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Thursday 24 April 2025

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Thursday 24 April 2025

CONTENTS

	Col.
GENERAL QUESTION TIME	1
Control of Gulls	1
NHS Greater Glasgow and Clyde Shared Care Agreements (ADHD and Autism).....	2
Child and Adolescent Mental Health Services Waiting Times	4
Childhood Immunisations (NHS Lanarkshire)	5
Community Energy Projects	7
A96 Corridor Review	8
FIRST MINISTER'S QUESTION TIME	9
United Kingdom Supreme Court Judgment.....	9
Divisive Politics	12
Teacher Numbers	14
Rural Nursery and Primary School Closures.....	16
Public Sector Equality Duty	17
Loch Long Salmon Farm	19
Pension Age Disability Payment.....	20
Duchenne Muscular Dystrophy (Givinostat)	21
Additional Support Needs	22
Nuclear Power	22
Respiratory Health Policy	23
Retinoblastoma.....	24
Disability Benefits (United Kingdom Government)	24
Wood Group (Takeover Bid).....	25
BBC SCOTLAND (RIVER CITY AND DUMBARTON STUDIOS)	26
<i>Motion debated—[Neil Bibby].</i>	
Neil Bibby (West Scotland) (Lab)	26
Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP).....	29
Pam Gosal (West Scotland) (Con)	31
Jackie Baillie (Dumbarton) (Lab)	32
Patrick Harvie (Glasgow) (Green)	33
George Adam (Paisley) (SNP)	35
Pam Duncan-Glancy (Glasgow) (Lab).....	37
The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson).....	39
PORTFOLIO QUESTION TIME	43
EDUCATION AND SKILLS	43
Teachers (Support).....	43
Rural Early Learning and Childcare.....	44
Vaping in Schools	46
Early Learning and Childcare (Three-year-olds)	47
Higher Education (Edinburgh)	49
Care-experienced Children and Young People Fund.....	51
Teachers (Temporary Contracts)	52
FRAMEWORK LEGISLATION AND HENRY VIII POWERS	54
<i>Motion moved—[Stuart McMillan].</i>	
Stuart McMillan (Greenock and Inverclyde) (SNP)	54
Finlay Carson (Galloway and West Dumfries) (Con)	58
The Minister for Parliamentary Business (Jamie Hepburn).....	61
Roz McCall (Mid Scotland and Fife) (Con).....	67
Martin Whitfield (South Scotland) (Lab)	69
Lorna Slater (Lothian) (Green)	73
Rona Mackay (Strathkelvin and Bearsden) (SNP)	76
Edward Mountain (Highlands and Islands) (Con).....	78
Paul O'Kane (West Scotland) (Lab)	80
Michelle Thomson (Falkirk East) (SNP)	83
Stephen Kerr (Central Scotland) (Con)	85

Michael Marra (North East Scotland) (Lab)..... 88

Lorna Slater 90

Martin Whitfield 92

Jeremy Balfour (Lothian) (Con) 94

Jamie Hepburn 96

Bill Kidd (Glasgow Anniesland) (SNP)..... 99

DECISION TIME 102

Scottish Parliament

Thursday 24 April 2025

[The Presiding Officer opened the meeting at 11:40]

General Question Time

The Presiding Officer (Alison Johnstone): Good morning. The first item of business is general question time.

Control of Gulls

1. Fergus Ewing (Inverness and Nairn) (SNP): To ask the Scottish Government, in the light of reports that gulls can cause serious human injury, whether it will direct NatureScot to issue licences to control the birds and help prevent such injuries. (S6O-04560)

The Minister for Agriculture and Connectivity (Jim Fairlie): I recognise the significant impact that is felt because of urban gull populations in some of our towns and cities. I met NatureScot yesterday on the back of my meeting with Fergus Ewing and Douglas Ross, and it has agreed that it will consider, for potential health and safety reasons, area-wide gull licences to deal with the immediate concerns with regard to the upcoming nesting season, but it is mindful of our conservation obligations.

There is a vital role for local authorities to play in working with local communities, building owners and businesses to reduce the appeal of urban areas as nest sites or feeding zones. I am sure that we have all seen plenty of people standing at the side of a pier throwing chips, which only encourages more gulls to come in. As a result, I will chair a summit later this year that will bring together the key partners to put measures in place now to prevent those issues from arising again next year.

Fergus Ewing: NatureScot has been considering this for ever. It is all too often the case in Scotland that, when there is a serious injury or death that could and should have been avoided, we have a public inquiry that often costs millions of pounds, followed by a report to ministers that says that we must learn lessons. Would it not be better to have taken the necessary action to prevent the injury or death from ever occurring where the risk is clear, direct and foreseeable, as in this case? Given the risk of serious injury and death, will the minister take the necessary action through a section 11 order under the Natural Heritage (Scotland) Act 1991, before it is too late?

Jim Fairlie: I recognise the points that Mr Ewing has made. As I set out a moment ago, in order to reduce the risk of health and safety issues caused by gulls, NatureScot will consider an area-wide gull licence to deal with the immediate concerns related to the upcoming nesting season.

I understand the potential issues that Mr Ewing has highlighted, and I have made them very clear to NatureScot. However, gull numbers are in decline, and the longer-term solution cannot be further population reductions where mitigation action can be taken. That requires collective action, so we will work together through a summit that I will hold later this year with key partners, including local authorities, to ensure that appropriate measures are in place ahead of next year's breeding season.

Douglas Ross (Highlands and Islands) (Con): I agree with everything that Fergus Ewing has said about people being injured—indeed, this is happening daily, or weekly. Only this morning, I received a freedom of information response from NatureScot. To my question about how many injuries it had recorded as a result of gull attacks in each of the past five years, it said in response that it does not hold that information. How can it make decisions on licences when it does not know the impact?

I have previously put it to the minister that NatureScot has been refusing licences for various reasons, including a suggestion that businesses give customers umbrellas to protect themselves as they walk in and out, because they will not be attacked by gulls if they have them. Does the minister agree that that is utter madness and that NatureScot has to treat this as a serious issue?

Jim Fairlie: As I said, I spoke to Mr Ross and Mr Ewing last week, and I have raised those points with NatureScot. We have come to the conclusion that actions will be taken this year to ensure that we deal with the immediate problem, but there will be a summit to ensure that we take the appropriate action to preserve the status of the gulls and, at the same time, ensure that we can live beside them.

NHS Greater Glasgow and Clyde Shared Care Agreements (ADHD and Autism)

2. Stuart McMillan (Greenock and Inverclyde) (SNP): To ask the Scottish Government what dialogue it has had with NHS Greater Glasgow and Clyde regarding shared care agreements for adults with private attention deficit hyperactivity disorder and autism diagnoses. (S6O-04561)

The Cabinet Secretary for Health and Social Care (Neil Gray): My officials were in communication with NHS Greater Glasgow and Clyde in November regarding shared care

agreements for adults with such diagnoses. Colleagues from the board set out its policy and approach to private diagnosis.

Additionally, in March, the director of mental health wrote to the chief executives of all health boards with a baseline survey of locally available neurodevelopmental assessment and support services for adults. It included a question on the protocol followed when a board is approached by an adult with a private diagnosis who wishes the national health service to ratify it.

Stuart McMillan: Adults in my constituency have repeatedly raised, both with my office and directly with me, that they feel that they have no option other than to pursue private ADHD or autism diagnoses. In instances where they are given such a diagnosis and are prescribed medication, their next challenge is to get an NHS shared care agreement put in place. For many, that can result in huge bills that they risk not being able to afford if the NHS does not take on their treatment. Will the cabinet secretary advise what additional work is to take place to ensure that the criteria for NHS shared care agreements are made clear to patients and that the process for assessing whether a private diagnosis meets NHS standards is carried out at pace?

Neil Gray: I thank Stuart McMillan for raising the matter on behalf of his constituents, with whom I absolutely sympathise and empathise. Awareness of neurodevelopmental and neurodivergence issues in adults has increased, which has seen demand on services grow. That poses challenges to which we seek to respond. Some NHS boards might have shared care policies, but it remains within the clinical discretion of individual general practitioners to decide the best course of action for their patients.

A private specialist's recommendation for a particular medicine does not entitle the patient to receive NHS prescriptions for that medicine. In April 2022, the national autism implementation team published guidance on prescribing ADHD medication to adults following a private sector diagnosis in Scotland, and that guidance is available to both practitioners and patients. Furthermore, my officials are engaging with the Royal College of General Practitioners Scotland to understand what more can be done to ameliorate the situation involving private diagnosis of ADHD and voluntary agreements.

Willie Rennie (North East Fife) (LD): The system is wholly inadequate, and it is very short sighted. The current demand for private diagnosis is huge, because the NHS system is so inadequate. If patients have to go back to the start of the system, that will simply put further pressure on the NHS; we must either improve ADHD services or allow shared care arrangements. We

cannot cut off provision in the way that has been done so far, because many patients are losing out as a result.

Neil Gray: Like Willie Rennie, and as I said in answer to Stuart McMillan, I recognise that with increased awareness of such conditions has come massively increased demand for services. I want the NHS to be able to respond to that. We are working with bodies such as the Royal College of General Practitioners and supporting publication of the national autism implementation team's guidance, to ensure that we are doing exactly what Willie Rennie asks of us.

Child and Adolescent Mental Health Services Waiting Times

3. Rhoda Grant (Highlands and Islands) (Lab): To ask the Scottish Government what assessment has been done of any impact on CAMHS waiting times targets, in light of reports of autism assessment services being cancelled leaving more children in distress and unable to access support that requires a diagnosis. (S6O-04562)

The Cabinet Secretary for Health and Social Care (Neil Gray): CAMHS waiting times statistics capture children who meet the CAMHS criteria. Children who require autism or other neurodevelopmental support are not reported in those statistics unless they have a comorbid mental health condition. Our focus should be on improving support regardless of the existence of a formal diagnosis. The neurodevelopmental specification places an expectation on the national health service and local authority children's services to work together to provide support to meet a child's needs when they need it. That should not be dependent on the child having a formal diagnosis.

Rhoda Grant: In NHS Highland's area 1,537 children are waiting for neurodevelopmental assessments, and there are more who are unable to get on to the waiting list at all. What is the Scottish Government doing to ensure that young people receive such assessments in a timely fashion? How is it dealing with the knock-on impact of delays in child and adolescent mental health services? Given the reduction in additional support needs staff, what assistance is the Government putting in place in schools for children who are stuck on waiting lists for assessments?

Neil Gray: As I said, there are different elements at play here. One element is those children who meet CAMHS criteria, which may include children with neurodevelopmental conditions, and the direct intervention that is required to support children with neurodevelopmental conditions. As I said in my initial answer, it should not be dependent on a

diagnosis for that support to be put in place, regardless of the setting, whether it is education or another setting.

We are directly allocating £123.5 million to NHS boards and integration joint boards for a new enhanced mental health outcomes framework, which provides a single flexible funding stream to support continued improvements and better outcomes across a range of mental health and psychological services, including neurodevelopmental services. We have also granted £250,000 to fund a range of individual projects to improve neurodevelopmental support for children and young people, including the use of digital tools for assessment. We have provided councils with £65 million since 2020 to develop and further deliver community-based mental health support for children and young people.

Emma Harper (South Scotland) (SNP): I welcome the figures from last month that showed that the national standard on waiting times for children and young people accessing mental health services has been met. The cabinet secretary just gave a comprehensive answer about the work that is going on. How will the Government continue to ensure that progress continues for children and young people across Scotland, including in Dumfries and Galloway?

Neil Gray: I thank Emma Harper for recognising the significant milestone that 90.6 per cent of children and young people started treatment in CAMHS within 18 weeks of referral. I am incredibly grateful to the dedicated CAMHS staff, who play a critical role in achieving that. We have allocated £123.5 million to NHS boards and IJBs in 2024-25 to support the improvements and better outcomes across mental health services, including CAMHS and neurodevelopmental services. We will continue to work closely with boards to ensure that that progress continues, and that having reached that significant milestone, the achievement is sustained and we ensure that all children and young people can access the support that they need.

Childhood Immunisations (NHS Lanarkshire)

4. **Clare Haughey (Rutherglen) (SNP):** I remind members that I hold a national health service contract with NHS Greater Glasgow and Clyde.

To ask the Scottish Government how it is supporting the uptake of childhood immunisations in NHS Lanarkshire. (S6O-04563)

The Minister for Public Health and Women's Health (Jenni Minto): Childhood immunisation rates across NHS Lanarkshire continue to be among the highest in Scotland, reflecting the hard work and commitment of our colleagues in the

NHS. Vaccination remains one of the most important public health interventions, but compared with previous years, we have seen decreases in uptake in Scotland, as well as globally. We are working with Public Health Scotland and health boards to improve uptake, address health inequalities and support children who are eligible for vaccinations. I urge parents and carers of young children to bring them for vaccination when invited, to give them the best protection against serious disease.

Clare Haughey: I thank the minister for that answer. It is reassuring that childhood vaccination rates remain high in Scotland, particularly as we know that the perceived minor illness that those vaccinations protect against can cause disabilities or even fatalities. However, misinformation and conspiracy theories in relation to vaccinations, often fuelled by social media, have become all too commonplace. Can the minister advise what the Scottish Government is doing to tackle the issue and ensure that parents and carers have the correct factual information that they require to protect children's health?

Jenni Minto: I thank Ms Haughey for her supplementary question, which raises a very important issue. The Scottish Government is aware of that serious problem and is currently seeking to understand the nature of the way in which false and misleading information affects the health outcomes of Scotland's people—leaning heavily on international best practice and the latest academic research. NHS Inform and supporting immunisation materials are frequently reviewed and updated for accuracy, ensuring that the public can access the latest available information on vaccinations.

Carol Mochan (South Scotland) (Lab): Recent Public Health Scotland figures found that just two in five high-risk infants were vaccinated against flu in the past winter, which means that more than 1,000 were left unprotected. The decline in childhood immunisation levels continued in 2024, with uptake lowest in the most deprived and rural areas. What action is the Scottish Government taking to investigate why that is, and what is it doing to address the causes of low uptake?

Jenni Minto: I agree that work needs to be done to ensure that vaccinations are available across all areas, which they are, and to ensure that the uptake is high. We are currently working with digital colleagues who have developed a system that will provide greater granularity of data so that we can understand where the areas of real need are. We can then work with health boards to ensure that those areas are targeted.

The Presiding Officer: Question 5 has been withdrawn.

Community Energy Projects

6. Foysol Choudhury (Lothian) (Lab): To ask the Scottish Government how it is encouraging the growth of community energy projects. (S6O-04565)

The Acting Cabinet Secretary for Net Zero and Energy (Gillian Martin): At the end of December 2024, an estimated 1,109MW of community and locally-owned renewable energy was operational in Scotland. We are committed to growing the sector even further and have recently announced £3.5 million in funding for projects under our community and renewable energy scheme in 2025-26, building on the success of last year's £1.5 million pilot fund, which supported 23 projects. We have also announced £1 million for community capacity building and secured £4.85 million through the local power plan, which will primarily support community energy projects in Scotland. Further details of that funding will be announced shortly.

Foysol Choudhury: Community energy projects are key for our journey to net zero and putting money back into local economies. Last year, Edinburgh Community Solar Co-operative saved the City of Edinburgh Council £1 million in energy costs and its members money on their bills. In the light of that, will the cabinet secretary join me in welcoming the £5 million investment from Great British Energy into community energy in Scotland? Will she provide further details on how that investment will be delivered to projects such as Edinburgh Community Solar Co-operative?

Gillian Martin: Mr Choudhury has just exemplified how important projects such as that are, because they are making a meaningful difference to communities. There is an awful lot more that can be done on that. During one of my first meetings with the incoming UK Government, which was in the early days of setting up GB Energy—I do not even think that the chief executive officer was in place at that point—I made the point to the Minister for Energy, Michael Shanks, that, with money for community energy, it was best not to reinvent the wheel or clutter the landscape, as we already have a very well respected and well-known vehicle for delivering funding in CARES. I urged the minister to look at that and to allocate GB Energy money straight to that vehicle, rather than setting up anything new. I am pleased to say that he realised how respected the initiative is, and we were able to secure the money. We will work together to increase the capacity of CARES, as well as deliver more projects of the sort that Mr Choudhury has just mentioned.

A96 Corridor Review

7. Douglas Lumsden (North East Scotland) (Con): To ask the Scottish Government whether it will provide an update on when it will publish the outcome of the latest A96 corridor review. (S6O-04566)

The Cabinet Secretary for Transport (Fiona Hyslop): During a round-table meeting for MSPs that I held in the Parliament on 4 February, which the member attended, I said that it is my intention to provide an update on the public's response to the consultation as soon as possible. I also said that it will depend on the time that is required to review the considerable number of responses that we received, and I will need to apprise Cabinet colleagues of it. The 12-week consultation period ended on 21 February. The consultation received more than 1,400 responses, which are currently being collated and analysed. Following that they will be published as soon as possible.

Douglas Lumsden: That is a disappointing answer. The latest consultation on the dualling of the A96 closed more than two months ago. During that time, we have witnessed around a dozen separate collisions on the A96, three of which were fatal and one that involved an ambulance. We need urgent action. Appallingly, almost £6.5 million of taxpayers' money has been spent on both of the Scottish Government's reviews since 2022. The failure to fully dual the A96 will be Fiona Hyslop's lasting legacy to the people of the north-east. Can the cabinet secretary set out a timetable for when the results of the consultation will be published and when the Scottish National Party Government will finally dual the A96 in full, as promised more than a decade ago?

Fiona Hyslop: The public response is important and will be published as soon as possible. I can inform the chamber that the Scottish Government took title to the land for the A96 from Inverness to Nairn, including the Nairn bypass, for the purpose of starting the dualling of the A96.

The Presiding Officer: That concludes general questions. Before we move to First Minister's question time, I invite members to join me in welcoming to the gallery the Hon Maree Edwards, Speaker of the Legislative Assembly of the Parliament of Victoria.

First Minister's Question Time

12:00

United Kingdom Supreme Court Judgment

1. Russell Findlay (West Scotland) (Con):

The Scottish National Party's policy of gender self-ID has now been ruled to be unlawful by our highest court. SNP politicians, including Nicola Sturgeon and John Swinney, were willing to trash women's rights while pushing their dangerous and divisive ideology. Common sense and a basic respect for biological truth have now prevailed thanks to the incredible Scottish women who would not wheesht.

The SNP's fringe obsession has cost obscene amounts of taxpayers' money and wasted huge amounts of Government time while public services were neglected. Politicians have a duty to hold up their hands and admit their mistakes, so will John Swinney finally apologise to the women of Scotland?

The First Minister (John Swinney): The Scottish Government accepts the judgment of the Supreme Court. The Supreme Court ruled that "woman" in the Equality Act 2010 is defined by biological sex, and the Government accepts that ruling. I also accept that the court emphasised that that decision does not reduce trans people's protections from discrimination, whether or not they have a gender recognition certificate. The Equality Act 2010 expressly prohibits discrimination against and harassment of trans people, and it is not necessary to have a GRC in order to be protected. I believe that the vast majority of people in Scotland want to live in a country that is respectful, compassionate and caring, and I am committed to protecting the rights of all. That will guide all my actions as First Minister.

Russell Findlay: For John Swinney, it seems that sorry really is the hardest word to say. We know why: it is because he is not sorry. The SNP still believes in gender self-ID. Two months ago, John Swinney said that he accepts that trans women are women. Yesterday, he dodged the same question and said:

"There will be plenty of opportunities for that."

Well, here is his opportunity. Are trans women women? The court ruling makes that clear. As a result, Scotland's public bodies must now abandon SNP gender policies and respect the rule of law.

For the country to move on and for trust to be rebuilt, it is important for the Government to accept accountability and to own its mistakes. Will John

Swinney at least now admit that he got this so very wrong?

The First Minister: As the Supreme Court judgment narrates, there is a complex reconciliation of two pieces of legislation that the Scottish Government is obliged to work within. Those are the Gender Recognition Act 2004 and the Equality Act 2010. I remind Russell Findlay that, on two occasions, the Scottish Government legislation that was passed in 2018, which was the subject of the legal challenge, was supported by decisions taken in courts in Scotland. That was not the case in the Supreme Court judgment, which I accept unreservedly.

As Mr Findlay knows, I am a believer in the rule of law. Therefore, the Government will take steps, as the Cabinet Secretary for Social Justice set out to the Parliament on Tuesday, to make sure that all the regulatory changes that require to be made in the light of the Supreme Court's decision are made. As we did in relation to the previous guidance, we will draw on the input of the Equality and Human Rights Commission, as the Government is obliged to do, given that the EHRC is the regulator of the Equality Act 2010.

Russell Findlay: We spent years telling the SNP to drop this nonsense and get back to the day job. It refused to listen. It was absolutely obsessed. Now, John Swinney does not want to talk about it, because mainstream Scotland has turned against him.

The harms that are caused by gender self-ID are real. Female prisoners were the first target of SNP gender ideology and, today, a prison officer told me that staff still face disciplinary action if they call male sex offenders identifying as female "he" or "him". Following the scandal of a rapist in a women's prison, there are still male prisoners in the female estate, despite last week's seismic court ruling. Will John Swinney now instruct the Scottish Prison Service to ensure that male prisoners do their time in men's prisons?

The First Minister: As the Government has already set out to the Parliament, we are considering the detail of the Supreme Court's judgment and taking the necessary advice from the Equality and Human Rights Commission about the application of that advice. That will have a bearing on the judgments that are made in relation to public services and, as is well established in our politics and discourse, I will expect all public bodies, including the Scottish Prison Service, to operate on that basis and within the law.

Russell Findlay: That was a typically weak and evasive response. The SNP's focus on radical gender ideology has not only impacted prisons but damaged trust in politics. It showed that Holyrood

had lost the plot and that Nicola Sturgeon was detached from reality.

John Swinney has a chance to be his own man and to go a different way from his closest ally, who is not even showing up at work any more. He could guarantee that all public bodies will have new and lawful policies to respect women's rights in place by the summer. He could be honest and admit that trans women are not women. He could hold his hands up and apologise fully and sincerely.

John Swinney could ditch Nicola Sturgeon's toxic legacy once and for all. Will he now take the chance to finally bring to an end the era of divisive gender politics?

The First Minister: In one of his earlier questions, Mr Findlay said that the Conservatives had been warning about all of this for years. I will read to the Parliament a comment that was made by Alison Harris, who was a Conservative member of the Scottish Parliament during the previous parliamentary session. On Tuesday 30 January 2018—[*Interruption.*]

The Presiding Officer (Alison Johnstone): Members!

The First Minister: The *Official Report* of the Parliament shows that Alison Harris said:

"As a member of the Equalities and Human Rights Committee, Annie Wells was pleased to see positive changes being made"

to the Gender Representation on Public Boards (Scotland) Bill

"at stage 2 ... In particular, she was pleased to see the committee agree to Mary Fee's amendment 10, which sought to broaden the definition of 'woman' so that the legislation would be as inclusive as possible, recognising that not all trans women possess a gender recognition certificate."—[*Official Report*, 30 January 2018; c 26.]

I simply read that into the *Official Report* to show that the Conservatives—[*Interruption.*]

The Presiding Officer: I am keen to ensure that as many members can take part in this session as possible. If we could ensure that we could hear one another, that would be helpful.

The First Minister: I simply read that quote into the *Official Report* because the Conservatives have changed their position from what they said in 2018.

My Government will do what it always does. It will follow the rule of law, take careful account of decisions and of the context in which we take them and act wisely to protect the rights of all within Scotland, because the first duty of the Government is to protect the rights of everyone in Scottish society.

Divisive Politics

2. Anas Sarwar (Glasgow) (Lab): Yesterday, I joined political leaders, faith leaders and representatives of charities at the summit against polarisation and disenfranchisement. As I warned at that summit, this Parliament must not look like some kind of Scottish establishment talking to itself, distant from the realities that Scots face.

However, as I feared, what was missing was any reflection on Scottish National Party Government failure and how that drives people towards divisive politics. Why does John Swinney not recognise that, if we are to tackle division and polarisation, we need a Scottish Government that actually delivers for the people?

The First Minister (John Swinney): That is what the people of Scotland have, because, in a variety of different areas, this Government is delivering for the people of Scotland.

Families in Scotland benefit from having 1,140 hours of early learning and childcare for all three and four-year-olds and for eligible two-year-olds. We have rising investment in our housing sector and we are tackling the housing emergency, building on the fact that we have built more affordable housing per head of population than has been built in other parts of the United Kingdom. We have low unemployment in Scotland today, and progress has been made on reducing waiting lists and waiting times in the national health service. Crucially, on the issue that absolutely matters to me, in Scotland we are seeing a fall in the level of child poverty when it is rising in the rest of the United Kingdom. However, I fear that the progress that we are making in Scotland will be damaged by the welfare reforms of the United Kingdom's Labour Government.

Anas Sarwar: That complacency is part of the problem, and it proves that John Swinney does not get it. The measure of success for the Scottish Government is how it uses its power to improve the lives of Scots. For 18 years, John Swinney's SNP has been in charge of our NHS, but we have one in six Scots on waiting lists. For 18 years, John Swinney's SNP has been in charge of housing, but we have 10,000 children with nowhere to call home. For 18 years, John Swinney's SNP has been in charge of keeping Scots safe, but we have gang violence on our streets and blades being taken into primary schools. The gulf between the SNP Government's rhetoric and the reality that people across our country face could not be starker. Can John Swinney not see that his and his party's failures have made them the architects of divisive politics in Scotland?

The First Minister: I frequently set out to Parliament the record of this Government, on

which I am very proud to stand. We are giving young people and their families the best start in life by providing the most extensive early learning and childcare offer in the United Kingdom. On housing, we have delivered 47 per cent more affordable homes per head of population than have been delivered in England, and 73 per cent more than in Wales, where the Labour Party has been in power for even longer than we have been in power in Scotland.

On waiting times, we promised that an additional 64,000 NHS procedures would be delivered in a 12-month period, and 75,500 extra procedures were delivered in the period to January 2025. This Government is focused on eradicating child poverty, improving our public services, achieving net zero and boosting the economy. That is what this Government is about, and that is what we are delivering for the people of Scotland, day in and day out.

Anas Sarwar: John Swinney's head is in the sand, and it proves why he cannot be the person to lead the fight against disenfranchisement and polarisation of our politics. He simply does not get it.

There are record-long waiting lists and record levels of homelessness among our children on John Swinney's and the Scottish National Party's watch. After nearly two decades of the SNP being in power, if it had a plan to improve the lives of Scots, we would have seen it by now.

Research from Carnegie UK has revealed that 63 per cent of Scots feel that they cannot influence decisions in Scotland and that almost 40 per cent of Scots have low trust in MSPs. From ferries that do not sail to astronomical levels of public money wasted, is it any wonder that the SNP Government delivers nothing and tells Scots to be happy about it?

The fact is that the SNP Government has lost its way and is out of steam. It is responsible for divisive politics in our country, so it cannot be the one to sort it. Is it not the truth that we will tackle division and disengagement only if we have a Scottish Government that serves the people of Scotland and that the only way to deliver that is to remove the SNP from power?

The First Minister: Let us take a moment to see how the most recent change-of-Government process went in the United Kingdom. Last summer, the Labour Government was elected on a commitment to end austerity and to deliver change. What has the Labour Government done? The Labour Government has delivered a continuation—[*Interruption.*]

The Presiding Officer: Let us hear one another.

The First Minister: —of austerity. I cannot believe that the Labour Party is comfortable with the fact that its United Kingdom Government is going to deliver welfare reforms that will increase poverty levels in the United Kingdom. I invite Parliament to think about that point for just one moment. A Labour Government has come into office and poverty is going to rise. That demonstrates that there is no point in the Labour Party, because Labour delivers poverty and austerity to the people of Scotland when the SNP Government is reducing child poverty in this country. I will take that to the country and be proud of our record.

Teacher Numbers

3. Alex Cole-Hamilton (Edinburgh Western) (LD): After four years of asking, I have finally got the message—I am pretty sure that I know when the Cabinet is next going to meet. Thanks to Jamie Greene's principled defection to the Liberal Democrats, I need never trouble the First Minister with that question ever again.

There is a crisis in teacher training. Over the past three years, the Scottish Government has aimed to recruit and train 750 maths teachers. In reality, it has missed that target by a country mile and has trained only a third of the maths teachers that Scotland needs. What is going wrong?

The First Minister (John Swinney): First, I am glad that I have been relieved of the burden of trying, on a weekly basis, to remember when the Cabinet meets.

I also welcome Jamie Greene to his position on the Liberal Democrat benches. I am not at all surprised to see him there. He looked decidedly uncomfortable on the Conservative benches for an awfully long time—like many others, I dare say. [*Interruption.*] Listen—[*Laughter.*] I am very happy about it all.

The Presiding Officer: Thank you, members. Let us hear one another.

The First Minister: On the substantive point that Mr Cole-Hamilton puts to me, there are challenges in the recruitment of teachers to particular specialisms. The Government has acknowledged that in the steps that we have taken. For example, the teaching bursary scheme provides a £20,000 bursary to career changers, which is aimed particularly at individuals who aspire to be maths teachers. We recognised that, if people were leaving jobs in other sectors to go into teaching, we had to provide a mechanism to enable them to do so, and those mechanisms have been made available. The Government provides more than £186 million to support the recruitment and retention of teachers, to ensure that we reach 2023 levels in our local authority

employment of teachers. The Government is working in partnership with local authorities to ensure that we achieve that objective.

Alex Cole-Hamilton: It is clearly not working. Although that was a predictably managerial reply from the First Minister, we are talking about our kids and their futures. Where are the hunger and the passion to resolve that?

Also, it is not just maths—chemistry, physics and biology are each hundreds of trainee teachers short. The Government says that there

“is an economic urgency to address”

our digital skills shortage, yet it is training only 16 computing teachers this year—I repeat, 16—for the whole of Scotland. We need home-grown skills if we are going to lead in industries such as renewables, artificial intelligence, defence and precision medicine.

In this volatile world, amid the economic fire-storm of the Trump presidency, Scotland’s people are our biggest asset. How are we going to compete if our schools cannot teach those subjects properly because they just do not have the teachers?

The First Minister: I agree with Mr Cole-Hamilton about the economic challenges that we face as a consequence of the decisions of the Trump Administration and the volatility that has flowed from that. That is why I gathered together a range of stakeholders during the Easter recess to ensure that the Government is well sighted on the issues that individual sectors are facing as a consequence of the unwelcome changes in international trading arrangements, which generate a great deal of volatility.

In relation to the points on education, we will work with our local authority partners to increase teacher numbers. That was one of the central commitments made in the budget that we negotiated with our local authority colleagues. The Government has delivered its side of the bargain in relation to financial support to local authorities, and I look to local authorities to recruit.

There is co-operation through the strategic board for teacher education, which explores the issues around recruitment and addresses some of the challenges. The bursary scheme came as a consequence of practical endeavour by the Government to address those issues.

I assure Mr Cole-Hamilton that there is no lack of energy in Government to ensure that our schools are well supported with the recruitment of teachers to meet the needs of children and young people in Scotland.

Rural Nursery and Primary School Closures

4. Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): To ask the First Minister, in light of the reported issues arising from proposed rural nursery closures or mothballing, including the potential impact on the sustainability of rural communities and the operation of primary schools, whether the Scottish Government will review the relevant legislation and the guidance on criteria for protecting rural primary schools from closure. (S6F-04008)

The First Minister (John Swinney): The Scottish Government recognises the vital role that rural schools and early years provision play in sustaining local communities. Responsibility for decisions about local provisions rests with local authorities. Any closure, temporary or permanent, should be considered in consultation with local communities.

We are reviewing guidance on mothballing to provide greater clarity on whether it is an appropriate action to take. That will ensure that local decisions are based on effective engagement with the community, better reflect the needs of rural families and help to maintain access to early learning in such communities.

Christine Grahame: Across Scotland, rural nurseries—including seven in the Scottish Borders—are threatened with so-called mothballing. Many of them are physically attached to primary schools, such as those in Channelkirk and Walkerburn in my constituency. They are just through a doorway, so that the school and nursery are actually as one. Children have the same teacher and headteacher, and nursery children share mealtimes with the primary pupils, so transition and integration are simply not an issue—the children just move next door. It is my belief, for educational and social reasons as well as because of the need to sustain the primary schools and the wider community, that in such circumstances, those particular nurseries require added protection.

I am pleased to hear what the First Minister says. Given what I have said, in the review of the guidance, will he consider including additional criteria for retaining nurseries that form part of the school?

The First Minister: Christine Grahame makes a compelling argument. The Government has been working with our local authority partners to ensure that young people are able to get the best start to their early years education and that there is a natural progression into the school. That is at the heart of the reforms on early learning and childcare.

In primary 1 in many schools, and in primary 2 in some schools, there will still be a play-based

curriculum, which has been the foundation of the early years experience for three and four-year-olds and for some two-year-olds. The structural point that Christine Grahame makes about the school is also a structural point about the curriculum and the approach that we take to giving young people the best start in life.

We will reflect on the substantive points that Christine Grahame has made and consider how we can make sure that we have that provision available in all communities in Scotland. That is what the Government is funding through the local authority settlement that we put in place.

Stephen Kerr (Central Scotland) (Con): On the subject of the closure of rural primary schools, during the consultation process on the proposed closure of Blackness primary school, parents accused Falkirk Council of deliberately spreading misleading information and, worse still, frightening the children in the school by telling them that their school was going to close. Does the First Minister agree that the Scottish Government must now step in to properly investigate how that consultation was conducted and to ensure that the voices of parents and families are not only heard but respected?

The First Minister: There are very strict elements of legislation in place regarding rural school closures. When there is any question of such a closure, that legislation has to be followed assiduously as part of the statutory process. If Mr Kerr wishes to write to the Cabinet Secretary for Education and Skills with detail of the points that he is raising about the situation at Blackness primary school, the Government will consider that.

I remind Mr Kerr that local authorities are independent bodies; the Government does not control local authorities. It is for local authorities to come to their own decisions, but they must operate within the statutory provision that the Parliament has determined on the question.

Public Sector Equality Duty

5. Pam Gosal (West Scotland) (Con): To ask the First Minister what impact the Scottish Government anticipates that the Supreme Court judgment regarding *For Women Scotland Ltd v the Scottish Ministers* will have on the implementation of the public sector equality duty in Scotland. (S6F-04003)

The First Minister (John Swinney): The Scottish Government accepts the Supreme Court's judgment. This Government is committed to protecting every woman's rights, including through effective implementation of the public sector equality duty. We continue to take forward a phased programme of improvement to the operation of the public sector equality duty in

Scotland and, in that work, will consider the impact of the Supreme Court's ruling.

The Cabinet Secretary for Health and Social Care and the Cabinet Secretary for Social Justice will meet the Equality and Human Rights Commission later today and seek an update on the timing of its revised guidance, which is essential to fulfilling the statutory underpinnings of the approach that we take.

Pam Gosal: As I mentioned earlier this week, I was honoured to attend and witness the United Kingdom Supreme Court's judgment, which provided clarity on what a woman is. However, some members in the chamber refuse to accept it. Although it is now the law that biological sex trumps gender identity, self-identification remains central to the Scottish National Party Government. That is the same SNP Government that presided over public bodies suspending nurses for refusing to share changing rooms with biologically male colleagues and allowing dangerous male prisoners to be sent to women's prisons. Public bodies need clarity. Every day of delay risks further uncertainty. Can the First Minister give me a clear answer? When will the SNP Government issue new guidance on compliance with the Supreme Court's judgment?

The First Minister: I give Pam Gosal the assurance that we will develop that guidance in a timely manner. As I said in my opening answer, there is a meeting today with the Equality and Human Rights Commission, whose advice we relied on for the previous guidance that we had in place and whose advice and guidance we will have to rely on in the future. The Government will report to Parliament about the progress that has been made in that respect. However, I recognise the need for us to put in place timely guidance to apply the judgment that the Supreme Court has arrived at.

Michelle Thomson (Falkirk East) (SNP): The public administration section of the Finance and Public Administration Committee recently met the outgoing permanent secretary. It was clear from evidence to the committee that Scottish civil servants are being subjected to internal policies that have not adhered to the public sector equality duty, with women's networks allowing men to self-identify into membership and policies being developed on private spaces where no input was sought around sex as a protected characteristic. The First Minister has made it clear that considerable work is under way, but will he personally ensure that that work puts women's voices—as 57 per cent of the Scottish civil service—at the heart of such policies and that the public sector equality duty is met?

The First Minister: I intend to ensure that the public sector equality duty is met and, as I have

made clear to Parliament in all my answers on the subject, we will act within the law. Obviously, the Supreme Court gave legal clarity last week, and the Government must consider the details of that ruling to enable it to be applied in taking forward the public sector equality duty.

Ash Regan (Edinburgh Eastern) (Alba): The Court of Session's ruling against Scottish Borders Council marks yet another legal failure to uphold long-standing protections for women and children, this time involving a primary school child. It exposes the broader pattern of public bodies disregarding the Equality Act 2010 and other regulations in place since 1967. The undue influence of activist lobby groups such as LGBT Youth Scotland has led to policies breaching single-sex safeguards. All such policies must now be withdrawn. Will public funding finally be withdrawn from organisations that are wrongly advising that gender self-identification is lawful in Scotland when it never has been?

The First Minister: Throughout this whole discussion, I have made it clear that the rule of law must be the central consideration of the actions of Government, and that is what we will take forward in all our judgments. I am aware of the judicial review decision that the Court of Session announced yesterday in relation to Scottish Borders Council. That judgment does not involve the Government—it involves Scottish Borders Council. However, the Government will consider the issues that arise out of that, as we consider all aspects of the reform of regulation that is required.

Douglas Ross (Highlands and Islands) (Con): This is a very straightforward question. Does the First Minister believe that a trans woman is a woman—yes or no?

The First Minister: I have set out that the Scottish Government accepts the judgment of the Supreme Court, which ruled that, in the Equality Act 2010, a woman is defined by biological sex.

Loch Long Salmon Farm

6. Ariane Burgess (Highlands and Islands) (Green): To ask the First Minister whether he will provide an update on when the Scottish Government expects to respond to the Loch Long salmon farm planning application. (S6F-04007)

The First Minister (John Swinney): The Scottish Government is giving full and proper consideration to the appeal, and every effort is being made to issue a decision as soon as possible. It would not be appropriate for me to say any more in relation to what is a live planning case.

Ariane Burgess: The industrial salmon farm development that is proposed for Loch Long will scar the loch's coastline and harm its wildlife. It

has been opposed by the community, the local planning authority and even the industry. However, we have now been waiting over a year for the Government's response after the application was called in. More than 4,000 people have written to the Government asking it to protect Loch Long from this damaging development. Will the First Minister personally ensure that my constituents' voices are listened to?

The First Minister: As I indicated in my earlier answer, I cannot go into details on the handling of a live planning appeal. All relevant information will be considered by ministers in coming to a determination on the issue. That determination will be arrived at as soon as it is practically possible to do so.

Beatrice Wishart (Shetland Islands) (LD): It has been more than a year since the Loch Long salmon semi-closed containment project was called in for a decision by the Scottish Government. That length of wait for a decision from ministers could discourage investment in Scotland. It is now more than a month since I last raised the issue in the chamber, with no update since. Does the First Minister acknowledge that long waits for planning decisions are bad for business?

The First Minister: I certainly want to make sure that we take decisions as efficiently and swiftly as we possibly can, but I also have to make sure that the Government has adequate space and opportunity to consider all the issues that are involved. I am sure that Beatrice Wishart will understand the significance of that point. Beyond indicating that the issue is under consideration, there is little more that I can say, given that it relates to a live planning application. However, I understand the importance of her point and the importance of early decision making, where practical.

The Presiding Officer: We move to general and constituency questions.

Pension Age Disability Payment

Marie McNair (Clydebank and Milngavie) (SNP): The pension age disability payment is opening for applications across the whole of Scotland this week, replacing the United Kingdom Government's attendance allowance. What steps is the Scottish Government taking to ensure that older people in my constituency who are disabled, are terminally ill or have care needs get the money that they need to help them to look after themselves, stay safe and live with dignity?

The First Minister (John Swinney): I am very pleased to confirm to the Parliament that the pension age disability payment was launched on Tuesday. It will pay up to £441 a month extra to

disabled people who are over state pension age. We estimate that it will help more than 170,000 disabled people and people living with a long-term health condition who need help looking after themselves or supervision to stay safe.

The launch of the payment ensures that disabled people of all age groups in Scotland are now able to receive support from a social security system that is based on dignity, fairness and respect. Those principles are at the heart of the legislation that this Government brought to Parliament, and I am pleased that we continue to apply them as we deliver the type of social security system that benefits and supports the individuals in Scotland who are most in need at the moment.

Duchenne Muscular Dystrophy (Givinostat)

Craig Hoy (South Scotland) (Con): My constituent Michael Rankin is 12 and suffers from the degenerative condition Duchenne muscular dystrophy. He can still walk with an aid at home, but his mother does not know for how long that will continue.

The First Minister will be aware of the efforts of Scottish parents who are seeking access to the drug Givinostat, which is used to treat the condition by holding back the progression of irreversible muscle damage. The drug has now been approved by the Medicines and Healthcare products Regulatory Agency and can be accessed through the national health service through the early access programme. It is now being prescribed in some NHS trusts in England and Wales, but the Scottish Medicines Consortium is yet to assess its use here. In the meantime, sadly, health boards are not prescribing the drug. For boys such as Michael, time is muscle, so will the First Minister urgently agree to meet parents, including Nicola Rankin, to learn more about how the drug could be life-changing for those boys?

The First Minister (John Swinney): I am grateful to Mr Hoy for raising this important issue. On Tuesday, the Cabinet Secretary for Health and Social Care met some of the families who are involved in the efforts that Mr Hoy has drawn to the attention of the Parliament. Yesterday, the cabinet secretary met four health boards that are involved in providing services to children with the condition, to discuss what is needed to enable delivery of the medicine in a way that is safe but also ensures fair and equitable access at pace across the country. Very active work is under way to deliver on the expectations of Mr Hoy and his constituents. We are very sympathetic and are trying to get there as fast as possible.

The engagement that the cabinet secretary has had so far is perhaps sufficient. If there is a need for a personal meeting with me, I will of course be

happy to have that, but I assure Mr Hoy that the issue is being advanced with urgency by the cabinet secretary.

Additional Support Needs

Pam Duncan-Glancy (Glasgow) (Lab): This morning, I met the families of children with additional support needs, who have joined us in the public gallery. They have spent years fighting for the support that their children need, and they represent thousands of parents across the country whose children are being failed—some of them are out of education entirely. In a survey that they ran, 97 per cent of respondents said that education is failing to meet their children's needs. They have engaged in every process, consultation, review and action plan. They have met ministers, responded to calls for evidence and taken their experiences all the way to this Parliament, but they are still being ignored.

Why is the First Minister not listening to the parents? When will he admit that the Government is failing on ASN? Will he commit today, in front of the families in the gallery, to finally listen to them and take the urgent, properly resourced action that their children need and deserve?

The First Minister (John Swinney): I recognise the importance of ensuring that the needs of every child are met in our education system. For some young people with additional support needs, that can be achieved in mainstream education. For others, that is not possible, and those judgments should be made on the assessed needs of every individual child. The Government works closely with our local authority partners in delivering on those objectives.

In the past financial year, more than £1 billion has been spent by local authorities on additional support for learning. However, in its latest budget settlement, the Government recognised the significance of the demand for services. As part of that settlement, we specifically agreed an additional £29 million of funding in the budget, which is to be allocated through local authorities in response to the legitimate issues that Pam Duncan-Glancy has put to me today.

I assure Pam Duncan-Glancy and those on whose behalf she speaks today of the importance that we attach to the issue. We are working with local authorities to ensure that the needs of every child are met, and that will continue to be our approach.

Nuclear Power

Jackie Dunbar (Aberdeen Donside) (SNP): Security analysts have warned that the United Kingdom Government's plans to build a network of mini nuclear power stations across the country

have failed to adequately assess major security threats to the public. Does the First Minister share those concerns? Does he agree that, rather than pursuing plans to invest in costly, slow-to-build and potentially hazardous nuclear power plants, the UK Government should support investment in Scotland's huge renewable energy potential, which is far faster to build, cheaper and safer?

The First Minister (John Swinney): As Jackie Dunbar and the Parliament will know, the Government does not support energy production from nuclear power. We believe that the investment that is necessary in our energy networks will be more cost effective if it is invested in renewable energy.

I am reminded that Hinkley Point C, which is a new nuclear power station, is now projected to cost up to £46 billion, which is more than double the original cost estimate. There are opportunities for us to deliver energy security for our country through a variety of renewable energy interventions, through offshore wind, through pump storage and through various other technologies. That will certainly be the position that is adopted by the Scottish Government.

Respiratory Health Policy

Carol Mochan (South Scotland) (Lab): Yesterday, Chest Heart & Stroke Scotland issued a statement on its concerns about Government progress on respiratory health policy. Respiratory conditions such as chronic obstructive pulmonary disease are leading causes of death and health inequalities in Scotland. However, the Government is stagnating in its delivery of the action plan on the issue. The lack of progress on delivery, including on ensuring universal access to pulmonary rehabilitation, risks increasing inequality and the number of preventable deaths. Will the Scottish Government deliver on the commitments that were made in the plan before the end of this parliamentary session?

The First Minister (John Swinney): The Government will engage with Chest Heart & Stroke Scotland, which does fantastic work in raising awareness on all of those questions. We support a range of prescribing routes for COPD, and the national centre for sustainable delivery is working with COPD patients to develop new treatment pathways.

We are taking forward a variety of policy measures, including some wider societal policies, such as low-emission zones, which aim to assist in improving air quality and which will be of benefit to individuals with COPD. Our respiratory care action plan sets out how we are working to improve prevention, diagnosis, care, treatment and support.

The Government will, of course, be happy to engage further with Chest Heart & Stroke Scotland and with patients to determine what further steps we can take.

Retinoblastoma

Roz McCall (Mid Scotland and Fife) (Con): My constituents Scott and Olivia Lyon recently received the heart-breaking news that their one-year-old son, Blair, has retinoblastoma, which is a rare type of eye cancer that affects young children—roughly 50 children in the United Kingdom each year. Although it can be hereditary, it can also affect a child purely by chance. It cannot be predicted or prevented, and it simply appears as a squint or a glow in the eye.

Given the importance of early diagnosis, Scott and Olivia are determined to raise public awareness. Will the First Minister join me in promoting the visibility of retinoblastoma, thanking the incredible national health service teams involved in care for patients across Scotland, and urging families to make an urgent appointment if they think that there are any concerns?

The First Minister (John Swinney): I join Roz McCall in endorsing that approach and I welcome the comments that she has made to Parliament today. The central point that Roz McCall makes about early intervention and assessment is really important. Some of the fantastic work that can be done in relation to ophthalmology services is an illustration of early intervention having significant benefits.

I very much endorse the points that Roz McCall has made and I wish her and her constituents well. I am glad to hear that they are being well supported by the national health service—I would expect nothing else. If any issues arise in the course of their journey, the health secretary will be happy to assist in any way that he can.

Disability Benefits (United Kingdom Government)

Bill Kidd (Glasgow Anniesland) (SNP): Yesterday, the highly thought of Glasgow Disability Alliance issued a stark warning that hundreds of thousands of disabled Scots could lose out from Westminster's "brutal" welfare cuts.

Last night, in this Parliament, Scottish Labour MSPs voted to support Westminster's austerity cuts to disabled people's benefits. Will the First Minister outline how his Government is supporting disabled people in my constituency and across Scotland against the backdrop of Labour's accelerated Westminster austerity?

The First Minister (John Swinney): I am deeply concerned about the cuts to the sickness and disability benefits that the United Kingdom

Government has announced. Indeed, I referred to them in my earlier answers to Anas Sarwar. The changes will push 250,000 people, including 50,000 children, into poverty by the end of this decade and will reduce the funding that Scotland receives for devolved disability benefits.

Parliament had an opportunity yesterday to express its firm opinion on those commitments. The Government expressed our opposition to the changes and I am staggered that Scottish Labour MSPs supported the cuts, but that tells us all that we need to know—the Labour Party is in favour of continuing austerity and inflicting damage on the population of Scotland, while this Government will stand to take actions to reduce poverty and support the population in Scotland.

Wood Group (Takeover Bid)

Daniel Johnson (Edinburgh Southern) (Lab): The First Minister will have seen reports over Easter recess that Sidara has been given additional time to come forward with an updated bid for the Wood Group. That is concerning for two reasons. First, there is the potential loss of headquarters functions and the associated expertise from the Aberdeen headquarters. Secondly, the Wood Group is critical to our ability to deliver engineering in the North Sea, which is vital for our renewables future.

It is my understanding that the pressure on the Wood Group's lenders has led to that situation. What discussions has the First Minister had directly with the Wood Group about that? Has the Scottish Government or its agencies explored the possibility of financial guarantees or facilities that might ease the short-term pressures and retain this vital Scottish company in Scottish ownership?

The First Minister (John Swinney): Those are complex corporate decisions that are being arrived at. As we do in all such circumstances, we will offer the engagement of the Deputy First Minister and Scottish Enterprise to determine whether there are any steps that we can take to assist in relation to the legitimate points that Mr Johnson puts to me about the importance of retaining headquarters functions and the effectiveness of those organisations in Scotland. We will engage on that basis.

The Presiding Officer: That concludes First Minister's question time. There will be a short suspension to allow those who are leaving the public gallery and the chamber to do so.

12:45

Meeting suspended.

12:46

On resuming—

BBC Scotland (River City and Dumbarton Studios)

The Deputy Presiding Officer (Annabelle Ewing): The next item of business is a members' business debate on motion S6M-16978, in the name of Neil Bibby, on BBC Scotland's decision to end "River City" and close its Dumbarton studios. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes with regret the reported decision by BBC Scotland to end the programme, *River City*, which it understands is Scotland's only homegrown soap; believes that this will have a disproportionately negative impact on performers in Scotland, many of whom, it understands, get their first TV job on *River City*, as well as on the wider Scottish production landscape; considers that the reported £9 million annual budget for the show is excellent value for money, given the hours of programming produced throughout the year for what it sees as a successful show, which, it understands, attracts a regular audience of 500,000 per episode, outperforming other TV series by more than two and a half times; believes that the Glasgow-based show is well loved by Scottish audiences and enjoys strong ratings, with it winning Best Drama at the Royal Television Society Scotland 2023 awards for its 20th anniversary episode; notes what it sees as BBC Scotland's failure to inform the Constitution, Europe, External Affairs and Culture Committee of its reported plans to close the BBC studios in Dumbarton and end *River City* in its annual report to the Parliament in January 2025; further notes the calls for BBC Scotland to recognise its public broadcasting duty and explain how its current proposals to replace *River City* will provide the same good jobs, training and apprenticeships currently available at the BBC's Dumbarton studios to performers and crew in Scotland, and ensure that the reported £9 million budget will be spent on Scottish drama; considers the BBC's Dumbarton studios to be an important asset, which has been used for a number of other productions, including *Vigil and Shetland*; understands that the owner of the studios site is open to renewing the lease, and notes the calls, in light of this, for BBC Scotland to revisit its reported decision to end *River City* and close its Dumbarton studios.

12:47

Neil Bibby (West Scotland) (Lab): I thank the many members, across all the political parties, who supported the motion for debate. That cross-party support shows that "River City" is an important part of Scotland's culture that is held in affection by many of our constituents.

I will address directly why my colleague Jackie Baillie and I lodged the motion and why it is important. Last month, BBC Scotland announced its regrettable decision to cancel "River City", after more than 20 years on our screens, and to close its Dumbarton studios. That decision has many implications for the viewing public, for jobs and for

training opportunities in Scotland's television industry.

"River City" is Scotland's only home-grown soap. From when Bob proposed to Zara in a cherry picker to Scarlett giving birth to Madonna in a taxi, to Raymond blowing up the Tall Ship pub and to this week's jaw-dropping episode—I will not give away any spoilers—it has provided fans with laughs, tears and memorable moments since 2002.

"River City" has been a long-running and successful show that has received a number of nominations and awards over the past 20 years. Most recently, in 2023, it won best drama at the Royal Television Society Scotland awards for its 20th anniversary episode. That is one of the many reasons why great concern has been expressed since the decision to cancel the show was announced.

Members should not take only my word for it. Within four days of the announcement, more than 10,000 of our constituents had signed a petition, which was organised by Equity, the trade union, calling for "River City" to be saved. An extensive list of hundreds of esteemed members of the cultural sectors in Scotland and the United Kingdom also oppose the ending of the show and have called on the BBC to think again. Ewan McGregor, Blythe Duff, David Morrissey, Richard E Grant, Robert Carlyle, Frankie Boyle, Lorraine McIntosh, Irvine Welsh and many more have co-signed a letter to the cabinet secretary that calls for his support to stop "River City" being axed. It is an understatement to say that those creatives know a thing or two about the creative sector and should be listened to. I look forward to hearing from the cabinet secretary on what steps the Scottish Government can take to support its calls and challenge the BBC.

The entertainment provided and the awards won by the show have been achieved on a budget of only £9 million, which, in the grand scheme of things, represents significant value for money. Previously, around 500,000 people regularly watched the show. Even considering the declining trend for long-running UK television productions, recent figures show that "River City" still attracts about 200,000 to 285,000 viewers. That is in the context of greater competition from streaming platforms and the show being moved around its BBC One slot more than any other production.

The BBC has a great product and it should be proud of it. If it gave the show the consistent slot and the right marketing that it deserves—for example, by updating the out-of-date information on its website—the viewing figures would be even higher. However, the current figures still represent a sizeable proportion of the Scottish public and the importance of linear television. For context, on the

weekend of 12 and 13 April, attendance at all Scottish professional football league fixtures was just under 140,000.

BBC Scotland has stated its intent to protect and increase the budget for drama, and we all want to see that happen. However, concerns have been raised that the planned replacement will result in 13 fewer hours of production than currently takes place. That has implications for writers, cast and crew. There are concerns about ensuring that the budget is fully spent in Scotland, and there are proposals to award replacement drama programmes to London-based production companies. It is, of course, not the place of politicians to make editorial decisions on what is or is not aired on public service broadcast television, but we should highlight the serious concerns on behalf of viewers and of those working in the industry when necessary.

As I mentioned, this is about more than the loss of a soap opera. The decision to close BBC Dumbarton studios is also deeply regrettable. I visited the studios recently, and it is clear that they are a valuable asset. It was wrongly suggested that the owner of the site did not wish to renew the lease, but, as was revealed by Jackie Baillie, that was not the case, and the owner is still keen for the studios to remain.

I was impressed by the set and, given that it provides good value for money and that it would be hard and expensive to replicate, it makes little sense to close the studios. It has multi-uses, too, having been the site for other productions, including "Vigil", "Shetland" and "Two Doors Down".

We also heard at first hand the importance of the training opportunities that it provides. In all, 72 trainees have come through the production in the past two and a half years alone, with the vast majority of writers and directors being women. Even when "River City" is not shooting, students from the Royal Conservatoire of Scotland come into the studio and get the chance to film. That gives them invaluable experience to allow them to develop in the industry. That clearly shows that it is not just an entertainment show but a pathway and platform for young Scottish talent, with talent such as Sam Heughan going on to star in "Outlander".

The actor Stuart Martin, who has appeared in the show, made a powerful statement. He said:

"Losing River City is devastating to an industry that is increasingly brutal to those trying to break into it. In an industry that is increasingly favouring those who can afford to do it and closing its doors to those who don't have the means. It is a necessity that the River City's of this industry remain".

Equity has also described the move as

“a blow to working class performers”.

It is important to acknowledge that “River City” has tangible social value. There has been significant discussion, here and elsewhere, about the recent Netflix documentary show “Adolescence”. Television is a unique forum to explore sensitive subject matters. Throughout its run, “River City” has confronted difficult topics, including mental health, domestic violence and self-harm. The social value in exploring those topics cannot be overstated. The writers, producers, crew and cast of “River City”—many of whom are in the gallery—have done a phenomenal job in doing that, and we should thank them for it. It is difficult to imagine another show filling the void that “River City” will leave. The BBC should think again.

Often, we do not fully appreciate what we have lost until it is gone, but we have not lost “River City” and Dumbarton studios just yet. I hope that we will see a twist in the plot that means that both survive into the future. [*Applause.*]

The Deputy Presiding Officer: I say to our visitors in the gallery that you are all very welcome to observe our proceedings. However, as you are observers and not participants, I ask you to refrain from clapping and from any other form of involvement. Thank you very much in advance for your co-operation.

12:55

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): I thank Neil Bibby for securing the debate and for bringing this important issue to the chamber. We are talking not only about the cancellation of a television programme but about the silencing of a cultural voice—one that has spoken to and for Scotland for more than two decades, and which has spoken to those of us on the west coast and in the central belt in a way that rings true to our own ears and our lived experience.

I cannot overstate how vital it is for people to see themselves reflected in the media that they consume. I learned that when studying journalism and communications at university in Montreal in the 1990s. In that French-speaking part of Canada, we were taught that hearing authentic voices in our own language, and situated in the familiar, is key to cohesion and self-worth. It is definitely not a nice-to-have option; it is institutionally critical. The BBC’s decision to cancel “River City” is more than just a scheduling choice; it is a cultural and economic setback that Scotland cannot afford.

I remember well the show’s debut in 2002. Having managed to get my three-year-old down for the night in time, I sat down with a big cuppa

and a cake of chocolate. I must say that, by the end of the show, I just loved it. My ex-husband not so much, but then he hated it whenever I watched “EastEnders”, “Neighbours” or any of the other “stories”, as my granny used to call them.

Since then, “River City” has been a vital platform for Scottish storytelling. It has brought the lives, the struggles, the humour and the heart of everyday Scots into our homes, week after week. Unlike shows set in London or Manchester, “River City” is not filtered through a distant lens; it is authentically Scottish. It showcases our accents, idioms, social issues and humour, all within the familiar setting of fictional Shieldinch. It reflects Scotland as we see it, and not as others imagine us to be. Cancelling “River City” sends worrying messages that regional voices do not matter, that Scottish stories do not sell and that, unless we are based in the media hubs of London, our voices are disposable.

“River City” is not just a cultural icon; it is a crucial pillar of Scotland’s creative economy, and offers a pathway and a scaffolding for talent and creativity. The show employs a huge range of professionals—not just actors and writers, but camera crews, set designers, costume departments, make-up artists and countless others who are often invisible to the audience. It offers consistent employment in an industry where work is often unpredictable. Its filming, which is based in Dumbarton, helps to support local businesses, fosters creative talent and provides a pipeline for young Scots entering the media industry. Cancelling the show risks creating a cultural vacuum and an economic one, too.

We talk about levelling up and decentralising opportunity, but how can we do that if we are cutting off the very platforms that nurture regional talent? What happens when aspiring Scottish writers see fewer avenues to tell their stories? What happens when actors must leave Scotland to find work? What happens when Scottish children grow up seeing fewer characters who sound like them, in streets that look like theirs? This is not just about nostalgia; it is about representation, employment and respect. The BBC’s decision also smacks of snobbery and classism, which we must call out. It says, “Let us support London’s east end but not Glasgow’s Shieldinch.”

I urge the BBC and its decision makers to reconsider that choice. If “River City” is struggling, they should support it, revamp it and reinvest in it, not erase it. When we cut off the stories of a nation, we cut off its voice. In doing so, we risk dimming the light of Scottish culture at its source. Let us not allow that to happen. The BBC must think again.

12:58

Pam Gosal (West Scotland) (Con): I thank Neil Bibby for bringing this important issue to the chamber.

For more than two decades, the BBC's "River City" has been entertaining households in Scotland, with each episode reaching an estimated audience of 500,000 people and outperforming other series by more than two and a half times. It is Scotland's only home-grown soap opera; its creator, Stephen Greenhorn, wished to create a series that would do for Scotland what legendary TV series such as "Coronation Street" and "EastEnders" have done for England.

"River City" enjoys high ratings and has won multiple awards, including, most recently, best drama at the Royal Television Society Scotland 2023 awards for its 20th anniversary episode. Its annual budget is reported as £9 million, which, as Neil Bibby's motion states, is excellent value for money.

Although we as audience members will be sad to miss such a great television programme, the consequences will be even more devastating for those who work on the production. They will be especially important in the west of Scotland, as "River City" is, and has been, a great job creator in Dumbarton in my region. Each episode employs many people, not just actors, writers, producers, camera and sound crew, but costume designers, wardrobe assistants, make-up artists, set builders and many more.

Before the Easter recess, I was proud to sign up to Equity's save "River City" campaign in order to save the show and the associated jobs. In 2023, I was privileged to visit the set of the series during filming and meet some of the cast members, including lead actor Stephen Purdon. On that visit, I was told that 250 people worked on the site in various roles, including 70 trainees and three apprentices, who had the opportunity for long-term training, and I was pleased to see how many local people were in those jobs, which varied from low and medium skilled to higher-skilled.

Like others, I was disappointed that BBC Scotland failed to inform the Scottish Parliament's Constitution, Europe, External Affairs and Culture Committee of its plans to end "River City" and to close its Dumbarton studios in its annual report, which was presented to the committee earlier this year. It should therefore explain how its current proposals will ensure that the skills and jobs, including apprenticeships, are not lost, and whether more productions are on the line.

In closing, I hope that MSPs can come together this afternoon and call on BBC Scotland to reconsider its decision and save "River City".

13:02

Jackie Baillie (Dumbarton) (Lab): I, too, thank Neil Bibby for bringing this important debate to Parliament and for his support for "River City", and I welcome many members of the cast to the public gallery this afternoon.

When "River City" was launched in 2002, no one took its success for granted. I was very proud, though, that Shieldinch was being filmed in Dumbarton. However, 23 years later, more than 11,000 people have signed a petition to save the programme. That is testament to the work of countless writers, actors and producers, who have turned it into an iconic part of Scotland's television landscape—Scottish content for Scottish audiences, made right here in Scotland.

From the start, everyone involved in "River City" was clear that it was more than just a show. Indeed, Ken MacQuarrie, BBC Scotland's head of programming, said at the time:

"What we are effectively doing here is developing a star factory, a long-running project that gives a boost to the wealth of talent that we've got here in Scotland, whether it is writing, directing, acting—and which we want to see develop and grow."

How right he was. Eric Barlow, who played Tommy Donachie, went on to star in "Taggart", "Monarch of the Glen", "Casualty" and "Doctors". Gary Lamont, who played Robbie Fraser, recently featured in the hit series "Boiling Point" and "Rivals". Sam Heughan, now the internationally recognised star of "Outlander", described his time on the show as "incredible". Renton's own Gayle Telfer-Stevens made waves in comedy, as well as playing Caitlin McLean, and there from the beginning was Shellsuit Bob, who is listening in the gallery alongside many other members of the cast. I have to say that Bob O'Hara is so much part of Scottish culture that we almost made a request for a gallery ticket in his TV name.

However, it is not just about the actors. "River City" has also created opportunities for screenwriters, set designers, producers, film crew and others in the Scottish TV and film industry, not to mention the jobs that come with cleaning, maintaining and catering for a busy film studio. In the past two years, 23 screenwriters received their first screen credit on "River City" and, over a similar period, five out of six trainee directors were women. That would not have happened without "River City": it offers a training pipeline for the creative industry that is unlike anything anywhere else in the BBC. There has been a lot of talk from the BBC about training in the future, but there has been nothing on the scale of "River City", and it is not proposing anything to match it.

Let us be honest: we are talking not just about the closure of "River City" or the gap in the TV schedule, important though that will be to the

hundreds of thousands of Scots who tune in each week. We are also talking about a blow to Scotland's TV and film infrastructure, and about freelancers who might decide to move to Manchester or London.

The BBC says that it will replace the soap with network drama, but flying in crews to occasionally film in a Scottish castle is no substitute for a home-grown industry. Closing the Dumbarton studios, where programmes such as "Vigil" and "Shetland" have been filmed, is also short-sighted. What are the BBC's network plans for drama production in Scotland for the next few years? Will the share of Scottish-produced content fall, or will the approach simply be to lift and shift drama from another part of the UK? I have to say that I fear the worst.

Staff were led to believe that "River City" was closing because the site owners were selling up, but that is simply untrue. No one denies that there are challenges but, time and again, "River City" has adapted, despite the BBC changing its programme slot and despite also switching it to the BBC Scotland channel.

The BBC has a choice. I hope that it will not be short-sighted and that it will reverse its decision to leave the Dumbarton studios. I hope that the Cabinet Secretary for Constitution, External Affairs and Culture and all members in the chamber will encourage the BBC to make the same decision that it made in 2002: invest in Scotland's talent and in "River City".

13:07

Patrick Harvie (Glasgow) (Green): As a Dumbarton expat, I obviously agree with Jackie Baillie about the value of having creative industries in the town.

I thank Neil Bibby for securing the motion for debate in the chamber, and it should be of importance to everyone, regardless of whether they are a fan of the programme. I freely confess, with deep apologies to our guests in the public gallery, that my TV habits—for which I make no apologies—involve rather more spaceships and aliens than we normally see in episodes of "River City".

I want the screen sector to thrive in Scotland, because of, as we have heard, the critical importance of telling distinctively Scottish stories, which the big streamers are not necessarily going to fund. We will have a thriving sector only if we have the ecosystem that makes it possible and which provides the opportunities for people to get started in their careers.

I express my sincere thanks to the cast and crew of "River City" for welcoming me and my

colleague Gillian Mackay on a recent visit. I would say that we saw two things there. First, we saw the incredible pride that the whole team takes in their work—and rightly so. We have heard a lot about the work on training, which, I have to say, has happened not always because the BBC told the team to do it, but sometimes despite the BBC's expectations, with the team only getting the credit afterwards. There is a huge number of roles, ranging from electricians to make-up, costume and props professionals, camera trainees and script editors—I will not list them all. We all know about their incredible work in taking an inclusive approach to training.

In many ways, soaps such as "River City" and a number of other on-going productions do for television and the screen sector what weekly repertory theatre might well have done for the stage in previous generations. They create opportunities for people to get their first break. Many of those whom I met work not only on "River City"; they spend part of the year working on other productions.

I endorse the comments from the hundreds of industry professionals who have added their names to a petition to save "River City". One writer wrote:

"My concern is for those coming along behind me. What about their opportunities, their careers, their finances, their futures, that of their families? What will happen to their break, their lifeline, their support, their welcome to the world of TV drama, which I received?"

That sort of thing is not going to be replaced by a few individual, one-off, six-part dramas that fit better with the streaming model and the way in which television is changing, even if significant investment goes into them. I am sure that positive value will come out of that and that there will be opportunities for some people to get jobs, but it will not provide the ecosystem and that basic level of first, second and third job opportunities that "River City" has such a strong track record of providing, and which the entire industry depends on.

The folk whom I met at "River City" know that they are not working on the highest-end, highest-value production. They are proud of what they do, because of the role that the programme plays in supporting the entire rest of the industry. High-end productions depend on that throughput of talent coming through, generation after generation, and it is one of the things that "River City" provides.

The second thing that I saw on our visit was that the people whom I met recognise that the industry is changing. They are not suggesting that everything be preserved in aspic. They recognise that the industry is experiencing a move away from linear television, due to the role of the streamers and the costs of production, but they want to be able to continue to ensure that those

training opportunities and those first, second and third job opportunities are there for the future of the industry, even if that does not happen exactly as it happens now. However, that is what I do not see in the BBC's proposals for what is to come after this.

I do not believe that the BBC has offered either an appropriate off-ramp for a model, if it wants to change the current one, or opportunities for people in the current team who are working on "River City" and for the next generations of people who need to get a foothold in the industry. However, that is what we need if the Scottish screen sector, more generally, is to thrive.

13:11

George Adam (Paisley) (SNP): I thank Neil Bibby for bringing this debate to Parliament. Initially, I was not going to speak in it, but, after speaking to Mr Bibby at the Constitution, Europe, External Affairs and Culture Committee today, I managed to get into a bit of a rage about what is happening—I have managed that down to a wee bit of a rammy at the moment.

There is a snobbery when it comes to soap operas in general in our cultural landscape, but particularly with regard to "River City", because it speaks in my voice. That same snobbery can be seen in this place, because I have been criticised by members of the public for the way that I speak in Parliament. However, this is my voice—this is the way that I speak and the way that my community speaks. That is what is important about a show such as "River City". Let us not forget that that is Scotland's voice, and the voice of the many different communities that we have.

I am not speaking about "River City" in the past tense, because it is still filming and telling its stories, and it is still giving a platform to Scottish voices and talent. However, we are told that, in 2026, all of that will come to an end. My question is, why? "River City" has been a constant on our screens for more than two decades. It is a Scottish production, made in Scotland by Scottish crews and with Scottish actors, and it is rooted in the rhythms of our lives, our culture and our humour. It mirrors the people of Scotland as well, although that might be quite concerning when you look at some of the stories, right enough. However, it does not get the credit that it deserves for the important part that it plays in our cultural landscape.

Now, the BBC says that it is time to wind up "River City". It says that viewing habits have changed, and maybe they have: people are streaming, they are binge-watching and skipping adverts, although, of course, there are currently no adverts on the BBC. I get that, but the question

that I am asking is, if "River City" is to go, what are we replacing it with? Where are our stories going to be told? Where are our actors, writers and crews going to go?

This debate is about jobs—skilled jobs and on-going employment for production staff, set designers, costume departments and, of course, the actors and writers who have built careers on the show. It is about opportunity. It is about keeping our creative talent here, in Scotland, instead of forcing those people to head south or abroad for work. Paul W Fleming, the general secretary of Equity, said:

"Axiing River City would have a devastating effect on acting and production roles for Scottish talent."

That is a worry.

The BBC says that it wants to invest in shorter series of new drama across Scotland. That would be welcome, but shorter-running series do not offer the same continuity of employment, the same training ground or the same cultural resonance as a long-running show such as "River City". This is not a simple matter of a change in format; it is a fundamental shift away from rooted, community-based storytelling.

"River City" is still here, which means that there is still time for the BBC to reconsider and for us to speak up and to stand by a production that has done more for Scotland's culture and creative economy than we give it credit for. When "River City" goes, it will not be only a drama that disappears—another Scottish voice will be lost from the national conversation.

Clare Adamson (Motherwell and Wishaw) (SNP): I absolutely agree with everything that Mr Adam has said about snobbery. I once attended a talk by Sergio Casci, a British Academy of Film and Television Arts awards and Palme d'Or nominee. His favourite of the lines that he wrote for "River City" was one that was delivered by Scarlett: "This place smells like a bus full of wet students."

Sergio started his career on "River City". It should be absolutely clear to everyone that the talent of the people who produce and work on "River City" is world class; we should not judge their contribution to Scotland's film and TV industry as being anything other than first class.

George Adam: I agree whole-heartedly. A long-running drama such as "River City" creates the opportunity to develop that talent further and to give people second chances, because we all know that not everyone will be successful with their first chance in the creative industries. We have to give people the ability to develop their talent further and to move on.

It is also important to have that conversation and that Scottish voice so that we can see our lives on television. That is something that I keep going on about, and this Parliament should go on about it.

I am asking myself what BBC Scotland's long-term plan is and what its end game is. Is this just another cut of Scottish talent and TV programming, or is there any real commitment to Scottish storytelling? Let us not allow "River City" to be quietly written out of our cultural future. Let us fight for the stories, voices and people that make Scotland's creative life vibrant and visible.

The Deputy Presiding Officer: Pam Duncan-Glancy will be the final speaker before I ask the cabinet secretary to respond to the debate.

13:17

Pam Duncan-Glancy (Glasgow) (Lab): I begin my contribution, as others have, by thanking my colleague Neil Bibby for bringing this important debate to the chamber and for his tireless work in standing up for Scotland's cultural sector. I also thank Equity, the union, for working closely with us to highlight the impact of the decision and for working day in, day out for its members and for workers' rights.

The decision to end "River City" is a blow for fans of the show and has wide-ranging consequences for many who worked on it: the actors, crew, producers, educators and, most of all, the young people and early-career professionals who stood to benefit from the opportunities that it could have provided in the future.

Make no mistake: this is not about just one television programme and one studio; it is about opportunity and the very infrastructure that will be relied on to train and support the next generation of talent in Scotland's creative industries. "River City" is one of the only year-round, high-volume production environments in the country. It offers stable work and training, with on-the-job opportunities, and that work is a crucial part of the college and university offer in the creative industries across Scotland.

Crucially, it offers access, especially for people who cannot easily access the creative industries, including those who do not have the networks or resources to break into them on their own—women, disabled creatives and early-career creatives to name but a few.

Since the decision was announced, I have heard from educational institutions across Scotland about how crucial the programme is to learning and teaching in their creative courses. Glasgow Caledonian University's master of arts

course in television fiction writing—the only course of its kind in the UK—has for years relied on its relationship with "River City" to give students their first professional credits. Dozens of graduates have gone directly into jobs on the show.

At the University of St Andrews, its master's degree in playwriting and screenwriting was on the brink of forming a partnership with the production team, with the aim of giving students experience in a working story room—something that would not exist anywhere else in Scotland at that scale. The Theatre School of Scotland has provided testimony—which speaks for so many—that "River City" offers a rare chance for young actors to see themselves on screen and take their first steps into the industry.

What do all those things have in common? They all speak to the same thing: that "River City" is more than a programme—it is a platform. It is, as the head of programming at the BBC called it—as Jackie Baillie referred to—"a star factory", and its closure would leave a vacuum that we are not yet currently prepared to fill.

The BBC has suggested that it will make space for new projects and build on the work of the "River City" training academy. However, it is hard to see how that can be replicated without the presence, scale or permanence that "River City" provides. It is crucial that a strategy for ensuring that the training, skills and access-to-work pipeline that it provides is protected. It is also crucial that decisions are taken in consultation with the Parliament, the sector, creatives themselves, the trade unions and the institutions that now find themselves scrambling to adjust to the potential consequences if the decision goes ahead.

It is simply not good enough. The screen industry is a sector of national importance—it is a driver of jobs, creativity, education and opportunity, and of our national identity, and that future cannot be delivered without investment in "River City", the skills that it offers and the proper infrastructure that comes with it. Without that, there will be a vacuum, and without paying due regard to the people or places in the institutions that are affected, we cannot fully appreciate the impact of the decision.

Today, like other members, I ask the BBC to change its mind and to do what it has so far refused to do: to reconsider the decision; to provide clarity on its decision making; to engage with the Parliament and with stakeholders; and to bring forward a renewed decision or a credible plan.

I ask the Scottish Government to take the matter seriously; to support our educators; to work with the industry; and to use the powers and influence that it has to prevent "River City" from ending. The

decision has not yet fully taken effect. We can save the show, and I urge the Government to take every step that it can to ensure that that happens. The decision is not irreversible. I believe that we can act, and we have to do so with urgency, purpose and a clear commitment to the future of Scotland's creative economy.

13:22

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): I am pleased to respond on behalf of the Scottish Government to this important debate, and I thank Neil Bibby for lodging the motion. I pay tribute to the "River City" cast and crew, many of whom are with us in the public gallery, as well as to Equity, the Broadcasting, Entertainment, Communications and Theatre Union and the Writers Guild of Great Britain, which have, in recent weeks, provided such strong representations on the subject.

It is more than regrettable that the BBC has taken the decision that it has regarding the only production of this kind in Scotland, and I am deeply disappointed that we continue to see a worrying trend in decision making that runs counter to the BBC's commitment to invest in the nations and to improve representation. The Scottish Government could not be clearer that we expect the BBC to be doing more for our audiences and creative industries by developing skills and training opportunities, supporting quality jobs, creating high-quality programmes in Scotland and serving Scotland's diverse audiences equitably.

As the many strong contributions that we have heard from members have emphasised, the discussion is critical, and we must take the time to acknowledge the vital role that a production such as "River City" has for our creative economy and for the many talented individuals who work on it. Although editorial decision making, of course, sits with the BBC, it is right that we speak out and urge against decisions that will impact services, skills, development and jobs in Scotland.

The BBC is accountable to Scottish audiences, and it should be delivering a service that meets the needs in Scotland. When I recently met the BBC Scotland director, I was clear that investment, skills and job opportunities must remain in Scotland and that we expect to see those increase. That is particularly important given the historical imbalance that has existed in relation to the proportion of licence fee income that is raised in Scotland being spent here.

I also recently met Ofcom to discuss wider production in Scotland, and I urged the regulator to ensure that the BBC is meeting its obligations in

delivering for viewers and for Scotland's creative professionals. As many members have highlighted, people working in Scotland's screen sector must continue to be able to access meaningful career and skills development opportunities as they have been able to do through the "River City" training academy.

"River City" has been an important kick-starter for many careers, and it is vital that the BBC considers how it will continue to ensure that people can develop successful careers in Scotland. I will continue to press the BBC to deliver increasing opportunities for people in Scotland and to continue the positive diversity and inclusion work that "River City" has supported.

On the matter of talent development and Scotland-originated production growth, Screen Scotland is also closely engaging with the BBC, including through its memorandum of understanding with the BBC, to enable more new original content to be made and Scotland-based talent to be developed.

I take the opportunity to highlight the BBC charter and the upcoming review. The charter is essential in delivering the BBC's public service remit, of which supporting the creative economies in the nations is a key purpose. The Scottish Government's powers to bring about change in broadcasting policy are limited. However, we will do everything that we can to press the BBC to strengthen its investment and to ensure that decision making does not adversely impact that crucial public purpose.

Patrick Harvie: The cabinet secretary is right to put some of this in the context of the charter renewal, because one of the things that have changed, and which will not go back to the way that it was, is that, at the beginning of the era of the BBC, licence fee-funded public service broadcasting dominated production. Now, production is dominated by commercial models, including those of the big streaming services, which are not funding infrastructure and the ecosystem in the way that the BBC used to. Therefore, does the Scottish Government support the idea of a levy on the streaming services so that we have revenue funds to invest in productions—whether those are made by the BBC or anyone else—that create that ecosystem and which can sustain what the BBC does not want to sustain at the moment?

Angus Robertson: I am open to considering all avenues, including Patrick Harvie's proposal, that would support the growth and retention of the screen sector in Scotland. It is also important to put on the record that the rules in relation to screen production in Scotland have clearly been breached, most certainly when it comes to the spirit, if not the letter, of the rules in relation to

production in Scotland. Frankly, the BBC is being watched very closely with regard to what it does, and that will form part of our approach to charter renewal.

I point out that normal countries decide broadcasting policy, but we do not do that in Scotland. Broadcasting policy is reserved to Westminster. Would we be having this debate if the Scottish Parliament had the power to exert direct influence on broadcasting? I think not. We should reflect on that, because that does not need to be so. I believe that this Parliament should be in charge of Scotland's broadcasting policy.

As I touched on earlier, the Scottish Government has been critical of the level of BBC spend in Scotland. Although we have seen improvement, we remain seized of that issue, which we expect to be covered in the charter review. We also expect continued and more effective efforts from the BBC to move commissioning power to Scotland to ensure that more Scotland-originated productions can showcase the incredible talent that we have in Scotland. Improved equity, diversity and inclusion, as well as authentic representation, are best delivered by commissioning content from within Scotland, and the Scottish Government will continue to make those views clear in our engagement with the BBC, Ofcom and the UK Government, including with regard to the forthcoming charter review, in order to strengthen the delivery of services for audiences and the support for the creative sector in Scotland.

Having sustainable jobs and production businesses that are based in Scotland is essential to maintaining and developing a strong, sustainable and growing Scottish screen sector, which the Scottish Government is committed to growing to reach £1 billion in gross value added by 2030.

I will return to the motion. I reiterate my regret that the BBC has taken this decision and that we continue to see a number of challenges to the rebalancing of public service broadcasting for Scotland. The Scottish Government does not believe that audiences and our creative sector are currently being adequately served, and it is our view that it is unsustainable that broadcasting policy remains reserved to Westminster. We have long argued that it should be devolved to ensure that we can take the right decisions for our creative economy and for Scottish viewers and listeners. The cumulative effect of decisions that have been taken on broadcasting services in Scotland, which have weakened perceptions of and trust in the BBC and the benefits that we expect for audiences and the creative industries, only strengthens my view that the future of broadcasting would be safer in our hands.

I thank members and everyone who has shared their views with me and engaged with the Scottish Government on this important matter. There is clearly an abundance of passion and support for "River City" and the opportunities that that kind of production brings to our creative sector. I have been clear with the BBC that it must protect and increase its investment in Scotland and enhance the network of professionals who contribute to productions such as "River City". I expect the BBC to fully and fairly represent all communities in Scotland, and I will continue to advocate on behalf of licence fee payers to ensure that the Scottish industry and audiences are properly represented.

The Deputy Presiding Officer: That concludes the debate.

13:30

Meeting suspended.

14:30

On resuming—

Portfolio Question Time

Education and Skills

The Deputy Presiding Officer (Liam McArthur): Good afternoon. The first item of business is portfolio question time, and the portfolio is education and skills. I remind members who wish to ask a supplementary question to press their request-to-speak buttons during the relevant question.

Teachers (Support)

1. Sandesh Gulhane (Glasgow) (Con): To ask the Scottish Government whether it will provide an update on what support is available to teachers who experience physical violence or verbal abuse in schools. (S6O-04568)

The Minister for Higher and Further Education; and Minister for Veterans (Graeme Dey): The Scottish Government is clear that physical violence and verbal abuse directed at teachers is unacceptable. That is why, last year, we published our relationships and behaviour in schools national action plan, which contains a number of actions to reduce violence and disruptive behaviours in schools.

Local authorities, as the employers of teachers, are responsible for providing support that meets their employees' needs when physical violence or verbal abuse occurs. Therefore, the support that is available to individual teachers will depend on local provision.

However, since October 2020, the Scottish Government has invested more than £2 million in national support for the educational workforce. That support includes the provision of free wellbeing coaching for education staff and funding for the Association of Directors of Education in Scotland to consider how best practice and resources can be shared across local authorities.

Sandesh Gulhane: It is not just teachers—there are terrible reports of a pupil being stabbed in Aberdeen just today.

A recent survey shows that 83 per cent of NASUWT members have seen increased physical violence and verbal abuse from pupils—and the abuse of classroom assistants is not even recorded. The Educational Institute of Scotland reports that 72 per cent of its members feel stressed frequently or all the time. It is no wonder that that is the case given the reports of knives in schools. Stress-related absences are soaring, and many teachers are leaving the profession altogether.

Those who stay often face insecure teaching contracts. Some 94 per cent of teachers who were surveyed by Scottish Teachers for Permanence know a colleague who is struggling to find a permanent job and 84 per cent have witnessed high staff turnover.

The Deputy Presiding Officer: Question?

Sandesh Gulhane: Given that stark evidence, can the minister explain how the Scottish Government will address what is clearly a crisis in Scottish education?

Graeme Dey: I begin by saying how utterly concerned I am by the reports of the incident at Hazlehead academy in Aberdeen this morning in which a 12-year-old girl was assaulted. Children, like staff, should be able to be safe at all times when they go to school. My thoughts are very much with the child concerned, her family, the staff and the pupils at the school, particularly those who witnessed that unacceptable incident.

I want to be clear that violence in schools is totally unacceptable. We are absolutely clear on that, as I know members of Parliament are, too. The Cabinet Secretary for Education and Skills wrote to directors of education to emphasise the need for local action plans to ensure the delivery of the overall strategy that is in place. I absolutely recognise the concerns that have been shared by members and the trade unions, which Sandesh Gulhane has referred to.

I can stand here and say that violence in schools is not a Scotland-specific issue—and it is not. Nevertheless, I recognise that, when there is an incident such as the one that happened today, the issue is very much at the forefront of colleagues' thoughts. I can only offer Sandesh Gulhane the reassurance that the cabinet secretary is very much on the case. She has given a commitment to return to Parliament—I think that, with the agreement of the Parliamentary Bureau, that will be in the first part of May—to update Parliament and to provide another opportunity for Parliament to explore the issue of behaviour and violence in schools.

Rural Early Learning and Childcare

2. Alexander Burnett (Aberdeenshire West) (Con): To ask the Scottish Government how it is ensuring access to early learning and childcare for families in rural areas, in light of reports of recent nursery closures. (S6O-04569)

The Minister for Children, Young People and The Promise (Natalie Don-Innes): Access to high-quality, accessible and affordable early learning and childcare is vital for our rural communities. That is why the Scottish Government funds local authorities to deliver 1,140 hours of ELC to all eligible children with

around £1 billion each year. Councils are responsible for ensuring that local provision meets families' needs and for taking decisions relating to their ELC estate.

In addition, the Scottish Government is supporting projects to improve childcare provision in rural communities through the addressing depopulation action plan, our childcare early adopter communities programme and the programme for Scotland's childminding future.

Alexander Burnett: There are currently four nurseries being mothballed in Aberdeenshire, just as Tullynessle school was last year, even though it was expected to be full. Parents report that closures are being pursued despite the nurseries being at nearly 80 per cent capacity, which goes against national guidance. Families now face longer journeys, higher childcare costs and, for some, a need to reduce working hours.

Losing a nursery in a rural area is not just a childcare issue—it is a death knell for local communities. Can the minister confirm that the legislation and existing guidance cover nurseries? How is the Scottish Government supporting councils to maintain provision and ensure that rural communities and families are protected?

Natalie Don-Innes: The Scottish Government recognises the vital role that rural schools and nurseries play in sustaining local communities. I remind the member that responsibility for decisions about local provision rests with local councils. Any closure, temporary or permanent, should be considered in consultation with local people.

We are currently reviewing guidance on mothballing to provide greater clarity on when it is an appropriate action to take. That will ensure that local decisions are based on effective engagement with the community, better reflect the needs of rural families and help to maintain access to early learning in those communities.

I expect the local authority to be engaging with families in the area to ensure that the ELC provision is fit to meet their needs.

Willie Rennie (North East Fife) (LD): The last two private nurseries in the east neuk of Fife have closed, removing the flexible childcare that parents desperately need in order to stay in work. That is partly because of Government policy: the Government has been fiddling around for years, saying that it is going to take action to resolve the gap in funding, but it has done very little. When, at last, are we going to see a solution to this problem?

Natalie Don-Innes: I assume that Mr Rennie is referring to the gap in funding in relation to the issues between the local authority and private

nurseries. I have been clear to Mr Rennie before, and to the rest of the chamber, that there is on-going work on the rates review and the updated rates guidance, including work with the Diffley Partnership, to try to bring more parity to the rate-setting process. There are also other areas in which we have taken action to support private providers, such as through rates relief. As I have said to Mr Rennie before, I am more than happy to pick up discussions with him on other actions that we are taking to help providers.

Vaping in Schools

3. Maurice Golden (North East Scotland) (Con): To ask the Scottish Government what discussions the education secretary has had with ministerial colleagues regarding what action is being taken to reduce vaping in schools. (S6O-04570)

The Minister for Children, Young People and The Promise (Natalie Don-Innes): We remain very concerned about the proportion of young people who use vaping products. The behaviour in Scottish schools research identified vaping as an emerging concern. We are working with Education Scotland and public and third-sector partners to support work on substance use education, in line with our tobacco and vaping framework, to create a tobacco-free generation by 2034.

An awareness-raising campaign on the health impacts of vaping and risks of nicotine addiction was rolled out to schools in November 2023 and reissued in November 2024, to support learning around health and wellbeing.

Maurice Golden: I raised the issue of vaping in schools around 18 months ago. At that time, I noted that the majority of councils held no information on how many vapes were being confiscated from pupils.

It has been reported to me that certain schools now have toilets designated by the pupils for vaping. Can the minister provide an update on whether schools and local authorities are now consistently monitoring vaping among pupils?

Natalie Don-Innes: The Scottish Government does not hold that information. I know that Mr Golden has raised the question before. As I said in my previous answer, research has identified vaping as one of the new and emerging patterns of disruptive behaviour; therefore, it is a concern.

The member will be aware that the relationships and behaviour in schools national action plan includes a specific commitment to develop specific guidance on vaping and substance use in schools. That will complement the work that we are doing in schools to educate our young people on the harms of various substances, and the wider work to

prevent smoking and vaping. He will remember, of course, that it is a cross-portfolio issue.

Early Learning and Childcare (Three-year-olds)

4. Neil Bibby (West Scotland) (Lab): To ask the Scottish Government what proportion of three-year-old children receive free early learning and childcare in the week after their third birthday. (S6O-04571)

The Minister for Children, Young People and The Promise (Natalie Don-Innes): The Scottish Government has made tough decisions to prioritise investment of almost £1 billion per year to deliver a universally funded early learning and childcare offer, which is available regardless of whether parents are working and which puts children's interests first.

According to the latest ELC census, uptake of funded ELC for three and four-year-olds remains nearly universal in Scotland: an estimated 95 per cent of eligible children receive it. The Scottish Government does not collect data on children receiving funded ELC within one week of their third birthday. Statutory eligibility begins the term after a child's birthday, but local authorities have the power to offer earlier start dates, depending on local priorities.

Neil Bibby: Renfrewshire Council used to offer access to free early learning and childcare hours as soon as a child turned three. Due to funding pressures and cutbacks, children must now wait until the start of the school term following their third birthday. That will result in many working parents having to pay for childcare—including Vahri Gemmell, who is my and the minister's constituent, who must pay around £4,000 in childcare for the four months that her son Adam is otherwise set to miss out on.

Given that the Scottish Government has stated that it encourages local councils to offer free childcare hours as soon as a child turns three, will the minister join me in encouraging her colleagues in Renfrewshire Council to reverse their childcare cuts? Will she also encourage the Cabinet Secretary for Finance and Local Government to ensure that local councils are properly funded, so that the postcode lottery can be ended?

Natalie Don-Innes: As I have said, we invest almost £1 billion per year in our ELC offering. In the interests of transparency, I declare that I have met the petitioner recently in my capacity as a constituency MSP, so I am aware of the matter. For completeness, as is recorded on my published list of interests, my husband is a councillor for Renfrewshire Council.

As I said in my previous answer, statutory eligibility for funded early learning and childcare begins the term after a child's birthday, but local

authorities have the power to offer earlier start dates, depending on local priorities. Arrangements to commence closer to the child's birthday are encouraged in our statutory guidance.

Every two years, local authorities are required to consult families in their area about how they should make ELC available, to ensure that they are meeting local needs. I encourage families across Scotland to share their views and needs with their local authority in order to inform local decisions about funded ELC.

Jackie Dunbar (Aberdeen Donside) (SNP): How has the Scottish National Party Government already supported ELC provision, particularly through its early adopter communities approach?

Natalie Don-Innes: We have invested in our early adopter communities and increased their number to six in the most recent year. I recently had a meeting with officials on the progress and learning that we are gaining from our early adopter communities. I know that the families who are being supported in those communities are finding the support that they are receiving extremely beneficial in relation to their life choices and the situations that they are in. Further analysis of the benefits of the early adopter communities approach will come through in the coming months, and I am very positive about what I will be able to share with the chamber in relation to those outcomes.

Roz McCall (Mid Scotland and Fife) (Con): I raised this issue with the minister in the chamber last May. In her response, she advised me that she would certainly take it away and consider it. However, as we have just heard, families across Scotland are faced with a postcode lottery when it comes to accessing 1,140 hours of funded childcare. When the Scottish Government looked into the issue, what information did it find? What has it done to rectify it in the past year?

Natalie Don-Innes: I have been very clear that the issue is for local authorities, which are best placed to meet the needs of their local communities and to understand what is required. The legislation was originally designed in that way to enable smaller groups of children to start at phased points in the year and to help to keep the system more manageable and sustainable. However, some local authorities have chosen to have those earlier start dates, having found that that works for their local area and their families. I assure members that I have heard the concerns that have been raised in the chamber and that I will continue to consider the issue alongside other issues in relation to our ELC offering.

The Deputy Presiding Officer: Question 5 was withdrawn.

Higher Education (Edinburgh)

6. Sarah Boyack (Lothian) (Lab): To ask the Scottish Government whether it will provide an update on what steps it is taking to protect Edinburgh's higher education sector, in light of reports of potential job losses. (S6O-04573)

The Minister for Higher and Further Education; and Minister for Veterans (Graeme Dey): The Scottish Government is aware of broader financial pressures impacting on the university sector, including the impact of United Kingdom Government migration policies on international student recruitment, and the increase to employer national insurance contributions, which is estimated to cost Scottish universities, including those in the city of Edinburgh, more than £48 million.

Although universities are autonomous institutions with responsibility for their own strategic and operational decision making, the Scottish Government and the Scottish Funding Council will continue to engage closely with the sector and to offer appropriate support to universities as they develop their own plans to address financial challenges.

In line with our fair work principles, I expect universities to engage meaningfully with staff on the potential impact of their plans. My clear expectation is that universities work with staff to make every effort to protect jobs and avoid compulsory redundancies, which should only be considered as a last resort, after all other cost-saving measures have been fully explored.

Sarah Boyack: What specific initiatives is the Scottish Government developing to deliver a sustainable higher education model? Staff across the country are worried about their jobs, and there are major concerns about the future of our higher education system, which provides world-leading research, first-class education and vital jobs, particularly in Edinburgh and the Lothians. Staff do not just need meetings—they need action. They are worried because voluntary redundancies are already happening.

Graeme Dey: Indeed, but it is a bit rich of Sarah Boyack to stand there and talk about the challenges facing universities and the impacts on them. If she wants to talk about action, perhaps she can persuade her colleagues at Westminster to do something about the impact of ENICs. *[Interruption.]* Well, she is sitting there shaking her head, but £48 million has been stripped out from our universities on—*[Interruption.]*

Ms Boyack cannot escape the truth. That is the reality of what has happened on her Government's watch. To her point about what the Scottish Government is doing, we are actively engaging with the university sector—Mr Rennie has raised

that matter on a number of occasions—to look at developing a sustainable long-term model. That piece of work is in the early stages, but it is under way.

The Deputy Presiding Officer: There are a number of supplementary questions, all of which I will try to get in. I ask members to please be reasonably brief.

Miles Briggs (Lothian) (Con): As the minister has accepted, there is growing concern around the financial sustainability of the higher education sector as a whole. Given the Scottish Funding Council's role in monitoring the financial health of the sector, will the minister advise why the publication of its annual report on the financial sustainability of the higher education sector has been delayed from January this year, and will he advise when the report will be published?

Graeme Dey: I have to admit that I am not aware of the reason behind the publication being delayed. I will write to Miles Briggs as soon as possible with an answer on that.

Willie Rennie (North East Fife) (LD): I find it astonishing that the minister responsible for higher education does not know that a key report about the financial sustainability of not just the University of Edinburgh but all universities in Scotland has been delayed, and nor does he know when it will be published. That is astonishing. A crisis is going on in our universities. He should know, and if he does not, he should come back next week and tell us exactly what the financial sustainability situation is across the sector. Otherwise, he is letting the sector down.

Graeme Dey: The SFC has been doing substantial work, not just in relation to that report but on a more urgent piece on the financial sustainability of the sector in the light of events at the University of Dundee. It has been very actively engaged in mapping out the situation across universities. That is alongside work—which I alluded to a moment ago as being in its early stages but under way—between the Government and the university sector around what a more sustainable long-term future model might look like. Further meetings on that will follow in the next few weeks. I accept that that might take time to develop, but we are absolutely alive to the challenges that are being faced by the university sector.

I have to reiterate that many of the challenges that are being faced by our universities are not within the control of the Scottish Government, be they ENICs or the migration policies that have so decimated international student numbers.

Stephen Kerr (Central Scotland) (Con): I know that the minister can be a very reasonable man, so I will ask him a very reasonable question.

He has mentioned visas and NICs, but does he accept that chronic underfunding of Scotland-domiciled students is contributing to the financial crises at the University of Edinburgh and throughout Scotland's higher education institutions?

Graeme Dey: I have previously accepted in the chamber, sometimes in response to Mr Kerr, that I would prefer that the teaching grant that is provided to our universities in relation to Scottish students was higher than it is currently, but I say to him again that, if we look at the overall finances, we see that the moneys that are provided through that source are a small proportion of the income of many of our universities, particularly our larger ones. The biggest factor that is creating challenges for our universities is the loss of international students, and both Mr Kerr and I know the cause of that.

Care-experienced Children and Young People Fund

7. Rona Mackay (Strathkelvin and Bearsden) (SNP): To ask the Scottish Government what eligibility criteria and implementation guidance it has issued to local authorities regarding the use of the care-experienced children and young people fund in education settings. (S6O-04574)

The Minister for Children, Young People and The Promise (Natalie Don-Innes): We publish national operational guidance for the care-experienced children and young people fund, to help local authorities to determine how to invest the funding to improve educational outcomes for care-experienced children and young people from birth to the age of 26, supported by the strategic aims of the Promise and the Scottish attainment challenge.

Directors of education and chief social workers agree how plans are implemented locally. Funding can be used to support anyone who is currently in care or from a looked-after background or who has been at any stage in their life.

Rona Mackay: Will the minister expand on whether adopted children who were previously looked after are eligible to benefit from education support through the care-experienced children and young people fund and whether local authorities have any discretion to restrict their access? If not, what action is being taken to ensure that the fund is applied equitably and in line with the national definitions of care experience?

Natalie Don-Innes: I confirm that adopted children who were previously looked after are eligible for support through the care-experienced children and young people fund. That is set out clearly in the operational guidance for the fund. We have taken action to ensure awareness of

that, such as by strengthening the guidance that was developed with our local authority partners by making explicit reference to the eligibility of adopted children.

There is flexibility in how local authorities can use the funding, in recognition of the importance of local decision making, but we expect the guidance to be followed. If Rona Mackay is aware of any specific circumstances in which that is not the case, I can look into the matter if she would like to write to me with the details.

Martin Whitfield (South Scotland) (Lab): The guidance for 2023-24 requires local authorities to be accountable for the funding as set out in their grant letter. That is to be assessed using the education outcomes for Scotland's looked-after children, the national improvement framework and the framework for recovery and accelerating progress. The commitment to children in care is that every child who is in care will have access to intensive support that ensures that their education and health needs are fully met. Will the minister confirm how many children in care had those needs met fully in 2023-24?

Natalie Don-Innes: As Martin Whitfield would expect, I will have to get back to him with the specific details of that, which I am more than happy to do.

Teachers (Temporary Contracts)

8. Jeremy Balfour (Lothian) (Con): To ask the Scottish Government what steps it can take to reduce the number of teachers on temporary contracts. (S6O-04575)

The Minister for Higher and Further Education; and Minister for Veterans (Graeme Dey): As Jeremy Balfour knows, teacher employment practices are a matter for local authorities as employers. However, I note that the Government very much values our teachers, and we are doing everything possible to maximise the number of teaching jobs available, including permanent posts. We are providing local authorities with increased funding of £186.5 million this year, as part of our agreement with local government to restore teacher numbers to 2023 levels and maximise the number of teaching posts available. It is encouraging that the number of teachers in permanent posts has remained stable at more than 80 per cent over the past 10 years.

Jeremy Balfour: I thank the minister for his answer, but does he not accept that, under this Scottish National Party Government, permanent teaching jobs have gone from being the norm to being a rarity and that those who are entering the profession now often have to work on difficult, short-term contracts, which means that they cannot get mortgages and have a stable life?

Graeme Dey: I hardly think that 80 per cent represents a rarity. I have outlined to Mr Balfour the Government's commitment to the delivery of permanent posts, which can be seen in its action of providing funding to local authorities, which are responsible for that delivery. We are working closely with the Convention of Scottish Local Authorities to improve the situation.

The Deputy Presiding Officer: That concludes portfolio question time. To allow a changeover of front-bench members, there will be a brief pause before we move to the next item of business.

Framework Legislation and Henry VIII Powers

The Deputy Presiding Officer (Liam McArthur): The next item of business is a debate on motion S6M-17074, in the name of Stuart McMillan, on behalf of the Delegated Powers and Law Reform Committee, on its inquiry into framework legislation and Henry VIII powers. I invite members who wish to participate in the debate to press their request-to-speak buttons now or as soon as possible. I call Stuart McMillan to speak to and move the motion on behalf of the committee.

14:55

Stuart McMillan (Greenock and Inverclyde) (SNP): I am grateful for the opportunity to discuss the work of the Delegated Powers and Law Reform Committee's inquiry into framework legislation and Henry VIII powers. The genesis of the inquiry was a genuine desire of the committee to look at the issue of framework legislation. We hoped that, by taking a step back from any particular bill, with its detail and policy context, we would be able to look at the bigger picture. We hoped that that was a way to slightly depoliticise the issue, recognising that framework legislation has been used by Governments of all stripes over the years, and not just in Scotland.

Indeed, the chair of the House of Lords Delegated Powers and Regulatory Reform Committee, Lord McLoughlin, whom we met on our committee fact-finding visit to London, said that the change in views in relation to framework legislation—between being in opposition and being in government—was akin to Damascene conversion. Whichever political party is in charge, Oppositions are generally against legislating in such a way, and Governments are in favour of it. However, we also recognised that some members in the Parliament hold a genuine concern about framework elements in bills that have come forward this session, and that there is a perception that those are becoming more common.

We set out to examine a number of key questions including, first, whether framework legislation can be defined; secondly, whether it is, indeed, becoming more common; and thirdly, what might be done to improve scrutiny. That was in relation to both framework primary legislation and framework powers being used to make secondary legislation.

In seeking to explore those questions, the committee was indebted to the thoughtful and interesting responses to our work that we received. As members will know, we heard directly from the convener of the Finance and Public

Administration Committee, Kenneth Gibson, and the convener of the Rural Affairs and Islands Committee, Finlay Carson. I am pleased that Finlay Carson will speak in the debate as the convener of that committee.

We also heard from other legislatures across the world, including from Commonwealth Parliamentary Association colleagues. As members know, I highly value the work and engagement of the CPA. The committee was also greatly helped in its work by views from key stakeholder organisations that are at the heart of Scottish policy making; leading academics and think tanks; and eminent legal bodies.

On behalf of all the committee members, I thank everyone who gave their time by providing the committee with written responses, and by speaking with the committee, both informally and as a witness. Although issues that are related to delegated powers might not be widely understood or discussed outside of the political, legal and policy bubbles, the level and quality of the engagement clearly demonstrate how important the scrutiny of delegated powers is. That should impress on all parliamentarians the need to carefully consider delegated powers in the context of scrutinising a bill.

I will repeat a comment that I have made in the past in the chamber: I recommend that every member spends time on the Delegated Powers and Law Reform Committee, because it clearly increases the understanding and appreciation of how legislation and our Parliament work. In delegating a power, the Parliament is giving away the power to create law in a certain area. Achieving the right balance—by ensuring that powers are only delegated appropriately and that appropriate safeguards are in place—is an important undertaking, and we were glad to see that that significance is understood by many colleagues and stakeholders.

There has been a lot of discussion about what we mean by framework legislation. During the evidence session on 21 January 2025 with Finlay Carson and Kenneth Gibson, Mr Carson highlighted the difficulty perfectly as he alluded to two different definitions of framework legislation. That highlights the key challenge that politicians face when it comes to framework legislation.

After listening to stakeholders, the committee concluded that, although there might not be a single definition and that, even with a definition, there is still scope for reasonable disagreement and grey areas as to whether a provision in a bill meets that definition, it is possible to set out what framework legislation is. In our report, we concluded that it is:

“legislation that sets out the principles for a policy but does not include substantial detail on how that policy will be given practical effect. Instead, this type of legislation seeks to give broad powers to ministers or others to fill in this detail at a later stage”.

Martin Whitfield (South Scotland) (Lab): I compliment the committee on its report. Does Stuart McMillan agree that having a definition of framework legislation, however flawed it might be, is very valuable in enabling us to consider the different steps that might need to be taken with regard to the scrutiny of framework bills as opposed to other bills?

Stuart McMillan: Yes, I do. The fact that we managed to arrive at some kind of definition is an indication of that. We recognised how challenging it is to arrive at a definition. That is understandable, given that some of the evidence that we heard in that regard was conflicting.

As parliamentarians, we think that most of our colleagues will know a piece of framework legislation when they see one, but we hope that, by setting out our understanding of what constitutes framework legislation, we can help to inform debate. It is worth acknowledging that the Scottish Government noted in its response to our report that the committee’s definition

“reflects a broad consensus of views amongst academics and practitioners.”

On the issue of the frequency with which framework legislation is used, the committee heard a variety of views. There is a general acceptance that the occurrence of framework legislation is not diminishing, but in the absence of a universally agreed definition of framework legislation or a single way of counting it over time, it is not possible to give a definitive answer. On balance, the committee considers that, across jurisdictions, it is likely that the occurrence of framework legislation has increased. If we take the 1932 report of the Donoughmore Committee on Ministers’ Powers as our starting point, the trend seems to be increasing.

Speaking of the Donoughmore committee, which was established in 1929 and reported in 1932, it was reassuring to learn that members of the DPLR Committee are not the first parliamentarians to concern ourselves with the issue of ministers’ powers. We do not know whether our report will be considered in 93 years’ time, but the age of the Donoughmore committee’s report on what is substantially the same subject speaks to the fact that this is not a new issue or one that is peculiar to Scotland.

In relation to the scrutiny of bills, the committee agreed that its preference, wherever possible, is for the detail of legislation to be spelled out in the body of the bill, to allow for transparency and proper democratic engagement, and to ensure

that stakeholders and parliamentarians can engage with and scrutinise solid proposals. That said, the committee recognised the need, in some cases, for primary legislation to provide flexibility by allowing for laws to be updated without requiring further bills.

Stephen Kerr (Central Scotland) (Con): This might be an unfair question to ask Stuart McMillan, but he said that the Scottish Parliament is no different as regards members' experiences of dealing with framework legislation. However, does the structure of the Scottish Parliament, which has some unique features, make it weaker from the point of view of members' ability to scrutinise the secondary legislation that comes about because of the nature of framework acts?

The Deputy Presiding Officer: I can give you back the time for the interventions, Mr McMillan.

Stuart McMillan: Thank you, Presiding Officer.

Today, I am speaking on behalf of the committee. I said earlier that we wanted to depoliticise elements of the issue that we are discussing. I have my own views, which I will be happy to speak to Mr Kerr about after the debate. However, the committee did not go into great detail on the functions and structure of the Scottish Parliament. I can have a chat about that with Mr Kerr afterwards—that would be no bother.

The report sets out in detail the steps that the committee supports being taken by the Government and fellow parliamentarians to help to strengthen the scrutiny of delegated powers in primary legislation and the secondary legislation that is subsequently made under those powers. Such steps include the use of the so-called super-affirmative procedure for subordinate legislation and the Scottish Government setting out the overarching justification in instances in which it decides to take a framework approach.

The committee concluded that, although it expects so-called Henry VIII powers—powers that allow primary legislation to be amended by secondary legislation—to be appropriately limited in scope, it considers them to be a necessary and efficient tool when they are used suitably. At present, the committee is generally content with the drafting of most Henry VIII powers in Scottish Government bills, and it is content that they are subject to appropriate parliamentary procedures. Speaking personally, I do not like the idea of Henry VIII powers, but I recognise and agree with the committee's unanimous finding in that regard.

I hope that the committee's report proves to be helpful to the Parliament and beyond, in the longer term, and that it has formed the basis for an interesting and informative debate this afternoon. I thank my committee colleagues for the way that they worked throughout the inquiry, and I look

forward to hearing contributions from other members. I also put on the record my thanks on behalf of the committee members to the excellent clerking team and the legal advisers of the Delegated Powers and Law Reform Committee. Their assistance during the inquiry was invaluable, and we all appreciate everything that they have undertaken to help us.

I move,

That the Parliament notes the conclusions and recommendations contained in the Delegated Powers and Law Reform Committee's 21st Report, 2025 (Session 6), *Inquiry into Framework Legislation and Henry VIII powers* (SP Paper 762).

The Deputy Presiding Officer: Before I call the next speaker, I advise members that we have quite a bit of time in hand, so members can assume that generosity will be baked into the speaking time allocations.

With that—and with some trepidation—I call Finlay Carson to speak on behalf of the Rural Affairs and Islands Committee for around six minutes.

15:05

Finlay Carson (Galloway and West Dumfries) (Con): I welcome the opportunity to speak in this important debate on the DPLR Committee's recent report on framework legislation and its impact on parliamentary business and, crucially, effective committee scrutiny. I should also say that I was pleased to give evidence, along with Kenneth Gibson, for the inquiry.

I will begin with a quick summary of the Rural Affairs and Islands Committee's submission to the inquiry. As Stuart McMillan has already set out, the DPLR Committee outlined what framework legislation is as part of its inquiry, but I should point out that the Rural Affairs and Islands Committee used a slightly broader definition. It defined framework legislation as

"primary legislation which sets out broad powers with the details of how these powers would be used and implemented to be set out at a later date either through secondary legislation or through other documents to be laid in Parliament."

The reason for using that broader definition in our submission is that it encompasses primary legislation that requires Scottish ministers to lay a document before Parliament that may be subject to parliamentary scrutiny and approval. I understand why the DPLR Committee's inquiry focused on primary and secondary legislation, but from a broader parliamentary and subject committee perspective, the Rural Affairs and Islands Committee feels that other laid documents that set out the detail of Government policy are equally important.

The Rural Affairs and Islands Committee agrees that there is a place for framework legislation where the legislative powers will be required for the long term, but flexibility is required as to how they will be exercised.

Michelle Thomson (Falkirk East) (SNP): I was very interested to hear the definition that the member just gave. Indeed, it probably concurs with the definition that the FPA Committee would have given, had it been asked to give one, because that is what we have seen, too. We are both coming to this with a different steer, because, perhaps, the DPLR Committee's focus is on the absolutism of standing orders, but I would say that the practical effect, as the member has described it, is the same as we in our committee would describe it.

Finlay Carson: In this session, we have found that, in some cases, how guidance or good practice guidelines are set out in secondary legislation is crucial, but often those things do not come under scrutiny. In some instances, particularly with the likes of NatureScot, there are some who believe that, because of guidance, certain legislation goes above and beyond the spirit of what was passed and what was intended by Parliament.

The Rural Affairs and Islands Committee agrees that there is a place for such legislation, but we need long-term flexibility, too. One example in that respect is the Agriculture and Rural Communities (Scotland) Act 2024, which gave ministers powers to provide agricultural support. In order for that support to be fit for purpose over the longer term, we needed flexibility via regulations. However, without having much detail about how the powers will be exercised and how much the legislation will cost the public purse, the Parliament found it very difficult to take a view on the general principles of that framework legislation.

So, what solutions did we put forward to the scrutiny challenge? We suggested that there be detailed information about the appropriateness, impact and cost of proposed powers or laid documents in primary legislation and/or accompanying documents. The DPLR Committee also recommended consideration of the wider use of the super-affirmative procedure or other opportunities for enhanced scrutiny for proposed powers and framework bills, although that option should be used carefully.

We also suggested a lighter-touch scrutiny process at stage 1, as long as it would enable parliamentarians to take a view on the general principles of legislation. There should be a presumption that placing statutory duties on Scottish ministers to produce a plan should be accompanied by a requirement to lay the

documents in Parliament for a certain number of days to allow for parliamentary scrutiny.

Our committee believes that it would be appropriate for some laid documents to be made subject to parliamentary approval. In this parliamentary session, we have found a wide variation in the requirements for laid documents, and setting out some consistency—or, at least, providing explicit logic to explain those variations—would inform our scrutiny. A commitment to co-design with key stakeholders is also important. Finally, as the DPLR Committee also recommended, there should be a presumption that Scottish ministers must review the effectiveness of regulations or other laid documents made under framework legislation.

I will finish my contribution by complimenting the DPLR Committee's report from the perspective of a subject committee tasked with scrutinising the output of framework legislation. In our submission to the inquiry, we set out the challenges of scrutinising regulations within the 40-day period and called for the accompanying policy notes to set out better financial information. I would have liked to see the challenges that Parliament faces being explored in more detail in the report.

I will conclude by making a point that I have raised a number of times, especially in the Conveners Group, about the lack of oversight or co-ordination of regulations or other laid documents. At its heart, the issue is about how Parliament scrutinises—and, thus, legitimises—the Government's exercise of statutory powers. Such scrutiny is being squeezed or compromised by a lack of time and a lack of control over when business is timetabled. The problem is exacerbated at the end of each session when an unusually high volume of legislation emerges, as is happening at the moment, and it will be further exacerbated in the future as more powers are exercised via regulations or laid documents. As more legislation pushes the detail of implementation into regulations, or policy detail into laid documents, committees will face even greater pressure on their time.

The Rural Affairs and Islands Committee currently faces such a challenge. We have agreed not to scrutinise two key laid documents this autumn, as we do not have time in our work programme to do so. Such a lack of provision for parliamentary scrutiny and approval risks undermining the fundamental aims and objectives of those policy initiatives, as well as compromising the time that the Parliament and stakeholders can give to scrutinising and approving the framework legislation in the first place. I wrote to the Minister for Parliamentary Business about that on 1 April, and I would appreciate it if he could pick up on that concern in his comments.

15:12

The Minister for Parliamentary Business (Jamie Hepburn): I am grateful to have the opportunity to respond to the debate on behalf of the Scottish Government. I welcome the remarks of the conveners of both the Delegated Powers and Law Reform Committee and the Rural Affairs and Islands Committee. The Government has published its response to the DPLR Committee's report, from which I hope it is clear that it broadly supports the committee's conclusions and recommendations.

I will focus my remarks on certain key points in the Government's response. However, before I do so, I want to acknowledge the way in which the committee approached its inquiry. I recognise that the inquiry came against a backdrop of concern about the volume of so-called framework legislation in this parliamentary session, on which several members had commented. Some had suggested that the introduction of such legislation is a more frequent phenomenon than it was previously. I hear what was said about the Donoughmore report of 1932 and the concern about ministers' powers having been a long-standing issue. I cannot respond on behalf of Ramsay MacDonald's national Government of that year, but I will respond on behalf of the current Scottish Government.

I respectfully suggest that, although it has been asserted that so-called framework legislation has recently been introduced with greater frequency, I have yet to see any evidence, in the form of numbers, to demonstrate that there has been such a phenomenon. I have been an elected representative in this place for the same length of time as the Deputy Presiding Officer—18 years—and I say earnestly that I have not noticed such an increase in recent years.

Michelle Thomson: In some respects, the gentle challenge is, does it really matter? Many of the considerations that we are covering off today are about the efficiency and effectiveness of that type of legislation. Therefore, surely we should be equally concerned if there are just a few pieces of framework legislation; we should not just be concerned about the number of them.

Jamie Hepburn: I will come to process, because the point that Michelle Thomson makes speaks to the point that this is about our processes and how things are scrutinised in this place. I am always up for discussing how things can be improved, but I was merely making a point about whether there has been an increase in frequency of the use of what is referred to as framework legislation. That was referred to by the convener of the Delegated Powers and Law Reform Committee, and I am responding to that point; it has also been referred to in the report and

in wider discourse in the chamber. I am merely responding to the assertion. Although it has been asserted that there has been an increase, I have seen very little evidence to justify that being held to be the case.

I will turn to the issue at hand, which is the appropriateness of and the manner in which we utilise secondary legislation-making powers and the process. Before I come to that, I thank the committee for the work that it has undertaken on the issue during this parliamentary session. It has been a useful exercise for the committee to take away the issue, look at it in the round and then to gather evidence, hear from a variety of sources and bring forward a report. I commend the committee and the clerks who have supported it on that work and, of course, the people who went to the committee with their evidence.

The issues that have been raised in the report could be felt to be rather arcane, dry or dusty technicalities around the legislative process, but it is about more than that. It speaks to the responsibility that we as a Government carry for bringing forward proposals to Parliament for its approval in order to make good and effective law and for explaining as clearly as possible not just what the immediate impact of any proposed legislation will be but the ways in which that legislation might be used in the future. I take that responsibility seriously, the Scottish Government takes that responsibility seriously, and it informs how we approach every bill that we take forward.

It is also important to recognise that we live in the real world, where things change, and that, by necessity, it is sometimes sensible to take delegated powers so that we can adapt to circumstances quickly. Indeed, I think that that was the point that the convener of the Rural Affairs and Islands Committee made. It is appropriate for us to introduce legislation that sets out the broad principles but then relies on us to put things into effect through secondary legislation—I refer, for example, to the payment of benefits, the uprating of benefits, the provision of charges and the registration costs for certain professions. No one would suggest that we come back on a regular basis to set those things by primary legislation, so of course it is sensible that we use secondary legislation to do so.

Finlay Carson: I appreciate the anger that stakeholders have that we do not have time in our parliamentary calendar to look at the good food nation plan laid before the Parliament. My committee spent a significant amount of time on that during the pre-legislative process of putting the bill in place, but it is now being dealt with by another committee. There needs to be capacity in the Parliament for us to scrutinise the secondary

legislation that underpins the primary legislation that we passed more than a year ago.

Jamie Hepburn: Mr Carson mentioned earlier that he had written to me. I have responded to that letter, but I do not know whether he has seen my response yet. To be fair, it was sent only this week, but he has had a response from me, and I hope that it is useful.

The capacity issue relates to the point that Stephen Kerr made about the need for the Parliament to consider a range of matters. The Government has a role to play in that respect, in so far as we try to bring forward a manageable case load of legislation before Parliament.

Indeed, we also engage with the Delegated Powers and Law Reform Committee on how many statutory instruments we will lodge, and we try to ensure that we manage that process. Fundamentally, if there is an issue with the Parliament's capacity, woe betide the Government if it suggests how the Parliament should address it. The convener of the Standards, Procedures and Public Appointments Committee is in the chamber and it looks as though he is going to contribute to the debate. His committee is undertaking an inquiry into committee effectiveness; it is not for the Government to dictate or set out to the Parliament how it should undertake its work, especially in scrutinising the activities of the Government.

Stephen Kerr: I understand what the minister is saying. He speaks in the debate as a minister of the Scottish Government, which I respect, but I am sure that, as a parliamentarian, he must have deep-seated concerns about the capacity of Scotland's Parliament to deal with the issues that I and other members have raised. Does he appreciate that, because of the Scottish Parliament's unique structures, we need to be alert to the issues that might undermine its ability properly to scrutinise a powerful executive?

Jamie Hepburn: Of course, I may have a perspective on those matters, but I think that it is important to acknowledge that I stand in the chamber as a Scottish Government minister, as Mr Kerr recognises. I do not think that it would be appropriate for me to use the platform to set out how the Parliament should go about scrutinising the Government—frankly, that would be a rather obtuse position for me to take.

I observe—although it relates to different subject matter—that some time ago, we were debating the Scottish Elections (Representation and Reform) Bill. Daniel Johnson, who is not in the chamber for this debate, spoke about the appropriateness of the executive taking forward some of the propositions in the bill and asked whether it would have been better for the legislature to have done

that. In response, I made the point that that was in the hands of the Parliament. I respectfully suggest that those are things that the Parliament is capable of looking at, and I note the Standards, Procedures and Public Appointments Committee's work on such matters.

I should probably address the committee's report, so I will return to it. The report offers a definition of framework legislation. There is nothing that I find particularly objectionable about its definition—it broadly reflects the definition that the Government proffered. However, I am very clear that it is rather more important that in future the focus should not be on whether any particular bill is defined as framework legislation; it should be on the quality of the justification for and the information on any proposed powers provided by the Scottish Government to the Scottish Parliament to enable it to undertake its scrutiny role.

Martin Whitfield: The benefit of having a definition is that it would allow there to be much greater agreement before a piece of legislation was presented that it would follow the path that fits that piece of legislation, be it framework legislation or otherwise. Does the Scottish Government agree that there is great benefit to having a definition, even though, clearly, it cannot apply to every legislative vehicle in the Parliament?

Jamie Hepburn: I will be candid: I am not entirely convinced of that. I appreciate the committee's report, but, with the best will in the world, it has not crystallised how a definition would be used, nor has it laid out what the benefits of a definition might be. I am not entirely clear that investing time and energy in defining whether a bill is a framework bill is as important as undertaking scrutiny of the Government's justification of the appropriateness of using powers in a secondary format—rather than having a procedural debate about whether those powers are caught by the definition of framework legislation.

Stephen Kerr: Will the minister take an intervention?

Jamie Hepburn: The Presiding Officer said that we had a lot of leeway. I have extended quite a lot of it and I have still not got through the committee's report. I am more than happy to give way if it will be possible to do so.

The Deputy Presiding Officer: We have not exhausted the generosity, but we are getting closer to it.

Stephen Kerr: I am grateful, Presiding Officer, and I thank the minister for giving way. There is a clear advantage to knowing whether a bill is a framework bill, and whether a piece of legislation is setting forth principle rather than acting as the means of delivery of a particular policy, and that

advantage is that, with that knowledge, the Parliament can design and adjust the way in which it scrutinises the secondary legislation that comes from ministers. That is the fundamental issue with framework legislation. The issue involves the ability, in particular of our Parliament here at Holyrood, to properly scrutinise legislation.

I say to the minister—I hope that he will take this in the spirit that I offer it, because one day he might sit where some of us are currently sitting—that it is in the interests of good government that we get this right. A lot of the things that are produced in this Parliament become unnecessary, unforced errors that would have been caught and corrected if we had a stronger, scrutinising approach to secondary legislation.

Jamie Hepburn: First, I assure Mr Kerr that I have no intention of sitting where he is at any time. I think that he makes the point that I am trying to make. Are we going to say that any bill with secondary legislation-making powers in it is defined as a framework bill? I do not think that we are—I do not think that anyone is suggesting that. The question then is, are we suggesting that secondary legislation that is taken forward through something that has not been defined as a framework bill should not be subject to the same level of scrutiny as something that has been taken forward through a framework bill?

Stephen Kerr: That is what happens. The advantage—

Jamie Hepburn: Mr Kerr suggests that that is the case, but I am less convinced that that is a sensible way forward, because there will be plenty of important matters that we take forward through pieces of secondary legislation that have not come about due to a framework bill and which, frankly, in the interests of good governance, should be just as thoroughly scrutinised as those that have. That is where I stand on the matter.

The Government's position is that we should provide a clear justification at all times for the proposed inclusion of any delegated power that we plan to take in a bill. Of course, our processes should always be subject to reconsideration, refinement and improvement, and, effectively, that is the system that we have now. Alongside every bill in which we say that there will be secondary legislation-making powers, we have to publish a delegated powers memorandum to justify and make the case for powers to be delegated to the Scottish Government to make and amend law by secondary legislation. If any member or committee considers that what is set out in such a memorandum falls short of expectations, I would expect them—frankly, I would encourage them—to raise that with the relevant minister at the earliest opportunity and seek the additional information and justification that they consider to be

necessary. My expectation of ministerial colleagues is that they should respond in kind and provide as much detail and information as members require, in the interest of good scrutiny of our legislative proposals.

I will respond to some of the specific recommendations in the report. One recommendation says:

“The committee considers that legislation should, other than in very limited circumstances, set out a high degree of detail on the face of the Bill.”

The Scottish Government agrees with that.

Another recommendation says:

“Financial Memoranda should include an estimate of any costs arising from delegated powers provisions”

and that the Scottish Government should

“ensure it keeps committees updated throughout the legislative process on the estimated costs arising from a Bill”.

Again, the Scottish Government accepts those points and, at the request of the Finance and Public Administration Committee, I have already ensured that the advice to the Scottish Government's bill teams is revised to re-emphasise the need for committees to be kept abreast of changes to estimated costs in financial memoranda.

Another recommendation says:

“Where a Scottish Government Bill proposes the delegation of a broad power it should consider adding an appropriate super-affirmative procedure to enhance parliamentary scrutiny.”

The Scottish Government will take that recommendation into account in taking forward its legislative programme.

The report also has recommendations relating to Henry VIII powers—I have not had a chance to say much about Henry VIII powers, so I will try to say a little bit more about them in my closing speech, because I can now see that I have used up 16 and a half minutes of my allocated seven minutes, Presiding Officer, and I acknowledge that I am taxing your patience.

The Deputy Presiding Officer: You are redefining the meaning of generosity.

Jamie Hepburn: You have been very generous, Presiding Officer.

In relation to Henry VIII powers, the committee says that the Scottish Government should

“consider what more it can do to ensure it consistently sets out such powers' ability to amend primary legislation in a clear and accessible way.”

The Scottish Government is happy to accept that recommendation.

I welcome the committee's report and am glad that it has undertaken its work and that we are having this debate. The Government will, of course, continue engaging constructively with any suggestions for improving the scrutiny of legislation in the Scottish Parliament, whether that comes from the Delegated Powers and Law Reform Committee or from any other committee of this Parliament.

15:30

Roz McCall (Mid Scotland and Fife) (Con): I am delighted to open this committee debate on behalf of the Scottish Conservatives and to note the report that the Delegated Powers and Law Reform Committee produced following its inquiry into framework legislation and Henry VIII powers. I know that it has been said that this is a dry and dusty topic, but I actually find it extremely interesting.

I thank everyone who took the time to respond to the call for views or to provide evidence for the inquiry. As the convener has said, our thanks also go to the clerks and the legal team for their support and hard work throughout the process.

The inquiry came about because there has been a steady rise—or the perception of such a rise—in the utilisation of secondary legislation as a convenient way of passing laws. It has been suggested that it provides supposed flexibility in allowing legislation to be amended without the lengthy process of ensuring that every detail is written in the bill, and in making it more adaptable to societal change and helping with delivery. However, that comes with the downside of less Parliament scrutiny and a vagueness in the accompanying financial memorandum.

Most people who gave evidence to the committee pretty much agreed that there had been a steady increase—or a supposed increase—in the number of framework or skeleton bills, which was certainly an interesting starting point. We heard evidence along the lines of, “We don't know how to define it, but we know it's happening and we think it probably shouldn't,” or, “We have concerns that it produces bad law, but we know it works some of the time.” Some told us, “We think framework bills should have a narrow scope but, equally, allow for flexibility.” Finally, some said, “We don't really know how best to change it, but we think it needs changed.”

Members have to admit that that is an interesting remit at the commencement of an inquiry. Given that starting point, I am delighted with the work that the committee managed to do to get into the minutia and to reach the roots of problems that stem from the lack of detail in bills and from the inadequate funding set out in

financial memorandums as a result of that lack of detail. The committee has made some very sensible and achievable recommendations for the Scottish Government.

I will highlight a couple of notable suggestions. First, the committee considers that legislation should, except in very limited circumstances, be set out in a high degree of detail. The minister mentioned that. In the very limited circumstances when a framework approach is taken, it is essential that, when the bill is introduced, there is a full justification of why framework provision is appropriate.

Secondly, the committee suggested that all financial memorandums should include an estimate of any costs arising from delegated powers provisions, based on how those powers are expected to be, or might be, used by the Administration, and it called on the Scottish Government to keep committees updated throughout the legislative process about the estimated costs arising from a bill.

I will expand slightly on the financial memorandum issue, which is one not only for the Finance and Public Administration Committee, whose convener, Kenny Gibson, highlighted in his evidence how framework legislation presents a significant challenge to effective financial scrutiny. That point was echoed by Lloyd Austin of Scottish Environment LINK, who spoke about how the lack of detail in financial memorandums for framework legislation presents a scrutiny challenge for stakeholders. If we cannot adequately scrutinise the money needed for legislation, we run the risk of passing laws simply without there being sufficient funds to achieve the outcomes that they are designed for. All the policy decisions, discussions, debate and amendments throughout the legislative process will be for naught if insufficient funds are allocated. I see that recommendation by the committee as sacrosanct.

Lorna Slater (Lothian) (Green): I will mention this in my speech, but there is a challenge when it comes to framework legislation. For example, the Circular Economy (Scotland) Act 2024, which we can imagine will be in effect for decades, can be used to manage items such as single-use cups, and a similar act was used to manage single-use vapes, but how could any committee of the Parliament, or any Government minister, predict what single-use items might be in use 30 years from now and how much funding might be needed to manage them?

Roz McCall: I thank Lorna Slater for her question, which highlights the concerns that exist about the use of framework legislation. There is absolutely a question about how far into the future we will have to use our crystal ball to work out financial constraints. However, we will not be able

to introduce proper legislation that we know will work and will lead to the outcomes that we require if we do not have the right financial memorandum attached.

Martin Whitfield: Interestingly, is it not the case that, as the Scottish Government says in its response to the report, the Parliament must consider when to give delegated authority? If a crystal ball was required to see into the future, perhaps we would not give delegated authority in those circumstances.

Roz McCall: I cannot really disagree with that statement, and I thank Martin Whitfield for making it.

I appreciate that the minister provided a speedy response to the report and gave his commitment that the Scottish Government will ensure

“that the Scottish Parliament is provided with sufficient information to understand why a proposed delegated power is considered to be appropriate and proportionate, and how that power is expected to be used.”

That is certainly welcome.

I am pleased to see that the Scottish Government fully accepts the financial memorandum recommendation and is working with the Finance and Public Administration Committee on how it will address the financial consequences of bills.

The evidence shows that providing a definition is difficult, but the report has provided a sensible one. Framework bills should be the exception rather than the rule. Flexibility is essential, but thorough communication at the inception of a bill is also essential. The financial implications should be as detailed as possible and provided up front.

Given the encouraging letter from the minister, I look forward to seeing how the recommendations progress to ensure that the Scottish Parliament produces the best laws possible for the people of Scotland.

15:37

Martin Whitfield (South Scotland) (Lab): It is a pleasure to contribute to the debate, although I feel that, sadly, few are probably watching it. However, the issue goes to the heart of one of the challenges of this parliamentary session. As others have done, I genuinely thank the committee, the clerks and all the witnesses who gave evidence so that the report could be drafted.

I find the report to be very interesting and important. I think that the convener does his committee no justice by suggesting that it will not be read in 93 years' time if the matter is looked at again. I deeply hope that it will be.

We have already had quite a lengthy interaction on the need for a definition of framework legislation. With the greatest respect, I disagree with the minister—I think that a definition will be of assistance. If there is a definition, people know what they are looking for. They know when the definition has been crafted to avoid including something and, more important, they know when it has been crafted to allow what is being proposed to be approached in a different way.

On Henry VIII powers, we must remember that, although secondary legislation can relate to matters such as increasing the fees or the licence costs of something, as the minister suggested, it can also empower ministers to change primary legislation. Giving such a range of powers to a Government must be done carefully. There has been a discussion about whether the use of such secondary legislation has or has not increased. Interestingly, the name “Henry VIII” is attached to those powers in reference to a king who would rather pass legislation by declaration than by agreement.

Jamie Hepburn: I made that point at the evidence session with the committee. I wonder whether Mr Whitfield would agree with me and with Andrew Tickell, one of the other witnesses who appeared before the committee, who talked about the pejorative language that is sometimes used. Does Mr Whitfield agree that the term “Henry VIII power” is not entirely helpful, because it leads to odd conclusions about what a Government might do with such a power?

Martin Whitfield: That is an interesting question, given the round-table meeting that the First Minister held yesterday and the long discussions that we have had, when considering electoral law and other topics, about our approach to the use of language. It is interesting to pick up on something that Roz McCall said in her speech and that the convener mentioned—the use of language such as “skeleton”, “headline” and “enabling”. A lot of the language that is used to describe something is chosen according to where one sits on the argument.

That brings me to an important point. Putting aside party politics, there is a great danger that power corrupts and that absolute power corrupts absolutely. I do not in any way level that accusation against the current Scottish Government—yet—but the acquisition of power can become very comfortable and very easy. When we are able to read the Covid inquiry reports, we might well see indications of that having happened. One of the Parliament's duties is always to hold against the growth of power of the executive.

Jamie Hepburn: Mr Whitfield quotes the age-old maxim that absolute power corrupts

absolutely, but the fact of the matter is that we, as a Government, do not have absolute power. We are responsive and responsible to this legislature.

In relation to the subject matter that we are debating, whether we accept the notion, idea or concept of a framework bill, the Parliament has to agree to Government proposals to have powers through secondary legislation and delegated powers. It is for the Parliament to delegate powers to the Government, and it is in the Parliament's hands whether to agree to such a proposition.

Martin Whitfield: That intervention speaks to the intervention that I made on Roz McCall and to another point that was raised previously: at the end of the day, the Parliament's structures and procedures must support scrutiny. As the Government freely admits, it might well be that the Parliament should, on occasion, say no to the Scottish Government receiving delegated powers because of—insert good reason here.

Stephen Kerr: There was a discussion earlier about the appropriateness of using the term "Henry VIII", who was, of course, an English king—we should make that point very clear. I think that that language is appropriate, because should this Parliament not be very jealous of the delegated powers that it gives to ministers? Should it not demand a clear line of sight of accounting? Does Mr Whitfield, as the convener of his committee, agree that the structures and processes of our Parliament might not be sufficient to manage that delegation appropriately?

Martin Whitfield: I will use another convener's approach to a very similar invitation and say, "Not with my convener's hat on, I won't".

I am conscious of the time, Presiding Officer. There are a number of other things that I want to highlight—

Stuart McMillan: Will the member take another intervention?

Martin Whitfield: Okay.

Stuart McMillan: Before the interventions, Martin Whitfield spoke about Covid. It is fair to say that we, as a committee, recognised that Covid was a unique situation, so our report did not focus on that period. We spoke about it, and it came up in evidence, but we were very conscious that that was a very different time compared with normal parliamentary time.

Martin Whitfield: I whole-heartedly agree with the convener on that. I compliment the convener, the committee members and the clerks for the language that they have used about when and why such powers would be needed. There is clear sensitivity to the fact that there are circumstances in which actions have to be taken. However, we have to exercise care that those powers do not

remain with the Government. The committee—rightly, I think—chose not to go there, but the questions that the committee raised and considered are very important for the rest of this parliamentary session.

I am now desperately conscious of the time, but I invite the minister to expand on a few interesting responses that the Scottish Government made to the report. I will use the numbering of the recommendations that the Government used in its response.

First, when the committee invited the Government to talk about the limited circumstances in which framework bills should be used, it specifically used the words "very limited"—language that the Government had accepted in a previous recommendation. However, interestingly, in the Government's response, it talked about a "flexible approach". I wonder whether the Government could tie itself down further by agreeing that such bills should be used in incredibly limited circumstances.

I am conscious of the time, but I will talk for a minute or two longer to facilitate a changeover of those in the Presiding Officer's chair. I will briefly mention two other things.

The Government seems to be resistant to post-legislative scrutiny and the concepts of sunset clauses and reporting clauses. It pointed out that those things are acceptable, but it then drew attention to the fact that they should be used by committees only in a very limited way. I think that the Government said that because of the bureaucratic problem of monitoring things going forward. However, one of the great powers that Parliaments around the world are developing relates to the use of post-legislative scrutiny—not necessarily even by the Parliaments themselves—in order to continue to hold to account those for decisions that were made. When errors or omissions in legislation—or, indeed, its brilliance—should be highlighted, that can be done through post-legislative scrutiny. I wonder whether the minister could articulate whether there are concerns about post-legislative and pre-legislative scrutiny.

I am conscious that I am well over my time, for which I apologise. I will draw my comments to a close for the moment, but, in my summing-up speech, I will perhaps invite the minister, without notice, to come in on one or two of the matters that I have mentioned. I apologise to the minister for that.

The Deputy Presiding Officer (Annabelle Ewing): Thank you, Mr Whitfield. I call Lorna Slater to open on behalf of the Scottish Greens.

15:46

Lorna Slater (Lothian) (Green): I am glad that this debate has been brought to the chamber. Continuous improvement in how we operate as a Parliament is a worthy goal. I am pleased to be able to contribute.

I have heard from members across the chamber, in particular when I was working on the Circular Economy (Scotland) Bill, their reasonable concerns about framework bills. My position today is largely in support of that mechanism, with the caveat that I recognise and agree with much of what is in the committee's report—although I do not agree with all of it.

There are good reasons why framework legislation might be used. I will use examples in the circular economy space, because that is the area that I am most familiar with. Every member in the chamber is aware of some of the problems created by the large number of single-use items that are currently used in our society. We have all participated in beach cleans and seen litter in our parks, and we should understand by now, I hope, the carbon impact of manufacturing items that are only used once and then disposed of.

Without framework bills, separate primary legislation would have to be introduced for every different type of single-use plastic that we want to put in place measures to manage. One can imagine how onerous that would be on parliamentary time and how much less the Parliament would be able to do on health, education, food security and so on if it were painstakingly passing separate primary legislation for every type of plastic item that we want to manage.

Finlay Carson: Will the member give way?

Lorna Slater: Certainly.

Finlay Carson: I believe that the issue is not necessarily about framework bills; it is about the safeguards that accompany framework bills. It is also about the Parliament's ability to scrutinise secondary legislation when it is introduced, as it is incredibly difficult at the moment to do that scrutiny.

Maybe we should look at requiring the approval of the Parliament before secondary legislation under framework legislation is put forward. For example, the good food nation plan will be laid, but there is no role for the Parliament in approving it or amending it in any way.

Lorna Slater: I am glad that the member raises that point. I will come on to exactly that issue, because I agree with him that improvements to the scrutiny of secondary legislation are possible.

To continue with my thought, I hope that it is obvious that it makes sense to use framework powers to manage single-use items. Secondary legislation would allow the Parliament to prioritise the items that cause the most problems and to react quickly when items such as single-use vapes constitute an urgent issue.

One of the reasonable issues that was raised with me during the consideration of the Circular Economy (Scotland) Bill was the frustration of the Finance and Public Administration Committee that it could not adequately scrutinise the framework elements of the bill, because I was unable to tell it how the powers that the bill conferred might be used by future Governments, as I mentioned in my intervention on Roz McCall. We can imagine that a bill might have a lifetime of several decades, and who knows what sort of single-use items or novel materials might become problematic in the future? There is a good case to be made for a mechanism for financial scrutiny of secondary legislation to mitigate that concern, and I would hope that the Parliament would consider changing processes to allow that.

Michelle Thomson: The member and I sat on opposite sides on the consideration of that particular bill. My recollection is that the concern at that time was from a purely financial perspective. We accept that all financial memorandums are best guesses at the best of times, but I am talking about being presented with a financial memorandum that has a vast range and considerable complexity and uncertainty. In those circumstances, we are virtually guaranteeing that we will write a blank cheque. That carries significant risks from a scrutiny and good governance point of view. It is about overcoming those risks. What does the member think about that?

Lorna Slater: I absolutely identify with the problem that the member has raised. That is why there need to be suitable instruments for managing the scrutiny of the financial costs at the secondary legislation stage. That is a proposal that I am suggesting that the Parliament looks at in order to allow that secondary legislation to move forward.

In 20 or 30 years, when we are trying to ban another plastic or to manage it in some way through a deposit return scheme or some other mechanism, there will absolutely need to be adequate scrutiny at the time—this Parliament would never be able to adequately scrutinise that, but that scrutiny must be there. Equally, the introduction of entirely new powers to manage a single item in the future does not make sense either. I am suggesting that we improve processes around secondary legislation, particularly on that

financial point, which is the area that Michelle Thomson and Finlay Carson identified.

I make another assertion, which is that I am not wholly convinced by arguments that secondary legislation—even negative instruments—cannot be adequately scrutinised. I assert that such legislation can be scrutinised, should members choose to do so.

Jeremy Balfour (Lothian) (Con): The member might want to develop this in a moment. One of the problems for Opposition members is that, when secondary legislation is made, we have to either accept it all or reject it all—there is no ability to amend. To take the argument that the member referred to, she might introduce a list of 20 products that she wants to ban, but the Parliament might say that it actually likes 18 of them, but not two of them. The Parliament is then left in the impossible situation of having to say either yes or no. I do not think that the member has identified that difficulty yet.

Lorna Slater: I was not using that particular example, but if we are talking about single-use plastics, we would not be able to introduce a list with that many items in one go, because they must all be managed differently and would require different schemes. The example therefore does not really apply. However, I understand what the member has said, which is that secondary legislation requires a yes or a no. However, the Parliament has the chance to say no, and can use it.

Secondary legislation often comes back repeatedly to committees—we saw that with the tied pubs legislation and, indeed, the deposit return scheme, for which secondary legislation repeatedly came back to committees as it was adjusted and changed. We do not get just one shot at secondary legislation—it can be brought back over and over again. We know that that can happen.

I want to give an example of effective scrutiny of a negative instrument. Edward Mountain demonstrated that very ably in relation to secondary legislation on deer management, as some members might recall. He identified that the legislation was coming to a committee. It was not even his committee, but he arranged to be at that committee to ask extensive questions of the minister, who, in that case, was me. He then initiated an effective media campaign to bring the matter to the attention of the public and subsequently forced a short debate in the chamber on the matter. That shows how a member who is not even on the responsible committee can bring effective scrutiny to secondary legislation when they choose to. We could all choose to do that more often. We do not

have to give the Government a free pass on secondary legislation; that is up to members.

Finally, in respect of the committee's report, I am not supportive of the idea of the Parliament having a "think again" or "conditional approval" option. It gives Opposition parties an easy option that prevents progress without them having to take a firm stance on an issue, allowing them to play both sides of the argument with voters. We are all free to vote against legislation, but members should not be given additional powers to sit on the fence and hold up legislation that has been extensively consulted on. Part of being an effective politician is being courageous in saying both what you stand for and what you stand against. Politicians should not be able to stand in the way of progress by way of cowardice. As I have repeatedly said, secondary legislation is often brought back and amended repeatedly, going through the committees and through the chamber several times, as can be seen with the tied pubs legislation, the deposit return scheme and others.

Finlay Carson rose—

The Deputy Presiding Officer: Ms Slater is, I hope, bringing her remarks to a close.

Lorna Slater: By its nature, secondary legislation is more flexible and dynamic, and we are called upon as members to keep up and keep on top of the scrutiny role, using Edward Mountain as our role model for that.

15:55

Rona Mackay (Strathkelvin and Bearsden) (SNP): As a substitute member of the Delegated Powers and Law Reform Committee, I am pleased to speak in today's important debate. On the face of it, it seems like a dry, somewhat technical subject, but it is hugely important to the integrity of Scotland's democracy and the efficiency of the Parliament.

The DPLR Committee's recent inquiry into framework legislation and Henry VIII powers was an important and necessary piece of work relating to devolved powers and drafting legislation. As we have heard, framework or skeleton legislation sets out the principles for new law but without much detail as to how it will be given practical effect. Instead, broad powers to fill in the detail at a later point are given to ministers and, occasionally, to other bodies.

Henry VIII powers—the term is unfortunate, in my opinion—allow ministers to amend acts of Parliament by secondary legislation, which may concern minor matters but be very necessary.

Delegated powers are an essential part of the legislative toolkit. The Scottish Government and

the Parliament would not be able to function if we relied solely on primary legislation. That is the reality.

During my nine years in the Scottish Parliament, and as a member of the Criminal Justice Committee and, previously, the Justice Committee for all that time, powers in delegated legislation have been used to good effect to update and amend legislation to address changing circumstances—and always, in my opinion, to strengthen it. However, some people consider the use of such powers to be too wide, so the DPLR Committee inquiry was keen to explore any safeguards that can be put in place to address those concerns.

The Scottish Government is happy to recommit itself to ensuring that the Scottish Parliament is provided with sufficient information to understand why a proposed delegated power is considered to be appropriate and proportionate and how that power is expected to be used. What is more, the committee saw no evidence to suggest that framework legislation is being used more frequently, as the minister articulated earlier.

The evidence that Andrew Tickell gave to the committee talked about pejorative language in the context of framework or skeleton bills. In reality, we should remind ourselves that the process is used for fairly straightforward matters.

The Scottish Government does not routinely set out to introduce framework bills. Bills are always considered on a case-by-case basis, and that is a sensible way to legislate. To be honest, as a small Parliament whose powers are, thankfully, increasing, I think that we do pretty well.

It is also important not to lose sight of the mechanisms and processes that are already in place in Parliament to scrutinise proposed powers in bills and how they are used.

Martin Whitfield: I am grateful to Rona Mackay for being generous with her time. My intervention is about the monitoring of secondary legislation, which was mentioned in the previous contribution. The Scottish Government's response is that perhaps committees should take part in the consultation on the development of secondary legislation. Do you think that it is appropriate that the body that is going to scrutinise something should take part in the consultation on creating it?

The Deputy Presiding Officer: Always speak through the chair.

Martin Whitfield: My apologies.

Rona Mackay: I do not see any real problem with that. The subject matter should be considered by everybody who is involved in it.

There is a delegated powers memorandum that must explain the nature of each and every power in a bill, and it must include the reason for taking the power and the choice of scrutiny procedure for that power.

As we know, at stage 1, a bill is subjected to careful scrutiny from stakeholders and civic society. It then passes through stages 2 and 3, with the Parliament holding it to account at each stage. In that way, the Parliament retains the ultimate authority in determining whether secondary legislation-making powers should be in place in any piece of legislation in the first instance.

Similarly, when the Government exercises powers, including Henry VIII powers, to amend primary legislation, the Parliament has a key role in scrutinising both the technical and policy elements of the use of those powers. Ultimately, the Parliament retains the power to determine secondary legislation by either approving it or not under the affirmative procedure, or by deciding whether to annul it under the negative procedure. In a parliamentary democracy, that is, of course, how it should be.

It is clear to see that the committee conducted the inquiry rigorously and that the Government welcomes the overall direction of the report. It is also clear that considerable effort went into ensuring that the committee obtained a wide range of opinion and experience, hearing different perspectives and viewpoints, which were represented in what is a comprehensive report. I am very happy to support the motion.

The Deputy Presiding Officer: I call Edward Mountain, who joins us remotely.

16:01

Edward Mountain (Highlands and Islands) (Con): I thank the committee, its clerks and all the people who gave evidence, because the report is excellent.

Having been used as a role model by Lorna Slater, I am nervous now; if my parliamentary career was not coming to an end next year, it would have been ended by those remarks.

Let us see whether I can build on some of the comments that have been made. Developing legislation is rather like a journey that someone goes on with their family: they work out why they are doing it, where they are going, how they will get there, what they will do when they get there and what the costs will be. It is exactly the same when setting out to do something in business: the person works out why they are doing it, what they are going to do, when they will do it and how they will deliver it. It is the same for legislation.

I do not agree with the Minister for Parliamentary Business that there has not been a proliferation of bills with little detail in them; I believe that there has been. In the eight years in which I have been a committee convener, I have seen more bills come through with less detail in them.

Jamie Hepburn: [*Made a request to intervene.*]

Edward Mountain: In a minute, Mr Hepburn.

I looked at the names that the committee identified as being given to such bills; they include headline bills, shell bills, enabling bills and framework bills. Those are all great names, and they are used by people to promote the bills for what they are: skeletal bills and jellyfish bills.

Jamie Hepburn: I will not cite Mr Mountain as a role model any time soon—I hope that that reassures him.

On Mr Mountain's point about the proliferation of framework bills—or bills described by the range of pejorative terms that he has just used—he suggests that there has been a vast increase in the number of such bills. I wonder whether he can give me a number. Can he tell me the number of such bills in this parliamentary session, by comparison with the previous session, the session before that or even the session before that? Can anyone give an actual number to justify that claim?

Edward Mountain: That, of course, Mr Hepburn, could be one of the failings of the report. If members read the report in detail, as I did, they will see that the number of shell bills or skeletal bills in the United Kingdom Parliament has gone up threefold in the past seven years, and that the number in the Welsh Parliament has gone up by 43 per cent. What we have not seen is a figure for the Scottish Parliament; that is one of the failures of the report, and I wish that we had seen that. Perhaps the committee has details on that which were not included in the report.

I have to ask myself why we have these bills. The committee identified that they are used when there is a need for flexibility and the ability for co-design, and when there is a lack of policy development in the subject area when the bills are developed. It seems to have come on the back of a lot of the Covid legislation, which was fairly wide ranging.

My response to that is the example of the Land Reform (Scotland) Bill. There has been a lot of criticism that the lead committee is being asked to design the bill as it goes through the committee stage. We will have to see what happens at stage 2. If policy development has not been carried out before legislation is introduced to the Parliament, that is a failure in the legislation. We ask too much of committees, which are heavily committed,

especially in the final year of a parliamentary session, to get all the legislation through.

As I have said, I believe that those bills need to be much more tightly drafted. It shows weakness on the part of Governments to argue that they need to co-design legislation as it is going through the Parliament. To me, that shows that there is a lack of detail in the information that they put forward. Frankly, it is bad for parliamentary scrutiny.

We have little time to carry out that scrutiny. I am grateful to Lorna Slater for highlighting the time and trouble that I took to go through the deer management consultation, but it should not have come to that. That should have been discussed long before the secondary legislation was introduced to the Parliament. When the issue was debated, I think that I was entitled to a three-minute slot. It was hardly enough time for something that I considered so important and in which I had invested so much time.

Also, when we talk about the scrutiny of legislation after it has been introduced, we talk about the super-affirmative procedure. I think that we should say the super-affirmative procedures, because the procedure that is laid out in legislation can be considered for up to 60, 90 or 120 days. Does it require consultation? Does it require to come back to the Parliament to be approved? Can it be approved by the committee? There is no standard way of doing it, which makes it really difficult for committees to understand and to get those levels of super-affirmative scrutiny detailed out.

My belief is simple. If we are going to have these skeletal, framework or jellyfish bills—whatever people want to call them—they should have a mandatory sunset clause, and they should allow a super-affirmative procedure that requires the legislation to go back out to consultation to all those who will be affected by it. We should make it as difficult as possible for the Government to introduce such bills, so that the detail is there in the first place. If we get that detail right, we will not face the problems that we had with the deposit return scheme.

16:07

Paul O'Kane (West Scotland) (Lab): I am pleased to contribute to the debate. It is an important debate, because it allows members to express their views and opinions about how we operate in this Parliament and how we pass legislation. That is perhaps not something that we always have the opportunity to pause and do. That is why both today's debate and the Delegated Powers and Law Reform Committee's work is important.

For the work on its framework legislation and Henry VIII powers report, I thank not only the convener and members of that committee, but all the clerks and all those who have supported the work that Stuart McMillan spoke about in his opening remarks.

We have already heard that many members have experienced frustrations, as I have, during our time in Parliament, when we lodge amendments and attempt to put what we consider to be important details or provisions into a bill, only for ministers to respond that they do not consider those issues to be important enough to put into primary legislation.

I will perhaps reflect on areas where that has happened. For example, we have already heard about the challenges that were posed in pieces of legislation such as the National Care Service (Scotland) Bill.

Jamie Hepburn: I hope that the member would reflect that the Government is not obliged to agree with him when he brings forward an amendment. We are perfectly entitled to respond and say that we do not think that it needs to go in the bill. However, to return to my earlier point, if the member can persuade a majority of Parliament, he will be successful, the Government will not prevail and his amendment will be part of the primary legislation.

Paul O’Kane: That is a typically collegiate approach from the minister.

In a Parliament of minorities, which we are told about so often, of course the Government has a right to introduce its legislation. Edward Mountain referred to skeleton bills and jellyfish bills. All too often in this Parliament, legislation turns into Christmas tree bills. When something is not set out in the bill, we end up in a situation in which we go through various amendments to get to the point that could have been better established had we had that more collegiate approach that I am calling for in my speech, which I am sure that the Government will take note of.

Michelle Thomson: Even if something is included in a bill, there is no guarantee that that means that it is accurate. I distinctly remember it being mentioned in a conversation on gender recognition reform that, if a certain provision was included in the Gender Recognition Reform (Scotland) Bill, that would in no way affect the Equality Act 2010. I am not sure how that worked out.

Paul O’Kane: I will resist the temptation to relitigate that legislation, but Ms Thomson has put her point on the record. It is an important broader point in the context of the discussion that we are having about what should be included in bills.

When detailed provisions are not included in a bill, that presents a challenge, because the people with whom we discuss legislation, the people whom we consult and the people whom we help to draft amendments that they wish to be made to bills—as is their right as constituents and people who are engaged in public life in Scotland—often say that they are unclear about what the Government’s intention is in its proposed legislation and that they do not know what the Government’s thinking is in the area in question. Even at stage 1 of the bill process, it can be hard to get that out of ministers, to have a proper debate and to reach a consensus. The issue is not simply one of me getting my own way or colleagues getting their own way; it is about the more important question of the sorts of amendments that we seek to lodge on behalf of the people whom we represent.

Jamie Hepburn: Will the member take an intervention?

Paul O’Kane: I am feeling very generous, so I will give way to the minister once more.

Jamie Hepburn: It is not particularly helpful to say that it is not a question of people getting their own way. Mr O’Kane suggested, rather superciliously, that I was being “typically collegiate”. The point that I was trying to make is that the breadth of any legislation is in the hands of Parliament, collectively. Sometimes the Government’s position will prevail, and sometimes it will not. Sometimes Mr O’Kane’s position will prevail, if he can persuade Parliament that that should be the case.

Paul O’Kane: I am pleased that the minister has given me the opportunity to say that I have successfully amended bills in this Parliament.

Jamie Hepburn: Well, there you go.

Paul O’Kane: I am not sure that the minister is listening to the substantive point that I am making, which is that the Government, in particular, should set things out in a bill to avoid confusion or uncertainty about what is the intention behind that bill. The criticism that the Government has not done that in framework bills is levelled throughout the committee’s report, and I think that the minister must take cognisance of that point.

I accept that there has been a focus in the debate on ministers saying that there is a need for flexibility in legislation. It is, of course, important that there is flexibility, but that cannot simply be an excuse for not going through the more detailed process that I have outlined, or for queueing policy up to come in at a later date, rather than dealing with it immediately in the bill that has been presented to Parliament.

Although flexibility and broad powers might be required for legitimate purposes, I encourage the Government to pay particular attention to paragraphs 264 and 265 of the committee's report, on the use of mechanisms such as the super-affirmative procedure, which Edward Mountain mentioned. The use of such mechanisms is necessary not only to provide adequate scrutiny of secondary legislation but to push the Government to move faster to deliver the action that has been promised through the use of framework powers.

The Deputy Presiding Officer: You will need to bring your remarks to a close.

Paul O'Kane: Having been generous to other members, I will now conclude. I again thank the Delegated Powers and Law Reform Committee, and I hope that the Government will listen to what has been said. It is important that members can express their views about what happens in this Parliament and how we can make legislation more robust for the people of Scotland.

The Deputy Presiding Officer: I always encourage members to be generous, but I point out that, from now on, if a member wishes to accept an intervention, they will need to do so within their allocated time.

16:14

Michelle Thomson (Falkirk East) (SNP): Participants in the debate now have the chance to get their own back.

I welcome the debate, and I congratulate the DPLR Committee on a detailed, well-evidenced report. I elected to speak in the debate as a member of the Finance and Public Administration Committee, which, it is fair to say, has been vexed about the issues that have arisen from a financial perspective as a result of the use of what I will term "framework bills". We know that public sector expenditure is considerably constrained. I will not labour the reasons for that, but surely that must mean that there is an imperative for as much efficiency and effectiveness in public spend as possible—we cannot waste public money. However, based on my experience thus far, if we had applied that test to some of the financial memorandums for framework bills, they would have fallen short.

The report notes that the FPA Committee suggested that

"co-design processes to finalise exact policy during and beyond the passage of the relevant primary legislation presented significant challenges for effective financial scrutiny."

That is an understatement. Kenneth Gibson MSP, who regrets that he cannot be here today, said:

"although we are not particularly keen on them,"—

framework bills—

"if they are to be used, all the co-design work and stakeholder engagement should be done prior to the bills coming to the committee, so that we can fully analyse the costs."—[*Official Report, Delegated Powers and Law Reform Committee*, 21 January 2025; c 4.]

I am interested in the minister's view on the extent to which that can be done—and, if it cannot, why not.

Our committee also made commentary about the quality of some of the financial memorandums for framework bills. I will take the same approach as Stuart McMillan and not name them, for that is not the point. However, it is fair to say that we felt that they were below par when it came to our job of scrutinising them. I might have asked—somewhat tartly—in a committee meeting whether members would commit their own money on the basis of the information provided, as a way of demonstrating that.

Jamie Hepburn: Michelle Thomson says that she will not name the specific bills, and I understand why, because it is obviously a general issue. However, does she accept that what she describes is a good example of the scrutiny process? The Finance and Public Administration Committee wrote to the Government, asking us to improve and refine our process in relation to financial memorandums and the quality of them, and that is what we have done. That shows the Parliament holding the Government to account.

Michelle Thomson: I completely agree. In my further remarks, I was going to pay respect to the Scottish Government for responding to the Finance and Public Administration Committee and addressing our concerns, so I happily agree with that.

As someone with considerable experience in assessing business cases, estimates of costs for larger programmes and so on, I am concerned when considering this from a technical perspective. We know that financial memorandums include educated guesses, but the point that I made to Lorna Slater earlier is that range is an important indicator of how tight the scoping of the policy is. Generally speaking, a massive range of costs from X to Y tells us something about how tightly scoped the policy work has been, and that raises a concern. Going back to my point about efficiency and effectiveness, if, under challenge, in front of the committee, the member or the minister is able to clearly articulate the basis of every measure, that gives us confidence. In fairness to all the ministers and members, where they have not been able to do that, that illustrates my concern.

A point that has been made by a number of members is that, even with good scrutiny up front,

we have an issue with secondary legislation when we look at it through a purely financial spend lens against the backdrop of a shortage of public sector money. One key question—I do not know whether this has been mentioned enough—is how on earth we are meant to carry out post-legislative scrutiny, especially from a financial perspective, when we are using a framework bill with absolutely massive ranges, considerable uncertainty and considerable complexity. I do not see how that can be done. We need to own up to that fact and be aware of it.

I will finish quickly, because I made a lot of my points during my interventions on everybody.

I completely agree with the committee's view that

"powers allowing flexibility 'just in case' are unlikely to meet the test for the necessity of the power".

I also completely agree with its point that

"consultation and 'co-design' on a Bill's provisions should take place"

up front.

Its last point is that,

"as a general rule, a lack of policy development is not an appropriate justification for introducing framework legislation".

I suspect that the minister would want to intervene on that point if I was not running out of time. I am not saying that that is being done, but I am saying that there is the potential for that to occur, and we need to be alive to that.

16:19

Stephen Kerr (Central Scotland) (Con): I, too, have already made a number of contributions—some of them quite lengthy—therefore I wish to be circumspect, given the time that has been allocated to me to speak. I thank Stuart McMillan and the DPLR Committee for producing an excellent report. There have been a number of really good contributions in the debate, including, if I may say so, those of Michelle Thomson, to which we have just listened, and my colleague Edward Mountain, who gave us an excellent class on the shortcomings of the current set-up.

We are considering a matter of huge constitutional significance that ought to concern every one of us as parliamentarians. We are discussing the shifting balance of power between the Parliament and the executive. At times, the minister has been a little too thin skinned about this, but I suggest that, based on our own experience, most of us believe that there has been a growing tendency towards introducing framework legislation—bills that set out broad principles but leave ministers to fill in the details later, through secondary legislation.

Jamie Hepburn: Will the member give way?

Stephen Kerr: I would prefer to make some progress, because I think that I can predict what you are about to say. *[Interruption.]* Okay—if you will be very tight.

Jamie Hepburn: I am always kind to Mr Kerr, of course, although I think that he uncharitably described me as thin skinned. I would not say that I am. I am frustrated, though, because, yet again, it is being asserted that there has been an increase in the number of such bills and no evidence for that has been presented. *[Interruption.]* Mr Kerr is taking issue with me from a sedentary position, but I ask him to say how many such bills there have been. Can he give me some numbers?

Stephen Kerr: Edward Mountain highlighted the fact that an actual number was one aspect that was perhaps missing from the report. However, I think that there is absolutely clear evidence that members' experience is that there has been such an increase during this parliamentary session. Frankly, the report highlights that fact in saying that framework bills are no longer the exception but are, increasingly, the norm.

I will not argue with what Lorna Slater, who is not currently in her place, said about the importance of framework legislation. However, I would not have objected to anything that she had to say about the place of such legislation. Edward Mountain absolutely summed it up when he mentioned the important safeguards that need to be put in place around such bills. We must be careful that it does not become our standard approach to legislating, which I think is what members are concerned about. As parliamentarians, we ought to have such concern. We ought to be jealous of the power that the Parliament delegates to ministers, and we ought to be extremely careful about and attentive to the way in which they use the powers granted to them through legislation.

At the end of the day, we are talking about the Parliament's scrutiny of a powerful executive. When we say that the Scottish Parliament is the most powerful devolved Parliament in the world, we mean that the Scottish Government is probably one of the most powerful devolved Governments anywhere in the world. The bottom line is that our structures for scrutinising secondary legislation are simply not strong enough.

Michelle Thomson: During my recent trip to the Georgia General Assembly, in Atlanta, I met the local minister for economy, who pointed out that all oil and tax takes accrue to the bottom line there and that it has unlimited borrowing powers. Therefore Mr Kerr's remark about the Scottish

Parliament being the strongest in the history of humanity is not true.

Stephen Kerr: I did not say that it is the strongest in the history of humanity; I made it clear that it is one of the strongest and most powerful in the world, which is a view that stands scrutiny.

I simply do not consider that our Parliament's design is adequate. Time and time again in the debate, the way in which we produce secondary legislation has been shown to be lacking by colleagues who have brought a vast wealth of experience to the time that they have spent here. We must examine the unique aspects of our Parliament and how its ability to hold the executive to account and to scrutinise its actions properly is being limited.

We cannot get into the game of acquiescence. I am sorry, but I do not agree that the Covid situation should be seen as an exception. It is during the most severe test of a parliamentary system that a Parliament must assert its authority, not give it away. That, to me, is acquiescence, as I said a moment ago. I therefore share the view, which was strongly held by many who gave evidence to the committee, that, when secondary legislation stems from framework legislation, our procedures must be up to the task. That is why all members seem to agree that it is important that we know such a bill when we see one. That is the consensus view—Stuart McMillan just about said those words.

The reality is that, if it is the judgment of the Parliament that a bill is a framework bill, the post-legislative scrutiny and secondary legislative scrutiny needs to be different.

Stuart McMillan: Will the member give way?

The Deputy Presiding Officer: Mr Kerr is concluding his remarks.

Stephen Kerr: We need to talk about what we really mean when we talk about super-affirmative procedures and pre-laying scrutiny—mechanisms that empower the Parliament and do not allow the Government to take advantage of the perceived weakness of the design of the processes in order to impose the will of the executive. I do not think that those ideas are very radical.

The Deputy Presiding Officer: Mr Kerr, you need to conclude, please.

Stephen Kerr: I will conclude now. To members of the party of government, I say that, one day, they will not be the Government, so they occasionally need to put themselves in the position of being parliamentarians first, so that they can see that the best interests of good governance and the future of our country are best served by modernising the procedures of this Parliament.

16:25

Michael Marra (North East Scotland) (Lab): I will start where Mr Kerr ended. There are emergency circumstances in which the Government should be able to process laws and regulations that impact citizens without the standard parliamentary scrutiny. At all other times, Parliament judiciously exercises what is a time-limited power granted to us by the citizenry. However, I stress the word “emergency”. The Covid emergency was the most recent example. Some of us fear that the Government's tendency at that point has continued into this parliamentary session.

Stephen Kerr rose—

Michael Marra: I want to make some progress, Mr Kerr.

When extending the powers of Government, the issue lies not with how we might perceive the current Government to be using those powers but with how any future Government might use them. That is the question that Mr Kerr just put to colleagues in the Government.

The Scottish National Party is asking us to assume that every Government will always act with good faith. I would say that such an assumption is at best naive. The potential for future Governments of any stripe to misuse powers should in itself be the reason to have the highest level of safeguards.

History and, increasingly, the present day, are replete with warnings against the removal of legislative standards and breaches of long-standing political norms. Indeed, the First Minister has spent the entirety of the past week talking to the country as much as he possibly can about the possible threats in that regard. He hosted a taxpayer-funded meeting in Glasgow yesterday, warning against the rise of anti-democratic forces in Scotland, so we should take him at his word in that regard.

Stephen Kerr: I will be very brief. The problem with the Covid situation is that the Government still has all those emergency powers, with no sunset clauses whatsoever.

Michael Marra: I certainly take that point on board. That is part of the reason why today's report is important. As deputy convener of the Parliament's Finance and Public Administration Committee, I have witnessed many issues with legislation that has been lodged by the Government in this parliamentary session, particularly in relation to financial memorandums.

On 23 January 2024, a civil servant, much to the embarrassment of ministers, told our committee that the cost envelope for the national care service framework bill was not the £1.2 billion that was

originally set out in that financial memorandum but was, in fact, upon revision, an eye-watering and mind-boggling £3.9 billion. The previous minister, Kevin Stewart MSP, on 8 November 2022, came to committee and quibbled with a Convention of Scottish Local Authorities estimate of £1.5 billion, apparently entirely unaware that the real cost was nearly three times that.

The nature of that bill—legislation first and any policy detail to be included much later, if at all—made it in effect impossible for the civil servants who were provided with the bill to cost it. Thank goodness that the Finance and Public Administration Committee, prior to my involvement in it, rejected the original estimates as being incompetent. They were certainly proven to be so in the subsequent evidence that was received by the committee. Had the committee not rejected that original financial memorandum, Parliament would have risked passing a bill that would have left the taxpayer on the hook for nearly £4 billion. I gently say to the minister—I know that he is particularly keen to make the point about the amount of bills—that the £4 billion cost for the taxpayer that would have resulted from one bill is reason enough to look at the matter very carefully.

The national care service saga is one illustration of the fact that this Government has no grip on the finances in its legislation, but there are many more examples, including the Children (Care and Justice) (Scotland) Bill, the Circular Economy (Scotland) Bill, the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill and the Agriculture and Rural Communities (Scotland) Bill. The issues that have been raised through the scrutiny of those financial memorandums were laid out in part by my colleague Michelle Thomson and in part in the letter that was sent to the minister.

The minister rightly responded that the Government accepted the recommendations in the letter regarding some of the technical means on which to judge some of those areas. I highlight to the minister that there remain issues with the standard procedures for when revised financial memorandums might be provided to the Parliament and at what stage that will be done, whether that is before or after stage 2. It is absolutely critical for civil servants to have clarity on that.

In its submission to the inquiry, the Finance and Public Administration Committee also raised the issue of co-design—it seems that we pass a law and then decide what it might, could or should mean later, which is a recipe for an unholy mess. In my view, that tendency is about politics first and headlines at all costs. It is what you do when the thinking has not been done but you need to say something about a policy area that must be progressed. Nobody has ever been able to explain

to us why there cannot be co-design before legislation is lodged and we know what we are legislating for.

Michelle Thomson: *[Made a request to intervene.]*

Michael Marra: I am afraid that I am running out of time, otherwise I would have gladly given way to Michelle Thomson.

The Government's attempt to bypass the Parliament is an issue of democratic principle as well as an issue of financial responsibility. In the past three years, we have had three emergency budgets in the Parliament, with massive in-year cuts of up to £1 billion, and we have an emerging fiscal gap that is in the billions, with apparently no plan whatsoever from the Government to get a grip of it. In this financial year alone, the social security budget is overcommitted by £1.3 billion.

This week, Mairi Spowage of the Fraser of Allander Institute told the Finance and Public Administration Committee that the Government's last few budgets have been "chaotic". The chaos is down to the decisions that have been taken by the Government. The means by which the Government's legislative agenda impacts the growing financial chaos is, or should be, entirely in the control of the Parliament. We must ensure that that responsibility is defended and upheld in the face of a Government that has entirely lost control of the public's money.

The Deputy Presiding Officer: We move to closing speeches. I ask members to stick to the speaking time that they have agreed to.

I call Lorna Slater to close on behalf of the Scottish Greens.

16:31

Lorna Slater: I have enjoyed the debate, and I join Roz McCall, Martin Whitfield and others in self-identifying as a bit of a process nerd. I note the concerns expressed in the chamber and elsewhere about a perceived increase in framework legislation. There are similar concerns that the number of framework bills have been increasing in Westminster, with both the Conservative and Labour Governments finding that type of bill useful.

My impression is that Governments in Scotland and elsewhere are becoming more ambitious. Governments are being expected by voters to do more and are becoming more interventionist, which I support, as we face collective challenges such as the climate and nature emergencies and chronic issues such as child poverty, which will require significant and increasing Government intervention. However, the number of parliamentary sitting days and parliamentarians

are not increasing in proportion to the work that needs to be done. Something has to give if we are going to be able to make timely interventions using legislation and, indeed, if the nation is going to be able to react to the complex challenges that are ahead of us.

One of the fears that I often hear voiced by Opposition parties about framework bills is that they do not know what the Government might do with them. That has always seemed to me as though it is an admission of a lack of ambition. If Opposition parties seriously imagine themselves ever being in Government, they might have a good think about how they would use those legislative powers.

Finlay Carson: Will the member take an intervention?

Lorna Slater: I am sorry—I have to stick to time.

Of course, it is a worry for all of us that framework legislation might be used in subsequent parliamentary terms to do things that we might not agree with, or even undo work that we have supported, but such is the nature of the democratic process. Certainly, there are concerns in the environmental sector that the so-called Henry VIII powers in the Natural Environment (Scotland) Bill could be used to roll back environmental protections. Other members may have the opposite concern that they might be used to overrule the concerns of a different set of stakeholders for the purposes of nature restoration or protection. In either case, I am not sure that the Government is being entirely transparent about its intentions. A future Government may use those powers with substantially different intentions, which concerns me.

I am disappointed by Edward Mountain's disdain for co-design, which I understand has led to better outcomes in agriculture reform for Scottish farmers than their colleagues in England.

Jeremy Balfour: Briefly, I do not think that Mr Mountain is against co-design. He is asking why co-design cannot take place before a bill is brought to the Parliament so that the Parliament can vote on it, rather than the co-design being done after the bill is passed, when there is no democratic scrutiny of it.

Lorna Slater: I understand the question, and Michael Marra raised the same point. I guess that the challenge is, how can we co-design something when we do not yet know what powers we will have? Setting out a process to deal with that is challenging, and we are discussing one approach. The process that the member suggests, which involves doing everything in one go, would definitely be more challenging to do in terms of getting the timing right. The process of taking the

powers and then agreeing with the stakeholders who are going to be affected seems to me to be sensible, because gone are the days when Parliaments can be ivory towers that impose legislation that is difficult to change.

Stuart McMillan: I recommend that Lorna Slater, and all members, have regard to what Jonnie Hall of the National Farmers Union Scotland said about co-design when he gave evidence to the Delegated Powers and Law Reform Committee.

Lorna Slater: Thank you for that.

I will continue my point about imposing powers by primary legislation that can be difficult to change in these fast-moving times. For example, with regard to Holyrood park, we are in the absurd position that we cannot even charge for parking or make basic changes to improve accessibility without changing primary legislation that was passed in the 1970s. Primary legislation that contains too much detail can lack flexibility, which can hurt communities, and it is difficult to get time in a crowded parliamentary schedule to change such legislation.

In conclusion, I would welcome new processes to allow the Scottish Parliament to scrutinise secondary legislation and undertake effective post-legislative scrutiny of it, especially in order to resolve concerns around finances, but I welcome framework legislation as a useful tool, in some circumstances, to allow the Parliament to react effectively to a changing world.

The Deputy Presiding Officer: I call Martin Whitfield to close on behalf of Scottish Labour. Up to five minutes, please.

16:36

Martin Whitfield: On the point that Lorna Slater has just raised about co-design and the period of time in which it happens, one of the interesting challenges that we have seen, particularly in this session of Parliament, concerns the changing nature of bills as they go through the passage of scrutiny. It is perhaps necessary to consider what it is that we want to legislate on—as articulated by Edward Mountain—and how we intend to get there before the bill is drafted and lodged for scrutiny.

I want to spend a couple of minutes on that scrutiny point. As I raised with Rona Mackay, in its response to the committee, the Government has suggested that parliamentary committees should take part in the consultation in respect of secondary legislation as well as bills. That is the position of a Government that rightly distances itself from influence over and involvement in parliamentary process of change and amendment, and I absolutely respect that. However, I would be

interested to hear the minister's views on why a scrutiny committee that is charged with holding the Government to account and expressing suggestions, ideas and opinions about a piece of drafted legislation should participate in either the co-design process or the earlier consultation, and I would ask whether involvement in that consultation could prejudice proper scrutiny.

A number of other matters appear in the Government's response. I welcome the significant acceptance by the Government of a lot of points in the report. I know from earlier contributions to the debate that the Government has changed, in essence, the instructions around the production of financial memoranda. I hope that, even in the relatively short period of time that we have left in this session—during which time, as Finlay Carson pointed out, we may see an unexpected level of parliamentary scrutiny—we see the benefit of those better and more meaningful financial memoranda.

Although I disagree with some of what Lorna Slater articulated about the need for framework legislation, there are issues that we should consider with regard to secondary and subsequent legislation—I use that language carefully. I think that there is a need for an improvement in the process, particularly where we have identified framework legislation and in areas in which post-legislative scrutiny of issues including sunset clauses—

Finlay Carson: Will the member take an intervention?

Martin Whitfield: I am happy to do so, if it is brief.

Finlay Carson: One of the key issues is the lack of clarity in primary legislation around the co-ordination of the secondary legislation and other laid documents coming forward. In relation to the Agriculture and Rural Communities (Scotland) Bill, a former NFUS president told the Rural Affairs and Islands Committee that co-design was

“a fig leaf for not doing anything.”—[*Official Report, Rural Affairs and Islands Committee*, 12 March 2025; c 18.]

That is exactly what we are seeing with regard to that bill.

Martin Whitfield: That intervention speaks to the requirement for scrutiny, which goes back to where I began in speaking about the definition of framework legislation and about whether we need to identify framework legislation so that we can put in place different approaches for scrutiny in the weeks, months, years or even decades afterwards. I strongly support the Government's response that we should very carefully consider when we devolve powers to the executive to bring in legislation further down the line.

There have been a significant number of good contributions—far too many to go into—which once again speaks to the importance and value of this committee inquiry. I note that one of the Government's recommendations is for the committee to consider whether guidance should be produced. It will be interesting to see what the committee decides in due course.

This has been an interesting and beneficial debate, but one that is perhaps only the start of work in this or future sessions to provide better, higher-quality and more timely scrutiny of both framework legislation—for which I think we have a definition—and of the legislation that comes from it.

The Deputy Presiding Officer: I call Jeremy Balfour to close on behalf of the Scottish Conservatives.

16:41

Jeremy Balfour (Lothian) (Con): I begin by thanking my fellow committee members, the clerks and all those who gave evidence to the committee during an interesting process.

I confess that today's debate has not gone quite where I expected it to go. It felt at some points as if I was 40 years back, studying first year law and having some great debate about jurisdiction; at other times I was glad that I was not a member of Edward Mountain's family, because his holidays seem to be run like military operations and not much fun.

This has been a helpful debate and I will reflect briefly on some remarks. Before he jumps to his feet, I say that I am not going to take an intervention from the minister. All the evidence, across almost every jurisdiction in the western world, is that more framework bills are coming forward. That is happening not only in this Parliament but at Westminster, in Northern Ireland and Cardiff, and in other parts of western Europe. As much as the minister wants to see numbers and figures, that is just the reality. One reason for that, as was mentioned by Lorna Slater, is that we live in a society that is different from that which existed 30 or 40 years ago. We have 24-hour news and there is an expectation that people will respond more quickly, although I am not sure that that is a justification for going down the road that we have taken.

I have concerns about framework bills and absolutely agree with Michael Marra's remarks. I am not against consultation or involving stakeholders in legislation—in fact, I think that we should do more of that—but we go wrong when we do that consultation after passing legislation. That happens partly due to laziness and is a wee bit to do with not wanting to be held accountable

by this Parliament. I would much prefer to see the Government doing consultation, getting all its ducks lined up and then bringing forward a bill that Parliament can properly scrutinise, so that we can decide what to amend and what to take forward. That would give far more assurance regarding financial memorandums—a point made by Roz McCall and others—and would also allow Parliament to make choices, rather than the Government.

I will concentrate most of my remarks on the subject of secondary legislation and Parliament's inability to amend the regulations that come before us. I think that the next session of Parliament should look at that again and that, to pick up a remark made by the previous speaker, today may be the start of the journey, rather than its end.

During the passage of the Social Security (Scotland) Act 2018—I have reflected on it over the past few days—we made the decision that the criteria for who would get benefits would be set out by regulation rather than by having it in the primary legislation, as is the case at Westminster. That was done to provide for flexibility and consultation—the usual remarks that we get from Government. The problem now is that, if any changes are to be made to who can get disability benefit here in Scotland, as a Parliament, we must agree to them all or we must reject them all. There is no way for any Opposition MSP, or even Government MSP, to amend those regulations.

I absolutely accept that the evidence that we took suggested that it would not be easy to design a process that would allow amendment of regulations, but it is possible. It should not be allowed in every circumstance—there would have to be quite a high threshold for it to happen—but it is worth a committee of the Parliament considering whether we can move forward to allow members to amend secondary legislation rather than just have the ability to make a yes or no decision, which is a negative way to do it. I would welcome further discussions on that.

What is clear—again, I say this with due respect to the minister—is that Governments will always love secondary legislation and bills that have little detail in them, because it means that the Government is not held to account. The reverse of that is those of us in Opposition do not like and will never like skeleton bills. That is the reality of life. However, there must be a point at which we can come together and seek a way forward for the good of this Parliament and for the sake of Scotland and the legislation that we pass.

Martin Whitfield: In the words of the Scottish Government's bill handbook, the super-affirmative procedure involves "bolt-on" measures that allow additional powers. Perhaps we could invite the Government to allow amendable secondary

legislation that uses the super-affirmative procedure to see whether that works.

Jeremy Balfour: That is one possibility, among others. It would probably take greater minds than mine to design it, but it is worth looking at.

I thank all the other members for taking part in the debate, which has been interesting. I hope that whoever forms the next Government in a year's time will not simply forget about the report for another 60 years, but will look at some of its recommendations and take them forward, for the sake of this Parliament and for Scotland.

16:47

Jamie Hepburn: I can assure Jeremy Balfour that it will be the SNP that will form the next Government after the election.

I am glad that we have had some time in hand during the debate. Ordinarily when we are told that, it gives an indication that the debate is vastly undersubscribed, and that I—or if I fail to turn up, Mr Whitfield or another member of the Parliamentary Bureau—might be asked to move a motion to bring forward decision time. It appears that we have avoided that, which indicates that there has been great interest in Parliament in the matter. I congratulate the committee on drafting a report that has captured the Parliament's imagination—as well it should, because these are important matters.

I assure Mr O'Kane that I will certainly take on board everything that has been said during the debate. I do not necessarily agree with all of it, but I will reflect on it. I have already said that I welcome the report, and I hope that people can see that reflected in the manner in which the Government has responded.

I turn to what has been claimed about the volume of framework legislation. I have yet to hear any empirical evidence that suggests that we are seeing a substantial increase in the amount of framework legislation in this session compared with previous sessions. Jeremy Balfour was rather dismissive of the notion that I should request such evidence but, if someone makes a claim, it is important they can stand up and justify it.

Mr Mountain laid out some figures that relate to the UK Parliament but, as members in this place are all too wont to point out—indeed, as Stephen Kerr often points out—this is the Scottish Parliament and not the UK Parliament. It might be the case in other jurisdictions—I cannot speak to that—but I do not feel that, in my 18 years in Parliament, there has been a substantial increase in the amount of what we seem to be defining as framework legislation.

Michael Marra: What does the minister say to the point that I made when I asked him to set that number aside and consider the figure of £2.7 billion, which was the underestimation of costs for the framework bill for the national care service, due to the fact that the proposals in the National Care Service (Scotland) Bill were completely uncostable? Does that bill alone not demonstrate the significant risk that Parliament should be guarding against by revising the procedures and reducing the number of framework bills?

Jamie Hepburn: I was going to come to that point by Mr Marra, because I think that it shows that our procedures are effective. That is the epitome of why we have parliamentary scrutiny. That bill went to the committee for scrutiny, and the committee raised its concerns about the financial memorandum. I do not think that I need to rehearse the history of where we reached with that piece of legislation.

Michael Marra: You are kidding. Will the member give way?

Jamie Hepburn: I will not, because I gave way a number of times in my opening remarks. I went to about 16 and a half minutes then and I have only four minutes left now, and I want to respond to the debate.

I again make the point that it is rather more important that we focus on our process. Most members have laid out their views on that, rather than, by contrast, obsessing over what is or is not a framework bill. I am happy to engage with Parliament on how we might consider refining our process.

Let us reflect on what the process is now. In relation to any bill in which the Government asks Parliament to delegate its authority to take forward and exercise powers, we must lay a delegated powers memorandum in which we seek to justify that request. It is incumbent on Parliament to agree or disagree with that request. The power remains in the hands of Parliament. Parliament can reject or agree to that proposition.

I disagree with Jeremy Balfour when he says that the utilisation of secondary legislation does not allow for scrutiny. When those powers, where they have been granted by Parliament, are exercised, the Delegated Powers and Law Reform Committee—which Jeremy Balfour sits on, so he should be aware of this—and subject committees can scrutinise any instruments that they are interested in and hold ministers to account on them. The Scottish Parliament can also reject or annul instruments and require the Scottish Government to think again, which, I should say, is not a feature in every parliamentary system. Therefore, I do not agree that the balance

between the executive and the legislature in this place is disproportionate.

Jeremy Balfour: Without pushing my point, does the minister recognise that the Parliament has a simple yes or no vote on those? There is no way that it can say that it likes most of an instrument but not all of it.

Jamie Hepburn: I recognise that, but ultimately that has to be a decision for the committee or Parliament to take in the round. If, ultimately, that is part of the reason why a committee or the Parliament rejects what is laid before it, the Government has to reflect on that. On a number of occasions, our instruments have not even gone to a vote because a committee has raised such concerns that the Government has gone away and thought again.

I want to talk about the appropriateness of the approach that we take with secondary legislation. Lorna Slater made the point that the circular economy is an example of where it makes sense to use secondary legislation. There are multiple examples, such as when we look at the rate of benefits or where we are considering some form of charges, registration fees or payments, as Mr Carson's committee regularly has to do. Those things might change on an annual or, at least, on a regular basis. Are we seriously suggesting that we bring that back for primary legislation in each and every instance? That would not be an appropriate use of our time.

I did not get to speak about Henry VIII powers previously, but I want to focus on that. I agree that that is pejorative terminology, which I do not think is helpful. Mr Kerr remarked that the term is appropriate, because it refers to an English monarch and it pertains to Westminster. I might suggest that that is an interesting, and perhaps unintentional, recognition of the nature of Westminster.

Stephen Kerr: Will the minister give way?

Jamie Hepburn: I have very little time to give way.

The Deputy Presiding Officer: You have very little time.

Jamie Hepburn: I have very little time, so I am afraid that I am unable to do so.

I suggest that the terminology is unhelpful. If there is concern about defining such things—since we are seeking to define a framework bill—perhaps we could look for a better definition for such powers. However, when they are put in place in a bill, that must be agreed to by Parliament. Fundamentally, power remains in the hands of Parliament.

The powers must not be used for major matters. Invariably, they relate to small things, such as lists of organisations that the primary legislation might have prescribed as having to be statutory consultees. Some of those organisations may no longer exist—are we seriously suggesting that we introduce primary legislation to change the list again?

Finlay Carson: Will the minister give way?

The Deputy Presiding Officer: The minister is concluding.

Jamie Hepburn: I apologise. I genuinely would have been happy to give way to Mr Kerr and Mr Carson, but my time is running out.

I assure the Parliament and the Delegated Powers and Law Reform Committee that we welcome the report. We will continue to respond to any concerns that the Parliament has about proposed powers and we will take forward the commitments that we have made in response to the committee's report.

The Deputy Presiding Officer: I call Bill Kidd to wind up on behalf of the Delegated Powers and Law Reform Committee. If he could take us to decision time at 5 o'clock, that would be most helpful.

16:56

Bill Kidd (Glasgow Anniesland) (SNP): Right—thank you, Deputy Presiding Officer. I thank the DPLR Committee's excellent clerking team and the legal team. I also thank everyone who has taken part in what has been a really thoughtful and engaging debate. I am going to save everyone's thigh and buttock muscles, because I am not taking any interventions—so do not even try.

I thank the Minister for Parliamentary Business for his response to the committee's report, and the Scottish Government for the constructive and collaborative way in which it has approached the matter with the committee. There is clearly a lot of common ground, which is always a good place to start from.

This afternoon's discussions have been really interesting, and I hope that the committee's report will prove useful for colleagues across and outwith the chamber as we continue to scrutinise legislation, particularly in relation to the increasing use of framework powers. We in the committee have been listening closely to what has been said today; we will take it away with us and reflect on how we can continue to support the Parliament in its role not just when a bill comes in but throughout the life cycle of legislation—including when subordinate legislation is made under these broader powers.

One of the key points in the report is that, as has been mentioned, we are seeing more framework legislation than we did even a few years ago. In fact, that trend seems to be picking up pace. As we have set out, framework legislation is legislation whereby the bill sets out the broad principles but leaves a lot of the detail to be filled in later by ministers or others. There can be a case for that approach, in very limited circumstances. Flexibility is important—we all understand that. The committee is saying that, as a general rule, primary legislation should set out as much detail as possible up front, so that parliamentarians, stakeholders and the public can see clearly what is being proposed and engage with it properly. That is about openness and accountability. We believe that, when a framework approach is used, it is essential to provide a clear justification right at the start for why that is necessary in the particular context of a bill.

Some good points have been made today about the idea that “just in case” powers—those that are included simply for flexibility down the line—probably do not meet the test of necessity. That is something that we should all reflect on.

The committee has highlighted the importance of consultation and co-design before a bill is introduced. If a policy is not fully developed, that is not a reason to default to broad enabling powers. We should be aiming for detail, not deferring it.

We have looked at how to improve the scrutiny not just of primary legislation but of the regulations and other instruments that follow from it. That includes recommending that broad powers should be backed up by proper justification in the delegated powers memorandum. When there are concerns, committees might look at adding reporting or review provisions to bills, so that we as a Parliament can keep track of how powers are being used.

When it comes to subordinate legislation, we know how frustrating it can be that we cannot amend it. That is a real concern, especially in relation to significant regulations that are made under framework powers. That is why we suggest that further work might be needed to explore whether some sort of “think again” power could help to address those concerns. We will flag that in our legacy report.

The committee is generally content with how Henry VIII powers have been drafted in Scottish Government bills, and we are satisfied that the parliamentary procedures around them are appropriate. However, it is all about getting the balance right between flexibility and accountability.

The Parliament has a duty to ensure that the laws that we pass are not only effective but transparent and democratically sound. The DPLR

Committee's work is just one part of that, but I hope that the report and today's debate have helped to move us all a step forward in strengthening that process.

I would like, again, to thank everyone involved. It has been a pleasure to take part.

The Deputy Presiding Officer: That concludes the debate on the inquiry into framework legislation and Henry VIII powers.

Decision Time

17:00

The Deputy Presiding Officer (Annabelle Ewing): There is one question to be put as a result of today's business. The question is, that motion S6M-17074, in the name of Stuart McMillan, on behalf of the Delegated Powers and Law Reform Committee, on its inquiry into framework legislation and Henry VIII powers, be agreed to.

Motion agreed to,

That the Parliament notes the conclusions and recommendations contained in the Delegated Powers and Law Reform Committee's 21st Report, 2025 (Session 6), *Inquiry into Framework Legislation and Henry VIII powers* (SP Paper 762).

The Deputy Presiding Officer: That concludes decision time.

Meeting closed at 17:01.

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