr Rennie will welcome the statistics that show that the number of eligible two-year-olds accessing their entitlement has increased by 27 per cent, from 4,711 in August 2020 to 5,954 in August 2021. However, there is still work that we can do.

All councils now offer 1,140 hours of funded ELC to all eligible children. Figures that were published in October by the Improvement Service show that, at the end of August, nearly 91,000 children in Scotland were accessing funded early learning and childcare. Of those 91,000 children, 97 per cent are accessing expanded provision and 87 per cent—nearly 80,000 children—are choosing to take up the full 1,140 hours.

It has been an enormous undertaking to get to this point, particularly in the middle of a global pandemic. That is testament to what can be achieved through joint working between national and local government and other valued partners across the sector. It is worth reflecting on how we have made it work.

In April 2018, the Scottish Government and the Convention of Scottish Local Authorities reached a landmark multiyear funding agreement to fully fund the expansion. By 2021-22, annual revenue investment has increased by £567 million from 2016-17 levels, bringing total Scottish Government funding for early learning and childcare in 2021-22 to about £1 billion.

**Oliver Mundell (Dumfriesshire) (Con):** I hear what the minister says about the year-on-year increases in funding, but in 2012, when the policy was first introduced, 6,009 two-year-olds accessed the provision, so there are now fewer children accessing it than there were at the start—that is not a policy that is working well.

**Clare Haughey:** I disagree with Mr Mundell, because the policy is working well, as evidenced by the increase, as I mentioned, in the past year of the number of eligible two-year-olds who have accessed their entitlement.

The increase in funded provision was intended for August 2020, but the Covid-19 pandemic and national lockdown meant that that could not be achieved. Building work and staff recruitment had to be paused to give local authorities much-needed time to focus on the immediate pandemic response.

I know how incredibly difficult that time was for families and for the countless businesses, organisations and individuals that make up the ELC sector. I am hugely grateful to staff for their resilience and hard work in keeping services open for vulnerable families and key workers and for all their work since to keep services open and people safe.

We prioritised a return to ELC for all children as soon as it was safe to do so, because childcare is fundamental to our children's development and family wellbeing, as well as to parents' ability to work, train and study. Even in the face of the pandemic, local authorities, private and third sector providers and childminders made incredible

progress to ensure that 1,140 hours, which is almost double the previous entitlement of 600 hours per year, could be offered to all eligible children from the start of the new term in August 2021.

Our local authorities have also made huge strides in developing the infrastructure required for the expansion. The Scottish Government has provided £476 million of capital funding over the past four years to refurbish, repurpose and extend existing nursery settings, as well as providing 160 new-build facilities across Scotland.

The impact of that capital funding cannot be overstated. The £476 million is enabling the creation of 22,000 additional physical spaces through more than 900 capital projects across Scotland that will support the delivery of good-quality flexible accessible and affordable early learning and childcare provision.

More than 82 per cent of the infrastructure is being delivered through refurbishments, extensions and outdoor facilities, in keeping with the programme aspirations of making best use of existing facilities and aligning with the net zero agenda.

The infrastructure programme has also supported local economies and the construction industry, with more than 50 per cent of the construction projects being delivered by small and medium-sized contractors.

At the heart of this are, of course, the children and the experiences that they will gain from attending high-quality ELC. Through the national standard and our world-leading curriculum, local authorities and settings have put quality at the heart of the 1,140 hours programme by thinking about what children will need to make their ELC experience comfortable, suitable and lots of fun.

The expansion would not have happened without the joint efforts of the public sector, providers in the private and third sectors and childminders. I know that childminders and providers in the third and private sectors continue to report challenges in relation to recruitment, retention and sustainability, and I am committed to continuing to work with the sector to identify and implement solutions.

Data shows that, in August, about 32 per cent of funded places were provided by the private and third sectors and by childminders. That is much greater than the 26 per cent that was projected at the start of the expansion, and it demonstrates our commitment to provider neutrality.

The expansion has been supported by a transformational expansion of the workforce.

**Oliver Mundell:** I thank the minister for giving way again. Does she not accept that the reality is

that the private, voluntary and independent sector percentage is higher because local authorities have not been able to meet the demand or timescales? It is not because the PVI sector has been well supported.

**Clare Haughey:** I take issue with that, given the expansion that there has been by our local authority partners. It is about parental choice and where parents wish to send their children. Allowing the funding to follow the child means that parents have that choice.

The number of enrolments across college and vocational routes grew significantly between the academic years 2017-18 and 2019-20, with particularly high growth of 41 per cent in the number of modern apprenticeship starts. Broken down by academic year, that represents a significant exceeding of our target to achieve 10 per cent growth in the number of starts year on year. We have also seen a 26 per cent increase in the number of childcare staff registering with the Scottish Social Services Council since expansion planning commenced in 2016.

Beyond those benefits for today's children and their futures, and beyond the enormous expansions in infrastructure and workforce, the programme is about expanding support to families, particularly those experiencing the most disadvantage. As well as improving children's outcomes in the long term, we expect that the increase in flexibility, in relation to how the funded entitlement is delivered and where children can access their entitlement, will allow more families to access ELC in a way that meets their needs. That can open up routes into study, training and sustainable employment, and out of poverty—transforming lives now.

Our work continues, and we continue to work closely with local government and the sector to embed the benefits of the expansion—improving children's outcomes, increasing opportunities to access work, training or study and improving family wellbeing.

We have set out our ambition to provide funded early learning to all one and two-year-olds, starting in this parliamentary session with children from low-income households. This year, we will begin engagement with families, the early learning sector and academic experts to design how the new offer will work in practice, with a focus on developing an offer that will contribute to supporting the wellbeing of the whole family.

To support families further, we have committed to expanding access to childcare further by building a system of wraparound school-age childcare through provision of care before and after school and in the holidays. Those on the lowest incomes will pay nothing, and others will

make fair and affordable contributions. That offer underlines and demonstrates our determination to tackle child poverty, as it will remove the barriers that childcare costs present for parents on low incomes, helping them to take up and sustain employment. It will also reduce inequalities in access to a range of activities around the school day, particularly for children who will benefit most.

This wide-ranging programme of work—what has already been achieved and the work that is still to come—underlines the Scottish Government's commitment to improving the lives and futures of Scotland's young people. I look forward to hearing the contributions from across the chamber this afternoon.

**The Deputy Presiding Officer (Liam McArthur):** Thank you, minister. I advise the chamber that we are quite tight for time, so if members take interventions, they must accommodate them within their allocated speaking time.

15:40

**Meghan Gallacher (Central Scotland) (Con):** I welcome the opportunity to open the debate on behalf of the Scottish Conservatives. I draw members' attention to my entry in the register of members' interests; I am a serving councillor on North Lanarkshire Council.

The Scottish Government's policy to expand childcare through the 1,140-hour programme received widespread support, as it had the potential to improve the lives of families across Scotland by making childcare more accessible. Any childcare policy that puts a child at the centre is welcome, as it will allow parents to go back to work to sooner, as well as exposing children to a safe environment where they will learn necessary skills.

However, the postponement of the rolling out of the policy and the failure to address some of the serious and urgent concerns that have been raised have left many parents and providers in the private, voluntary and independent sector feeling let down. Despite today's claim by the Scottish National Party Government that it is focused on the expansion of childcare, it appears that it is failing the early learning and childcare sector through its declining standards and inability to show any signs of leadership to make necessary improvements.

In August this year, the SNP finally increased the amount of free early learning and childcare that is provided from 600 to 1,140 hours—

**Clare Haughey:** Will the member take an intervention?

**Meghan Gallacher:** Certainly.

**Clare Haughey:** Does the member not recognise that we have been in the midst of a global pandemic and that local authorities that were delivering some of the building projects and some of the increased staffing had to focus their attention on other issues?

**Meghan Gallacher:** Issues were raised about the early learning and childcare programme back in 2019, if not before. I am sure that my colleague Brian Whittle and others will say more about that. I will not accept any excuses regarding the pandemic.

Through its unpopular decision, which resulted in hundreds of complaints from parents to ministers, the SNP managed to turn a positive flagship policy into a postcode lottery. Regardless of the excuses that the SNP Government will use today, some of which we have already heard, it was running months, if not years behind in implementing delivery of the necessary infrastructure way before the pandemic hit.

During the previous parliamentary session, my Conservative colleagues continually warned the Scottish Government of concerns relating to the private, voluntary and independent sector. That prompted a response from the First Minister, who admitted that she was aware of the concerns of private providers and the implications that the 1,140-hour policy could have for their businesses. She promised that the PVI sector would be involved in the process and that the policy could not be delivered without its valuable contributions.

I have spoken to private nurseries up and down the country. Many do not believe that the Scottish Government has included them fully in the roll-out of its important policy. The Scottish Government must accept that there are still issues with the provision of 1,140 hours of free early learning and childcare. If it fails to act now, we will be heading for a childcare system that is not fit for purpose.

One of the main issues that private nurseries have raised with me relates to the staffing crisis that is developing throughout the childcare sector, for which there are a few reasons. Two of those relate to the ratio of council-owned facilities to private nurseries and the number of new housing estates that have been built without consideration for childcare demand. One of the main reasons is that private nurseries continually lose out to local authority nurseries. I am unconvinced that some local authorities gave thought to the repercussions that the strategy they adopted could have for their 1,140-hour PVI partners. After all, local authorities can offer better pay, working hours and benefits in hand. That has left the private nurseries in a continuous recruitment drive, as they keep losing their staff.

The pay gap between a nursery worker in a council-run nursery and a nursery worker in a private facility will only increase, and that leaves some in the sector feeling undervalued. If the Scottish Government had set out a fair-pay model to begin with, that would have ensured that, regardless of which nursery a worker worked for, they would be paid the same as someone else who was doing the same job.

Another key problem is the huge variations in revenue funding rates for the PVI sector.

**Clare Haughey:** Will the member take an intervention?

**Meghan Gallacher:** No, thank you. I would like to make progress.

The total revenue funding from the Scottish Government is increasing, but significant variations in funding rates across local authorities still exist. Those variations have created an unfair system that benefits only some private providers. That has implications for partners if the funding rate is lower in their authority area.

The Scottish Government needs to address that to ensure that all private providers are treated the same, regardless of where their nursery is based. The truth is that the 1,140-hour policy document is littered with discrepancies that benefit local government at the expense of the private sector. That cannot and should not be allowed to continue if we are looking to create an equal playing field between private nurseries and local government ones.

Moving away from the PVI sector, I note that a concern has been raised by parents in relation to obtaining a place at their chosen nursery. That might seem odd, given that provision has expanded to 1,140 hours, but some local authorities have refused funding to parents on the basis that they have selected a private nursery over a council-run facility. Not only does that defeat the purpose of parental choice, it raises serious concerns about the influence that some local authorities have over where children are placed. That situation—[*Interruption.*]

**The Deputy Presiding Officer:** Ms Grahame, you should know that sedentary interventions are not encouraged. Thank you.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** My apologies, Presiding Officer. I was talking to myself, actually.

**The Deputy Presiding Officer:** That is barely an excuse, Ms Grahame.

**Meghan Gallacher:** That situation has undoubtedly been created because of the Government's lack of leadership and inability to

provide guidance to ensure that all councils were following similar practices.

If I compare the previous experiences to the needs set out by Upstart Scotland, it will highlight how far the Scottish Government needs to go to get things back on track. Upstart Scotland asks for children to be valued the same; sustainable hourly rates to be paid to the PVI sector; realisation by local authorities that using what they have is more sustainable than reinventing the wheel; a level playing field for the sector's workforce; true partnership working; and a model that allows outcomes for all children to be shaped to meet their individual needs. I do not see any of that reflected in the concerns that have been brought to my attention, which should set off alarm bells for the minister. Perhaps the Government could look at the plans that the Scottish Conservatives launched in our manifesto, which would give parents flexibility in support as well as provide that wraparound childcare without leaving the PVI sector behind.

The 1,140-hour policy still has potential but, as with everything that the Scottish Government touches, it is falling apart. I urge the minister to get a grip of what could be a developing crisis and put young people and families at the heart of childcare policies.

15:47

**Martin Whitfield (South Scotland) (Lab):** I welcome the opportunity to debate early learning, because I hope that we can all agree on the importance of that time in a person's life. As Montessori so appropriately put it:

"Free the child's potential, and you transform him into the world."

I echo the thanks given to all the staff across the early learning sector who have worked so hard during these Covid times.

We are talking about a time when the seeds of a young person's imagination, empathy and friendships are sown and nurtured; a time when a child's experiences will ripple through their lives, possibly forgotten in detail but ever-present and influential in the decisions and choices that they make. Those decisions will influence their educational achievement, lifelong health, potential for economic productivity and whether they become responsible citizens in successful communities and successful parents of the next generation.

We in Scottish Labour understand the busy time that we are going through because of COP26, but it is disappointing, though not surprising, that something as important as education and, in particular, early years childcare has been given a debate-only slot that does not allow for the

Government to be held to account with a vote. It would be truly shameful if a Government sought to avoid scrutiny of its provision for our children because the eyes of the nation were elsewhere.

Scottish Labour agrees that investment in childcare is a key part of and building block for our economic recovery. That would have been the case even without the shadow of Covid, but is now more so because of it. The planned expansion of childcare provision must go ahead this year as promised, but it must deliver the flexibility and availability that parents and families genuinely need. The Scottish Government's expansion to 1,140 hours, while much needed, has caused problems across the sector thanks to the lack of professional training, capacity and basic infrastructure to accompany the policy. We want to see an expansion of childcare, but it is vital that it is done in a sustainable manner, centred on the needs of the child.

For example, in relation to where the policy meets the Government's policy on free school meals, is the minister aware of the impending capacity crisis for young people from early years to primary 7 when they sit down for lunch? In many establishments, it means that multiple dinner sittings will have to take place over a long period. Some young people will eat not long after their breakfast and have a long wait until their next meal, or they will have a long morning after breakfast and before their lunch.

The pandemic might have slowed down progress during the past 18 months, but the Scottish Government had years before the pandemic struck to improve the offer on early learning and childcare.

As we begin to look ahead to rebuilding after the pandemic, it is vital that we take the opportunity to look back to what has not worked, what needs urgently addressing, and who has been let down. There needs to be a proper assessment of what has been lost during the pandemic and what needs to be done to repair the damage.

We must not forget our young people on our path back from Covid. As with many edicts on childcare and early years, the policy has come from on high, has not had enough forethought, engagement and planning and, without significantly more time and money, is entirely undeliverable by some local authorities.

I look forward to hearing the policy being fleshed out, because I have several questions for the minister. What research has there been around how the policy will affect the attainment gap? For parents who live and work in different local authority areas, does the funding follow the child? Will the Government create an agreed pathway for training and qualifications for early years staff, as

well as funding to allow salary growth? If it is truly an educational child-focused policy, how can the Scottish Government tolerate the fact that those who work in the field feel classed as low skilled and low paid?

The debate is called “1,140 hours and beyond”, but what is meant by “beyond”? A child who was born in the year that the SNP came to power will be in their third or fourth year at high school, and those who began school in the same year will be gearing up to leave, having had almost their entire education under an SNP Government. Rising numbers of teachers have quit the profession, there is a frequent failure to meet the Government’s targets on class size, and the poverty-related attainment gap widens.

Over the past 18 months, the journey from early years to university has been littered with failings. Every child, from four to 18, has missed out on so much during the pandemic, and each school year has had to pass the children on to the next year, in the hope that someone else can pick up the slack. Did they sit formal examinations? Yes. Do they have a certificate to say that they completed their year? Yes. However, does that mean that they received the education that they deserved, that they have come out on the other side with the knowledge bank that they will need, or that they were given the support and experience that they were owed? No; I do not think that it does.

All our young people have that 18-month knowledge and experience gap and, for our youngest in the early years, the foundation blocks that the system relies on—such as transitions into upper rooms and going into school for the first time—have potentially been missed or undertaken without the full support that parents expect.

Obviously, the pandemic is a situation like no other, and there was always going to be a pause while everyone had to quickly adapt and find a new way of continuing, but the problem is that some things never properly moved on from those first urgent, panicked steps. Once we realised that Covid was not going to be over quickly, there was space to look at what was missing and work towards that goal. Instead, we got gaps in the curriculum, students feeling isolated, a fiasco of examinations and grading, and a devastatingly high rise in mental health issues among all our young people.

Who will pick up the responsibility of that knowledge gap and who will fix it? The Scottish Government has been avoiding any discussions on education since the start of this term, because it knows that it should take responsibility for that.

As we look to build back our society, we need to make sure that generations are not lost again, that gaps are filled, and that children, teachers, early

years education providers, local authorities and—most importantly—families and young people are given support.

Is the policy economic or educational? The Scottish Government has somehow made one that pleases neither aspect. For parents, it is a question of who they leave their children with, so that they can go to work. We need to ensure that early years staff are given the pay, qualifications and respect to match that responsibility.

Scottish Labour supports the provision of 1,140 childcare hours, but it must be rolled out sustainably and with the genuine flexibility and resource that parents need, and it should not be just another soundbite.

15:54

**Willie Rennie (North East Fife) (LD):** Martin Whitfield has made a powerful point—this debate is probably the first Government-inspired education debate for years. The Opposition has always led education debates, the reason being that the Government did not want the issue debated in the chamber. Therefore, it is a shame that we are having this debate in the shadow of COP26, given that, on the surface, it is a positive development that we have managed to roll out the early education proposals. On the other hand, it should be a much—

**Christine Grahame:** Will the member take an intervention?

**Willie Rennie:** Let me finish my point. On the other hand, there is a much broader debate to be had about education.

**Christine Grahame:** As Willie Rennie is well aware, the decision on the business for the day is a matter for the Parliamentary Bureau. I appreciate that the Liberal Democrats are not on it any more, but business is a matter for the bureau, rather than the Government.

**Willie Rennie:** I think that Christine Grahame knows very well that the Government now has a majority on the bureau. Therefore, it does not matter what the bureau thinks; there will be a Government debate only when the Government wants one. *[Interruption.]* I will not take an intervention—as much as I would like to debate the matter endlessly, I only have four minutes.

The economist Professor James Heckman won his Nobel memorial prize for his work on early years, in respect of which he said that we should “invest, develop and sustain” to gain. That was more than 20 years ago, so, despite what we think, Scotland is not ahead of the curve by any means. If we look at Scotland’s yawning poverty-related attainment gap, we see that we have a long way to go.

Nevertheless, the 1,140 hours expansion is a welcome development. For some years, I have been a strong advocate for it. I used to badger Alex Salmond every week to extend provision to two-year-olds, as they were doing in England. Thankfully, he eventually gave in and agreed to the policy.

As always, the problem with this Government is implementation. Despite what the minister says, only a minority of those who are entitled to the provision for two-year-olds are accessing it, and I cannot see a plan from the Government to increase that rate. Thousands of young people who desperately need that education are missing out.

**Clare Haughey:** I thank Willie Rennie for taking my intervention, and I will try not to take up too much time. I will write to him with the detail of what the Government is doing to increase the number of eligible two-year-olds taking up their place. It will be quite a detailed letter.

**The Deputy Presiding Officer:** You can put it in the Scottish Parliament information centre as well.

**Willie Rennie:** I am looking forward to receiving that letter. When the minister is writing to me, I hope that she will also address the issues around the viability of the sector. I am deeply concerned about the viability of private, independent and voluntary sector nurseries, because in many council areas across the country, their rates have not increased. At a time when costs and wages are going up and Covid responsibilities are increasing, we cannot expect the rates of reimbursement not to go up as well. That is why private nurseries are deeply concerned about whether they will be able to continue operating as they are currently doing.

I have a proposal for the minister. I would like her to look at the approach to transitions between ages at nursery, because it is underutilising their capacity. I know that young people move from one room in nursery to the other when they have their birthday, but that means that we have a one-child, two-spaces dilemma. Many nurseries in my area would be interested in exploring with the minister whether we can consider the proposal to improve capacity in nurseries, which would also ensure that we can get better value for money, provide greater stability for young people and pay the workers a bit more money. That would be a better, more efficient use of the service. I hope that the minister will agree to meet me to discuss the issue, because it is important and requires some exploration.

I will briefly talk about the Give Them Time campaign. The campaign wants greater flexibility for families wishing to hold their child back before

they go off to school. I welcome the expansion of the pilots, which is a good thing, and I am glad that Fife is included. However, I cannot understand why we need two years of pilots. Surely we now understand that the policy has been delivered effectively in certain council areas, so we should make it available for the whole country and be done with it.

15:59

**Gillian Martin (Aberdeenshire East) (SNP):** First, I thank all the early years professionals who have gone above and beyond to help our national health service staff, teachers and key workers all over Scotland get through the pandemic. Of course, early years professionals are key workers, too. I also thank all the people who have had to physically get to work when the rest of us have adapted to working from home, and to all those who worked from home but needed their children to be in nursery to allow them to do that. To them, the early years professionals were, and continue to be, a godsend.

The importance of good-quality early years care and education cannot be overstated. Our early years workforce is the key to so much of what makes our world go round—and never more so than in the past 19 months.

That aspect of their work—the support that they provide to families—is just the tip of the iceberg. As 1,140 hours is being rolled out across the country, I want to highlight the significance of the work that early years education professionals do and the impact that that has on the health, social development, education and wellbeing of our children at this most crucial stage of their lives. This key developmental phase of a child's life is the building block for their whole lives, and the positive impact of our universal expansion of early years education will be felt in our society in the long term.

Pre-Covid, I met some partner providers who were gearing up for the provision of 1,140 hours. I have had great visits to Flowerpots Childcare in Kingseat and Turriff, and had many discussions with the managers on the expansion from their perspective. I also spoke to the apprentices at Hoodles in Oldmeldrum. I am very much looking forward to a time post-Covid when I can go back into my constituency nurseries to see how the expansion is going, and to do what I can to encourage more young people, particularly young men, to consider working in a nursery as a career. There are great opportunities in Aberdeenshire for school leavers and adults looking for a career change through the introduction of the modern apprenticeship and through the assistant early years practitioner and early years support workers' roles.

For the existing workforce, there are substantial progression opportunities in Aberdeenshire Council's ELC service through the introduction of the early years senior practitioner posts. We now have 75 EYSPs in post, and those practitioners are key to providing increased capacity for quality improvement, nurture and, importantly, increased engagement with families.

We have also seen the introduction of six early learning excellence and equity practitioners, who deliver a high level of educational expertise and input to those young children and their families. Those are families who face the greatest disadvantages and for whom additional support will assist in closing the poverty-related attainment gap.

All in all, since 2018, we have seen a total increase in the workforce of 703 part-time and full-time early years staff in Aberdeenshire. That number is set to increase.

I also want to mention the impact of holiday cover and the approach that has been taken to giving parents the hours that suit them and their children. Based on initial feedback from parents, the council undertook a review of the staffing model, and it will ensure that staffing levels increase to allow earlier drop-off and later pick-up times for working parents.

Over the summer, 17 settings across 16 clusters were open in Aberdeenshire to great success, with extremely positive feedback from parents. One mum said that she was delighted that the summer opening would mean that she would not go into debt through pressure to provide activities and experiences for her child during a time when she was working.

Our early years practitioners play an important part in a child's development and are fundamental to closing the poverty-related attainment gap. Frankly, I am excited to see the future impact on our country's population as the little ones who are receiving the enhanced early years education grow into adults.

I close by saying that this is the umpteenth time that I have spoken in a Government debate on early years childcare provision over the past few years.

16:03

**Brian Whittle (South Scotland) (Con):** I welcome the opportunity to contribute to today's debate on what I believe is one of the most important and far-reaching pieces of legislation currently on the Scottish Government's books. The 30 hours of free childcare could be a major tool in the drive to tackle health inequalities and in the

health prevention agenda, which I have spoken about many times in the chamber.

Some children are reaching school age two years' behind in their development compared with their peers. This is an opportunity to finally tackle the stubborn attainment gap before it even starts to open. Furthermore, the policy can be a huge boost to those who want to go back into work following the birth of a child.

The Conservatives recognise the huge significance of the legislation, we support its objectives and we want it to work as well as it possibly can. To achieve the laudable objectives and create the number of places that are needed requires partnership working between local authorities and private nursery providers.

The minister said that the pandemic has been a major inhibitor to the roll-out of free childcare, and I am sure that members across Parliament would agree with that. However, it should have given ministers the time to consider the issues that had been raised on behalf of the sector in the chamber, on many occasions by Conservative members, especially the huge disparity across the country in councils' relationships with and treatment of private nursery care, which in many cases have been far from ideal.

Having spoken with a number of private nursery owners, it is clear to me that serious concerns about their treatment and the sustainability of the scheme remain. The minister will have examples of where the attitude and approach of local councils is collaborative and reflects the way in which the Scottish Government has set out its delivery plan. However, there seems to have been little progress with ensuring that that picture is uniform across the country.

I have listened to stories of local authorities openly stating that they do not believe in private nursery childcare and intend to bring all childcare in-house. They have no intention of partnering with private childcare nurseries, even if those nurseries have delivered decades of top-quality care and become an integral part of their communities.

Every nursery represented highlighted the issue of local authorities recruiting directly from partnership nurseries into local authority nurseries. Some partnership nurseries are losing so many highly trained good-quality staff that the Care Inspectorate is downgrading them because of an increase in staff turnover. We have local authorities that have been able to pay a higher rate for apprentices than the partnership nurseries can pay for qualified staff, yet the local authorities are asking the partnership nurseries to train their apprentices, so we have the ludicrous situation in which apprentices are being paid more than those who are training them. That is not a partnership.

There are huge discrepancies between what the minister has asked local authorities to deliver and what some are delivering. There are local authorities that are consulting and treating the partnership nurseries as a crucial part of the scaling up of childcare in Scotland but, as I have tried to highlight, a significant number are treating those nurseries as anything but partners, to the point where they now feel under threat. The unintended consequence is pressure on places for children under three. To pick up on Willie Rennie's point, only one out of three children is currently taking up those places.

In many cases, local authorities are in essence setting themselves up in competition with partnership nurseries, according to those nurseries. For the minister to deliver this crucial policy, she will need all those partnership nurseries. The truth is that she is in danger of losing them and all their years of experience of dedicated care in our communities. Once they are lost, it will be next to impossible to get them back.

16:07

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** It gives me great pleasure to speak in the debate. I have a four-year-old who currently benefits from the 1,140 hours, and I, for one, am very grateful for that. I think that parents up and down the country, and certainly those in my constituency, feel the same, particularly as people strive to find a childcare-work balance, mainly for women and mothers. For me, that is a major part of what the policy does: it breaks down barriers, creates more equality and allows more women to return to work and continue their careers—an argument that has been well made by others in the debate and by Close the Gap in its briefing to MSPs ahead of it.

Some members might know that I did a bit of work in the previous parliamentary session around paternity leave and breaking the presumption that women are the primary caregivers. My experience is that that presumption still exists, and is actually quite prevalent and pervasive in society. It is not one that any individual can take responsibility for, but one that exists in our institutions, in the structures around us, and in us all. I find that it is quite deep rooted and that it creates barriers—I can say that, having become a dad again recently. I believe that the 1,140 hours, as well as the expansion of the policy, will help to tackle that presumption both directly and by gradually changing the mindset in society more generally.

Covid-19 also allows us an opportunity to build back better and differently. Parliament will soon have a choice to make about remote working and how it links in with policies such as the expansion of early learning and childcare. Having a newborn,

my family can benefit from the situation and the new technology, but only because of the understanding of my party's chief whip and my committee convener. In many respects, then, I am the lucky one, but it should not be like that.

Parliament needs to lead the way on family-friendly policies if we are to expect businesses and other bodies to have such policies. On that note, I pay tribute to the many businesses in my constituency that are embracing new ways of working and allowing their employees to fulfil a range of family obligations such as childcare. Although it can be tempting to do what is easiest—as has happened at Westminster—my ask of the Parliament is that we do what is right and lead by example.

I want to comment on the outdoor education aspect of the expansion of early learning and childcare. Gillian Martin mentioned facilities in her constituency. Like her, I have been fortunate to visit facilities in my constituency that have an excellent record of outdoor provision, such as Jigsaw family learning centre in Chryston, Stepping Stones family learning centre in Steps and Townhead nursery in Coatbridge. The benefits to children of receiving outdoor education at a young age are well known and numerous. I am delighted that the Scottish Government continues to invest in and promote that, because it is important for our children's future.

I want to mention the Government's on-going plans to ensure that all children who have deferred access to school are entitled to funded early learning and childcare in that year. There was a written answer on that this week, and I am delighted that Willie Rennie has also raised the issue. It is great that we are making good progress on it. In the previous session of Parliament, I held a members' business debate on the issue, following contact from the Give Them Time campaign. I am due to meet representatives of the campaign again later this month, when they will update me on their current work in the area. I know that Diane Delaney and others from the campaign are delighted with the recent announcement from the minister.

Personally, I would have liked North Lanarkshire Council to be included in the second phase of the pilot, particularly as councillors there were the first in the country to change the local policy to that effect—Meghan Gallacher, who declared an interest as a councillor in North Lanarkshire Council, was one of them. It would have been good to see North Lanarkshire Council involved in the pilot. I do not know whether the minister will be able to comment on that but, that said, it is good that we seem to be making progress towards the national roll-out in 2023, when it will not matter what local authority children are in.

We can be proud of the Government's record on early learning and childcare. The Government's policy has the potential to impact positively on many children and families, and it is doing that now.

**The Deputy Presiding Officer:** I call Paul O'Kane. The Labour Party was entitled to two speakers in the debate but has opted to have a single speaker, so I can offer Mr O'Kane a generous six minutes.

16:12

**Paul O'Kane (West Scotland) (Lab):** I draw members' attention to my entry in the register of interests, which shows that I am a councillor in East Renfrewshire Council.

This afternoon, we are rightly debating the policy on 1,140 hours of funded early learning and childcare, but the title of the debate goes on to say "and Beyond". I feel that it is most appropriate for us to focus our attention on the implementation of the current policy and fixing the issues that persist in delivering it, before the Government draws a line and moves into the beyond.

Our first priority must be ensuring that the planned expansion of childcare is embedded this year and that it delivers the flexibility that parents and families require. The 1,140 hours of free early learning and childcare is widely supported across the chamber and across Scotland. From research, we know about the benefits that it brings to children and families, particularly those who live in areas of multiple deprivation. I have seen at first hand the work done in family centres in communities such as Barrhead, Neilston and Thornliebank. In areas such as Auchenback and Dunterlie, I have seen the difference that can be made in developing children and supporting their families through creating anchor institutions that build trust and offer a holistic approach that meets people where they are.

I think in particular of the Sir Harry Burns centre in Auchenback, which is home to a wide range of learning and health opportunities for children and their families. The Arthurlie family centre nursery is based in the building, and activities and opportunities are available from various teams in the council and the health and social care partnership. Activities such as parenting workshops, breastfeeding cafes, speech and language outreach services, baby massage and baby sensory classes and the bookbug programme operate out of the centre every single day.

That is the model that I think of when we talk about expanding early learning and childcare—that is the quality that we all want to see in the expansion. However, the model was largely

advanced before the wider agenda on 1,140 hours as a result of the council bringing together partners and developing through collaboration. Despite on-going cuts to local government budgets, councils are striving to deliver and innovate for our youngest citizens.

Early learning and childcare is about more than just the hours that are available; it is about the quality of inputs that children and young people receive and it is about supporting and regenerating communities. However, we know that that is not the experience in every community and that the Government has failed to deliver the planned expansion on time.

We have already heard reference to the impact of the pandemic, but the reality is that the Scottish Government had years before the pandemic to improve the offer on early learning and childcare and to work in meaningful partnership with local authorities to deliver. There are gaps in what has been possible for councils to deliver on the ground. Once again, a policy intention has been announced by the Government but with a lack of meaningful engagement with local authorities on the ground about how it will be delivered, particularly in the face of on-going budget cuts.

**Brian Whittle:** Does the member agree that full delivery of the policy will take collaboration between council nurseries and partnership nurseries? As it stands, there is a major disparity across councils in Scotland in the way in which partnership nurseries are treated.

**Paul O'Kane:** In my time in the council, I met many private providers who felt that it was often difficult for them to enter into partnership with local authorities. We worked hard in East Renfrewshire to make those partnerships available, but there has to be more parity in the funding available to ensure that we have the right provision at the right time and in the right place.

As I said, there has perhaps been insufficient capital and revenue funding. Indeed, my inbox as a councillor has been full of messages from parents who have not always been able to get the flexibility that they need because the funding allocations have led to rigid options across a variety of locations. Often, parents cannot access the provision that they want in the community that they want or, indeed, where they live or work.

With an increasing population of children under five in East Renfrewshire, the council has had to make huge investment in the school estate in order to ensure sufficient places. That has meant building four new family centres and the extension of school buildings to accommodate nursery provision. Other authorities are in the same boat. East Lothian, which my colleague Martin Whitfield knows well, has experienced that. There is a

sense that the Government has not always listened to the needs and circumstances of individual local authorities when allocating funding, which has resulted in significant shortfalls.

That is even before we consider the impact of the provision of meals in early learning and childcare settings. As Martin Whitfield alluded to, the forthcoming expansion of free school meals in primary schools will, yet again, have an impact on the space that will be required in the school estate. It is clear that there is something of a lack of joined-up thinking when it comes to what the Government expects local authorities to deliver and when. I hope that the minister reflects on that as part of the on-going review that will be undertaken to determine funding methodologies beyond 2022. Perhaps she may say something about that in her summing up.

In my remaining time, I highlight one further issue that has not been tackled in a joined-up way in the process of expansion, although it was referred to by Meghan Gallacher, Fulton MacGregor and Willie Rennie. The Give Them Time campaign contacted me while I was education convener in East Renfrewshire, asking for funded deferrals for all eligible children. It is clear that there must be a national approach to avoid a postcode lottery, and that councils must be funded to deliver.

**Clare Haughey:** Will the member take an intervention?

**The Deputy Presiding Officer:** I am afraid that the member is just winding up.

**Paul O’Kane:** I acknowledge that the Government agreed to do that in the previous session of Parliament. I hope that the minister addresses that in her summing up.

We must grasp the issues that are facing the current delivery of 1,140 hours, not least the financial pressures experienced by authorities, and ensure full roll-out before we can consider what is next.

16:18

**Siobhian Brown (Ayr) (SNP):** It seems like yesterday that my 17-year-old and 14-year-old were at nursery, and, although there was an element of free childcare at the time, with no family support locally for childcare, I remember the monthly childcare bills being eye watering until my children both started school.

Scotland has moved on, and our early years childcare provision is the envy of many of my friends and family in England, Australia and America. Fast forward 11 years, and I now have a five-year-old daughter who, not so long ago, walked through the nursery doors for the first time.

I remember vividly her excitement and wonder as she ran into the classroom to play with the dolls’ house, the toy kitchen and all her friends. We can never underestimate the importance of those early years. We have heard that the first three years of a child’s life are critical for growth and development—physical, emotional and social. It is at that age that children’s minds must be nurtured and nourished, because that plays a significant role in their development and future success.

That Wendy house in the nursery classroom is much more than a place to play. It is a place for children to socialise and form relationships with people other than their family. It combats shyness and gives them confidence. It helps them to develop friendships while learning about trust, teamwork and lending a hand—skills to see them through life.

My five-year-old is the youngest of three, and, although shyness is not a character trait of hers, she is learning that people must share, co-operate and be kind. The early schooling years are when children learn so many important skills outwith the dynamic of the family home. As a child starts to interact with others, they form friendships, develop a sense of personality and start to become aware of themselves, gaining self-esteem and confidence. When a child goes to nursery, they meet children from different backgrounds—from various cultures, nationalities and religions—and that is when they learn to accept differences and to respect others and their beliefs.

Importantly, that time gives our highly skilled early years educators the chance to identify areas in which a child might need support, for which they can tailor and develop programmes and activities. It is therefore crucial that we reach out at that stage to provide affordable and flexible childcare.

The future of our nation and our planet will depend on our children’s success. Only if we provide them with the best start in life can they reach their full potential, create a better, fairer, wealthier, smarter Scotland and become global citizens. We need to inspire the next generation, let it experience the joy that comes from education and give it a thirst for knowledge. We need our children to follow in the footsteps of Scotland’s great thinkers.

I had the privilege of seeing the education system with two hats on—as a mum and as an MSP—and it is clear to see how we are nurturing young minds here. Last week, I visited the children of Barassie primary school in Troon, and Glenburn primary school in Prestwick. I was there to answer questions about Scotland’s route to net zero, and I was amazed and impressed by the children’s questions. I am totally confident that the planet is in good hands with those youngsters.

However, when I look at other parts of the globe, I realise how lucky we are in Scotland. Nearly half of all pre-primary age children around the world are not enrolled in pre-school. Scotland is leading the way by expanding free childcare hours. When we came into Government, the childcare system delivered 412 hours, and we are now providing 1,140 hours per child, saving families up to £4,000 per child a year.

It is also important to note that a lack of affordable and accessible childcare is one of the major barriers to parents' being able to go to work. By providing that service, we can enable more women, people with disabilities and people from ethnic minorities to prosper in life and make Scotland a fairer country.

Barack Obama summed it up perfectly in his 2013 state of the union address. Early education moulds a child in a way that helps them to tackle all that is thrown at them in life's journey. Our education system is preparing our youngsters for that journey.

16:22

**Gillian Mackay (Central Scotland) (Green):** I warmly welcome the expansion of free childcare to 1,140 hours for all eligible children. I am hopeful that the estimated savings of almost £5,000 per year for families who take advantage of the full entitlement will go some way towards addressing child poverty in Scotland, providing much-needed financial security and peace of mind for families—particularly those on low incomes, who are struggling with the on-going cost-of-living crisis.

We recognise that a child's earliest years are some of their most important, and the Scottish Greens will always work to provide a safe, secure and loving environment for every child in Scotland. The improved availability and consistency of childcare that should come out of that expansion will help to support Scotland's children—particularly the most vulnerable and those in households with the lowest incomes—providing them with the welcome sense of routine and security that is so important for healthy childhood development.

However, the job is not done. I welcome the minister's statement that future work will be done to provide funded early learning to one and two-year-olds and to build wraparound childcare for children of school age, both of which initiatives will prioritise families on low incomes. As a Parliament and as a country, we must work in the interests of the poorest, the most vulnerable and the least secure, so I am glad to see that priority is being given to those who most need help.

I hope that those services will, in time, be extended to support all the priority families that are

set out in the tackling child poverty delivery plan. That will go a long way towards supporting those who are at the highest risk of poverty, such as young parents, lone parents—who are often women—disabled people and those from minority ethnic backgrounds.

I thank the childcare providers and childcare workers in all sectors, who have been doing an incredible job in ever-changing and unpredictable circumstances over the past 20 months. We must continue to drive up wages and improve terms and conditions across the sector in order to value those in the sector, who have worked so hard, and to attract more people to the role. Of course, until Scotland has full control over employment and workers' rights, we will be working with one hand tied behind our back. However, with the powers that the Parliament does have, we should be promoting the principles of fair work in everything that we do.

We must do more for workers, including those who are in the childcare sector. It is not enough to offer freely accessible childcare; we must offer high-quality childcare. We need to ensure that staff have the time to participate in continuing professional development so that they can progress towards promoted posts, such as the early years senior practitioner, or develop their skills further. Those staff are inspiring young minds and they deserve to be recognised for the incredible work that they do.

We warmly welcome the steps that have been taken so far to expand the provision of early learning and childcare and to make Scotland one of the best places to grow up in. However, as I said, the work is not done. We cannot be complacent. We must always work towards a better future for Scotland's young people.

**The Deputy Presiding Officer:** Thank you very much Ms Mackay. I now invite Christine Grahame to speak to the rest of us.

16:26

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** I hope that I am no longer speaking to myself.

Years ago, when giving evidence to the then Health and Sport Committee, Harry Burns, the former chief medical officer for Scotland, said that inequality begins in the womb. That inequality can be addressed by taking on poverty and by education. In passing, therefore, let me praise the baby box, which every new parent may apply for. As a way of welcoming every newborn to Scotland, it is practical and educational. In its first three years, it was given to 144,000 homes, which is a 93 per cent uptake—a good start.

It is as plain as a pikestaff that, the earlier that society can start to support a child's development in the broadest sense, the better. In my long-gone former days as a secondary school teacher in a small rural school that was adjacent to its primary, I would watch the primary school children from my window at playtime, and I could see which children were already struggling long before they crossed the threshold of my classroom. Indeed, entire families could be identified, generation after generation, as being already on an unequal and, frankly, failing path.

Among the other supports, which are too many to list fully in this short speech, the provision of free nursery care, which is now at 1,140 hours per year for all three-year-olds onwards, is excellent, extending almost threefold what the SNP Government inherited. It is to be applauded. That is not the end, however. In the current parliamentary session, wraparound childcare is to be extended to all school-age children before and after school, and free of charge to the poorest families.

I say to Fulton MacGregor that I have the privilege—I wonder whether it is a privilege—of being a granny and watching my youngest granddaughter benefit from nursery provision. I see the pictures of her out on woodland walks with her friends and the drawings that she brings home, and I hear her jumbled-up, excited account of the day's events. It has given her confidence and social skills. The other day, she even passed me the cucumber slices before she dug into them herself. Mind you, she still has a little to learn—she passed them one by one and not in the dish. I have no doubt that that will come, but the sharing came about partly because of nursery. Her parents, who are now working from home, are finding it testing to do so with an energetic three-year-old scrambling about their feet and demanding attention, but they are lucky compared to the single parent who is stuck in a flat with no real access to outdoor space. For them, nursery provision is vital.

And we are not talking just about nursery provision. For those who qualify, we now have a national £120 minimum school clothing grant for primary school and a £150 clothing grant for secondary school. The stigma of being visibly poor can thereby be alleviated. Of course, in Penicuik, at Ladywood and elsewhere, there is a supply of preloved local school uniforms. There is also now an after-school club, school's out, which was first provided in Peebles and has now been extended to Penicuik. Add to that the free school meals for P1 to P4 pupils, and we, as a society, are on the right track. Children cannot learn on an empty stomach.

The SNP is—as, I hope, we all are in Parliament—determined that every child, regardless of their circumstances, should get the best start in life. The ambition of Scotland and of members of this Parliament, whichever side of the chamber we sit on, should be to make this the best place in the world to grow up in. With baby boxes, free nursery provision, free school meals and school clothing grants, there is so much to level up, to use a prevailing phrase for which certain members of the Opposition have a fondness.

16:30

**Pam Gosal (West Scotland) (Con):** All too often, a policy that sounds good on paper is hard to implement in practice. Perhaps that statement is what best sums up the 1,140 hours policy.

Let me be clear from the start: if there is one thing on which we can all agree, it is that a good start in life can make an enormous difference to a child's quality of life later on, both socially and economically. That is why the intentions of the 1,140 hours policy received widespread support. I am pleased to see that the Scottish Government is in the process of designing plans to expand the policy to one and two-year-old children, but we must draw attention to the practical problems arising from its implementation.

Our economic recovery is set to be a jobs-focused recovery, so members can understand my concern upon hearing of the troubles with access that people are experiencing. The collapse of private ELC providers poses a risk to the availability of spaces for children and the flexibility that the 1,140 hours policy affords to parents. Between 2017 and 2019, there was a notable reduction of around 783 childminding services and around 80 children's day care services, with private nurseries warning that the expansion of ELC threatened their survival. The majority of speakers today have echoed concerns about that issue. It is having an impact on those on the ground; the effects of the 1,140 hours policy have already been felt by parents in my council area. Some have complained that they are unable to find availability, times, days or locations that suit them.

Plans to pay the living wage are not enough to attract the levels of employment that are needed to deliver the flexibility that parents were promised. The Scottish Government must improve the attractiveness of employment in the sector, because the supply of ELC providers is not meeting the demand.

**Clare Haughey:** Will the member take an intervention?

**Pam Gosal:** I do not have enough time. I am sorry.

Those are issues that cannot be ignored. I repeat my first point: the first few years of a child's life are some of the most important for their future development. There are three things that we can take away from today's debate. First, if we get early learning and childcare right, we can ease the burden on the rest of the education system while at the same time providing much-needed flexibility for families. Secondly, if the pandemic has taught us one thing, it is that there must be far more flexibility and choice for working families. Finally, we need to invest in our children's futures by investing in those who shape them.

I am sure that no one here will disagree that education is the cornerstone of governmental responsibilities. Therefore, the SNP needs to listen to the people on the ground.

**The Deputy Presiding Officer:** Kaukab Stewart will be the final speaker in the open debate. I remind all those who participated in the debate that they need to be in the chamber for the closing speeches.

16:34

**Kaukab Stewart (Glasgow Kelvin) (SNP):** If there is one thing that I learned as a primary teacher over far too many years, it is that the best start in life begins long before the more formal education that is provided by our schools. The role of early learning and childcare provision is crucial not only for our wee ones but for our whole society and the economy.

We know that the Conservatives have little interest in giving anyone the right start in life, never mind the best start. Under their austerity programme, they slashed funding for the surestart programme in England, even though the programme was proven to address inequalities in early years support.

In 2019, a study conducted by the Institute for Fiscal Studies concluded that surestart children's centres reduced the number of people who were taken to hospital and saved millions of pounds for the national health service. However, the Tories closed more than 500 centres between 2010 and 2017.

Let us come on to Scotland. The doomsayers of the previous session of Parliament said that 1,140 hours of early years care could not be done. In 2019, just two years ago, the Conservative spokesperson for children and young people told the Parliament that ministers had to urgently address flaws in the plan to double free childcare provision—and yet the policy was successfully delivered on time and in partnership with local

government and early learning and childcare providers within the first 100 days of this session.

The building of a system of wraparound childcare—something that was often talked about by new Labour but has been delivered by the SNP—will have significant benefits for families and the wider economy. The system, which is free to low-income households and asks for fair contributions from those who can afford it, enables families to seek job opportunities and plan careers in ways that were denied to parents in the past. The knowledge that early learning and childcare are taken care of frees women, in particular, to return to work—full-time, if they wish, which is important.

That brings me to the jobs that have been created in early learning and childcare. Let us remember that the Tories told us two years ago that there would not be enough trained staff to deliver on our commitment, yet here we are with 435 new graduate-level ELC posts across Scotland, supported by £21 million funding in 2018-19, building the capacity for growth as we expand ELC to one and two-year-olds. No doubt the Tories will tell us again today—indeed, they have done—that we are too poor and too daft to make that work. However, what the Tories lack in positivity is more than made up for by the ambition and aspiration for our families and children on the other side of the chamber.

**The Deputy Presiding Officer:** I suggest to members that there is little point in heckling the screen. *[Laughter.]*

I note that Siobhian Brown is not in the chamber although she participated in the debate. I am sure that she will advise us of the reason why.

16:37

**Michael Marra (North East Scotland) (Lab):** I welcome the opportunity to participate in the debate, and I draw members' attention to my entry in the register of members' interests: I am a serving councillor for Lochee, in Dundee.

We have heard members of all parties reaffirming their commitment to expansion of early learning and childcare, early years spending and work to tackle the gap in attainment between the richest and the poorest, which begins to show and grow from the earliest years.

The attainment gap is a well observed and regrettable phenomenon in Scotland. For too long, we have known that the gap between the richest and the poorest is far too wide, when it comes to outcomes and attainment. Indeed, the Education, Children and Young People Committee heard again from the Auditor General this morning that

the Government has failed to meet its intentions in that regard.

We are a decade on from the prevention agenda of Campbell Christie, and Willie Rennie drew attention to analysis that was done more than 20 years ago of the economic and social benefits that flow from preventative spend of the type that we are considering. Therefore, the current policy is no great innovation. However, we are keen to see it being delivered as quickly as possible.

The issues that families and young people and providers continue to experience in the system are also clear. Members have talked about the many practical considerations when it comes to delivery. The minister started by talking about childcare that is universally accessible and affordable and said that she is delighted that eligibility has been expanded, but we are interested in outcomes for the people who avail themselves of the service, rather than the service's availability.

We need to think more about who the people are who are benefiting—about the people who are accessing the services and, crucially, those who are not accessing them—so that we can understand the kinds of benefits that they bring.

**Clare Haughey:** Mr Marra makes a very valid point. We need to ensure that the children who absolutely need to be in nurseries or early learning centres are in them. That is something that we are working very hard to do. If we look at the percentages, we see that a really high proportion of three and four-year-olds do attend. I am in no way denying that there is still work to do on eligible two-year-olds, but we are working and making progress on that. I take Mr Marra's well-made point, however.

**Michael Marra:** I appreciate the minister's intervention.

Many practical considerations have been voiced from around the chamber, and from different perspectives, on how we can deal with issues regarding the people who access provision. Martin Whitfield started off with a principled examination of the matter, mindful that the issue is about children—the individual child—and the families around them. Siobhian Brown, too, gave an eloquent exposé of that position and focused on the child and on ensuring that they are at the centre of the decisions that we make. It is crucial that we understand who and why.

We must recognise that some families might choose not to avail themselves of provision. Bare statistics such as percentages of eligibility and of uptake of provision do not give us the nuance that we require in order to see whether we are actually meeting the generally shared aspirations for the policy.

Part of the problem—and a thorn in the side in relation to delivery of 1,140 hours—has always been what has seemed at times to be the Scottish Government's wilful confusion about whether the policy and spending are intended as education policy to improve early years learning and development, or as an economic measure that allows parents more freedom to work. At times, it can be both—that is certainly the case—but that determines how the policy and the decisions that are made are formed.

The Government points to the pandemic as a reason for delay—which is, of course, understandable—but the first policy deadline was wiped from the books when the pandemic came along because the deadline was not going to be met in any case.

Fulton MacGregor made a really important point about outdoor learning during the pandemic; Gillian Martin made a similar point in relation to a number of situations. Development of such provision in the sector is very welcome.

We must also ensure that indoor settings have the required ventilation systems. So far, we have spent £10 million of taxpayers' money on alarm systems that tell us when we should open the windows, but it appears that we have not provided any active ventilation systems across Scotland. That must change urgently if we are to bring Covid case numbers down and if children are to be taught in safe environments.

There is a raft of key practical issues that the Government must address now regarding provision. Paul O'Kane talked about the lofty rhetoric of "and Beyond", as included in the title of the debate. As a councillor, Paul O'Kane was able to discuss some of the very real challenges, particularly around funding methods. The exchange between Brian Whittle and Paul O'Kane on that issue were important. We must recognise that there is a challenge with private sector providers—with the dynamic between the private sector and local authorities. We must ensure, crucially, that the funding follows the child, and that the funding is sufficient to support staff in what they do. Meghan Gallacher led by eloquently talking about the importance of that.

I wish to touch on funding deferral. Last week, the Government announced that instead of rolling out that approach generally there are to be more pilots. Organisations including Give Them Time have, frankly, won the argument by exposing the nonsense of the loophole that exists. We need to move to ensure that provisions on that are fully in place.

I enjoyed Kaukab Stewart's trot through the sins of the Tories, but we must note that, on the day of the launch of the referendum white paper in 2013

we were told that independence was required for the policy—but here we are now, discussing its practical delivery.

We urgently need analysis of the impact of the pandemic on learning, development and attainment in the early years—but beyond them, too. Nothing that I have seen sets out the scale of the challenges that the education system faces; there can be no effective plan for recovery if the nature of the challenge is not understood.

16:44

**Oliver Mundell:** As I close today's debate for the Scottish Conservatives, I will return to where my colleague Meghan Gallacher began. We have heard time and again in the debate about the widespread support and unity across Parliament for the policy aims behind provision of 1,140 hours. Speaking as one who was also a member in the previous session and who has been party to a number of debates on the topic, the question for me has always been about delivery.

Eligibility is one thing, but access is another. Siobhian Brown talked about learning to be kind at nursery. If I was trying to be kind, I would say that we have had two different debates today; SNP members talked about the principles behind early learning and childcare, which we can all get behind, but they have perhaps been too kind to their own Government, because they did not get into the nitty-gritty of practical delivery on the ground. That is the real question.

**Gillian Martin:** I am not trying to prompt Mr Mundell to reference my speech, but it was about delivery on the ground in Aberdeenshire, which is going at pace. It just not the case that SNP members are all singing from the same hymn sheet.

**Oliver Mundell:** I do not want to pick on Gillian Martin's speech. There was lots in it about the good things that are happening, and I recognise those as I see them in my constituency, but I cannot believe that Gillian Martin, in the time since the policy has been under development, has not had any contact from private, voluntary and independent nurseries expressing concern about how the policy has been delivered. Those concerns persist. I will come to some points on Aberdeenshire later.

Although I am willing to accept that Covid has brought with it a unique and unprecedented set of challenges, and that the Government felt that it had no choice but to delay, Covid is not the full story. The policy has been riddled with concerns and poor implementation from the get-go.

I will not forget the previous minister Marie Todd's explanation to my colleague Liam Kerr

when he asked her about concerns that nurseries faced in the north-east and about how the provision would be delivered in practice, with some nurseries facing closure. She told him that one would not expect to be able to drive over a bridge

"18 months before it was built."—[*Official Report*, 14 March 2019; c 3.]

As was pointed out at the time, one would not expect the bridge to be there, but one would expect detailed planning to have taken place before the building work began. All the way through development of the policy, it has been clear that no detailed route map or planning existed. That has created unnecessary tensions and challenges, many of which could have been avoided under better leadership.

Although we have come a long way in building a system that has the capacity to provide increased hours, we are not fully there yet. Like many members, including my colleague Pam Gosal, I have concerns about a potential collapse in the private, voluntary and independent sector. In the medium-to-long term, the policy will not be possible without that sector's support and continued commitment.

I raised the staffing challenges with Audit Scotland at this morning's Education, Children and Young People Committee.

**Clare Haughey:** The statistics that I quoted in my opening speech show how valued the PVI providers are in respect of delivery of 1,140 hours across Scotland. "Financial Sustainability Health Check of the Childcare Sector in Scotland", which was published on 31 August, sets out a road map to address the issues and concerns that have been raised by the ELC industry.

**Oliver Mundell:** I fundamentally disagree with the minister on that characterisation. The Government, local authorities and everyone across Scotland are dependent on the PVI sector, but it is not well supported. It continues to pick up the slack because the sector cares about the policy and is keen to deliver the hours. I will come back to that in more detail later.

If what the minister said is correct, why would Audit Scotland acknowledge this morning that the risks in relation to the workforce that it previously identified continue to exist? It has been persistently raised in Parliament, since the policy was first announced, that without increasing the workforce we will not be able to provide access. We can announce eligibility, but people will not get the flexibility or access that they want if we do not have the workforce to deliver it.

It is important to remember that ELC settings also provide increased parental choice and, in

many cases, are leading innovation in the sector. They often work in the hardest-to-reach areas, including my Dumfriesshire constituency; they are the voluntary groups and childminders who serve many small rural and remote communities. They certainly do not feel well supported or valued, but feel that they are second to local authority provision, even when it is not available in the communities that they serve.

They have also worked hard during the pandemic and, in many cases, are willing to provide the greatest flexibility in respect of available hours. That is not to say that there is not good partnership working in some local authorities, as my colleague Brian Whittle pointed out. The challenge is in ensuring that best practice becomes universal.

It is not good enough for the Scottish Government simply to say that it is down to individual local authorities. This is a Scottish Government led policy; the Scottish Government must, for that reason, be willing to continue to drive improvement and best practice across the country. The success of the policy is too important for it to get stuck in the chasm between local authorities and the Scottish Government, which has become all too common an occurrence when it comes to education policy.

It is clear that the expansion to 1,140 hours continues to have broad support and has the potential to be truly transformational. If it can meet the needs of our young people and their families and benefit our society, it is a policy that the whole Parliament can be proud of. We simply ask the minister to recognise that, despite the delay in introduction of the policy, we are still seeing many challenges, and we are not there yet.

That demands a watchful eye, and willingness to get a handle on what is happening on the ground and to question, where necessary. It also comes with a responsibility to be the embodiment of the partnership working that we all want to see, which means that we must treat all partners as equals in the process.

We simply cannot afford to see the number and choice of settings being reduced. In fact, in a vibrant and well-supported sector we should see an increase in the number of providers and more people wanting to get involved, not fewer settings. That should be across all parts of the sector.

**The Deputy Presiding Officer:** I call the minister to wind up. Could you take us to 5 o'clock, minister?

16:52

**Clare Haughey:** I thank members right across the chamber for their contributions. For the most

part, it has been a very collegiate and interesting debate, and there have been well-made points from all parties.

As we have heard, all councils in Scotland have been offering 1,140 hours of funded ELC to all eligible children since August, making high-quality early learning and childcare available to families and saving parents up to £4,900 per year for each eligible child. That is an enormous achievement and it could not have happened without the dedication and determination to deliver of local authorities, private and third sector providers and childminders.

It is all the more remarkable that that has been achieved in a pandemic—in the most challenging of circumstances. I take the opportunity to thank each and every person involved for their incredible response. The resilience and professionalism of people across the sector in the face of the pandemic has been admirable, and the care and nurture that they have continued to show families has been outstanding.

**Michael Marra:** We on these benches absolutely share the minister's tributes to the workforce and the people who worked throughout the pandemic. Does she recognise that pay and conditions for workers are critical to recognising the work that they have done? As Mr Whitfield pointed out, they are a section of our workforce who believe themselves to be underrewarded and—frankly—at times disrespected.

**Clare Haughey:** I will come on to some of those points as I finish my closing speech. Nonetheless, I note that they are certainly a profession—they are early learning and childcare workers and they are part of our education professionals right across the country. It is a responsibility of us all to recognise the professionalism of the career choice that those people make. I have no doubt that their efforts have had a hugely positive impact on the lives of many children and families during this period. By providing childcare for other key worker families and vulnerable children during lockdown, they enabled other critical services to respond to the pressures of the pandemic. Without them, Scotland's ability to respond to the pandemic would have been much reduced, and the Scottish Government is truly grateful to them.

When public health guidance has permitted, I have had the opportunity to visit a number of early learning and childcare settings. Everywhere I have been, I have consistently been struck by the enthusiasm and professionalism of the staff I have met and the happiness of the children in their care.

Since my appointment as Minister for Children and Young People in May, I have heard many stories of how families are benefiting from our ambitious expansion programme, through, for

example, parents having greater freedom to work or study without the worry of the added cost of childcare. I have also heard about children who, with their friends, have tried new and exciting foods through the provision of free, nutritious meals as part of the expansion programme, which will lead to them having a more balanced and healthy diet. Children have also been able to take part in new fun activities and experiences that broaden their opportunities to learn and to play.

During the pandemic, the outdoors has offered children the chance to play with their friends unhindered by health restrictions. Outdoor play has also been a big part of the Covid-19 health guidance for ELC settings. I am therefore particularly pleased to have recently visited an outdoor childcare setting, where I observed at first hand the benefits of children playing, learning and having fun outdoors.

We know that daily high-quality outdoor play experiences have a direct and positive impact on children's physical, cognitive, social, mental health and emotional development. It is our vision that children in Scotland will spend at least as much time outdoors as they do indoors as part of their ELC experience. To support that, we are working with practitioners to develop strong communities of practice, which will enable such high-quality outdoor experiences to become the norm. Our national standard for ELC enshrines daily access to outdoor play and learning opportunities for all children.

I want to turn to points that members made during the debate, some of which, as I said in my introduction, were interesting and illuminating.

I will be happy to meet Mr Rennie—it is always a pleasure to spend time in his company—to discuss the capacity in nurseries.

The issue of school deferral was raised by several members. Having just complimented Mr Rennie, I gently remind him that the Parliament voted for the deferral pilot, and I think that the Liberal Democrats were the only party that voted against it. I am sure that Mr Rennie will correct me if that is not correct.

Gillian Martin mentioned how key ELC workers have been. They have been essential in allowing families to work during the pandemic, whether by going out to work or by working from home.

In my opening speech, I spoke about outdoor education. I was fortunate enough to go to a forest out-of-school care service in Fulton MacGregor's constituency, which was an experience that I enjoyed.

In a very considered speech, Brian Whittle talked about the importance of working with COSLA. We have worked closely with COSLA

throughout the process, and we will continue to do so.

In an interesting contribution, as well as talking about cucumbers, Christine Grahame gave us anecdotal evidence on the importance of learning in early learning centres.

Somewhat to my surprise—I will check the *Official Report* to make sure of this—the Tories seemed to be advocating for national pay bargaining across the country.

It is important to recognise that this is the first full year of delivery of a major programme. We have much to celebrate in reaching the milestone of 1,140 hours of funded ELC for all eligible children, but there is more that we need to do.

**Brian Whittle:** Will the minister take an intervention?

**Clare Haughey:** I will give way shortly, if that is all right, Mr Whittle.

We will continue to work closely with local government to embed the benefits of the expansion as more families come forward, thereby ensuring that children's social and developmental outcomes improve, that their parents and carers have more opportunities to work, train or study and that family wellbeing improves. We will also work with local authorities to increase awareness of the offer of funded ELC for eligible two-year-olds.

I am not unrealistic about the continuing challenges to providers in the private and third sector. We will act on the findings of the financial sustainability health check that we published in August and will work with the sector to build on the substantial targeted financial support of up to £25 million that has been made available to the sector since March 2020.

I will pause there, if Mr Whittle still wants to intervene.

**Brian Whittle:** How will the minister address the tension that is caused by the constraints in the private sector regarding the pay that it is able to offer compared to that in the public sector, which does not need to take into account rates and capital costs? The result of that is a drain from the private sector to the public sector?

**The Deputy Presiding Officer:** Minister, if you could begin winding up as well, that would be great.

**Clare Haughey:** Of course I will.

We recognise the on-going sustainability challenges, and part of the work that will come out of the financial health sustainability report will involve looking at the workforce, the sustainability

of the sector and its training requirements, because we all want it to succeed.

I am greatly encouraged by the breadth and depth of the contributions from across the chamber today. That engagement demonstrates and underlines the importance that all parties place on early learning and childcare and its role in securing the best possible outcomes for Scotland's children and their families. I ask members to continue to support the Scottish Government in that work.

## **Police, Crime, Sentencing and Courts Bill**

17:01

**The Deputy Presiding Officer (Liam McArthur):** The next item of business is consideration of legislative consent motion S6M-01884, on the Police, Crime, Sentencing and Courts Bill, which is United Kingdom legislation.

*Motion moved,*

That the Parliament agrees that the relevant provisions of the Police, Crime, Sentencing and Courts Bill, introduced in the House of Commons on 9 March 2021, relating to amendments to the Crime (Overseas Production Orders) Act 2019; orders under the Sexual Offences Act 2003 and Abusive Behaviour and Sexual Harm (Scotland) Act 2016; amendment of section 60 of the Police Act 1996; extension of the Summary Jurisdiction (Process) Act 1881; and the amendment to extend the annual reporting duty for the Police Covenant to cover British Transport Police and National Crime Agency, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.—*[Keith Brown]*

**The Deputy Presiding Officer:** The question on the motion will be put at decision time.

## Business Motion

17:01

**The Deputy Presiding Officer (Liam McArthur):** The next item of business is consideration of business motion S6M-01925, in the name of George Adam, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees—

(a) the following programme of business—

Tuesday 9 November 2021

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Topical Questions (if selected)

*followed by* Ministerial Statement: COVID-19 Update

*followed by* Scottish Government Debate: Skills and Opportunities to Support Recovery – Young Person's Guarantee and National Training Transition Fund: One Year On

*followed by* Committee Announcements

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 10 November 2021

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions:  
Justice and Veterans;  
Finance and Economy

*followed by* Ministerial Statement: International Development COVID-19 Support – Partner Countries and Humanitarianism

*followed by* Scottish Government Debate: Scotland's Approach to 2021 Coastal States Negotiations

*followed by* Business Motions

*followed by* Parliamentary Bureau Motions

*followed by* Approval of SSIs (if required)

5.00 pm Decision Time

*followed by* Members' Business

Thursday 11 November 2021

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

*followed by* Members' Business

2.30 pm Parliamentary Bureau Motions

2.30 pm Portfolio Questions:

Education and Skills

*followed by*

Scottish Government Debate: Remembrance Commemorations and the Scottish Government's Support for the Veterans and Armed Forces Community in Scotland 2021

*followed by*

Business Motions

*followed by*

Parliamentary Bureau Motions

5.00 pm

Decision Time

Tuesday 16 November 2021

2.00 pm

Time for Reflection

*followed by*

Parliamentary Bureau Motions

*followed by*

Topical Questions (if selected)

*followed by*

First Minister's Statement: COVID-19 Update

*followed by*

Scottish Government Business

*followed by*

Committee Announcements

*followed by*

Business Motions

*followed by*

Parliamentary Bureau Motions

5.00 pm

Decision Time

*followed by*

Members' Business

Wednesday 17 November 2021

2.00 pm

Parliamentary Bureau Motions

2.00 pm

Portfolio Questions:  
Covid Recovery and Parliamentary Business;  
Net Zero, Energy and Transport

*followed by*

Ministerial Statement: Towards a Circular Economy

*followed by*

Scottish Conservative and Unionist Party Business

*followed by*

Business Motions

*followed by*

Parliamentary Bureau Motions

*followed by*

Approval of SSIs (if required)

5.40 pm

Decision Time

*followed by*

Members' Business

Thursday 18 November 2021

11.40 am

Parliamentary Bureau Motions

11.40 am

General Questions

12.00 pm

First Minister's Questions

*followed by*

Members' Business

2.30 pm

Parliamentary Bureau Motions

2.30 pm

Scottish Parliamentary Corporate Body Questions

2.45 pm

Portfolio Questions:  
Rural Affairs and Islands

*followed by*

Scottish Government Business

*followed by*

Parliamentary Bureau Motions

5.00 pm

Decision Time

(b) that, for the purposes of Portfolio Questions in the week beginning 8 November 2021, in rule 13.7.3, after the word “except” the words “to the extent to which the Presiding Officer considers that the questions are on the same or similar subject matter or” are inserted.—[George Adam]

*Motion agreed to.*

## Parliamentary Bureau Motions

17:01

**The Deputy Presiding Officer (Liam McArthur):** The next item of business is consideration of eight Parliamentary Bureau motions. I ask George Adam, on behalf of the Parliamentary Bureau, to move motions S6M-01926 to 01933, on approvals of Scottish statutory instruments.

*Motions moved,*

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment Regulations 2021 (SSI 2021/328) be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 2) Regulations 2021 (SSI 2021/343) be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 3) Regulations 2021 (SSI 2021/350) be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 4) Regulations 2021 (SSI 2021/357) be approved.

That the Parliament agrees that the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (Form and Content of Waiver etc.) Regulations 2021 [draft] be approved.

That the Parliament agrees that the Redress for Survivors (Historical Child Abuse in Care) (Exceptions to Eligibility) (Scotland) Regulations 2021 [draft] be approved.

That the Parliament agrees that the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [draft] be approved.

That the Parliament agrees that the Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [draft] be approved.—[George Adam]

**The Deputy Presiding Officer:** The question on the motions will be put at decision time.

## Decision Time

17:02

**The Deputy Presiding Officer (Liam McArthur):** There are two questions to be put as a result of today's business. The first question is, that motion S6M-01884, in the name of Keith Brown, on the Police, Crime, Sentencing and Courts Bill, which is United Kingdom legislation, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the relevant provisions of the Police, Crime, Sentencing and Courts Bill, introduced in the House of Commons on 9 March 2021, relating to amendments to the Crime (Overseas Production Orders) Act 2019; orders under the Sexual Offences Act 2003 and Abusive Behaviour and Sexual Harm (Scotland) Act 2016; amendment of section 60 of the Police Act 1996; extension of the Summary Jurisdiction (Process) Act 1881; and the amendment to extend the annual reporting duty for the Police Covenant to cover British Transport Police and National Crime Agency, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.

**The Deputy Presiding Officer:** The next question is, that motions S6M-01926 to S6M-01933, in the name of George Adam, be agreed to.

*Motions agreed to,*

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment Regulations 2021 (SSI 2021/328) be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 2) Regulations 2021 (SSI 2021/343) be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 3) Regulations 2021 (SSI 2021/350) be approved.

That the Parliament agrees that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 4) Regulations 2021 (SSI 2021/357) be approved.

That the Parliament agrees that the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (Form and Content of Waiver etc.) Regulations 2021 [draft] be approved.

That the Parliament agrees that the Redress for Survivors (Historical Child Abuse in Care) (Exceptions to Eligibility) (Scotland) Regulations 2021 [draft] be approved.

That the Parliament agrees that the Disability Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [draft] be approved.

That the Parliament agrees that the Winter Heating Assistance for Children and Young People (Scotland) Amendment Regulations 2021 [draft] be approved.

## Prostitution Law Reform

**The Deputy Presiding Officer (Liam McArthur):** Before we begin the final item of business, I remind members of the Covid-related measures that are in place and that face coverings should be worn when moving around the chamber and the Holyrood campus.

The final item of business is a members' business debate on motion S6M-01612, in the name of Elena Whitham, on A Model for Scotland, the campaign for prostitution law reform in Scotland. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament welcomes the launch by an alliance of frontline agencies of the campaign, A Model for Scotland, which looks for prostitution law reform in Scotland; believes that, although it has been officially recognised as a form of violence against women, it is currently legal to perpetrate and profit from prostitution; understands that 4% of men in Scotland reported having paid for sex in the past five years; notes that the women who are sexually exploited can face criminal sanctions for soliciting under Section 46 of the Civic Government (Scotland) Act 1982, making it harder for them to leave the sex trade and access support; commends the joint work of the Scottish Government and COSLA in developing Equally Safe: Scotland's strategy to eradicate violence against women; notes the commitment to develop a model for Scotland, including in Carrick, Cumnock and Doon Valley, which challenges men's demand for prostitution and supports women to exit sexual exploitation, but further notes the view that there is a large body of work still to be carried out to ensure that the burden of criminality shifts from the victims of sexual exploitation to those who perpetrate and profit from this abuse.

17:05

**Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP):** I am delighted to bring to the chamber this crucial debate on the urgent need to reform our laws on prostitution, and I thank colleagues from all sides of the chamber for their support. I pay tribute to the Minister for Community Safety, Ash Regan, for her strong leadership and unswerving commitment on the issue.

Prostitution is violence against women. As a former Women's Aid worker and homelessness worker, I have supported women—often very young—who were trafficked from Ayrshire to Glasgow and subjected to the most traumatic sexual exploitation. I heard accounts by women who had been abused by their partners and made to perform sexual acts on their partner's friends, often for his amusement and financial gain. The Scottish Government rightly recognises that in "Equally Safe: Scotland's strategy for preventing and eradicating violence against women and girls".

The Government is to be congratulated for its pledge—made in this Parliament, through the

programme for government—to challenge men’s demand for prostitution in Scotland. Reducing men’s demand while supporting women to exit and recover after sexual exploitation must be the overriding objective of public policy on prostitution. It is clear, however, that that policy objective cannot be achieved without legislative reform, because Scotland’s prostitution laws are outdated and unjust. Men who exploit women by paying for sex enjoy impunity—online pimping is legal, while women who are exploited through prostitution can themselves face criminal sanctions for soliciting. We recognise that prostitution is violence against women, but our laws do not, and the consequences are all too real.

First, demand for prostitution is being enabled rather than deterred. Only 4 per cent of men in Scotland have paid for sex in the past five years, according to the latest figures, and it is demand from that minority of men that is driving the brutal prostitution trade in Scotland and the trafficking of women into it. Men who pay for sex are making a choice; they are not helplessly responding to uncontrollable sexual urges. Their choice to seek out and pay a person to perform sex acts on them is influenced by a range of factors, including the very small risk of criminal sanction. In 2018, a study by the University of Leicester asked more than 1,200 sex buyers, “Would you change your behaviour if a law was introduced that made it a crime to pay for sex?” More than half the respondents said that they would “definitely”, “probably” or “possibly” change their behaviour, yet right now, unless a man solicits a woman in a public place, there is no risk of criminal sanction for paying for sex in Scotland. A sex buyer knows that if he perpetrates that form of violence against women, the criminal justice system will be a passive bystander.

Another intolerable consequence of our outdated prostitution laws is that commercial pimping websites operate openly and legally, and they are fuelling sex trafficking across the country. Those highly lucrative websites make their money by hosting advertisements for prostitution—they are, in effect, the red-light district of the internet. Men who want to sexually exploit women can anonymously and freely peruse ads on those sites; select women from an online catalogue according to their own location and preferences; and order them as easily as they might order a takeaway.

A groundbreaking inquiry by the Parliament’s cross-party group on commercial sexual exploitation found that those websites incentivise sexual trafficking and sexual exploitation in Scotland. They make their grotesque business of trafficking women into prostitution and advertising them to sex buyers substantially easier and

quicker by centralising demand on a very small number of online platforms.

In addition, despite prostitution being recognised in our national strategy as a form of gender-based violence, our prostitution laws can make it harder for women to leave the sex trade and recover. Sanctioning and punishing women for their own exploitation is wholly counter to the policy objective of supporting women to exit prostitution. Those women can face enormous barriers to exiting the sex trade and rebuilding their life—those can be practical, physical or psychological, including the effects of trauma, and injuries sustained can be horrific and mental scars long-lasting. Financial difficulties, coercion by pimps and abusive partners and having a criminal record for soliciting can also put blockers on the road to recovery. As a society, we should offer victims support and not sanctions.

Diane Martin, a Scottish survivor of prostitution and trafficking who was awarded a CBE for her tireless work in supporting women to exit and recover from sexual exploitation, has said:

“I want to be part of a Scotland that completely rejects the idea that women and girls can be for sale, treated as commodities by men who believe this is their right and entitlement.”

I agree, and I am delighted to support the campaign that Diane is now chairing to end that entitlement: A Model for Scotland. It is an alliance of survivors, organisations and front-line services that is calling for a new progressive legal model to combat commercial sexual exploitation in Scotland. That model must do the following: decriminalise victims of sexual exploitation; provide comprehensive support and exiting services for victims; wipe previous convictions for soliciting from victims’ criminal records; criminalise paying for sex; and prohibit online pimping.

By shifting the burden of criminality off victims and on to those who perpetrate and profit from the abuse, those reforms will bring Scotland in line with the approach that is taken in Sweden, Iceland, Norway, Ireland, Northern Ireland, Israel, France and elsewhere. Spain also looks set to join that growing list, with the Spanish Prime Minister declaring earlier this month:

“We will advance by abolishing prostitution, which enslaves women.”

Two decades after Sweden shifted the burden of criminality in 1999, research there reveals that, since that approach was introduced, public attitudes on paying for sex have transformed, traffickers are being deterred and demand for prostitution has dropped. The most recent research on prevalence found that, from the base sex-buyer figure of 12.7 per cent in 1999, only 7.5 per cent of men now pay for sex, and of those,

only 0.8 per cent had paid for sex in previous 12 months—the smallest proportion recorded in two decades, and the lowest in Europe.

Evidence from the United States also highlights the effectiveness of action against pimping websites. In 2018, those websites were criminalised in the US, and an analysis of the impact of that legislation one year later revealed that the prostitution advertising market had been significantly disrupted and demand had dropped. Commenting on the legislation, Valiant Richey, a special representative and co-ordinator for combating trafficking at the Organization for Security and Co-operation in Europe, told members of the Parliament:

“That bill passed and the market declined by eighty per cent in seventy-two hours ... I'm not aware of any anti-trafficking legislation anywhere in the history of the world that had such an impact on the market in such a short time.”

The Scottish Government has pledged to challenge men's demand for prostitution and support women to exit, and it is now time to deliver on that pledge. We need a model for Scotland that shifts the criminality off victims and on to those who perpetrate and profit from sexual exploitation. It will be a model of which Scotland can be proud, and its adoption will mark a historic step forward in the battle for equality between women and men.

17:13

**Jackie Dunbar (Aberdeen Donside) (SNP):** I am grateful for the opportunity to speak in the debate, and I congratulate and thank Elena Whitham for bringing it to the chamber.

This is a complex issue that does not have one simple answer—indeed, there are many different views and opinions on how to address the matter of prostitution in our society. We need to be clear that criminalising the people who sell sex has not worked and will not work in the future. We need to undertake a review of the laws surrounding the issue, not only to protect vulnerable women but to prevent further violence against them. Those who sell sex should be able to seek help and support to exit prostitution without fear, and without the risk of facing criminal proceedings against them. No one should face the consequences of the law for trying to get out of the sex industry, and we must ensure that the legislation that the Parliament brings forward provides safe passage for anyone who wants to exit.

Prostitution, whether by force or by circumstance, can be overcome only by having a more equal society. Access to adequate income and living standards, and an ability to provide for oneself and one's family, is fundamental to ensuring that there are other options aside from prostitution. No one should ever need to sell their

body in order to feed their children or heat their home. We must also challenge the attitude of men with regard to the purchase of sex. Internationally, there are countries that have different systems, and which are seeking to educate men while not criminalising the sex workers. We should seek to work with those countries to find a system that works for the people of Scotland.

We should be working with those who have direct, lived experience of prostitution to ensure that Scotland has a system that works for them and with them, to protect them from harm. The public consultation, which reported back in July, was an important first step on the journey to improve the legislation on sex work.

Women are being exposed to extreme risk every day in the sex industry, while male buyers remain unchallenged and their actions go without consequence. We need a Scottish system that seeks to recognise the outstanding gender inequalities in our society, to provide everyone with an adequate income to live on and to support those who wish to exit the sex industry.

I urge Parliament to think outside the box. Let us find the solutions that benefit and protect, so that in the future no one is forced, for any reason, to be part of the sex industry.

17:15

**Jamie Greene (West Scotland) (Con):** It is a great privilege to participate in the debate. Let us start with the basics: this is a men's problem, not a women's problem. I am happy to say that.

Violence against women and girls specifically has no place in modern Scottish culture. We talk a lot about it in Parliament in the work that we do in the chamber and in committees, but here is an opportunity for us to move that conversation on from words into action. In the previous parliamentary session, we worked across parties on the historic Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021, seeking to right some of the wrongs of the past, so we have a good track record of working together on issues such as this. We can take a similar collaborative approach on the topic of today's debate.

I thank the people who have provided us with briefings from the various campaigns for the debate, including A Model for Scotland, Speak Out Survivors, Rape Crisis Scotland and UK Feminista, all of which have been in touch with me in the past few days. I am pleased to have had calls with some of them individually, not least because of my role as a member of the Criminal Justice Committee and as my party's justice spokesperson.

Those campaigners are seeking a move away from the status quo. They are loud and clear with us as lawmakers that they want to see the law in Scotland changed from prosecuting the sale of sex and replaced with criminalising the purchase of sex. That is commonly known as the Nordic model, but the model that we have in Scotland is also very different to that of others of our friends and neighbours, such as the Republic of Ireland, Iceland and even Canada. They take a very different approach.

Whatever we do and whatever changes we make to the law, our actions must be informed by those with lived experience. Their stories have been eye opening and upsetting. They are largely women who have been trafficked, beaten up, raped, abused and coerced. Basically, they have been exploited. I found one account in the briefings particularly distressing. I will quote from it, because it puts issue into context:

"I became involved in prostitution in my early twenties, courtesy of my then 'boyfriend'; I now use the word pimp ... I often threw up at the anticipation and couldn't have done it sober ... I developed Post Traumatic Stress Disorder (PTSD). I got flashbacks and nightmares ... I sold myself to fund my habit ... It was a vicious cycle."

As Elena Whitham mentioned in her opening comments, some 3.6 per cent of men in the United Kingdom are reported to have paid for sex in the past five years, which is down from 12.7 per cent in 1996. That is a huge improvement and a large step forward, but it is still 3.6 per cent of men, and that is still a lot of people. It still allows for serious organised crime to exploit people on an industrial scale.

When I lived in London, I first encountered survivors of male prostitution in the LGBT community. There were many charities around to support them. The underlying trigger for them had often been drug addiction, homelessness, and, essentially, the desperation for cash. I commend the work of the LGBT Foundation, as well as the Men's Room in Manchester, which has been doing great work. We know that, irrespective of whether the person is a man or a woman, the trafficking, the mental and physical abuse, the trauma—psychological and physical—that are involved in prostitution are things that we need to something about.

Of course, as times change, so does the law. The old-fashioned ideas of what constitutes prostitution—of postcards in phone boxes and women walking the streets—are outdated, because they have been replaced by new digital and modern ways of allowing the activity to flourish. Much of the activity has moved online, and we know of examples where there has been a crackdown on that. For example, in the US there is the Stop Enabling Sex Traffickers Act of 2018, which has—to an extent—worked. However, we

all know that, realistically, for every one website, app or community group that we shut down, another one will pop up just as quickly, because the scale of the revenues involved in organised crime is insane.

Opinion on this issue is divided—I want to put that on the record in today's debate. We received representations from Dr Anastacia Ryan of the sex workers advocacy project, Umbrella Lane, who is against the Nordic model. She says that when we criminalise the purchase of sex, all we do is drive the industry further underground. I know that that is not a universal view and that it is perhaps a controversial view for some, but it makes it clear that, whatever we do next, anyone who has a voice and a view must be afforded the opportunity to share it, and we must listen.

I welcome comments that the minister has previously made on the issue. We are making progress, and I know that there is a desire to work on a cross-party basis to make it happen. Conservative members will work constructively on any proposals that are brought forward. I know that there is an appetite in Parliament to address the issue and get it right. Scotland has the opportunity to be world leading in that respect.

17:21

**John Mason (Glasgow Shettleston) (SNP):** I thank Elena Whitham for bringing the debate to the chamber. There seem to be a few members' business debates this week that male MSPs might feel wary about taking part in. However, I will certainly give it a go, and I very much agree with Jamie Greene that this is a men's issue.

In summary, I agree very much with the motion concerning commercial sexual exploitation. Next to no action has been taken against men over the years, despite the fact that it is almost always men who are purchasing and abusing and that, if anyone has been subject to criminal charges, it has been the victims, who are normally women but who of course can occasionally also be men.

The argument always comes up that some women are choosing sex work as a valid career choice. I recognise that, as we have sought to encourage increased equality for women over the years, it might be a natural reaction for some to see this issue as one of increased choices for women. Therefore, they would say, there should be no criminalisation for anyone.

I do not deny that some women may be making free choices to sell sex. However, it seems clear that the norm is that women are the victims and are subject to physical, sexual, and mental abuse. If anyone has seen the film "I, Daniel Blake", they will know that it deals very powerfully with the failings of the Department for Work and Pensions

and the need for food banks. However, it also shows a woman who has been failed by the system: a woman who is not eating—I find this quite difficult to say—so that her kids can have food and who ends up, through extreme financial pressures, being driven into prostitution. That was not her choice or something that she wanted to do. She was forced into that by a lack of support, which I suggest is a much more typical situation. It might be a partner coercing someone, it might be a drug habit, or it might be the result of trafficking from another country. Whichever way you look at it, that woman in dire need is the victim and should be protected by our systems and our law.

I think that I first became aware of all this when I was a Glasgow councillor between 1998 and 2008. The issue of routes out of prostitution was pretty high on the agenda, and I attended a number of meetings where we heard about the Nordic model and how other countries were criminalising the purchase of sex. Women were clearly the victims in the vast majority of cases, with only a tiny minority freely choosing to sell sex. I pay tribute to Labour councillor Jim Coleman and to others in Glasgow City Council and Strathclyde Police, as it was at that time, all of whom were convinced that that was the right line to take. Since coming to the Scottish Parliament and again hearing from survivors of prostitution, it has become much clearer to me that women, and some men, are the victims in this, while the abusers are almost always men.

There were some good briefings for today's debate, for which I thank the Encompass Network, CARE and others. Encompass, in particular, made the point that, although not every woman in the sex trade has been trafficked, almost all trafficked women in Europe are in the sex trade.

Scotland has done well and this Parliament has been strong in challenging human trafficking and modern slavery. Surely now is the time to continue that good work by passing legislation to criminalise the purchase of sex. I thank Elena Whitham, Rhoda Grant and the minister for putting their heads above the parapet on what has not always been a popular issue. I hope that the tide is now turning, as it has done elsewhere, and that we will see progress soon.

17:25

**Rhoda Grant (Highlands and Islands) (Lab):** I, too, thank Elena Whitham for securing this important debate. We must criminalise online pimping and paying for sex, while decriminalising victims and providing them with holistic support.

I want to confront some of the myths that are being peddled to urge policy makers to do nothing. Take the claim that criminalising paying for sex

would simply make the problem worse because it would drive prostitution underground. Prostitution relies on men being able to locate women to exploit. Therefore, if those men can locate the women, so can support services and the police. The “underground” myth is illogical.

Then there is the claim that criminalising paying for sex would make it more dangerous because women would have less time to assess a potential sex buyer. That claim makes no sense in the case of street prostitution, where sex buyers are already criminalised. The claim also suggests that it is possible for a woman to assess how dangerous a man is simply by looking at him; she cannot. That was all too tragically illustrated by the case of Steve Wright, who murdered five women in Ipswich. Wright was a regular sex buyer and was known to women, locally. One woman described him as “an average, normal punter”. Alan Caton OBE, the chief superintendent who reformed policing of prostitution in Ipswich following the murders, recently wrote:

“too many still accept that as a society we should be a bystander to this form of violence against women—because of threats of what men may do if we try to stop them. It's straight out of the perpetrator's playbook.”

What unites the myths that are circulated to oppose criminalising online pimping and paying for sex is the same underlying message: “Do not intervene and do not try to prevent it. Just accept it and be a bystander.” It is time for Parliament to stop being a bystander.

Vested interests will oppose any attempt to shift the burden of criminality off victims and on to perpetrators, because that would undermine their ability to profit from sexual exploitation. There will also be groups that lobby for those interests, such as the Global Network of Sex Work Projects, which is based in Edinburgh. For years, that group has led an international campaign to remove all criminal laws relating to prostitution and to oppose attempts to criminalise paying for sex. In 2015, the group's vice-president was exposed as a sex trafficker and jailed for 15 years. The organisation continues to lobby the Scottish Government not to criminalise paying for sex.

Then there is Umbrella Lane, which is also based in Scotland and which is regularly quoted in the media opposing calls to shift the burden of criminality off victims and on to those who perpetrate and profit from sexual exploitation. What is not usually mentioned, however, is that Umbrella Lane has previously accepted funding from Vivastreet, which is one of the UK's biggest pimping websites. That site has repeatedly advertised victims of trafficking and it stands to lose substantial profits if Scotland outlaws its operations. Escort Scotland, which is another pimping website, also told the cross-party group

on commercial sexual exploitation that it had provided funding to Umbrella Lane. I have no doubt that those organisations will try to frame their support as an act of corporate social responsibility, but let us be absolutely clear about what is happening: those commercial pimping operations are funding groups that lobby in their interests.

It is time for the Parliament to come together and stand against the vested interests of the sex industry and to stop being bystanders. It is time for a legal model to end commercial sexual exploitation in Scotland.

17:29

**Evelyn Tweed (Stirling) (SNP):** I thank Elena Whitham for bringing this important debate. I welcome our Parliament looking at the reform of prostitution in Scotland. It is unacceptable that in 2021 there is still so much to do to tackle violence against women and girls. Let us be clear: prostitution is an extreme form of violence, which is carried out primarily against women.

Prostitution is something that society, and not just Government, needs to address. Attitudes need to change. The old trope that prostitution is the oldest profession reflects the subordinate position that women have always held in society and their exploitation by men. Women and girls are forced into prostitution through inequality and not choice. As the Scottish Government's consultation notes,

“many women engage in prostitution because of poverty”  
and difficulty entering employment.

Addressing poverty and improving the social welfare system are undoubtedly a core part of any attempt to lessen men's ability to coercively control women who are engaged in prostitution. Disadvantages that are experienced by women and girls are societal issues that cannot be addressed by this area of policy alone. Our nation prides itself on being fair and progressive, so while we have these very important conversations about how to reform our prostitution laws, we must not lose sight of the bigger picture, which is that this is also about the overall effort to improve the lives of women.

Whenever prostitution is discussed, the role that is played by the clients is disregarded, protected and minimised. The current prostitution law fails to deter the perpetrators of this form of gender-based violence, nor does it hold them to account.

In some Forth Valley communities, on-street prostitution is practically non-existent, but off-street prostitution is reported. Properties—often short-term lets—are reported by concerned residents for suspicious activity. Forth Valley

police carry out what they call SHAW—support, health and wellbeing—visits, during which they offer support and assistance to any women who they think could be being coerced or pressurised into prostitution or could be a victim of sex trafficking. The phrase “hiding in plain sight” is often used. The highly lucrative pimping websites that operate openly in Scotland have been found not only to facilitate but to incentivise sex trafficking.

We in Parliament must show leadership and commitment to the women of this country that we will address every contributing factor that is making this world unfair, unsafe and unjust for women. We can learn from the Nordic model, which in essence makes the act of buying sex illegal and shifts sanctions on to the buyers, who are primarily men. We can also learn from New Zealand's decriminalisation approach. Our focus must be on finding a model that seeks to protect women's safety, offers them an exit and promotes their rights, while also tackling inequality as the root cause.

At the heart of this effort, we must listen to the women who have lived experience, and I very much agree with Jamie Greene's comments in that regard. We must also work on challenging men's and boys' attitudes and behaviours towards women. The culture of violence against women starts with the sexual comments that go unchallenged, the gropings that are laughed off and the constant harassment that means that women cannot enjoy a simple night out in peace. We have a duty to imagine and build a world without prostitution, to transform society and to see real equality between men and women.

17:34

**Mercedes Villalba (North East Scotland) (Lab):** I also thank Elena Whitham for bringing forward the motion for debate. The motion rightly highlights the essential injustice that sex workers face under the current legal framework. They face criminal sanctions for soliciting, under section 46 of the Civic Government (Scotland) Act 1982. The threat of criminal sanctions deters many sex workers from seeking support, including support to leave sex work altogether. That is an untenable position, which is why we must remove the burden of criminality from sex workers.

To explain why that is the case, I will highlight some of the consequences of criminalisation. It prevents sex workers from accessing essential healthcare services, impacting on their health. Concerns about the link between criminalisation and poor health among sex workers are shared by international bodies including the World Health Organization and UNAIDS—the Joint United Nations Programme on HIV/AIDS. The World

Health Organization found that female sex workers were up to 30 times more likely to be living with HIV than other women of reproductive age.

Human Rights Watch has found that criminalisation makes sex workers more prone to violence, including assault and rape. That is because criminalisation stigmatises sex workers, reducing their likelihood of seeking police help and increasing their use of unsafe locations for work. Human Rights Watch surveyed South African sex workers who said that they were less likely to report crimes to the police because of the illegality of sex work. That, in turn, left them at risk of suffering violence that they then did not report to the police.

We can break that vicious cycle by taking a decriminalisation approach. That does not mean abolishing laws that protect sex workers from exploitation, human trafficking and violence; it means removing the laws and policies that criminalise the selling and buying of sexual services. Decriminalisation is supported by a broad range of organisations including Amnesty International, Human Rights Watch and the Global Alliance Against Traffic in Women and is increasingly backed by evidence from international bodies including the World Health Organization and UN agencies. The World Health Organization estimates that decriminalisation could lead to an almost 50 per cent reduction in new HIV infections in sex workers over 10 years.

Decriminalisation alone is not enough. We must also tackle the underlying material issues that often drive people into sex work in the first place. For some, it is a lack of employment or educational opportunities; for others, it is rising living costs including those of rent, food and heating. Some sex workers have chronic conditions or disabilities and turn to sex work because of inadequate social security provision. Until there is a concerted effort to improve material conditions, we will see people turning to sex work.

Continuing the criminalisation of sex workers will not help individuals to leave sex work. The evidence shows that it will not reduce violence against sex workers. Criminalisation serves as a barrier to sex workers accessing essential services such as healthcare. We need a new approach, which is why I believe that we should pursue decriminalisation.

I will conclude by sharing a worker's testimony that I received. Kim, who is an Edinburgh-based migrant worker, said this in response to the proposal to criminalise buyers:

"We are just out of a whole year of Covid, which showed that taking our clients away does not magically deliver us into a new life free from exploitation, but rather makes us poor and hungry and heavily dependent on the few clients that are left."

17:38

**Gillian Martin (Aberdeenshire East) (SNP):** I too thank Elena Whitham for securing the debate and for her many years of campaigning on this issue. The emotion with which she delivered her speech was palpable. I pay tribute to the important work that was done during the previous session of Parliament by the cross-party group on commercial sexual exploitation, led by Rhoda Grant MSP and my good friend Ruth Maguire MSP.

Ms Maguire would be speaking in the debate if she were here. I have no doubt that, when she comes back, she will get wired straight into resuming her work on the issue. That work challenges often very powerful people and has the safety of some of the most marginalised women at its heart.

The work of the CPG has led in no small part to proposed law reforms in the area. Its report on sexual exploitation advertising websites, published earlier this year, is an important piece of work that shines a light on how websites have increased sex trafficking and how they allow those who profit from sex trafficking to evade prosecution. Those who profit are most often organised crime groups and, as Rhoda Grant detailed in her speech, their insinuation into superficially benign lobby groups is pernicious. Advertisements on pimping sites might look like they are from the women, but they are more likely to have been posted by their pimps.

As members would expect, the report is a challenging read, as it pulls back the curtain on some of the worst crimes against women that are happening right under our noses in Scotland. I am in firm agreement with Rhoda Grant when she says in the introduction to the report that

"we need to tackle the exploiters and protect and empower those they exploit."

The women who are exploited—those who are pimped out—should not be sanctioned by the law for soliciting. That means repealing section 46 of the Civic Government (Scotland) Act 1982. Criminalising them for soliciting is not helping the women, whom many of us consider to be victims. We should go after the people who exploit those women. I agree with the recommendation in the CPG's report that we should introduce laws that sanction those who enable and profit from the prostitution of other people, as the countries that Elena Whitham mentioned have done.

In 2018, the Home Office estimated that a trafficked individual is held by the people who run their life for nine months. It also estimated that such an individual would experience an average of 795 counts of rape and assault during that time. That type of modern slavery is most prevalent in countries that have loosened laws on buying and

profiting from prostitution—the so-called legalising of prostitution.

Germany springs to mind. Expert studies have shown that, by normalising prostitution, the German state has contributed to an enormous increase in demand and an influx in trafficked women—from eastern Europe in particular—who earn barely enough money to cover their enforced rental of brothel rooms. Their existence has been likened to that of battery hens, never seeing daylight.

I urge members to read the speech of Dr Ingeborg Kraus to the Italian Parliament on the impact of the changes in German law that were made in 2002. Mercedes Villalba talked about the decriminalisation of the buyer but I say to her with the greatest of respect that that would contribute to something akin to what has happened in Germany and I am totally against that.

As I said in the members' business debate on the subject in the previous session of the Parliament, the myth of prostitution as a career choice helps only those who exploit women. Those organisations also perpetrate the myth that prostitution makes sex work safer, as women do not have to walk the streets. It is a myth, too, that punters are vetted. In fact, all agency is taken away from women. Access to the women's bodies is controlled by their pimps, who market them in any way that they see fit, with the exploited women having no say in what they are forced to do or the men with whom they do it.

Our focus must be on protecting exploited women. That means criminalising traffickers and the people who exploit women. I applaud calls to extend that to the buyers, who are just as guilty of exploitation as the people who traffic and pimp.

17:43

**The Minister for Community Safety (Ash Regan):** I thank Elena Whitham for lodging the motion. It is fitting that we discuss this important issue ahead of the annual United Nations 16 days of activism against gender-based violence, which take place later this month. Elena Whitham gave an excellent speech. One sentence from it stood out particularly—when she mentioned sanctioning and criminalising women for their own exploitation. That is an important point.

I was pleased to attend the alliance's launch in September and am grateful to it for providing a platform to discuss what model is right for Scotland to challenge men's demand for prostitution, keep safe those who sell and ensure that support remains an integral part of the design.

I thank all members who have contributed to the debate. Rhoda Grant made some powerful points and Gillian Martin gave an excellent speech.

I am committed to working with members across the chamber and with stakeholders on tackling prostitution in the context of how women and girls should be viewed in an equal society. Our current programme for government commits to that action. We have now begun work to develop our own model for Scotland to effectively tackle and challenge men's demand for prostitution.

The Scottish model will be underpinned by principles that are in line with our aspirations to embed equality and human rights in Scotland, and support our efforts to tackle men's violence against women. It will meet our international obligations, including our commitments to incorporate into Scots law the UN Convention on the Elimination of all forms of Discrimination against Women.

Our key aim is to reduce the stigma and criminalisation that are experienced by women and encourage better access to integrated and specialised services. In the consultation that the Government ran recently, a number of respondents noted the need for support for the women involved to be holistic, person centred and capable of addressing the multiple underlying needs that many women have. As such, we have committed to engaging with those who have direct or lived experience in order to shape services and design measures that will protect them from harm and provide them with the support that they need, including help to exit prostitution, if they so wish. Jamie Greene and Jackie Dunbar raised that point.

By the end of this month, we will be seeking to procure experts to better understand current support service provision and the needs of service users who are engaged in, or have lived experience of, prostitution in Scotland, to better inform future service design.

We will also convene a short-life working group with key stakeholders on the development of the fundamental principles of our model for Scotland. Arrangements to begin that engagement are already in hand, and we hope to hold the first meeting of the group in the next few weeks.

I understand the desire for more information on the shape of the criminal aspects of our model, but I think that everyone will understand that we must take time to get it right. The model must operate effectively not only to hold those who buy sex to account, but to deter them from purchasing sex, because such behaviour has no place in a modern Scotland.

**Jamie Greene:** I appreciate what the minister says, but she will also accept that a range of views

have been expressed in the chamber, and probably outwith it, today. We know that legislation takes time, but let us not beat about the bush. On the way home from the Parliament this evening, I will walk past three so-called saunas in Edinburgh city centre. We all know what is going on behind closed doors. Is there anything that the Government can do now to address the issue?

**Ash Regan:** We are constantly working to address the issue. About six weeks ago, I had a meeting with Police Scotland, and I raised that exact issue. I hope that Police Scotland will come back to me with a bit more information on its approach.

To inform our approach, we are undertaking a programme of work to look at international successes that have challenged men's demand for prostitution. We want to build on the experience of what has gone before and understand how we can apply it in Scotland. It is vital to ensure that any changes that are introduced in law are balanced with the necessary package of measures that will ensure that women are supported and their needs met by the services that are available.

I will quote Diane Martin, who has been working in this area for 20 years. My quote is similar to that used by Elena Whitham earlier. Diane Martin said:

"I want to see the Sex Buyer Law introduced ... because it is the demand that fuels the exploitation that is the sex industry."

She also said:

"I want it to be near impossible for organised crime, pimps and punters to operate here",

and

"I want to be part of a society that rejects the idea that people are for sale".

I agree with Diane Martin.

Prostitution cannot be considered in isolation, and there are many aspects that we need to look at, including online advertising—a number of speakers have mentioned that, and I note the excellent work that the CPG did on it—substance misuse, human trafficking and increased economic hardship, which may make women more at risk of prostitution. We are alive to all those issues and will be working on them.

Sometimes when I talk to people about prostitution, I think that they wonder why there is an emphasis on challenging demand—they think that there are more important things that we could be doing. That is because, for a lot of people, prostitution is hidden and not out in the open, confronting people with its reality. Often, it is in the shadows. Even so, I believe that prostitution harms the individual and impacts on society's view of all women. After all, the misogynistic attitudes of sex buyers are well documented. How women are

viewed and treated, and men's violence against women, are connected. My vision is of a Scotland where all women and girls are treated with respect, not one where we turn a blind eye to abuse, violence and trafficking.

A few years ago, I met a young woman who had been prostituted but had exited prostitution by the time I met her. She told me about finishing her studies and embarking on a professional career—she had entered prostitution when she was still a girl. She also told me that something really had to be done about the punters, because they are the ones who are driving it. She then looked at me and said, "Actually, I'm really surprised that you're here. I didn't think that the Government cared about people like me." Well, we do care.

*Meeting closed at 17:51.*



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