



OFFICIAL REPORT  
AITHISG OIFIGEIL

DRAFT

# Meeting of the Parliament

**Tuesday 16 September 2025**

Session 6



The Scottish Parliament  
Pàrlamaid na h-Alba

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**Tuesday 16 September 2025**

**CONTENTS**

	<b>Col.</b>
<b>TIME FOR REFLECTION</b> .....	<b>1</b>
<b>BUSINESS MOTION</b> .....	<b>3</b>
<i>Motion moved—[Jamie Hepburn]—and agreed to.</i>	
<b>TOPICAL QUESTION TIME</b> .....	<b>4</b>
Nuclear Energy (Jobs) .....	<b>4</b>
Nursing Courses (Decline in Student Numbers) .....	<b>7</b>
<b>BUSINESS MOTION</b> .....	<b>12</b>
<i>Motion moved—[Jamie Hepburn]—and agreed to.</i>	
<b>VICTIMS, WITNESSES, AND JUSTICE REFORM (SCOTLAND) BILL: STAGE 3</b> .....	<b>13</b>
<b>DECISION TIME</b> .....	<b>158</b>

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# Scottish Parliament

*Tuesday 16 September 2025*

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

## Time for Reflection

**The Presiding Officer (Alison Johnstone):** Good afternoon. The first item of business is time for reflection, and our time for reflection leader today is David Jarvis of Speaking SBC.

**David Jarvis (Speaking SBC):** Three years ago, I faced one of my biggest challenges—medical discharge from the British Army. After multiple injuries and post-traumatic stress disorder, the life that I had known for two decades was gone. I was in a dark place mentally.

A year later, thanks to an array of veterans charities, I was heading for the Invictus games. I had purpose again, and direction. My training was not just about sport; it was about recovery.

Three months before the games, however, I became seriously ill. My body, which I thought I knew well, had suddenly become unpredictable. I lost more than a quarter of my body weight inside two weeks, and it turned out that I was only days from death.

The doctors diagnosed me with type 1 diabetes. They recommended that I consider quitting, accepting that the dream was over. It felt like the world was against me at every turn.

Then I had an epiphany. If the challenges would not stop, I would need unwavering focus. That meant that the target could no longer be about recovery. The significance of the goal had to match the scale of the challenge, so the choice was to go big or stay at home. It was gold or nothing.

I needed that target to keep me focused, because I was learning about this new, life-threatening condition through trial and error. Let me tell you, it was mostly error. I had more than 40 blood tests a day and countless insulin injections. There were days when my blood glucose levels just crashed without reasonable cause, leaving me shaking and struggling to stand, let alone train. There were nights when I lay awake with anxiety, questioning my sanity.

By the time I arrived in Germany for the Invictus games, in September 2023, I had learned enough to bring it all together. I stood on that podium with a gold medal around my neck not because the road got easier, but because I refused to step off it.

Here is the thing: resilience is not glamorous. It is not a motivational poster. It is showing up when quitting feels easier. It is stepping forward when the world pushes you back. I learned an important truth from my challenges: the world does not get easier; I have to get better at dealing with it. I could have relied more on doctors, teammates, coaches and my family. I—we—can delegate responsibility. However, accountability is where the buck stops, and, in my case, it had set up residence in the form of type 1 diabetes.

I was not responsible for my diagnosis, but I am accountable for how I respond to it. I am not responsible for every mistake, but I am accountable for applying every lesson learned. My accountability is important, because the challenges will just keep coming. There is no respite—every day is still a school day. The world can still feel relentless, but my focus remains resolute.

Your adversity might be very different from mine, but remember: you do not need perfect conditions to achieve something extraordinary. You just need the courage to be accountable—to own the outcome regardless of circumstances. Resilience is not about avoiding the storm; it is about pushing through, despite the challenges. You will come out a winner on the other side.

## Business Motion

14:04

### **The Presiding Officer (Alison Johnstone):**

The next item of business is consideration of business motion S6M-18918, in the name of Jamie Hepburn, on behalf of the Parliamentary Bureau, on changes to business. Any member who wishes to speak to the motion should press their request-to-speak button now.

*Motion moved,*

That the Parliament agrees to the following revisions to the programme of business for—

(a) Tuesday 16 September 2025—

delete

10.00 pm Decision Time

*followed by* Members' Business

and insert

8.35 pm Decision Time

(b) Wednesday 17 September 2025—

delete

*followed by* Stage 1 Debate: Leases (Automatic Continuation etc.) (Scotland) Bill

and insert

*followed by* Ministerial Statement: Alexander Dennis Limited

*followed by* Stage 3 Proceedings: Victims, Witnesses, and Justice Reform (Scotland) Bill

delete

5.00 pm Decision Time

and insert

4.20 pm Decision Time

*followed by* Members' Business—[*Jamie Hepburn*]

*Motion agreed to.*

## Topical Question Time

14:04

### **Nuclear Energy (Jobs)**

1. **Douglas Lumsden (North East Scotland) (Con):** To ask the Scottish Government what its response is to the Nuclear Industry Association's reported view that Scotland will miss out on thousands of new jobs due to its stance on nuclear energy. (S6T-02667)

**The Minister for Business and Employment (Richard Lochhead):** We are focused on supporting growth and creating jobs by capitalising on Scotland's immense renewable energy capacity, rather than the more expensive new nuclear energy, which takes decades to build and potentially creates a further legacy of radioactive waste, which is costly and difficult to dispose of.

Significant growth in renewable storage, hydrogen, carbon capture and decommissioning are key opportunities for our future energy workforce in Scotland, with independent scenarios from Ernst & Young, or EY, showing that, with the right support, Scotland's low-carbon and renewable energy sector could support nearly 80,000 jobs by 2050.

**Douglas Lumsden:** There is a fundamental dishonesty towards nuclear from the Scottish National Party. It is quite happy to use nuclear energy from England or France when the wind is not blowing, but it blocks any moves to have that baseload generated in Scotland, thereby closing the door on jobs, investment and opportunities. The Scottish economy is missing out on thousands of well-paid, good jobs. Next week, the United Kingdom and the US are set to sign a multibillion-pound partnership, but that investment in small modular reactors will bypass Scotland due to the SNP's anti-science dogma towards nuclear energy. Will the SNP Government end the conspiracy against nuclear power, follow science instead and publish its belated energy strategy, with nuclear playing a key role?

**Richard Lochhead:** I am old enough to remember being in this chamber back in 1999 or 2000 up until 2007, when my party proposed developing Scotland's renewable energy potential. We were told that our renewable energy targets were unachievable and were pie in the sky, but here we are in 2025, producing enough renewable electricity in our country to meet domestic demand. We achieved Scotland's ambitions on renewable electricity, and we can achieve much more.

There is a huge prize to be captured for Scotland—a massive economic opportunity in

terms of Scotland's renewable potential. That is what we should focus on. As the member will know, the cost of nuclear power plants is rocketing, and there is a lead-in time of decades for those technologies, whereas we have a prize that we can capture in the coming decade or so, so we should focus on that.

**Douglas Lumsden:** There is no answer on when the energy strategy will be here. We have been waiting almost three years for it now.

We have a brilliant nuclear workforce at Torness and Hunterston who add so much economic value to Scotland, but the SNP Government is turning its back on the workers who have been keeping the lights on for decades. By siting new SMRs at those sites, we could utilise and grow the existing workforce and negate the need for monster pylons and battery storage systems that blight our communities, as our production would be closer to the demand. Once again, I ask: when will the Government finally publish its late energy strategy?

**Richard Lochhead:** The member talks about the implications for jobs. I should refer to another independent analysis by Ernst & Young that suggests that, with the right support, there could be 2,044 jobs and £383 million of gross value added in nuclear decommissioning in Scotland by 2045. The member is right, in that there are many valuable skills in Scotland's nuclear sector, and we should put them to good use in the decades ahead. There will be plenty of jobs created in renewables and in nuclear decommissioning in this country.

We will say more about our energy strategy in due course.

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** As the minister highlighted, nuclear power takes decades to become operational, at an eye-watering cost to the public, with EDF Energy reporting that the costs of Hinkley Point C could spiral to almost £48 billion, which is more than double the original estimate. Does the minister agree that, given the risks and huge costs of nuclear, we are better placed to take advantage of Scotland's natural abundance of far more affordable and far quicker to deliver renewable power?

**Richard Lochhead:** Audrey Nicoll lays out very eloquently the case for the Scottish Government's current energy policy. She is right to talk about the spiralling costs—the eye-watering costs—of the proposed nuclear power stations and those that are under construction in England at the moment, which are into tens of billions of pounds. If we could use Scotland's share of that to deploy our renewable energy resource in this country, we could create even more thousands of jobs and

support supply chains in this country. We should focus on capturing that prize.

**Sarah Boyack (Lothian) (Lab):** I am proud to have set Scotland's first renewables targets, and I agree that we need a lot more renewable energy.

The SNP opposes new SMRs—and Torness is due to close in spring 2030—even though they are being built across Europe. Torness currently has 550 full-time EDF Energy employees, 180 full-time contract employees and up to 800 employees every time there is a statutory outage. Why is the SNP happy to import nuclear-generated electricity but not to see it continue to be produced at Torness, given the massive annual benefits of around £45 million for the wider local economy?

**Richard Lochhead:** I welcome Sarah Boyack's support for our renewable energy targets, which her Administration set before ours came to power. Since 2007, our Government has achieved its targets.

I have indicated that tens of thousands of jobs have already been created in renewable energy in Scotland and there is potential to create tens of thousands more. Regarding those who work in the nuclear industry, I refer to the significant potential for the economy that comes from deploying their skills in nuclear decommissioning. There are many opportunities to create new jobs in Scotland and to sustain those that we currently have.

**Patrick Harvie (Glasgow) (Green):** In response to the original question, the idea that a private sector industry body lobbies for its own self-interest might be the least surprising revelation that I have ever heard. Work by the Tyndall Centre for Climate Change Research shows that, United Kingdom-wide, renewables can generate up to six times as many jobs as nuclear. Does the minister agree that if the Conservative Party was the least bit interested in jobs, low-cost energy and low carbon, it would embrace the net zero opportunities for Scotland in the future instead of trying to drag us back to the technology of the 1960s?

**Richard Lochhead:** I agree with Patrick Harvie. Scotland has a golden opportunity and a competitive advantage. We have the massive natural resource of all our renewable energy and clean energy sources. It would be crazy not to focus on them and deploy our investment in order to realise that massive potential for Scotland and for our companies. We are bringing about cheap, cleaner energy and all the other benefits that go with that.

**Fergus Ewing (Inverness and Nairn) (Ind):** Hunterston shut in 2022, Torness is due to close in 2030 and a question mark hangs over the gas station at Peterhead. There is a fundamental question: how do Governments ensure that we

avoid blackouts, which nearly occurred on 8 January this year in the UK? Does the minister not accept that, without baseload and back-up, it is impossible to provide synchronicity, inertia and, therefore, grid stability to maintain the national grid at 50 Hz? How can that be done without some baseload and back-up? Will there be a full day's debate about those really crucial issues in our Parliament?

**Richard Lochhead:** Fergus Ewing has raised very important principles that should underpin the energy policy of any country in the world. *[Interruption.]* We must bear in mind that we are talking about new nuclear power stations, which take decades to build. We cannot wait decades to answer some of the challenges that he has outlined, which is why we should continue to deploy Scotland's massive clean energy and renewable energy resources and capture their benefits.

**Martin Whitfield (South Scotland) (Lab):** The golden opportunity surely rests with both energy sources. The question that has still not been answered is, when will the energy strategy be published? Will the Scottish Government undertake to publish it before the end of this parliamentary session?

**Richard Lochhead:** My colleague Gillian Martin will keep Parliament up to date on that in due course. On the jobs question—which is why, as employment minister, I am here—I emphasise to the Parliament that we have a massive opportunity to create new jobs for Scotland in the energy sector. From independent analysis, we can already see the evidence of the tens of thousands of new energy jobs that this Administration has created. We should surely all work together to capture that prize.

**The Presiding Officer (Alison Johnstone):** We have a long afternoon. I would be grateful if members would speak when they are called and not otherwise.

### **Nursing Courses (Decline in Student Numbers)**

**2. Carol Mochan (South Scotland) (Lab):** To ask the Scottish Government what its response is to the Royal College of Nursing's reported concerns regarding the decline in the number of nursing students, in light of recent Universities and Colleges Admissions Service figures showing that the number of accepted places on nursing courses beginning this autumn in Scotland is 5 per cent lower than last year. (S6T-02665)

**The Cabinet Secretary for Health and Social Care (Neil Gray):** Under this Government, nursing and midwifery staffing has increased by almost 19 per cent since 2006. It is important to be clear that the UCAS statistics do not cover all routes into

those courses, with part-time, Open University and most postgraduate courses not using the UCAS platform.

However, I absolutely recognise the need to encourage more people into the profession. That is why our nursing and midwifery task force is bringing together partners to drive forward lasting change and to support staff, including by recommending actions to develop alternative routes, such as through our excellent colleges, to widen access into education pathways.

**Carol Mochan:** I wish to quote the Royal College of Nursing's warnings:

"Scotland does not have the number of nurses now that it needs to meet the demand for care in health and social care services. Thousands of registered nurses are missing from health and social care teams across Scotland, impacting on the quality and safety of patient care. This is a desperate negative spiral. The Scottish government must take urgent action now and make investment focused on addressing the nursing workforce shortages."

Those are the warnings from the profession itself. Does the Government believe that it is currently training enough staff to meet demand?

**Neil Gray:** I thank Carol Mochan for that question, because these are very serious issues. We are working with the Royal College of Nursing and the Royal College of Midwives to ensure that the nursing and midwifery task force takes action to address them, and we are working in collaboration to deliver the task force's recommended actions. We recognise that widening access to nursing and midwifery programmes is important in order to increase the number of nurses and midwives.

Substantial work to widen access has already begun, including with our higher education institutions. That will involve testing innovations over the next three to four years and collaborating with the college sector to enhance and promote recruitment and retention in rural and island areas. That work will include the delivery of satellite education and the development of work-based learning programmes.

**Carol Mochan:** Cabinet secretary, without properly trained staff, nursing places will remain unfilled. Over the past three years, nearly 2,500 fewer nursing students have started university than were planned under the targets that were set by your Government. That means that the gap between the number of registered nurses who are needed and the number who will enter the workforce in the coming year is set to widen even further. There is real concern across the profession. Will the cabinet secretary confirm whether the nursing and midwifery task force's recommendations, which were published in February, will be funded and fully implemented

before the end of the current parliamentary session?

**The Presiding Officer:** Always speak through the chair, please.

**Neil Gray:** We are already working to implement the recommendations of the nursing and midwifery task force. As Carol Mochan will recognise, the challenges that we face in attracting people into nursing and midwifery courses are not unique to Scotland. Those challenges are also being faced in Labour-run Wales, where there has also been a reduction in the number of student nurses. It is also not just an issue in the United Kingdom—half of the nations in the Organisation for Economic Co-operation and Development are reporting a reduction in the interest of 15-year-olds in nursing education.

We take the issue seriously here. It would make a big difference if we were able to recruit and retain international workers. The reduction in the number of visas for those in the health and care workforce that have been approved by the Home Office over the past year is extremely concerning, because that could have an incredibly damaging impact on our health and social care services. Indeed, in May, the RCN said that new immigration measures could

“accelerate an exodus of internationally educated nurses ... with potentially devastating consequences for health and social care services”.

I am keen to work with Carol Mochan and others to persuade the UK Government of the merits of a proper immigration service that works for the needs of our public services in Scotland.

**Emma Harper (South Scotland) (SNP):** I remind members that I am a registered nurse.

The UK Labour Government hiked tuition fees in England this year, and the Labour Government in Wales continues to charge tuition fees. That means that nursing and midwifery students are landed with high levels of debt when they qualify. In contrast, in Scotland, under the Scottish National Party, tuition is free and record numbers of Scots are going to university. While Labour burdens nursing students with avoidable debt, will the cabinet secretary set out and reiterate the unique support that is available in Scotland to entice students into the nursing and midwifery profession?

**Neil Gray:** Our package of support for student nurses and midwives in Scotland is currently at its highest level, which is the highest level of support to be provided across the United Kingdom. The annual £10,000 bursary is non-means tested and non-repayable. Eligible students receive free tuition, free uniforms and free disclosure and health checks, as well as the reimbursement of clinical placement expenses. Some students also

qualify for additional allowances to their bursaries, such as dependants allowance, childcare allowances and/or single-parent allowances.

That is what we get with the investment from an SNP Government: free tuition, which is always protected, additional bursary support and allowances for childcare. What do people get with Labour? Broken promises, negativity, no ideas and a hefty bill to pay at the end of their studies.

**Brian Whittle (South Scotland) (Con):** The figures that we have before us follow the reports that I highlighted last week, which show that the number of nursing and midwifery vacancies has risen by 60 per cent in just six months. Those figures were preceded by numerous others, all pointing to the same issue. Scotland's national health service is not attracting or retaining the staff that it needs in order to care for patients properly or to clear backlogs. That reminds me of when my daughter applied to do midwifery less than 10 years ago. She was one of 43 who were accepted. There were 440 places. Nurses now have to go through clearing to fill those places. Does the cabinet secretary recognise that there is a serious problem here? How do they intend to ensure that we will make the NHS in Scotland a more attractive place to work?

**Neil Gray:** I recognise the question from Brian Whittle, but there are 48,909.6 whole-time equivalent qualified nurses and midwives working in NHS Scotland. That is a 2.7 per cent increase over the past year and a 13 per cent increase in the past decade. As I have already stated to Carol Mochan, the UCAS data does not cover all routes into university for those subjects, with part-time, Open University and most postgraduate courses not using the UCAS platform.

On the vacancy rates, there is increased investment and increased activity to bring down waiting times, and I expect an increased number of places to be available for recruitment. I encourage our boards to ensure that they are utilising the talent that exists here in Scotland among nurses and midwives.

**Willie Rennie (North East Fife) (LD):** The financial problems in universities are contributing to the loss of important teaching staff, which means that the viability and credibility of departments is under threat. That will store up problems for many years to come unless we can get things right.

What discussions has the cabinet secretary had with his colleague Mr Dey, who is sitting next to him, about the future viability of universities, so that nursing departments are viable for the future?

**Neil Gray:** With relevance to the point that is before us, I point back to the answer that I gave to Carol Mochan on the importance of international

students and international workers, not just to our NHS and social care services but to our universities. That is a critical point. Mr Dey and I of course frequently discuss issues with regard to training the next generation of our public sector workers, ensuring that the continued viability of our university sector is, as the member would expect, very high up on the Government's agenda.

**The Presiding Officer:** That concludes topical questions.

## Business Motion

14:23

**The Presiding Officer (Alison Johnstone):**

The next item of business is consideration of business motion S6M-18901, in the name of Jamie Hepburn, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Victims, Witnesses, and Justice Reform (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during stage 3 of the Victims, Witnesses, and Justice Reform (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limits indicated, those time limits being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended or otherwise not in progress:

Groups 1 to 4:	50 minutes
Groups 5 to 7:	1 hour 50 minutes
Groups 8 to 10:	2 hours 35 minutes
Groups 11 to 13:	3 hours 35 minutes
Groups 14 to 16:	4 hours 20 minutes
Groups 17 to 19:	5 hours 10 minutes
Groups 20 to 22:	6 hours.—[ <i>Jamie Hepburn</i> ]

*Motion agreed to.*

## Victims, Witnesses, and Justice Reform (Scotland) Bill: Stage 3

14:23

### **The Presiding Officer (Alison Johnstone):**

The next item of business is stage 3 proceedings for the Victims, Witnesses, and Justice Reform (Scotland) Bill. In dealing with the amendments, members should have before them the bill as amended at stage 2—that is, SP bill 26A—the marshalled list of amendments and the groupings of amendments. The division bell will sound and proceedings will be suspended for around five minutes for the first division of stage 3. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons or enter “RTS” in the chat as soon as possible after the group has been called.

Members should now refer to the marshalled list of amendments.

### **Section 2—Functions**

**The Presiding Officer:** Group 1 is on the victims charter. Amendment 4, in the name of Jamie Greene, is grouped with amendments 5, 9 and 28.

**Jamie Greene (West Scotland) (LD):** I take the opportunity to quickly thank, at the start of today's debate, the Parliament's clerks, who have assisted a number of back benchers and Opposition members with the drafting of amendments where we did not have the support of the Government. I thank the Cabinet Secretary for Justice and Home Affairs and her team, including her civil servants, who have assisted on areas of mutual interest in drafting amendments. In particular, I thank my staff, who have worked incredibly hard over the past few weeks and months to assist with today's amendments.

We come neatly to the first group. It is on the victims charter, which is a duty that will be placed on the victims commissioner, should such a commissioner be created through the course of today. I understand and accept that there is a plurality of views on the establishment of a victims commissioner. A number of victim support organisations are in favour; others are not. There has been a mixed response to the Criminal Justice Committee's report on the bill. Notwithstanding that, should such a commissioner be created as a result of today's votes, I feel that it is imperative that the commissioner has a specific and clear task to do on day 1 of taking office, which is to create the victims charter.

I will talk briefly through the amendments. Amendment 9 is the substantive amendment in the group. It will insert a new section into the bill that outlines a requirement for the new victims and witnesses commissioner to prepare and publish a victims charter within a year of this section of the bill coming into force. In preparing the charter, the commissioner will have to consult a number of key people, including victims, victim support organisations and criminal justice bodies and partners.

Amendment 9 sets out what will be in the charter—that is important. I was unusually specific in my related stage 2 amendment about what I thought the charter should or should not contain in order for it to be a meaningful and helpful document and not simply a repetition of other pieces of advice that are in the public domain. Unusually, the Government accepted verbatim what I proposed, which has carried through to stage 3.

The charter will outline for victims—who often have had very little or no experience of the criminal justice system—an end-to-end description of the criminal justice system in Scotland, which differs from that of other parts of the UK. It will outline the interactions that a victim might have with the system at various points as they go through their journey of reporting a crime and being identified as a victim, through to the relevant court proceedings and sentencing, and even through parole and thereafter. In essence, it outlines that person's various touch points with the system.

### **The charter will explain**

“the communications which a victim will receive in the course of those interactions”.

We know that, at various points, victims are communicated with by various bodies and agencies, to a meaningful degree or not, as we will come on to discuss in relation to later groups of amendments.

The charter must outline what victims' rights are throughout those interactions. From feedback that I have had, I know that those rights are not always obvious. Further, it will detail

“the mechanisms available to a victim for upholding those rights”.

It is open ended, so that the commissioner can consult more widely and add other matters into the charter as they consider appropriate.

The charter should be promoted by stakeholders once it is completed, so I have lodged amendments 4 and 5, which will place a duty on the commissioner to ensure that the charter, when completed, is promoted by partners. For example, that information could be issued as a

booklet or pamphlet to people when they report a crime at police stations, or it could be distributed by solicitors or lawyers, by charities in the third sector that support victims, by the courts or even by the national health service or at other touch points where people interact with a public service. Its purpose is to inform victims at the earliest possible stage about their journey through the justice process.

14:30

**Liam Kerr (North East Scotland) (Con):** The broad thrust of Jamie Greene's amendments is reasonable and I am inclined to support them, although I note that an awful lot of what is in the proposed victims charter seems to replicate what is in the "Victims' Code for Scotland".

Given the requirements on the commissioner to carry out an annual review of the charter and the concerns that we have heard from Scottish Women's Aid about that potentially taking the commissioner's resources away from other priorities—including the promotion that Mr Greene has just mentioned—how much time and money does he think will be spent on producing and reviewing the charter every year, as opposed to the other work that the commissioner will be doing?

**Jamie Greene:** I thank Mr Kerr for his comments and for his—as always—constructive and helpful feedback, which he has shared throughout our negotiations on the bill.

The first draft and iteration of the charter will require work and time to be spent on it, and, inevitably, that will come at a cost. That will be part of the costs that are associated with the running of the office of the commissioner. I appreciate that there are a range of views on that.

The annual review is, indeed, a review—it will not be a complete reproduction of the charter. I do not expect it to be completely rewritten each year. However, during a political year there might be legislative changes, changes to guidance that have been issued as a result of secondary legislation or other changes that the Government expects to make. For example, I know that the Government has just carried out a consultation on parole reform. That might result in changes to guidance or to Scottish statutory instruments. Perhaps those changes will need to be reflected in future iterations of the code. Equally, the third sector is evolving, so the nature of the advice that is available and given to people might change over time.

I suspect that, as the years go on, the charter will require updating rather than complete renewal, and therefore the workload will be less as time goes on.

To get to the crux of Mr Kerr's point, as has been expressed, we do not want a commissioner for a commissioner's sake—we have had long debates in Parliament about that issue. We want a commissioner who has something meaningful and tangible to offer to victims. The code is tangible. It will be written in friendly language, and it is something that everyone will be able to pick up to allow them to understand the journey that they are about to go on through the justice process.

I am genuinely pleased that Victim Support Scotland supports the creation of the charter. In its briefing to members of the Scottish Parliament, it said:

"VSS supports the preparation and publication of a Victims' Charter as part of the role of the Victims and Witnesses Commissioner".

It notes that that is complementary to the existence of the current victims code and said that it welcomes the increased awareness that those rights, when coupled with the powers of the commissioner, will offer to victims.

The "Victims Code for Scotland", which Mr Kerr rightly points to, is a good document. However, I have to say that none of the victims whom I have met during the past four years has ever heard of it or read it. It has clearly not been promoted, and it has limited scope in terms of the interactions that people might have with the justice system. I hope that the charter goes further than the code. Indeed, a similar charter exists in England and Wales, with which victims are presented.

Overall, the whole package should create a meaningful piece of work for the commissioner to do on day 1 of his or her job, should that role be created.

I will leave it there.

I move amendment 4.

**The Cabinet Secretary for Justice and Home Affairs (Angela Constance):** I am conscious that we have more than 160 amendments to get through today, so I will leave my thanks to everyone who has contributed to the bill until later in the proceedings.

I am very pleased to have been able to work with Jamie Greene on the amendments in group 1. As he has outlined, they will establish a victims charter, which the victims and witnesses commissioner will prepare, publish, promote and lay before the Scottish Parliament. It is right that that duty will be on the victims and witnesses commissioner, whom the bill, if passed tomorrow, will establish as the person who has the role of raising awareness of and promoting the interests of victims and witnesses. I am pleased to support the amendments in the group.

**The Presiding Officer:** I call Jamie Greene to wind up and to press or withdraw amendment 4.

**Jamie Greene:** I have no further comments to make. I press amendment 4.

*Amendment 4 agreed to.*

*Amendment 5 moved—[Jamie Greene]—and agreed to.*

**The Presiding Officer:** Group 2 is entitled “Victims and Witnesses Commissioner: functions and definition of victim”. Amendment 59, in the name of the cabinet secretary, is grouped with amendments 8, 60 and 61.

**Angela Constance:** I will deal first with amendments 59, 60 and 61, which provide a revised and broader definition of “victim” for the purposes of the work of the victims and witnesses commissioner.

Amendment 59 will add a specific reference to the role of the commissioner in relation to the victim notification scheme in section 2 of the bill. On introduction, the bill defined “victim” broadly to avoid the risk of anyone being unintentionally excluded from interacting with the victims and witnesses commissioner, either as an individual or via engagement with a victim support organisation. We have revisited that to ensure an appropriate approach to what is meant by “victim”, following discussions with victims groups. Liam Kerr raised issues with the definition at stage 2. Although the changes that will be made by the amendments are not directly related, I know that we are all looking to ensure that the definition is appropriate.

Amendments 60 and 61 will expand the definition of “victim” to expressly include, first, those persons who have

“suffered harm as a direct result of having seen, heard, or otherwise directly experienced the effects of”

such conduct, or

“harmful behaviour by a child”;

secondly, those who are eligible to receive information under the victim notification scheme; and, thirdly, relatives who are prescribed for the purpose of receiving information through the victims code and standards of service under the Victims and Witnesses (Scotland) Act 2014.

Amendment 8 was developed in relation to concerns that were raised by some of the criminal justice bodies. As with the separate amendments to change the term “criminal justice agency” to “criminal justice body”, which I will speak to under group 4, amendment 8 is designed to meet the concerns that have been expressed about perceptions of the independence of decision making within the justice system. Amendment 8 will therefore state in the bill that the victims and

witnesses commissioner may not exercise their functions in a way that would adversely impact the decision making of a criminal justice body, and it therefore expressly protects their independence.

I move amendment 59.

*Amendment 59 agreed to.*

**The Presiding Officer:** Group 3 comprises minor and technical amendments. Amendment 6, in the name of the cabinet secretary, is grouped with amendments 7, 10 to 16, 18, 20, 22, 23, 25 to 27, 29, 30, 33 to 37 and 58.

**Angela Constance:** The amendments in group 3 will change the term “criminal justice agency” or “criminal justice agencies” to “criminal justice body” or “criminal justice bodies” in part 1 and schedule 1, which relate to the victims and witnesses commissioner. The criminal justice bodies, as they are proposed to be known in light of the amendments, are listed in the bill as the Lord Advocate, Scottish ministers, Police Scotland, the Scottish Courts and Tribunals Service and the Parole Board for Scotland.

The amendments were developed in relation to stakeholder feedback and, in particular, a concern raised by the Parole Board for Scotland about how the term “agency” could be perceived, as the bodies operate independently of Scottish ministers. We consider that the use of the description “criminal justice body” addresses that concern. Although it does not have any impact on the legal standing of any of the criminal justice bodies that are included under the definition, that term is considered to be a more neutral term than “criminal justice agency”. It will avoid any suggestion that those independent bodies are in any way subordinate to Scottish ministers or the victims and witnesses commissioner, or a suggestion that the commissioner or Scottish ministers will be able to direct them.

I move amendment 6.

**The Presiding Officer:** Just to confirm, cabinet secretary, do you wish to add any further comments to wind up?

**Angela Constance:** I have nothing to add.

*Amendment 6 agreed to.*

*Amendment 7 moved—[Angela Constance]—and agreed to.*

### **Section 8—Restriction on exercise of functions**

*Amendment 8 moved—[Angela Constance]—and agreed to.*

### After section 8

*Amendment 9 moved—[Jamie Greene]—and agreed to.*

### Section 10—Carrying out investigations

*Amendment 10 moved—[Angela Constance]—and agreed to.*

### Section 13—Reports on investigations

*Amendments 11 and 12 moved—[Angela Constance]—and agreed to.*

### Section 14—Power to gather information

*Amendments 13 to 16 moved—[Angela Constance]—and agreed to.*

**The Presiding Officer:** Group 4 is entitled “Victims and Witnesses Commissioner: power to gather information”. Amendment 17, in the name of the cabinet secretary, is grouped with amendments 19, 21, 96, 97, 24 and 98 to 100.

**Angela Constance:** I begin with amendments 17 and 19, which are in my name. Provisions in the bill relate to the information-gathering powers of the victims and witnesses commissioner, which are subject to certain exemptions. Amendments 17 and 19 clarify that a criminal justice body or the Lord Advocate can refuse to provide information in certain circumstances, rather than being obliged to provide that information, as is required by the current wording. That ensures consistency of language and makes it absolutely clear that refusals are not overridden by the requirement to provide information to the commissioner.

Amendment 24, which is linked to amendments 17 and 19, makes it clear that the right of the commissioner to report to the Court of Session or publicise the criminal justice body’s failure to provide information does not apply if the criminal justice body is relying on the exceptions in sections 14(3) or 14(4)—that is, where the body could refuse to provide information to a court or, in the case of the Lord Advocate, where doing so might prejudice criminal proceedings or be contrary to the public interest.

Amendment 21 provides the commissioner with an alternative route—to the Court of Session—if a criminal justice body has refused to provide information based on the exception in section 14(3) and the commissioner wishes to challenge that refusal. That ensures that the commissioner’s ability to take enforcement action towards criminal justice bodies, where appropriate, is not undermined. I urge the Parliament to support my amendments in the group.

I cannot support any of the amendments in Sharon Dowey’s name. Her amendments 96 and

97 would place a duty on local authorities and providers of social housing to provide information requested by the victims and witnesses commissioner for the purpose of determining the support that they are providing to victims and witnesses. It would also bring those organisations into the scope of enforcement that the bill currently applies only to criminal justice bodies, as is appropriate for the victims and witnesses commissioner.

Ms Dowey’s amendments appear unnecessary and disproportionate. However, I reassure her that section 6(2) of the bill provides the victims and witnesses commissioner with the power to engage with such bodies as they consider appropriate, and section 7 allows further flexibility in how the commissioner discharges their duties.

In addition, under sections 10 and 12, where the commissioner is conducting an investigation, they can require any persons to provide evidence or documents. Therefore, as the commissioner already has the power to engage those bodies as part of their functions, and I do not consider it appropriate for such bodies to be subject to enforcement and the requirement to provide information in the same way as criminal justice bodies, given the nature of the work of the commissioner, I urge the member not to move those amendments.

Ms Dowey’s amendments 98 to 100 also seek to bring local authorities and providers of social housing into the scope of the enforcement that is provided for in the bill. That does not seem appropriate, for the reasons that I have already set out. In addition, for such changes as Ms Dowey proposes in respect of this group to be introduced at this stage, I would expect there to have been considerable engagement with councils and social housing organisations, to seek their views on the impact of those, and I suspect that that has not been possible. I therefore urge Ms Dowey not to move the amendments in the group, and I urge the Parliament to oppose them if they are moved.

I move amendment 17.

14:45

**Sharon Dowey (South Scotland) (Con):** My amendment 96 would give the victims commissioner the power to request information from local authorities and social housing providers for the purpose of determining the support that they are providing to victims and witnesses. The amendment was suggested to me by Victim Support Scotland, which backs it.

All MSPs will be aware from their casework that local authorities and social housing providers play a key role in supporting victims. The power to request information from them will help the

commissioner to assess the support that those bodies are providing to victims, and their compliance with the victims code.

Amendments 97 to 100 are all technical amendments in consequence of amendment 96.

I have concerns about the potential for a victims commissioner to drain resources from victims support services. However, I recognise that, if the bill passes, we will have one, and so we must give them the tools that they need to create change for victims. There is no point in having a commissioner if they cannot hold all relevant agencies to account.

If any MSP has ever been contacted by a constituent who has been failed by a local authority or social housing provider, they should back my amendment today on their behalf.

**Angela Constance:** I stress to members that these amendments are new to stage 3. Unfortunately, I did not hear Ms Dowe make any reference to consultation with either social housing providers or local authorities.

**Liam Kerr:** Will the cabinet secretary take an intervention?

**Angela Constance:** In a moment.

As I said in my opening statement, in exercising their duties under the act, the victims and witnesses commissioner can, of course, engage with any relevant party.

**Liam Kerr:** On the point that the cabinet secretary made about the amendments being new to stage 3, can we take it that any amendments that are newly introduced at stage 3 will not find favour with her?

**Angela Constance:** That will depend on the consultation and engagement that has taken place.

With respect to Ms Dowe's amendments, I repeat that I did not hear her make any reference to the engagement that she has had with those who would be impacted by the amendments—namely, housing providers and local authorities.

*Amendment 17 agreed to.*

*Amendments 18 to 21 moved—[Angela Constance].*

**The Presiding Officer:** Does any member object to a single question being put on amendments 18 to 21?

**Martin Whitfield (South Scotland) (Lab):** I object in relation to amendment 21.

**The Presiding Officer:** That being the case, we will put questions on each amendment individually.

*Amendments 18 to 20 agreed to.*

**The Presiding Officer:** The question is, that amendment 21 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

As this is the first division of the stage, I will suspend for about five minutes to allow members to access the digital voting system.

14:48

*Meeting suspended.*

14:54

*On resuming—*

**The Presiding Officer:** We will proceed with the division on amendment 21.

The vote is closed.

**The Cabinet Secretary for Education and Skills (Jenny Gilruth):** On a point of order, Presiding Officer. My app did not connect. I would have voted yes.

**The Presiding Officer:** Thank you, Ms Gilruth. We will ensure that that is recorded.

**Emma Harper (South Scotland) (SNP):** On a point of order, Presiding Officer. My app was not connecting quickly enough. I would have voted yes.

**The Presiding Officer:** Thank you, Ms Harper. We will ensure that that is recorded.

**Kenneth Gibson (Cunninghame North) (SNP):** On a point of order, Presiding Officer. I would have voted yes.

**The Presiding Officer:** Thank you, Mr Gibson.

**For**

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dowe, Sharon (South Scotland) (Con)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)

Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Findlay, Russell (West Scotland) (Con)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greene, Jamie (West Scotland) (LD)  
 Greer, Ross (West Scotland) (Green)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lumsden, Douglas (North East Scotland) (Con)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Simpson, Graham (Central Scotland) (Reform)  
 Slater, Lorna (Lothian) (Green)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Abstentions

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Marra, Michael (North East Scotland) (Lab)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sweeney, Paul (Glasgow) (Lab)  
 Whitfield, Martin (South Scotland) (Lab)

**The Presiding Officer:** The result of the division is: For 96, Against 0, Abstentions 17.

*Amendment 21 agreed to.*

### After section 14

**The Presiding Officer:** Amendment 96, in the name of Sharon Dowey, has already been debated with amendment 17. I ask Sharon Dowey to move or not move the amendment.

**Sharon Dowey:** On the basis that the amendment is supported by Victim Support Scotland, I will move it.

*Amendment 96 moved—[Sharon Dowey].*

**The Presiding Officer:** The question is, that amendment 96 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

### For

Briggs, Miles (Lothian) (Con)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Maggie (North East Scotland) (Green)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Greer, Ross (West Scotland) (Green)  
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)  
 Harvie, Patrick (Glasgow) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)

Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Simpson, Graham (Central Scotland) (Reform)  
 Slater, Lorna (Lothian) (Green)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Harper, Emma (South Scotland) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)

Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Abstentions

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Marra, Michael (North East Scotland) (Lab)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sweeney, Paul (Glasgow) (Lab)  
 Whitfield, Martin (South Scotland) (Lab)

**The Presiding Officer:** The result of the division is: For 40, Against 58, Abstentions 17.

*Amendment 96 disagreed to.*

### Section 14A—Failure to supply required information.

*Amendment 22 moved—[Angela Constance]—and agreed to.*

*Amendment 97 not moved.*

*Amendments 23 and 24 moved—[Angela Constance]—and agreed to.*

15:00

*Amendment 98 not moved.*

*Amendment 25 moved—[Angela Constance]—and agreed to.*

*Amendment 99 not moved.*

*Amendment 26 moved—[Angela Constance]—and agreed to.*

*Amendment 100 not moved.*

### Section 16—Annual Report

*Amendment 27 moved—[Angela Constance]—and agreed to.*

*Amendment 28 moved—[Jamie Greene]—and agreed to.*

*Amendment 29 moved—[Angela Constance]—and agreed to.*

### **Section 17—Requirement to respond to annual report**

*Amendment 30 moved—[Angela Constance]—and agreed to.*

### **After section 18**

**The Presiding Officer:** Group 5 is on research on child sexual exploitation and abuse. Amendment 31, in the name of Liam Kerr, is grouped with amendment 32.

**Liam Kerr:** Amendment 31 and the consequential amendment 32 would require the newly constituted victims commissioner to conduct an investigation into

“group-based child sexual exploitation”

and abuse, also known as “grooming gangs”, in Scotland.

We know that grooming gangs operate in Scotland. Just seven months ago, a Romanian grooming gang was convicted of raping and sexually abusing 10 women in flats across Dundee. In 2016, Police Scotland conducted an investigation, called operation cerra, into a grooming gang in Glasgow that reportedly had 44 victims and 55 alleged perpetrators.

We cannot overlook the fact that sexual crime in Scotland is already at its second-highest level since 1971. How prevalent are grooming gangs here? We just do not know. To be fair, nor did the authorities in England, which is why, in January 2025, Baroness Casey was instructed by the Prime Minister to carry out in England an exercise of precisely the sort that is envisaged by my amendment 31. The amendment simply provides for a similar investigation to be undertaken by, or under instruction from, the new victims commissioner. Such an investigation would build a national picture of what is known about grooming gangs in Scotland. It would identify local and national trends, assess the quality of the data that is available, review police understanding of the crime and assess the demographics of victims and perpetrators. Crucially, it would require the making of recommendations about how to prevent this most vicious and heinous of practices from occurring and about whether a full public inquiry should be commissioned.

Such an exercise must be done here. When asked about Scotland having an inquiry, Baroness Casey herself said

“I can move from Scotland to England pretty easily, and criminals do.”

Indeed they do.

I am mindful of the challenges of establishing a new commissioner. That is why, although Baroness Casey delivered her audit in fewer than six months, I have required in my amendment 31 that the Scottish report should be done within three years.

There is currently a worrying lack of information about the true scale of the issue—about who the victims are and who is conducting these crimes in Scotland. I am a firm believer that more data is a good thing, but we have very little here. We cannot bury our heads in the sand while England tackles the issue. If we were to do so, there would be a real risk of Scotland falling behind in dealing with child sexual abuse.

**Audrey Nicoll (Aberdeen South and North Kincardine) (SNP):** Members will be united in our condemnation of the issues that the member refers to. However, does Liam Kerr agree that his proposal is extremely specialist and complex and that, rather than this being a role for the victims commissioner, any work in Scotland to look at the issue more closely would need to be done by a more specialist and multi-agency forum?

**Liam Kerr:** That is a well-made intervention. The victims commissioner that the bill will bring in will have a blank slate. Therefore, the commissioner can be set up in a way that will appropriately facilitate what amendment 31 would require. However, that is a valid intervention, and amendment 31 specifically provides for the victims commissioner to appoint someone else to conduct the research on their behalf, if they should so wish. They could even appoint Baroness Casey, which I think we would all agree would be an absolute masterstroke.

**Martin Whitfield:** Will the member take an intervention?

**Liam Kerr:** I will come back to Mr Whitfield in my closing comments.

I urge members to support my amendments 31 and 32 and to deliver justice for the victims of grooming gangs.

I move amendment 31.

**Angela Constance:** The Scottish Government fully recognises the terrible suffering that is experienced by children who are abused and exploited, and we are all determined to tackle that and share the priority of protecting our children from harm. This is a sensitive area and it needs to be treated as such. However, I do not support amendments 31 and 32, which do not represent the most effective approach to these grave matters.

The national child sexual abuse and exploitation strategic group was established in 2024. That is work that is under way now, not in three years’

time. It is an expert group of key statutory, third-sector, academic and, crucially, service delivery organisations, and it is best placed to assess and make recommendations for additional action to tackle child sexual abuse and exploitation. It is better placed to do so than a victims commissioner, whom the Conservatives had doubts about establishing and who, following commencement, will need to be recruited and will have a variety of duties to deliver, not least the delivery of the charter that we debated and agreed to in group 1.

I want to know that we have expertise on and knowledge of this sensitive and crucial issue, and the national child sexual abuse and exploitation strategic group is best placed to provide that. The group is already working at pace to strengthen workforce identification of abuse, improve data collection and information sharing to better understand prevalence, and enhance multi-agency co-ordination to improve our collective response to this abhorrent crime.

Police Scotland has advised that there are no current investigations in Scotland involving offences against children and young people that would mirror the investigations that are described in the United Kingdom Government “National Audit on Group-Based Child Sexual Exploitation and Abuse”, which was conducted by Baroness Casey.

However, all members will agree that there is no room for complacency in relation to these hidden and underreported crimes. Police Scotland is reviewing historical and current cases of this nature, and that is essential, expert work that is being undertaken now—work that Audrey Nicoll, an ex-police officer, alluded to when she spoke of the expert nature of the detail that was involved in that work. That work by Police Scotland will be reported to the strategic group.

That group has already considered the implications of Baroness Casey’s audit and is looking at each of its recommendations. It will discuss agreed actions, including the findings of Police Scotland’s analysis, at a meeting next month.

It should also be noted that stakeholders have already cautioned about the need to ensure that the roles of the victims and witnesses commissioner and the existing Children and Young People’s Commissioner complement one another and that they are not in competition and do not create inefficiencies in their important work to scrutinise and uphold children’s rights in Scotland. In my view, amendments 31 and 32, as well as not being the right route to address the issue, would risk unnecessary duplication in those roles. I stress that the national child sexual abuse and exploitation strategic group and Police Scotland are active in that area now. The creation

of duplication would not represent an inefficient use of resources—resources that could be better directed towards improving prevention and victim support services. That is an issue that has been repeatedly raised by stakeholders who—rightly—would prefer focused action to more layers of research and review when those are already in place.

I am sure that Liam Kerr will understand those arguments. I hope that he will realise that his amendments are not the right route and that he will not press them to a vote this afternoon. If he does, I urge Parliament to reject them.

**Liam Kerr:** I am grateful to the cabinet secretary. I will put on record that I am genuinely grateful for the cabinet secretary’s collaborative approach throughout the whole bill process, which I appreciate.

In dealing with the objections to my amendments 31 and 32, I will start with a response by the First Minister at First Minister’s questions last week, in which he claimed that the child sexual abuse inquiry will be sufficient. He is wrong. That inquiry is vitally important—on that we agree—but it looks only at the issue of the abuse of children in care. It does not look at grooming gangs, and it will consider only events that happened from 1930 to 2014. Operation cerrar, which I referred to earlier, took place in 2016, so it would not be covered, neither would the grooming gang that was convicted in Dundee this year.

The cabinet secretary goes on to suggest that giving the victims commissioner a responsibility to carry out this work would not be the most effective way—in her words—of addressing the issue. As I said in my earlier response to Audrey Nicoll, the commissioner can appoint anyone, and I suggested to Audrey Nicoll that that might even be Baroness Casey.

The cabinet secretary then argues that some work in that area is already under way. That is true, and we absolutely support that work, but that does not in any way preclude this investigation from being carried out. Is there anyone in the chamber who will object to having too much data on this vile crime?

**Martin Whitfield:** In his rebuttal on the amendment, Mr Kerr mentioned the Children and Young People’s Commissioner and the potential for conflict between commissioners’ roles. The member has also just talked about whether it is possible to have too much data in this area.

Is this not a case where the amendments would lead to right-minded, thinking and intelligent people with expertise coming together to identify the correct person to do it as well as to identify the sources of data that are not yet available and that

clearly are not coming through the strategic group any time soon?

**Liam Kerr:** Martin Whitfield is right that there can never be too much data on these crimes. In any event, I am calling for a one-off urgent report into a specific area by precisely the commissioner who is being set up to address victim issues. However, Martin Whitfield makes exactly the right point. How can extra collaboration between a victims commissioner, a children's commissioner or anyone else who has expertise in this area—just as Audrey Nicoll rightly pointed out—possibly be a bad thing? It is absolutely a good thing, and that is a persuasive argument as to why members should vote for my amendments.

15:15

**Angela Constance:** It is important that we get the right type of data, and that work is of course under way.

Is Mr Kerr aware of the work led by Professor Alexis Jay, who was the chair of an independent inquiry into child sexual abuse in England and Wales and who currently sits on our national strategic group? She shares my view and has put on the record and stated to the media that she does not support further inquiries into child sexual abuse and exploitation, given the significant time and resource already spent in the review that she led, the Casey audit and other reviews. She says that it is now time that

“people should just get on with it”.

I contend that that is what the Scottish Government is doing right here, right now—we are getting on with the work that we need to do to protect children.

**Liam Kerr:** The cabinet secretary has put that on the record, but I presume that she will agree that there is a terrifying lack of information about the true scale of the issue, who the victims are and who is conducting these crimes in Scotland. We are lagging behind England on the issue.

The cabinet secretary puts to me the point about time and resources, but I put back to the cabinet secretary that Baroness Casey delivered her verdict on the matters that my amendments cover in a mere six months. The Scottish child sexual abuse inquiry commenced in 2015 and is still to report. My amendments are absolutely the ones that we need to get action now, which the cabinet secretary rightly demands.

We cannot, and we must not, bury our heads in the sand on this vicious and pernicious practice of child sexual abuse. The cabinet secretary was right when she said that there is no room for complacency—she is absolutely spot on about that. This is not and must not be an issue of party

politics. I am not suggesting that it is—I respect the cabinet secretary too much for that—but I want to point out that the Scottish Labour MP Joani Reid has called for a grooming gangs inquiry in Scotland and that she and Labour are absolutely right to do so. My amendments mirror what the UK Labour Government has rightly done in England.

Colleagues, I am giving the Parliament the opportunity to do the right thing here, to deliver justice for the victims of grooming gangs and to do all that we can to prevent the victims of the future. Do not let them down. Vote for my amendment 31, which I hereby press, and amendment 32.

**The Deputy Presiding Officer (Annabelle Ewing):** The question is, that amendment 31 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

The vote is closed.

**Pauline McNeill (Glasgow) (Lab):** On a point of order, Presiding Officer. I had technical problems. I would have voted yes.

**The Deputy Presiding Officer:** Thank you, Ms McNeill. Your vote will be recorded.

**Roz McCall (Mid Scotland and Fife) (Con):** On a point of order, Presiding Officer. My vote has not registered. I would have voted yes.

**The Deputy Presiding Officer:** Thank you, Ms McCall. Your vote will be recorded.

**For**

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)

McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O’Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

### Against

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)

Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 51, Against 62, Abstentions 0.

*Amendment 31 disagreed to.*

### Section 19—Reports

*Amendment 32 not moved.*

*Amendment 33 moved—[Angela Constance]—and agreed to.*

### Section 21—Co-operation with Commissioner

*Amendments 34 and 35 moved—[Angela Constance]—and agreed to.*

### Section 23—Interpretation of Part

*Amendments 36, 60, 61 and 37 moved—[Angela Constance]—and agreed to.*

### After section 26

**The Deputy Presiding Officer:** Group 6 is on conduct of fatal accident inquiries. Amendment 62, in the name of the cabinet secretary, is the only amendment in the group.

**Angela Constance:** Amendment 62 relates to part 2 of the bill, which already makes provision to ensure that the courts can set rules on trauma-informed practice, for both criminal and civil proceedings.

Amendment 62 makes equivalent provision for fatal accident inquiries. It adds “trauma-informed practice” to the list of matters on which the Court of Session can regulate the practice and procedure for inquiry proceedings. That makes explicit that the court can set rules that are designed to ensure that inquiries into fatal accidents and sudden deaths are conducted in a trauma-informed way.

I move amendment 62.

*Amendment 62 agreed to.*

### **Before section 29A**

**The Deputy Presiding Officer:** Group 7 is on plea agreements and prosecution decisions. Amendment 38, in the name of Russell Findlay, is grouped with amendments 63, 102, 64, 65 and 101.

**Russell Findlay (West Scotland) (Con):** I have three amendments in the group, which relate specifically to plea deals in solemn cases. At stage 2, I lodged some amendments in relation to summary cases, but having listened to the cabinet secretary's warning about them potentially adding to court delays, I withdrew them. It is perhaps interesting to note that the ratio of summary to solemn proceedings in court is approximately six to one, so there are far more summary cases than there are solemn ones.

There is absolutely nothing wrong with plea deals. For years, they have been used very effectively by prosecutors in the conduct of their business. They can spare victims and witnesses from giving testimony. They can save the courts time and money, and they can incentivise early guilty pleas for the benefit of everyone involved. However, far too often, such deals are taken in secret, and some very concerning decisions have been made.

In one particular case, it took four years for a serial domestic abuser to be found guilty after he used every dirty trick in the book to evade justice. Having done so, he was still offered a favourable plea deal, which meant that some charges were dropped altogether, despite an abundance of evidence, and other charges were diluted to remove their worst elements. That is commonplace—it is happening in courts across Scotland, and it happens every single week.

Another case that springs to mind is that of Liz Shanks, who has campaigned on plea deal transparency ever since her own case of domestic violence went through the courts. She discovered only after the event that a deal had been struck. Again, the deal favoured the accused, who was able to see certain charges dropped despite an abundance of evidence—in this case, closed-circuit television evidence—against him.

In both those cases and in many others, the victims found out that there had been plea deals only because there happened to be journalists in court. As I said at the outset, such things happen every single day of the week.

After some discussion prior to the recess, I am grateful to the cabinet secretary for giving me amendment 38 as a hand-out. It proposes to give victims in solemn cases the right to opt in to receive information about plea deals. The Scottish

Government says that that approach is trauma informed. The cabinet secretary has already used that term today, but I still do not understand what it actually means. I think that that approach could be improved. Given that victims are entitled to know the outcome of their case—whether it be a conviction or an acquittal—why on earth would sharing the details of a plea deal somehow cause further trauma? Surely victims are entitled to that basic level of transparency.

Amendment 38 almost gets there, but it perhaps risks giving an illusion of transparency and could actually make things worse for victims. I say that because, at a meeting to discuss the issue, the Lord Advocate told me that all victims are already told about deals, even though we know from the abundance of evidence in the public domain that that does not routinely happen. If that should happen but does not currently, how would amendment 38 change the position? The fundamental problem with amendment 38 relates to how a victim would know that they had the right to opt in. The short answer to that is that they just would not know.

We can look at some of the opt-in models that have been used in the justice system in recent years. For example, after the mass release of prisoners, only something like 2 or 3 per cent of people opted in to find out whether the person who had caused them harm had been set free prematurely. We know that opt-in models do not work, which is why we need amendment 63 or amendment 102.

Amendment 63 is my preferred option. It would mean that all victims in solemn cases would be told about plea deals. That amounts to basic transparency—it is simple common sense. Amendment 102 represents a bit of a halfway house between the Scottish Government's opt-in model and my full disclosure model. It would mean that victims would have to opt out of being told about plea deals. I would still have reservations about any system that was reliant on Crown Office communication, given the strains that it is under, which is why amendment 63 is by far and away the best option. In all the decades that I have been working with victims during my time in journalism and in politics, I have yet to meet a victim who has said that they want less information about their case, which is what the Government's hand-out option—amendment 38—would, in effect, amount to.

Scottish Women's Aid supports amendment 102, and Victim Support Scotland supports all three of my amendments.

If members will indulge me, I will end with a quote from Liz Shanks, who has fought so hard for transparency. She said:

"They're pretending to listen. They just want to be seen to be doing the right thing—but not doing what's actually needed. Crime victims are not being listened to. They're being let down every single day ... and they will be badly let down by this bill which could have done so much more."

I find it hard to disagree with her, not least in respect of the plea deal amendments. Let us, please, show Liz and all the other victims out there that we are, in fact, listening by getting these critical amendments across the line.

I move amendment 38.

15:30

**Jamie Greene:** I add my support for amendment 38 in the name of Russell Findlay. He has made some salient and well-presented points about the nature of information that victims get or do not get, as the case may be, and I note his comments.

My amendments in this group are in a similar vein but, rather than being related to plea deals, they pertain to where the Crown has decided to drop a case—in other words, to decisions not to prosecute, as they are more commonly known.

Both my amendments seek to achieve the same thing, but in slightly different ways—and I will happily explain that.

Amendment 64 would give victims a right to be informed by prosecutors when a decision has been made not to prosecute an alleged offender or to discontinue the proceedings against them. It does so by adding a new section to the Victims and Witnesses (Scotland) Act 2014 that states that, where a prosecutor decides to discontinue prosecution or not to prosecute a case,

"the prosecutor must, as soon as reasonably practicable, inform"

the victim.

Amendment 65 is materially similar—it is almost identical—but it includes an extra caveat, which says:

"unless the prosecutor considers that it would be inappropriate to do so."

That gives the prosecutor some necessary flexibility if they deem it appropriate. For example, in complex cases, that information might put the alleged offender's safety at risk, where they have been identified, or it might compromise future, simultaneous or concurrent investigations into the same alleged offender.

The question here is similar to what Russell Findlay was saying about plea deals and the lack of transparency. Why do we need the amendment or a version of it? The reality is that it is too often the case that victims are simply not informed that their case has been dropped or that a decision has

been made not to continue prosecution. At that point, many people will not have had the opportunity to opt in to any victim notification scheme, perhaps because cases are not yet live in the system, at that stage when the Crown has information from Police Scotland and is considering whether to pursue a case.

There are many reasons why the Crown may drop a case: there might be a lack of evidence, or it might believe that the case might not be successful. If someone has reported the crime and the Crown decides, for whatever reason, that it will not proceed with the case, the person who has been identified as a potential victim ought to have the right to know that. We might expect that to be the case already but, sadly, the reality is that it is not the case. Too many cases are dropped or discontinued, and the victim is the last person to find out, if they find out at all.

The cabinet secretary suggests that, because I have failed to provide an opt-out clause in my amendments, those amendments are not "trauma informed". That concern is not shared by Victim Support Scotland, which, I would say, knows quite a lot about trauma-informed justice practice. It is both my and Victim Support Scotland's assertion that amendment 64 represents the strongest possible option

"by creating a broad, unconditional notification duty covering both non-prosecution and discontinuance."

My amendment on the matter had very broad public support when I consulted on it. Back in 2021, 84 per cent of respondents were fully supportive of my proposal, when I consulted on my proposed victims, criminal justice and fatal accident inquiries (Scotland) bill, that all victims should have the right to be notified of a decision not to prosecute their case.

I wish to put this on the record, because I hope that members will consider their opinion on it: VSS has stated that it strongly believes that it should not be for a victim of a crime or their family to actively seek information about whether the crime has been prosecuted; it should be for the Crown Office and Procurator Fiscal Service or its representatives to proactively contact victims to inform them of such decisions. In cases where the victims are not told, they cannot make use of their right to appeal such decisions in situations where it could be legitimate to do so. We all know the reality that very few victims go on to appeal decisions not to prosecute, and the success rate of that is incredibly low—in fact, it is staggeringly low.

Amendment 101, in Sharon Dowey's name, would give an expanded version of what I am seeking to achieve by offering the so-called opt-out clause that the Government said was not in my

amendment 64. I am happy to support Sharon Dowey's amendment 101 if mine does not pass.

Amendment 64 is not a new amendment. It was brought before the Criminal Justice Committee at stage 2 in March this year. The reality is that, if there had been any competency issues with its wording, or if there had been any other issues that could have been flagged, addressed or even raised by the Government ahead of today, they were not.

Ultimately, it would have been preferable if the Government had lodged amendments to provide a workable solution to the very live issue of victims not being notified of decisions not to prosecute. However, in its failure to do so, I urge the Parliament to back my amendments in the group, as has been requested by Victim Support Scotland.

The only other amendment that I will mention is amendment 38, because I do not believe that it is a big ask. Indeed, the whole package of amendments in the group should be supported accordingly.

**Sharon Dowey:** Amendment 101 would require that, when a prosecutor makes the decision not to prosecute an offender, the prosecutor must inform the victim of that decision. As Jamie Greene said, I have included an important safeguard—I hope that the Government will recognise it as a compromise—which would ensure that victims can opt out of receiving such information, in keeping with trauma-informed practice. The amendment would give ministers the power to make regulations for how victims could express their wish not to receive that information.

It is crucial that victims are not kept in the dark, as they often report feeling like a witness in their own case, excluded from important decisions that concern them. It is common sense that, if they want to receive such information, they should be kept informed about what is happening with their case.

Victim Support Scotland and Scottish Women's Aid both support my amendment, with Scottish Women's Aid saying that providing information about the decision not to prosecute is important to women who are experiencing domestic abuse. My amendment 101 would put victims first.

**Angela Constance:** I make it absolutely clear that the bill will deliver for victims; it will make landmark reforms that are much needed; and it has been informed by the voices of victims, their families and support organisations.

I have listened to Mr Findlay and other members of the Parliament on the bill since it was introduced more than two years ago. Members might be a wee bit surprised to hear that I have

had constructive meetings with Mr Findlay and that I took on board his contribution at stage 2 in relation to plea adjustments and offered to work with him ahead of stage 3. We agreed an approach to an amendment that we could both support, which enhances victims' rights, supports informed choice and strengthens the justice system's accountability—that is amendment 38, which I am very happy to support today.

**Russell Findlay:** Does the cabinet secretary recognise that, due to the inherent problems in the criminal justice system of people being under strain, and due to the difficulties that prosecutors face every single day, an opt-in system is inherently flawed? Victims might not even know that they have the right to opt in, hence the problems with the cabinet secretary's hand-out amendment 38.

**Angela Constance:** There are inherent flaws with an opt-out approach, which I will come on to. I appreciate that, due to the success of prosecutors and the rise in the number of successful prosecutions of domestic violence and sexual crime, the Crown Office works extremely hard and, without a doubt, will be under pressure. However, the service has received an increase in its funding of more than 50 per cent—56 per cent, in fact—since the start of the previous parliamentary session.

To address matters on which we agree, I agree very much that victims deserve to be kept informed, to understand what is happening in their case and to feel that the system is working for them and not around them.

Amendment 38 will strengthen the rights of victims to be informed about plea adjustments and, by law—this will be set out in the bill—will require prosecutors to inform victims in solemn cases. Amendment 38 not only delivers on the approach that I discussed and agreed with Mr Findlay but goes further, by including a power to allow for an extension to summary cases in the future.

I am a wee bit puzzled why Mr Findlay was not content with the approach that I outlined and, indeed, why he lodged an amendment that he now seems to be somewhat equivocating on and that, since then, he has gone on to lodge other amendments that he knows will deny victims a choice.

**Russell Findlay:** For the record, the cabinet secretary and I had discussions prior to recess, and nothing was agreed or set in stone. The cabinet secretary said that she would go away and look at whether it would be an opt-in model, an opt-out model or something in between. It was only right on the cusp of the deadline for lodging amendments that I saw the amendment that

showed it to be an opt-in model, which I was never in favour of—hence my new amendments. I would like the cabinet secretary to at least acknowledge that as being the case.

**Angela Constance:** What I would acknowledge about the discussion that we had, which will probably inform our debates on later groups, is that the language on opt-in and opt-out models is misleading and tends to create barriers that stop us from coming together, not only to agree on the best ways forward for victims to receive information that recognises their agency and their choice, but, equally, to build systems that are far more proactive in reaching out to victims.

My concern about amendment 63 is that it would deny victims choice. It would compel prosecutors to contact victims who had expressly opted out of receiving information from the Crown Office. They are individuals who, understandably, for their own reasons and having made a personal choice, might wish to move on from what has been a traumatic or distressing experience and not wish to have further contact with the Crown Office. To force information about plea adjustments on to victims in that way would be completely incompatible with the trauma-informed practice that is being embedded in our justice system.

I remind Mr Findlay that part 2 of the bill creates a statutory duty for prosecutors to “have regard to” trauma-informed practice. I would have hoped that, if Mr Findlay had listened to victims collectively, as he says that he has done, he would not want to wholeheartedly support an approach that undermines that.

**Russell Findlay:** Will the cabinet secretary give way?

**Angela Constance:** I would like to make a wee bit of progress. Maybe later.

Neither do I support Mr Findlay’s amendment 102, which would make it the default that prosecutors must contact all victims about plea adjustments unless they have specifically opted out. In my view, that unfairly puts the onus on precisely those victims who do not wish to engage.

I turn to amendments 64 and 65, in the name of Jamie Greene, and amendment 101, in the name of Sharon Dowey. I acknowledge the good intentions behind those amendments, but I have given the members concerned advance notice that I cannot support them.

Choice and empowerment are core principles of trauma-informed practice. Victims should have meaningful control over whether and how they are kept informed about their case, if that is what they wish. If victims wish, they can request to be told of decisions by the prosecutor not to take action in a case or to discontinue proceedings. However, Mr

Greene’s amendments 64 and 65 would give the victim no choice about whether to receive that information. Under amendment 64, they would simply have to be told and, under amendment 65, it would be for the prosecutor to decide that, without giving consideration to the victim’s views.

Although Ms Dowey’s amendment 101 would require taking the victim’s views into account, it would also require the victim to opt out of receiving information specifically about a decision not to prosecute. I consider that victims should be supported and empowered to choose what information they would like, at a time that is good for them, and not to be forced to make decisions about individual pieces of information at specific points in the criminal justice process. That would add complexity to a system that victims already consider to be opaque and difficult to navigate.

**Jamie Greene:** Will the cabinet secretary take an intervention?

**Angela Constance:** Of course.

**Jamie Greene:** We all know that there are many issues with victim notification schemes as they stand, and I need not rehearse the arguments on that. However, the stark reality is that it is inconceivable that the Crown, particularly in grave cases, would simply drop or discontinue proceedings and not tell the victim. Many victims are not signed up to those schemes, because they were never invited to do so and were unable to have future opt-ins to those systems. Surely the default position should be that the Crown would want that information to be in the hands of the victims, unless there was some explicit mechanism for not doing so.

15:45

**Angela Constance:** Mr Greene will not find any argument from me on the endeavours that must be made to improve registration with the victim notification scheme and with the victim information and advice service that the Crown Office provides. In later groups, we will debate the good steps forward that have been taken as part of the journey to improve, in particular, the victim notification scheme. I simply make the point that having a default position that required prosecutors to contact everyone in all circumstances would be a blunt approach and would not be trauma informed. I understand very much what Mr Greene and others are trying to achieve, but it would be remiss of me not to raise the issues that I have raised today.

I also ask parliamentarians to be aware of how the justice system operates in practice. When a case is marked “no proceedings” or “no action”, that often does not reflect a final or irreversible decision. Prosecutors retain the discretion to raise

proceedings at a later stage if new evidence emerges or other victims come forward, yet amendments 101, 64 and 65 would mandate communication at that early point. That would risk misleading victims, creating confusion or unnecessary distress and, ultimately, undermining trust in the justice system.

**Maggie Chapman (North East Scotland) (Green):** Will the cabinet secretary take an intervention?

**Jamie Greene:** Will the cabinet secretary take an intervention?

**Angela Constance:** I will take an intervention from Ms Chapman.

**Maggie Chapman:** Can the cabinet secretary give us an indication of how many cases that have been marked “no action” have been taken up at a later date? As Jamie Greene and others have said, there are victims and survivors who do not know what is happening or whether there is any possibility of future action taking place. That is part of the unknown here.

**Angela Constance:** Unfortunately, I do not have to hand the specific information that Ms Chapman refers to, but she makes the point that richer dialogue and better communication are required throughout the system, as is consistency of approach. The fundamental point that I am trying to make here is that, although we are all endeavouring to take advantage of this large piece of landmark legislation to enhance our approach and make progress on such issues, we have to be mindful that taking a more piecemeal approach could add further confusion and complexity. Actually, what victims are crying out for, among many things, are coherence and consistency in the system.

**Sharon Dowey:** I have been listening to the points that the cabinet secretary has made. However, the committee heard lots of evidence from victims, and their main issue was that they were not being kept up to date with anything that was going on in the system. Surely, if the prosecutor knows that they are not going to take any further action, they should notify the victim. If further information comes up at a later date that means that they will then prosecute, they should go and update the victim again and say that they are now going to take further action. It is best practice to keep the victim up to date so that they know what is happening with any proceedings.

**Angela Constance:** I make the point again that I do not dispute the need for thorough and regular communication. My point about the amendments that Ms Dowey and Mr Greene lodged is that they would force information on victims whether they wanted it or not. We all have to accept that victims and survivors are not a homogeneous group.

Personal choice, empowerment and agency are important. That does not—

**The Deputy Presiding Officer:** Cabinet secretary, may I interrupt? I appreciate that you have been very generous in taking a lot of amendments and that there are a lot of issues to go through, but I ask you to consider winding up your remarks. We will then go to Mr Findlay. Thank you.

**Angela Constance:** I take your guidance, Presiding Officer.

On amendments 64 and 101, I advise that there are concerns about legislative competence, in the sense that their provisions might impinge on the Lord Advocate's powers without allowing scope for prosecutorial discretion to withhold information. That could be outwith the legislative competence of the Parliament.

From an operational perspective, requiring blanket notifications would also introduce significant resourcing pressures, both financial and in staff hours, due to the necessary increase in issuing correspondence and managing follow-up contact, questions and expectations from victims, some of whom, as I said, might have already chosen not to engage further with the justice process. That would risk diverting resources from having a more tailored, trauma-informed approach.

Victims have a broad range of rights under the Victims and Witnesses (Scotland) Act 2014. I acknowledge that more can and should be done to ensure that victims are informed about how best they can exercise choice over their rights. That is why the bill will also establish a victims commissioner and a victims charter, and it will improve the provision of information about support through the amendment on referrals that we will shortly debate. I consider that those processes represent a more effective approach than duplicating existing rights or creating mandatory processes in a piecemeal fashion at very specific points in the criminal process.

The focus should remain on improving the quality, consistency and personalisation of victim engagement through the existing statutory framework and on-going reforms. I therefore urge members to support amendment 38 and reject the other amendments in the group.

**The Deputy Presiding Officer:** I call Russell Findlay to wind up and to press or withdraw amendment 38.

**Russell Findlay:** I will press amendment 38.

I find some of the cabinet secretary's reasoning to be slightly bizarre. I have never met a victim who has argued that they do not want to know any more about their case, or who campaigns strongly

for even less transparency in a justice system that already lacks it.

Another fallback that the Government increasingly seems to use is talk of trauma-informed practice, which appears to be a catch-all, get-out-of-jail-free card for opposing anything that the Government does not like. It has no meaningful definition whatsoever, unless the cabinet secretary will enlighten me with—

**Jamie Greene:** Russell Findlay will also know that, in the briefing that was sent to MSPs, Victim Support Scotland—for which I have a lot of time and respect and which works daily in its offices to support victims—supports the amendments in this group; therefore, so should we all.

**Russell Findlay:** Absolutely. Victim Support Scotland supports my three amendments, and Scottish Women's Aid supports one of them.

**Angela Constance:** I will be brief. Given that Victim Support Scotland is encouraging MSPs to back the bill tomorrow, will Russell Findlay confirm whether his party will do so?

**Russell Findlay:** We will do what we are doing right now and what we have done for the past couple of years, which is to try to improve the bill, which is a massive missed opportunity, and we will look at it tomorrow. However, I am not encouraged by the cabinet secretary's refusal to back what are commonsense amendments. That is not a good sign.

*Amendment 38 agreed to.*

*Amendment 63 moved—[Russell Findlay].*

**The Deputy Presiding Officer:** The question is, that amendment 63 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)

Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

#### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]

Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 50, Against 64, Abstentions 0.

*Amendment 63 disagreed to.*

*Amendment 102 moved—[Russell Findlay].*

**The Deputy Presiding Officer:** The question is, that amendment 102 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

The vote is now closed.

**Tim Eagle (Highlands and Islands) (Con):** On a point of order, Presiding Officer. I had some connection issues. I would have voted yes.

**The Deputy Presiding Officer:** Thank you, Mr Eagle. Your vote will be recorded.

#### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foyso (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)

Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

#### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Harper, Emma (South Scotland) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)

Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

#### Abstentions

Burgess, Ariane (Highlands and Islands) (Green)  
 Chapman, Maggie (North East Scotland) (Green)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)

**The Deputy Presiding Officer:** The result of the division is: For 51, Against 57, Abstentions 7.

*Amendment 102 disagreed to.*

*Amendment 64 moved—[Jamie Greene].*

**The Deputy Presiding Officer:** The question is, that amendment 64 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Maggie (North East Scotland) (Green)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)

Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Marra, Michael (North East Scotland) (Lab)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Slater, Lorna (Lothian) (Green)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

#### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Harper, Emma (South Scotland) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)

Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 58, Against 56, Abstentions 0.

*Amendment 64 agreed to.*

*Amendment 65 not moved.*

*Amendment 101 moved—[Sharon Dowey].*

**The Deputy Presiding Officer:** The question is, that amendment 101 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

The vote is now closed.

**Katy Clark (West Scotland) (Lab):** On a point of order, Presiding Officer. There was a technical problem. I would have voted yes.

**The Deputy Presiding Officer:** Thank you, Ms Clark. Your vote will be recorded.

## For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Maggie (North East Scotland) (Green)  
 Choudhury, Foyso (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Fergus (Inverness and Nairn) (Ind)

Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Slater, Lorna (Lothian) (Green)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitfield, Martin (South Scotland) (Lab)  
 Whittle, Brian (South Scotland) (Con)

## Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greene, Jamie (West Scotland) (LD)  
 Harper, Emma (South Scotland) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)

Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]  
 Yousaf, Humza (Glasgow Pollok) (SNP)

16:00

**The Deputy Presiding Officer:** The result of the division is: For 53, Against 61, Abstentions 0.

*Amendment 101 disagreed to.*

#### After section 29A

**The Deputy Presiding Officer:** We turn to group 8, on the victim notification scheme and rights to make representations. Amendment 66, in the name of the minister, is grouped with amendments 66 to 82, 85, 94, 95 and 161.

**The Minister for Victims and Community Safety (Siobhian Brown):** Further to amendments that were agreed to at stage 2 to reform the victim notification scheme, the amendments in this group will help to deliver a more trauma-informed approach to the VNS.

The VNS has a criminal justice aspect and a forensic mental health aspect. The latter—the compulsion order and restriction order VNS—relates to victims of patients in the forensic mental health system who are subject to a compulsion order and a restriction order. All my stage 3 amendments will deliver reforms across both the criminal justice VNS and the CORO VNS, unless otherwise stated.

I know that Jamie Greene will have the opportunity to speak shortly on his amendment 85 in this group. He is aware that we cannot support it, although I am sympathetic to the intention. The Scottish Prison Service and the Parole Board for Scotland have been clear that amendment 85 would not result in a better service for victims. The additional process steps that would be needed would create delays for victims. Such barriers are at odds with our ambitions for VNS reform and the rest of the amendments on the VNS. I therefore urge Mr Greene not to move that amendment.

Turning to the Government amendments, I will speak first to amendment 66, which is linked to amendment 94. Those amendments take forward recommended reforms to VNS eligibility when a victim has died or is incapacitated.

Currently, when a victim has died, the first four eligible relatives from a strict hierarchical list can join the VNS, and when a victim is incapacitated, the highest qualifying relative from that list can join the VNS. We know that that approach is inflexible and causes distress. Amendments 66 and 94 will change that so that the approach is based on the nature of the relationship with the victim, not the current list. In situations in which a victim has died, it will be possible for a total of five people to join the VNS, rather than the current four. The Scottish ministers will also be able to enable more people to join the VNS by way of regulations, thereby ensuring future flexibility.

That discretionary decision making will be underpinned by the code of practice, which will also govern decisions on a child victim joining the scheme. The code is to be published in draft, consulted on and laid before Parliament, reflecting its importance.

Amendment 67 comprises a set of changes that will support a key aim of VNS reform—parity of treatment for victims, where appropriate, regardless of where the offender is held. It will do that by ensuring that victims of child offenders who have been sentenced to detention in secure accommodation can benefit from the same rights under the VNS as victims of offenders who are held in prison or in young offenders institutions.

Amendment 68 will deliver a recommendation from the independent review by introducing a bespoke decision-making process in relation to a child victim who wishes to join the VNS. A determination on who will receive the information will be made based on the child's age, views and best interests.

**Sharon Dowey:** I seek clarification on amendment 68, which imposes a test whereby ministers will decide whether information about the release of an offender should be given directly to a child, and “have regard to” their “age and maturity”

in doing so. Can you clarify whether there are any circumstances in which a 17-year-old would request that information but would be denied it?

**The Deputy Presiding Officer (Liam McArthur):** Always speak through the chair.

**Siobhian Brown:** The child's best interests will be at the heart of how decisions are made and whether child victims will be able to join the VNS in their own right. We recognise that, in some cases, those decisions will be finely balanced, especially with regard to age. However, I make it clear that we will seek to accommodate a child's wishes as far as possible.

Amendments 69 and 95 make provision to enable victims to nominate a person to receive information at the same time as, or instead of, the victim, which is also a recommendation from the VNS review.

Amendments 70 and 77 to 81 collectively deliver key improvements to victims' rights where a cross-border transfer of an offender or patient takes place, in line with the recommendation from the independent review. That will make it easier for victims to exercise their rights once a transfer is taking place, including transfers into Scotland.

Amendments 70 and 80 will enable victims to be advised of the jurisdiction to which the offender in their case is being transferred, unless that is not in the interests of justice. That is a crucial change that will help to provide victims with peace of mind. Amendment 71 will enable the Scottish ministers to provide victims with information ancillary to the core information that they receive under the VNS in order to provide flexibility and more meaningful information for victims.

Amendment 72 has two main parts. First, it amends existing order-making powers for the VNS so that they can be used to make a wider range of changes to the information available under the scheme than is possible under the current powers, thereby ensuring greater flexibility. Secondly, it responds to the VNS review's recommendation that victims should be able to be told of each occasion of temporary release from prison where that might bring the offender into close proximity with the victim. Engagement with stakeholders indicated that there was a range of conflicting views on the recommendation, so we are taking the power now to enable future changes to be made by way of secondary legislation. That will give us the opportunity to consult on the issues and build a consensus with stakeholders on the way forward.

Amendments 73 and 74 are technical amendments that build on provisions that were agreed to at stage 2. Amendment 74 will enable the Scottish ministers to make regulations that impose a duty to co-operate with ministers for the

purpose of the VNS on other persons, thereby future proofing the scheme in case of expansion. We will consult before progressing such regulations.

Amendment 74 will also facilitate better access to information for victims where a cross-border transfer occurs by ensuring that the Scottish ministers can co-operate with other relevant persons.

Amendments 73 and 75 make consequential changes to stage 2 amendments.

Amendment 82 delivers a recommendation from the independent review on the information available under the compulsion order and restriction order VNS that will enable victims registered for the CORO VNS to receive information about an appeal against recall being lodged and about the outcome of such an appeal.

Amendment 161, in the name of the cabinet secretary, makes changes to the long title of the bill to reflect the amendments in my name in this group. I am sure that the Parliament shares my ambitions for VNS reform, so I urge members to support my amendments in this group, and I ask Mr Greene not to move his amendment.

I move amendment 66.

**Jamie Greene:** I will keep my comments solely to my amendment in this group, as there are a number of amendments in the group. As we have discussed a great deal already today, the current VNS scheme is simply not fit for purpose. I understand that the Government acknowledges that, as do other stakeholders, and I hope to see some meaningful reform to the scheme post the passage of this legislation. The bill cannot be the first or last step in improving the entire end-to-end process for how victims are notified, what they are told and when they are told it. As part of today's deliberations, we are trying to improve that, and as the debate on the previous group of amendments demonstrated, there is cross-party support for such changes even when there is not Government support.

I will speak on amendment 85, which deals with the information that a victim would receive prior to someone's release either as part of the parole process or after their time in prison has been served. Amendment 85 essentially says that the victim must be informed of a prisoner's release date prior to that prisoner being released, unless it is not practical to do so.

At the moment, section 16 of the Criminal Justice (Scotland) Act 2003 sets out all the information that a victim is entitled to receive about the release of an offender. Most importantly, it entitles them to information about the date of the convicted person's release. My amendment would

not change any of that and would not change the information provided to a victim, but it is explicit in saying that a victim should receive that information prior to the offender being released.

Section 17 of the 2003 act sets out the information that a victim is entitled to following decisions made by the Parole Board. The second part of my amendment 85 therefore clarifies the parameters of the information that a person would receive. Subsection (3) of the section that my amendment 85 seeks to insert in the bill says that

“as soon as reasonably practicable after any decision is made”—

that is, after the Parole Board has made a decision about someone’s release—the victim must receive information on the board’s decision

“whether or not to recommend or direct the release of a person”

and

“whether the person released is to comply with conditions”,

because we know that conditions are often attached to parole decisions. My amendment goes on to say that the victim must be informed

“where the person is to be released”

and, more importantly, that that must happen

“before the date of that release”.

I go so far as to say that that change to the 2003 act should not be necessary. It is, and always has been, my view that it should be the case that victims are told before, and not after, a prisoner’s release. It is inconceivable that people who have opted to receive that information and are entitled to receive it under the 2003 act are getting the information and discovering that someone has been released after the event has happened, and even more so when, as we know, this Parliament has passed legislation in the past couple of years to allow early or emergency release.

I understand the associated practicalities and the fact that there will be a need for work by whichever body is responsible for distributing the information, but it must happen. It is absolutely paramount that victims are told before someone is released. They do not want to bump into that person in a supermarket, in the street, at the end of the road or standing on a train station platform. I am not making up those scenarios—they are real experiences that were relayed to the Criminal Justice Committee as it took evidence. Those things happen at the moment.

Victim Support Scotland told me that only 2 per cent of victims—2 per cent—were notified when hundreds of perpetrators were released under the Government’s early release scheme last year. It is simply not good enough for people to be told after the release has occurred, and my amendment 85

would go some way towards ensuring that that is not the case.

**Siobhian Brown:** We all want the same thing for the VNS in future. Mr Greene, when you consulted on your proposed—

**The Deputy Presiding Officer:** Please speak through the chair.

**Siobhian Brown:** I am sorry.

When you consulted on your proposed victims bill, did you get any response from the SPS or the PBS regarding the timing of information provision?

**The Deputy Presiding Officer:** Again, please speak through the chair.

**Jamie Greene:** When a member consults on a member’s bill, it is up to individual organisations whether they choose to participate in that consultation. It was not for me to say that anyone had to respond to my member’s bill consultation.

I consulted widely, but I say to the minister that that was four years ago and that there has been ample opportunity since then for the Parole Board or any other organisation that had concerns about that particular proposal to make those known.

The matter also arose during stage 2 of this bill, back in March. No such organisation made any representations contrary to my proposal, nor did the Government and nor have any counter proposals been forthcoming. I therefore say to the minister that there has been ample opportunity to raise any issues with what I am proposing and to come back with alternative solutions.

It remains my fundamental belief that people should be told of such decisions before someone is released. It should be a moral obligation on all justice partner stakeholders to do that. Victim Support Scotland supports that. It said:

“They want to know when that person is being released and if there are conditions on that release in advance so they can plan for their own safety and get support.”

I urge members to support amendment 85.

16:15

*Amendment 66 agreed to.*

*Amendments 67 to 72 moved—[Siobhian Brown]—and agreed to.*

### **Section 29B—Co-operation with the Scottish Ministers for the purposes of sharing information with victims**

*Amendments 73 to 76 moved—[Siobhian Brown]—and agreed to.*

**Section 29D—Victim’s right to receive information concerning offender subject to compulsion order by virtue of cross-border transfer**

*Amendments 77 to 81 moved—[Siobhian Brown]—and agreed to.*

**After section 29D**

*Amendment 82 moved—[Siobhian Brown]—and agreed to.*

**After section 29G**

**The Deputy Presiding Officer:** Group 9 is on victim statements. Amendment 39, in the name of Jamie Greene, is grouped with amendment 104.

**Jamie Greene:** This is a short group on victim statements, in which I have the first amendment—amendment 39.

I will start with why we need amendment 39. As it stands, section 14 of the Criminal Justice (Scotland) Act 2003 allows victims of prescribed offences to make victim impact statements only to a court and only in solemn proceedings. Those prescribed offences include the obvious—murder, rape, culpable homicide, fire raising and a few others. The list of offences was last updated in 2009 and it excludes victims of many serious offences that have been created since the 2009 review. Among others, that includes offences created in domestic abuse legislation that has been passed by the Parliament.

That has effectively created an unfair two-tier system in which some victims’ voices are heard in the courtroom and others are not. It has had a tangible effect on the information that is available to judges prior to sentencing and, indeed, may have resulted in sentencing decisions that were based on a lack of information in the absence of the victim’s voice.

The natural solution could simply have been to update the list of prescribed offences. However, as I said when I raised the issue during stage 2 proceedings, updating the list would not future-proof the bill and the provision that the amendment introduces. Put simply, it is not realistic to expect ministers to have to update the prescribed list of offences at the pace at which legislation changes and new offences are created.

My amendment 39 takes a different approach. It simply expands the franchise to all victims in all solemn proceedings by making changes to section 14 of the 2003 act—notably by replacing the words “prescribed offence”. Proposed new subsection 2A(a) sets out that a victim of,

“in the case of solemn proceedings, any offence”

can be afforded the opportunity to make a victim statement.

Crucially, amendment 39 expands the powers of the Scottish Government to perhaps trial the approach in non-solemn proceedings. I understand the point that was made by Russell Findlay in earlier debates that expanding the approach to summary cases would result in a huge volume of impact statements. However, I still believe that there is a place for victim statements in solemn proceedings and in summary proceedings on certain prescribed offences.

I am grateful for cross-party support for the amendment and, in particular, for the support of Ben Macpherson MSP, who approached me with some deeply troubling casework that he had been working on. He believed that the provisions in the amendment are the right thing to do.

The minister often likes to refer to my consultation. I am happy to confirm that, in that consultation, 85 per cent of respondents supported the proposal to expand the franchise in relation to victim statements in court. I am grateful to Victim Support Scotland once again for its support—it supports the amendment. It made a valid point when it said:

“The supposed ‘seriousness’ of an offence often has little to no bearing on how the individual has been impacted. Therefore, anyone who has been impacted by a crime should be able to make a victim impact statement, should they wish to, regardless of the nature of the offence, or the court in which it is to be heard.”

I urge members to support that point.

I am also grateful to the Government for acknowledging that this massive change has to happen and is long overdue. I hope that the change will pass as a result of today’s business and that it will benefit future victims of crime.

Sharon Dowe’s amendment 104, which is the second amendment in the group, enables a victim, if they so choose, to read their victim statement aloud in court proceedings. My concern with regard to the amendment is not with its intention, given that I support the expansion of the use of victim statements in court environments, but is more technical. The amendment as drafted says that, if a victim statement has been made, it

“must be read aloud in court”,

either by the victim or, if they choose not to do so, by a judge. The problem with that is that there is no opt-out: if a statement exists, it will be read aloud, come what may. That does not cover scenarios in which, for example, the victim wishes a judge to read the statement prior to sentencing but might not wish the statement to be read aloud and to become public knowledge.

I am happy for either Sharon Dowey or ministers to confirm my interpretation of amendment 104 before we vote on it. Nonetheless, I commend her for bringing it before the chamber. I hope that she and other members will support my amendment 39.

I move amendment 39.

**Sharon Dowey:** Amendment 104 requires that, in cases where the victim is eligible to make a victim impact statement, the court must allow for the statement to be read aloud in court.

There is currently no requirement for a victim impact statement to be read aloud in court, but I think that the voices of victims must be heard. The statement could be read by the victim where they have requested to do so, or by the judge or sheriff.

Given concerns about the possible length of the statements, I have provided for the court to have discretion as to whether the statement is read out

“in whole or in part.”

Victim Support Scotland and Scottish Women's Aid have expressed support for my amendment. I have worked closely on the issue with Victim Support Scotland, which told me that one of the main issues with victim impact statements is that victims spend time writing out their feelings in the expectation that they will be shared in court, but they have no idea whether their statement will be read out or not. That most certainly causes victims unnecessary anxiety in an already stress-inducing and traumatising situation. Scottish Women's Aid says that it backs the amendment because the process needs urgent attention and reform. In particular, it seeks support for women's agency and their right to make a statement.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** Would the member acknowledge that the amendment could have the effect of disempowering a victim? If they do not want the statement to be read out, they may be retraumatised. Is that not taking choice away from the victim?

**Sharon Dowey:** I was going to come back to that point in answer to Jamie Greene. Where the amendment says that the statement is to be read by

“the person who made the statement if that person requests to do so,”

I was trying to make the point that they would not have to read it aloud in court, but if they wanted to do that, they could.

Throughout the committee's evidence sessions, we heard from victims who said that they felt that they were a witness in their own case and that they did not get the chance to speak. They felt as if the key points of their case were not brought up

in court, and they had no engagement. They felt that the proposal in the amendment would give them the chance to tell the court about the impact of the crime on them.

**Graham Simpson (Central Scotland) (Reform):** I just want to be clear on the wording of the amendment. Perhaps Sharon Dowey can clear this up. The amendment says that, if there is a victim statement, it

“must be read aloud in court”.

That is the wording of the amendment. Irrespective of whether a victim wants their statement to be read out, it “must be” read aloud. Is that correct?

**Sharon Dowey:** In drafting the amendment, my intention was to allow a statement to be read aloud in court if the victim requested that. Victims do not have that choice at the moment. It would mean that either the victim could read it, if they requested to do so, or they could get the judge or the sheriff to read it aloud. It could be a long statement or a short statement, so the amendment allows for discretion in whether part of the statement is read rather than the full thing, as obviously there are time constraints in court.

**Angela Constance:** The effect of amendment 104 is to make it mandatory for the victim statement to be read aloud in court, either by the victim, if they request to do so, or by the judge or sheriff, if the victim does not wish to. My interpretation of that is that the statement would have to be read out, either by the sheriff or by the victim, and that the only discretion that would be available would be for the statement to be read in full or only in part.

**Sharon Dowey:** Yes—that is where the discretion is. The statement could be read in part, so it could be shortened. The full statement could be read out, or the court could be made aware of the key points.

**Audrey Nicoll:** I am concerned about amendment 104. I understand the rationale for it, but has the member considered what support or guidance would be provided to a survivor in preparing their statement? Reading that out in an open court has quite big implications for them, and they might seek guidance on what to include and what not to include.

**Sharon Dowey:** At the moment, there is support from Scottish Women's Aid and Victim Support Scotland, and there are people in the court who help victims along the way. If we should be directing funds towards that to make sure that we deal with victims in a trauma-informed way, that is something that we should look at. When we took evidence, one of the key points that we heard was that victims felt as if they were completely

ignored and that they were a witness in their own case. They felt that they did not have any involvement.

Amendment 104 would give victims the opportunity to talk for themselves in the court. It would allow the judge or sheriff to read out the statement, and the judge or sheriff would have the opportunity to shorten the statement. The amendment would give victims the ability to do something that the committee heard that they have not been allowed to do.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** I am grateful for the opportunity to speak in support of Jamie Greene's amendment 39. I acknowledge and am grateful for the engagement with him, his team and the Scottish Government.

The issue of victim impact statements is important for all our constituents who are affected by crime. It was brought to my attention in particular by one of my constituents, Lesley—I should be clear that I have permission to say their first name. Lesley, who came to see me at my surgery, expressed concern that, in their situation, the person who was convicted of a crime against them did not hear from the court process the effect that the crime had on Lesley's life.

With the bill going through Parliament at the same time, it was great to be able to collaborate with another member and the Government to introduce this change, which will enable more people to make a statement, at their discretion.

I have issues with Sharon Dowe's amendment 104 because, having looked at it carefully, the drafting does not seem to me to give discretion and choice. Parliament should vote for amendment 39 to enable more constituents, if they want to, to have their victim impact statements read and heard, so that the effect that a crime has had on them is understood by the person who is being tried in the case.

For all those reasons, and to help our constituents, including my constituent Lesley, I urge Parliament to support amendment 39.

**Angela Constance:** Amendment 39 relates to another area on which I have been pleased to have been able to work with Jamie Greene. As has been outlined, the amendment will expand the eligibility to make a victim statement to all victims in all solemn proceedings. That is a significant step in a broader programme of work to improve the victim statement scheme and will ensure that victims have a meaningful voice in all solemn proceedings. Ensuring that victims are given a meaningful voice in our criminal justice system is a fundamental step towards a more compassionate and trauma-informed approach, so I urge Parliament to support amendment 39.

Scottish ministers already have powers to pilot different ways in which a victim statement can be made. That allows us to take a considered and step-by-step approach to widening how victim statements are provided. That is why, in addition to supporting amendment 39, in my letter to the Criminal Justice Committee on 5 September, I committed to conducting a pilot of alternative formats for making victim statements in the sexual offences court if the bill passes tomorrow.

16:30

At present, victim statements can only be made in written form. It is important that alternative formats, whether they are pre-recorded or in person, are trialled in recognition of the fact that some victims want the opportunity to reflect on the impact of crime not only in their own words but in their own voice. Choice is imperative, because not everyone will feel safe or comfortable reading out their statement in an open court.

**Jamie Greene:** I thank the cabinet secretary for that additional information. It is very welcome news. There are other cases, particularly in our summary courts, that are still relatively serious and in which a victim does not have a voice.

Today's debate, particularly on Sharon Dowe's amendment 104, has thrown up the issue of empowering victims to choose the manner in which their statements are made and whether they want them to be made. Amendment 104 could have been easily fixed by a technical tidy-up that would make the opt-out more palatable, which it is not in its current draft. However, the point that it makes is important: people should have their voices heard in courts. Amendment 39 will go some way towards doing that, but the Government could still go further in ensuring that all victims are aware of their rights and the methods by which they can ensure that their voices are heard in courts.

**Angela Constance:** Amendment 39 and the pilot are constructive strides that will help victims to reclaim their agency, that will acknowledge their experience and, crucially, support their recovery, all of which are at the heart of the culture that we wish to establish through the creation of a stand-alone sexual offences court. I reiterate the point that there is always more to do.

I cannot support the other amendment in the group, in the name of Sharon Dowe, and I urge her not to move it. Amendment 104 would make it mandatory for victim statements to be read aloud in court, by the victim or, if not requested by them, by the judge or sheriff, whether the victim wants that or not. It is vital that victim choice is respected. Making it mandatory that statements are read out loud in court removes victims' ability

to choose how their personal experiences are shared. That undermines trauma-informed practice, which is built on the principles of choice, autonomy and empowerment.

**Liam Kerr:** Victim Support Scotland is very clear that it supports amendment 104. How does she respond to that?

**Angela Constance:** I hope that Mr Kerr and his colleagues will bear in mind the voice of Victim Support Scotland when we vote on the bill's final passage tomorrow.

**Russell Findlay:** What about this amendment?

**Angela Constance:** On the amendment, I ask members to have a wee bit of patience.

The pilot is the best way forward in the context of the sexual offences court, because it would enable a full range of alternative formats for making victim statements. As I said, victims having the opportunity and choice to make their victim statement in their own words and in their own voice has intrinsic value.

Amendment 104 could have the unintended consequence of victims not using their opportunity to offer a victim statement at all or, if they do, providing a statement that does not offer the same level of insight to the judge to help inform sentencing. That is because many statements might contain extremely sensitive information, so disclosure in an open court might not be wanted by the victim.

Victim statements are central to ensuring that a judge understands the victim's experience and the impact that a crime has had on them, so that that can be reflected in the judge's sentencing decision. Anything that could impact that would be an unwelcome step backwards. It would also cut across Jamie Greene's amendment 39, which will expand the use of victim statements. If people do not take up the opportunity to make a victim statement due to the mandatory nature of its being read in open court, the benefit of the expansion could be lost.

On that basis, I ask members to support amendment 39 and to oppose amendment 104.

**The Deputy Presiding Officer:** I call Jamie Greene to wind up and to press or withdraw amendment 39.

**Jamie Greene:** I thank members for the very constructive debate that we have had. As often happens, it has flagged up an Opposition amendment that, despite being well intentioned—as Ms Dowey's amendment 104 is—is drafted in such a way that members are unable to support it. Such issues crop up frequently and could be addressed. If the Government agrees with the principle, it has ways and means of fixing

amendments that it thinks are not competent. The Government lodged a number of manuscript amendments after the digital deadline passed, so I do not understand why it could not have addressed the deficiencies in Ms Dowey's amendment. I apologise for not being able to support the wording of amendment 104, but I commend her for lodging it.

The substantive point on this group of amendments is about victims being able to make statements in court. I know that it is a long day and that we are discussing lots of amendments, but, although amendment 39 might seem small, I want the wider public to understand its importance. If the bill passes tomorrow with the inclusion of amendment 39, all victims of crime who have their cases heard in solemn proceedings will be able to make a victim impact statement to court in a manner of their choosing, if they so wish. That franchise simply does not exist at the moment. The change would be a really positive step forward for our justice system. If amendment 39 is agreed to it will be a good day for victims.

I press amendment 39.

*Amendment 39 agreed to.*

*Amendment 104 not moved.*

**The Deputy Presiding Officer:** Group 10 is on court transcripts. Amendment 83, in the name of Audrey Nicoll, is the only amendment in the group.

**Audrey Nicoll:** Amendment 83 would enable survivors of rape and sexual offences to access court transcripts from the clerk of justiciary free of charge. For context, I note that, at stage 2, I moved a probing amendment on the issue, joining Pauline McNeill and Jamie Greene, who lodged similar amendments. I welcomed the cabinet secretary's commitment to engaging further on the issue in advance of stage 3.

The difficulties that survivors have historically experienced in accessing a record of a trial were first brought to the Criminal Justice Committee's attention in 2021. I pay tribute to the women who described the challenges that they faced, with one having had to pay more than £3,000 for a single transcript. For some survivors, access to transcripts has a practical function if they are involved in another process, such as one in the civil space. For many, access to a record of what was said during a trial is an extremely important part of their recovery and closure process, and such access reflects a justice system that is trauma informed and trauma responsive.

I am very grateful to the cabinet secretary for agreeing to the establishment of a pilot that enables survivors to access transcripts free of charge and for extending the pilot beyond its original timeframe in order that a number of

operational considerations—such as the development of emerging technology, the evaluation of potential demand, and potential legislative changes—could be considered more fully.

Amendment 83 seeks to add a new subsection to section 94 of the Criminal Procedure (Scotland) Act 1995 to require that a transcript is made and sent to a complainer at no cost. That will apply to cases involving sexual offences listed in section 288C of the 1995 act that were heard in the High Court or the sexual offences court and that commenced on or after 31 December 2006.

I am very grateful to Scottish Women's Aid, Victim Support Scotland and other organisations for their support for amendment 83.

**Russell Findlay:** I wonder whether the member has given any consideration to extending the amendment to other serious cases that are prosecuted in the High Court or in the sheriff court at solemn level.

**Audrey Nicoll:** I know that that has been proposed and given some thought. Perhaps it is something that the cabinet secretary will be able to comment on.

I urge all members to support amendment 83, which reflects our commitment to ensuring that our justice system responds effectively to the unique needs of victims who have suffered complex trauma, putting their needs front and centre always.

I move amendment 83.

**Pauline McNeill:** I speak in support of amendment 83 and the work that Audrey Nicoll has done on the matter. As she has said, Jamie Greene and I supported her on access to transcripts being extended, for the reasons that she has set out.

In the course of the committee's work, victims have often told us that they do not feel at the centre of a process in which they are the complainer. Being able to read back what happened in a trial where they were at the centre is very important for the recovery process.

I fully commend the cabinet secretary and the Scottish Government for taking this bold step, and I am absolutely certain that complainers and those who came to the committee to argue for the measure will be delighted if the Parliament agrees to the amendment.

**Jamie Greene:** A number of us came to the committee at stage 2 on the issue of court transcripts, which has been bumbling along in the Criminal Justice Committee for many years, with a range of stakeholders having expressed quite strong views on it. I absolutely understood the

issues around extending the franchise to all victims in all cases, such that all transcripts must be available to everyone at all times. There are pragmatic and cost issues around that, but also, as we learned later, issues around data protection, privacy, the general data protection regulation and redaction, which cannot be dealt with in an artificial intelligence manner.

I am pleased with how amendment 83 sits, but, as we heard earlier, a wider discussion should be had about extending such a measure to other offences. It is worth noting that a number of survivors of sexual offences, in particular, were keen for that. They have gone through horrific experiences, and they have been pushing the Government on it. They have been lobbying for the change for many years. To their credit, people such as Ellie Wilson have been banging the drum for extending access to court transcripts.

Although we are extending access to a group of people who will benefit from the amendment, many others will not. I hope that the Government will reflect on that. I would like to see somebody in the justice system or in the civil service directorate responsible do a wider piece of work about how we can use technology to improve provision, with faster, cheaper and better access to court transcripts for any victim of any crime, should they need it—particularly those who have moved out of criminal proceedings and are taking their case through the civil courts, where there is an absolute necessity to access such transcripts.

I hope that the Government will consider that. Either way, I hope that the Parliament will support this small step forward.

**Angela Constance:** I thank Audrey Nicoll for lodging amendment 83, following our discussions at stage 2.

We introduced the current pilot in March 2024 in response to victims highlighting that the costs of paying for transcripts can be prohibitive. As a result of the pilot, more than 120 applications have been made. We expect that the total funding for the pilot will be in the region of £300,000 by the time of its conclusion, in February 2026. The evidence to date suggests that the pilot has had the positive impact that was envisaged.

I am pleased to be able to support amendment 83, which will give victims of sexual offences a statutory entitlement to free transcripts and will therefore secure on a permanent basis the outcomes that were achieved through the existing court transcript pilot as operated and managed by the Scottish Courts and Tribunals Service.

On the point made by Mr Findlay and Mr Greene about extending the measure to other cases, I note that any extension needs to be financially sustainable. I would have to discuss

that with the Scottish Courts and Tribunals Service, but I hope that improvements in technology will reduce some of the costs in that area.

In the meantime, I am hopeful that members will support amendment 83.

16:45

**Audrey Nicoll:** I thank my colleagues Pauline McNeill and Jamie Greene for their support. This is a small but, I hope, important piece of cross-party work, and it is great to get cross-party support for it. I thank the cabinet secretary for her support, too.

I endorse and agree with all the points that were made by colleagues about the extension of the provision. There are practical and cost implications, but this is perhaps the beginning of a wider discussion. I press amendment 83.

*Amendment 83 agreed to.*

**The Deputy Presiding Officer:** Group 11 is on referrals to victim support services. I advise members that we will complete discussions on this group and then have a short comfort break. Amendment 84, in the name of the cabinet secretary, is grouped with amendment 103.

**Angela Constance:** I thank Jamie Greene and Maggie Chapman for highlighting this issue, and I thank Mr Greene for supporting my amendment 84, which builds on one that he lodged at stage 2. I acknowledge the work of Victim Support Scotland in championing a more proactive referral process. We have a shared objective to ensure that victims get the support that they need when they need it.

Since stage 2, we have worked closely with Police Scotland to develop an amendment that is rights based and trauma informed and that respects victim autonomy and choice. At present, the law requires the police to inform a victim that they may request a referral to providers of victim support services. My amendment 84 will put a duty on the police to inform a victim that they are entitled to be referred to a victim support service and to explain what is meant by support service and a referral.

My amendment will place a proactive duty on the police and seeks to ensure that victims understand that they have a right to be referred and the nature of the support that is available. It seeks to normalise being referred to support services by stating that it is an entitlement rather than something that the victim may request, and it will empower victims to make an informed decision. It will also require the chief constable to produce guidance on the referral process.

For the processing of personal data to be compliant with GDPR, it needs to be necessary and proportionate, as well as transparent and fair. Passing on people's data without their consent rightly needs to be necessary and proportionate, because an individual has a right to privacy. Our consultation with the Information Commissioner's Office reinforced the significance of adherence to the principles of necessity and proportionality, transparency and fairness and of the need for consent to be informed, affirmative and explicit for the sharing of personal information. My amendment provides such a model of consent.

It is essential to ensure that any referral process is compliant with those principles. If we do not do so, we risk passing an amendment that cannot be operationalised by the police, and there is a significant risk that it would fall foul of the data protection regime.

Maggie Chapman's amendment 103 would result in the referral mechanism being one that victims need to opt out of. However, not providing for explicit consent from victims poses the very risks that I have mentioned of non-compliance with data protection legislation and, ultimately, being inoperable. Furthermore, I would be concerned that an opt-out model is not the most straightforward and transparent way for victims to make a choice at a traumatic time.

Our amendment sets up a framework that supports a clear choice and recognises that victims might change their mind over time. On the other hand, an opt-out model means that a victim's personal data is shared unless they request otherwise, which could have unintended consequences if they do not realise that they have to make such a request, or they are not in the right frame of mind to make the choice at that time, and it increases the risk of data being shared without genuine consent. It also does not distinguish for vulnerability or for child victims, and the caution that is required in relation to understanding what the process involves and having the capacity to make the choice to opt out.

Police Scotland copied me into a letter to the Criminal Justice Committee that raises concerns about the automatic data-sharing aspect of Ms Chapman's amendment, which sets out the significant barriers to Police Scotland operationalising it. That reflects the Scottish Government's assessment of some of the risks that amendment 103 poses, as I have already set out.

I will also take this opportunity to inform members that Police Scotland has already begun a programme of work, in conjunction with victim support organisations, to ensure that victims are referred to support agencies. That has included improved guidance and operational briefings for

officers, and changes to information technology systems to make it easier to make retrospective referrals and a refreshed care card for victims, following the people-at-heart approach to communication, which was informed by people with lived experience.

I ask Ms Chapman not to move her amendment 103 and I urge all to support my amendment, which delivers our objective of providing a stronger referral pathway for all victims and provides a person-centred approach.

I move amendment 84.

**Maggie Chapman:** As this is my first substantive contribution to this afternoon's proceedings, I thank the cabinet secretary and all of her officials for their discussions about the bill and my amendments over many months. I also refer colleagues to my entry in the register of members' interests: prior to my election to the Scottish Parliament, I worked for a rape crisis centre.

I am indebted to organisations that provide support and advice to victims and survivors of some of the worst crimes imaginable. I have really valued the conversations and discussions that I have been able to have with those organisations and survivors about elements of the bill. One such area is awareness and availability of support services for victims and survivors.

From my previous work experience and from listening to survivors, I know that awareness of the full range of support services that is available to them is nowhere near as high as it should be. Information is not easy to find, and the practice of referring to such support services by police officers and others is inconsistent at best and non-existent at worst. Indeed, according to Victim Support Scotland, referrals have dropped by 90 per cent over the past eight years. We cannot accept that.

Victim Support Scotland and others have long campaigned for an automatic referral system unless the victim or survivor does not wish to be referred. That is what my amendment addresses, as Jamie Greene sought to do at stage 2. All victims must have easy access to the support that they need when they need it to recover and move on from the crime that was committed against them.

I accept that amendment 84 goes some way to address the issue, but I do not believe that it goes far enough. My amendment would ensure that there was always a follow-up—always that next question—which would allow the victim the opportunity to consider the range of support options that should be open to them.

However, I accept that Police Scotland has raised concerns about amendment 103, specifically that the data sharing that is required could present challenges, given UK data protection legislation. Although I will not move amendment 103, I urge the cabinet secretary and Police Scotland to be very clear about the need to improve the ways in which referrals happen, to ensure that victim survivors have access to the support that they need and deserve when and where they need it.

I am grateful to have had the opportunity to raise the issue again, because we must do better. Victim survivors deserve nothing less.

**Jamie Greene:** I am speaking in group 11, as I have added my name in support of amendment 84, which was lodged by the cabinet secretary. It very much echoes an amendment that I lodged at stage 2 but which I agreed not to move and to work with the Government on.

I understand the reasons why the amendment is in the cabinet secretary's name and not in mine. There have been many technical conversations about the sharing of data and they underlie a lot of the proposed changes. When the Victims and Witnesses (Scotland) Act 2014 came into play, the technicalities of GDPR issues became very different. However, an amendment of that nature is needed.

I was sympathetic to Maggie Chapman's amendment 103. I understand the pushback around the data-sharing issue, but my interpretation of the amendment as it is stated in black and white was that the police, as soon as was reasonably practicable after the person had been identified as or appeared to be a victim, would refer the person to a victim support service unless that person intimated that they did not wish to be referred. That opt-out and that agency would always have existed, so no one's information would ever have been passed on without their consent. In that regard, I would have supported the amendment. However, I understand that Police Scotland has pushed back on that issue.

The amendments in the group also raise the question of what we mean by a referral. In the black and white of legislation, does it mean that the person's data is taken by a third party and passed on to somebody else, or is a referral simply the signposting of a victim to a third-party organisation, in which case there are no data issues? I do not think that that is entirely clear from the amendments. The latter approach is easier, of course, because it does not fall into GDPR issues.

However, I understand the reasons why Maggie Chapman will not move amendment 103, and I certainly will not move it. I hope that members will

support amendment 84 as a compromise. Overall, it simply represents a first step in the right direction. Not only Police Scotland, but all justice partners need to be far more proactive in signposting victims to both support and notification schemes. It is important that, with any changes that happen in future—I hope that there will be further changes to both processes—all justice partners know that they have a duty to signpost people to the wonderful organisations that we all know can make such a difference in helping people to navigate through the justice system. I encourage members to support amendment 84.

**The Deputy Presiding Officer:** I invite the cabinet secretary to wind up if she has anything further to add.

**Angela Constance:** I will respond briefly to Ms Chapman and Mr Greene. There is a clear need to improve referrals, and I believe that amendment 84 will be part of the solution to that. I acknowledge the point, which Ms Chapman made powerfully, that referrals have fallen by 90 per cent in comparison with pre-GDPR levels. GDPR is the law. We cannot ignore that. We have to respect it and operate within those bounds, but that must increase our resolve to find those other solutions in a systemic approach so that the system is far more proactive in supporting victims to exercise their rights.

*Amendment 84 agreed to.*

*Amendment 103 not moved.*

*Amendment 85 moved—[Jamie Greene].*

**The Deputy Presiding Officer:** The question is, that amendment 85 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Maggie (North East Scotland) (Green)  
 Choudhury, Foyso (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Greer, Ross (West Scotland) (Green)

Griffin, Mark (Central Scotland) (Lab)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Slater, Lorna (Lothian) (Green)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

#### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Harper, Emma (South Scotland) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)

Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 54, Against 59, Abstentions 0.

*Amendment 85 disagreed to.*

**The Deputy Presiding Officer:** I suspend the meeting for 15 minutes for a comfort break. I would be grateful if members could be back in their seats by 5.15 pm.

17:00

*Meeting suspended.*

17:17

*On resuming—*

**The Presiding Officer:** Group 12 is on release of prisoners. Amendment 86, in the name of Jamie Greene, is grouped with amendments 87, 40 to 42, 106, 43 to 45, 107, 46 to 48 and 162. I point out that, if amendment 106 is agreed to, I cannot call amendment 43, because of pre-emption.

**Jamie Greene:** There are quite a lot of amendments in this group, covering very different themes, so—with members' patience—I will try to get through them as best I can.

Amendment 86, as the lead amendment, is on the right to attend parole hearings. It provides that a victim or a victim's family member—if the victim is deceased, for example—should be given the opportunity to observe parole proceedings in relation to the offender's case and potential release. It would do so by adding a new section into section 17 of the Criminal Justice (Scotland) Act 2003, stating that a victim or their family member

“must be afforded the opportunity to attend, for the purpose of observing proceedings”.

The amendment would not give the right to, nor even force, victims to participate in these proceedings or hearings, nor would it give the victim or their family member the right to speak at the hearing or to interrogate either the parole panel or the offender.

Subsection (2) of the proposed new section 17ZB that my amendment seeks to insert in the 2003 act makes it clear that the chairing member of the Parole Board would retain the power to exclude a victim or their family member from the hearing if they considered it appropriate to do so, which would provide some flexibility in respect of the proposed new right. However, in doing so, the chairperson should notify the victim or their family member in advance and, more importantly, should inform them of the reason for their exclusion from the proceedings. I think that that is a fair and balanced caveat to my proposal.

I will establish why the amendment is needed. The right has long been campaigned for by victims and support organisations. Parliament will be familiar with a number of very high-profile cases in which victims have been excluded from parole hearings. One such example, the case of Ellie Wilson, who was excluded from her attacker's parole hearing, was raised with the First Minister earlier this year. It was reported that, in response, the First Minister said that the decision to exclude Ms Wilson from the parole hearing was

“odd, strange and not very transparent”,

and he is right. I agree, as do campaigners. Therefore, if the First Minister is still of the view that such exclusion is

“odd, strange and not very transparent”,

I encourage him and his Government to support amendment 86.

The amendment is a far softer proposal than the one that I originally planned, which would have allowed victims to make representations in these hearings. That idea was met with a lot of opposition at the time, particularly in connection with the lack of “trauma-informed practice”, to use a phrase that has been used a lot today, and the fear that victims might be cross-examined if they were able to participate in hearings. Following conversations with victims and with victim support organisations, it is clear that, at the very least, they want to observe hearings. The proposal has been welcomed by VSS and I urge members to consider and support it.

Amendment 87 would make another change to how parole operates in practice by ensuring that there would be

“a summary of the reasons”

behind parole decisions. That amendment, if agreed to, would require the Parole Board to provide a written

“summary of the reasons for its decision”

either to release or not to release a prisoner.

The current law, the Criminal Justice (Scotland) Act 2003, says that the Parole Board must inform a victim whether it has recommended release and whether any conditions have been applied to such a release. My amendment 87 would go a step further by adding that such information would include

“a summary of the reasons for their decision”

as part of the additional right that victims would have, while retaining the original provision that only victims who wish to receive that information would do so, a detail that goes back to a point that we have already debated.

In effect, amendment 87 would mean that the Parole Board would have to explain to victims why it has arrived at its decision. That is important because victims have long felt that decisions made by the Parole Board can feel distant and opaque in comparison with the reality of the trauma that they have experienced. They absolutely do not feel involved in proceedings and often feel that no attempt is made to help them understand how the Parole Board comes to what are, of course, complex and difficult decisions. My amendment seeks to ensure that victims are given the appropriate information, not only about whether a release will take place and whether conditions have been imposed but about why.

Amendment 87 goes hand in hand with my other amendments, which would form part of Michelle’s law, to which I will now speak. The amendment is supported by Victim Support Scotland, which says that the prospect of someone being released can cause significant anxiety and distress. When the Parole Board decides to release someone, the very least that the victim deserves is an explanation of the reasons behind that. I hope that Parliament will support amendment 87 and I am grateful to the cabinet secretary for working on it with me.

Amendments 40 to 45 form the essence of something that I introduced at stage 2, which is commonly known as Suzanne’s law. I will go through amendments 40 to 45, which are technical amendments that enhance what was already agreed to at stage 2 in the committee. Suzanne’s law would require the Parole Board to consider

any failure to disclose the location of a victim’s remains when making a decision about whether to release a prisoner.

Amendment 40 clarifies that the Scottish ministers must change Parole Boards to comply with what was passed at stage 2. Amendment 41 is a technical amendment that adjusts the placing of the word “must” in that provision, with “must” being the key part of the amendment that was passed that stage 2. In other words, it is now an essential requirement for the Parole Board, when making its decision, to take into account any failure to disclose that information.

Amendment 42 would clarify that the consideration applies only to decisions that are made on initial release, because decisions that are made on release after recall to prison are usually focused on breaches of bail rather than on the initial decision to release. Amendment 43 would clarify that the provision will apply only

“where the victim’s remains have not been recovered”.

Amendment 44 states that the provision would also apply where the Parole Board has a belief that the prisoner knows either

“how or where the victim’s remains were disposed of”

or where the victim’s remains are located. That covers more eventualities or possibilities than the stage 2 amendment. Amendment 45 would remove the definition of a “victim” from the section introduced by the stage 2 amendment. That allows us to clarify the law in many regards, as there were some technical tidy-ups that we had to do.

I am aware that there is a debate about whether these provisions go far enough. For example, the concept of no body, no parole has been mooted in the press and has been suggested with regard to other amendments in the group. I note that Victim Support Scotland has asked members to reject those amendments. My amendments, which were agreed to at stage 2 and which can be enhanced at stage 3, go further and far enough for the families that they directly affect, because they mirror the wording of Helen’s law, which was passed in England and Wales. That states that

“the Parole Board must take into account the prisoner’s non-disclosure”.

Helen’s law, as worded—and as replicated in the wording of this bill—has already been instrumental in blocking the release of killers. For example, the releases of the killers of Linda Razzell, Julie Paterson and Danielle Jones were all blocked as a direct result of the introduction of Helen’s law and, by default, the wording of Suzanne’s law. This approach works in practice, as we have seen from what happened in England and Wales.

If that is not enough, I want to let the families who will be most directly affected by this know that, as a Parliament, we have been listening to their thoughts and feelings. It has been hugely traumatic for them to live through these experiences and for this to be played out in the Parliament and in the media so much in the past few months. I say a huge thank you to Carol Gillies and Gail Fairgrieve for meeting me, my team, Victim Support Scotland and the cabinet secretary to help us to shape these amendments to get to a place that they are comfortable and happy with.

Carol and Gail wrote to me and they want me to say these words about the amendments. I want the chamber to hear their words—not mine—and I want this to be in the *Official Report*. Carol and Gail said:

“We understand that there may be some people in the room who consider that this amendment is not strong enough or necessary. We have seen the headlines and we have listened to the lawyers who say that this will not make any difference. But this amendment is a first step and we want it publicly known that we wholly support it. This may not result in the finding of Arlene or Suzanne. However, it does give us a great sense of peace to think that this could help keep the two men found guilty of their murders behind bars.”

Frankly, if it is good enough for them, it is good enough for me.

My last two amendments in the group, amendments 47 and 48, relate to Michelle’s law. Members will note that, as I have often stated, these laws have a name attached to them—Suzanne’s law, Michelle’s law, Helen’s law and others—and they all relate to the female victims of horrific crimes and the repercussions and the effect that that trauma has had on their families. What has driven me throughout this whole process over the past three years is to ensure that Suzanne’s law and Michelle’s law are introduced, in so far as they can be, in a competent fashion that will have a meaningful effect and benefit victims of similar crimes in the future. That is what has driven these amendments.

Amendments 47 and 48 would incorporate the lion’s share of Michelle’s law into the bill. I would like members to focus on amendment 47, because it is an important one. It states that the Parole Board

“must”—

again, I use that word carefully—

“take into account ... the safety and security”

of victims and their families as a primary consideration before deciding whether an offender should be released. It would do that in the same way as my Suzanne’s law provisions, which is by requiring ministers to make provision that requires

the Parole Board to take the “safety and security” of the family into account.

17:30

Amendment 48 covers the second part of Michelle’s law, which is on exclusion zones. Exclusion zones are a vital tool in maintaining the safety of victims and their families after someone has been released. In practice, the amendment would ensure that the Parole Board “must consider” whether an exclusion zone is suitable ahead of that person’s release as part of their licence conditions.

Michelle’s law is named after Michelle Stewart, who, sadly, was murdered by her ex-partner. Her family have been campaigning for years to ensure that their voices and those of other victims are heard during parole proceedings, and that the safety, security and wellbeing of families are at the forefront of all decisions that the Parole Board makes.

These amendments do just that. They are not the end of the journey—those families want the Government to go further in strengthening the rights of victims and their families around parole. However, I think that they are a good start, and I hope that all members will consider them positively.

I move amendment 86.

**The Presiding Officer:** I call Russell Findlay to speak to amendment 106 and other amendments in the group.

**Russell Findlay:** Surely there can be nothing worse than losing a loved one to murder, but there are families whose suffering is worse and, in fact, is never ending. They are the ones who have lost a loved one to murder and cannot leave them to rest because the killer refuses to disclose the whereabouts of their remains. Suzanne Pilley, Margaret Fleming, Arlene Fraser, Alison McGarrigle and Patricia Henry are all women who were murdered in Scotland and whose remains have never been found. Suzanne’s law is named after Suzanne Pilley.

We should commend the police and the Crown Office for securing convictions for those murders when the past presumption was that, with no body, there was no conviction. The turning point came in 2003 with the first successful prosecution in such a case, for the murder of Arlene Fraser, and the others followed from that.

I have long campaigned for Suzanne’s law, since giving evidence that helped convict the killers of Margaret Fleming. That was in 2019. One of her killers has since died in prison, and one of them is still in custody. I do not believe that that killer should be allowed to get out until they do the

decent and right thing and disclose the whereabouts of Margaret's remains. Put simply, I believe in the absolutism of no body, no release.

I am concerned about some of the long-term spin that there has been around legislation on this issue. It has been talked about for years. As far back as 2019, at the time of the Margaret Fleming trial, Humza Yousaf set out proposals to allow the Parole Board to take into account a prisoner's failure to disclose. Various similar headlines have appeared in all the years since, including ones around amendments that we are considering today in the names of other members.

However, there is a potentially critical problem with those other amendments. They say that the Parole Board "must", instead of "may", take non-disclosure into account. There are very real concerns, despite what has happened with legislation elsewhere in the United Kingdom, that those provisions will be subject to legal challenge and will be unsuccessful.

I want this change to work on behalf of all those victims' families, and my amendments 106 and 107 would ensure that it does. I spoke with one victim's family today, who agree that, rather than taking a risk on a potentially weaker version that might be open to successful legal challenge, we should be bold and empower the Parole Board to explicitly prevent release where there is not disclosure of where a body is kept, as has happened in many other places around the world.

Amendments 106 and 107 do much the same thing. Amendment 106 does it by way of amending an amendment in the bill, and amendment 107 does it more completely by way of legislative description, offering full legislation that would give the Parole Board the right to use non-disclosure as a reason to prevent a killer from being released.

Such cases are extremely rare, but they are horrific and unthinkable. I spoke with one victim who is a passionate advocate for Suzanne's law, a man called Colin Higgins. Colin was abused in childhood by two paedophiles. After he confided in a female friend called Alison McGarrigle, she was murdered by those two paedophiles, who are now in custody. At some point, they will come up for parole. I believe that there is no way that they should be allowed out until they disclose the whereabouts of Alison's remains. Colin firmly believes in this Parliament taking the bold and necessary step to give the Parole Board the unambiguous power to keep a killer behind bars. Please, let us remove any risk of the amendments not having sufficient teeth and back amendments 106 and 107.

**Liam Kerr:** Amendment 46 is simple but far reaching and important. At the moment, a prisoner

who is on a life sentence or who is subject to an order for lifelong restriction can be considered for parole. The process involves notification of victims, at least one hearing that the victim can attend, representations from the victims at that hearing and uncertainty for all involved. If parole is refused, the prisoner then needs to wait a maximum of two years before the next consideration. My amendment would make a simple yet crucial change. It would simply extend the maximum period that such a prisoner must spend between failed parole bids from two years to three years.

Members will know who Linda McDonald is. A savage thug was already on a life sentence for murder, yet he had been let back on our streets. He viciously attacked Linda and left her for dead. In powerful and compelling testimony, Linda says that she lives with the dread that every two years the killer is considered for parole. She says, as do many victims, that the regularity with which victims need to interact with the parole system is one of the drivers of retraumatisation in the current set-up. It will not be lost on anyone in the chamber that one of the primary functions of the bill is to make the entire Scottish justice system more trauma informed.

Tasmin Glass was sentenced to 10 years for her role in the 2018 murder of her ex-boyfriend, Steven Donaldson, in Kirriemuir. She was granted parole halfway through her sentence under strict conditions, but she was returned to prison in early 2025. However, almost immediately, she was eligible for parole again, and there followed several hearings at which she might have been released again—hearings that, for various reasons, did not consider the substantive issues or come to a decision. I cannot imagine the trauma and retraumatisation caused to Mr Donaldson's family. They have described everything about that—from the early release to the repeated parole hearings and delays—as "a disaster".

This is appalling. Victims are constantly one year away from preparing for the next parole hearing or dealing with the aftermath of the last one, with all the trauma and resurfacing of emotions that that will naturally bring with it. That is no way to treat anyone, let alone victims of crime, the bereaved and the appallingly wronged. To be honest, three years is probably still too short in my view, but it would at least allow, in most cases, a safe harbour of one year either side for victims in preparing for the hearing or dealing with the traumatising aftermath of the hearing and the relitigating of their experience.

The cabinet secretary has written to me on amendment 46 and put some points to me. She says that she cannot support my amendment because the current timescale of two years is

current practice throughout the UK. I am afraid that the irony of an SNP Government member arguing that it wants to maintain alignment with the UK over doing the right thing will not be lost on anyone in the chamber, particularly given that the bill that is before us today introduces jury majorities and a stand-alone sexual offences court, which are completely unheard of elsewhere.

The cabinet secretary also puts to me that she is concerned that the amendment could be open to legal challenge, presumably from convicted killers on life sentences. I counter that by saying that prisoners can already be locked up for life, even under the European convention on human rights, as we can see from the fact that England has had whole-life orders that provide for that for decades now.

In the previous parliamentary session, when I proposed my whole-life sentences bill, the Government was very quick to argue that keeping people locked up for longer was already an option and already legitimate in Scotland. Besides, members in the chamber will be well aware that this Government is never shy about going to court at the drop of a hat to defend policies from legal challenges. Just this weekend, we heard that it is being taken back to court for its refusal to properly implement a Supreme Court verdict. I cannot help feeling that the public would far rather that their Government was going to court to fight for killers and rapists to stay behind bars for longer than for some of the matters that it has recently chosen to litigate.

We are talking about incredibly dangerous violent and/or sexual offenders who have been locked up for life or given an order that says that they continue to pose a danger to the public. The period before reconsideration of parole should be three years. I come back to Linda McDonald, because who would know better than someone who has been through such an experience? She has said that such a length of time for their parole would be a step in the right direction. We can and should debate whether the period should be increased further, but today the Government must listen to survivors and make that commonsense change to protect victims and the public.

**Angela Constance:** I understand and appreciate how difficult, stressful, turbulent and traumatic it can be for victims and their families when the offender linked to their case comes up for parole and potential release. I have met many victims who have shared with me their personal experiences and views on how the system could be improved to better support them during that stage of the justice process.

We all want to ensure that victims and their families are informed about how and why decisions are made. We all want to have an

effective system in place for the release of prisoners, which keeps victims and their families informed and supported while maintaining confidentiality, the integrity of decisions and the safety of all who are involved.

I have done significant work with Jamie Greene on the issues that he has raised, particularly on parole. I have agreed to amendments that he lodged at stage 2 and have worked with him on amendments 40 to 45 and 47 and 48 in this group. Mr Greene has long campaigned on those issues, and that package of amendments seeks to strengthen the factors that the Parole Board and, where relevant, Scottish ministers must take into account when considering release and licence conditions.

I am deeply aware of the continued distress for family and friends of the victims in cases where the location of an individual's remains is unknown. I recently met the families of Suzanne Pilley and Arlene Fraser, and my deepest sympathies remain with them and any other families who are in such a situation.

Amendments 40 to 45 do not change the effect or rationale of the provision that was accepted in that area at stage 2. Rather, they provide further clarity on the specific legal drafting to ensure that if there are reasonable grounds to believe that the prisoner has relevant information that would help to locate remains but has not disclosed that information, the Parole Board must take that into account.

I am also willing to support Jamie Greene's amendment 87, because it will ensure that all victims—not only those in cases where indeterminate sentences have been given, as the current system allows—will receive a summary of the reasons why a release decision has been made by the Parole Board. However, I am also aware that parole was a new topic at stage 2, and so a number of issues will require further consideration.

I believe that the parole system can be improved, which is why I announced at stage 2 that we planned to publish a consultation on parole reform, which we did on 20 August. The consultation paper, entitled "Voices in Justice: A Consultation on Parole Reform in Scotland", will enable us to gather a wide range of views and develop a suite of reforms to the parole system that the Parliament can fully consider as one package. That will ensure that any changes that are required will work together in the system operationally and are legally feasible. I believe that that will be better than a piecemeal approach.

For those reasons, I cannot support amendment 86, although I reassure Mr Greene that Parole Board hearings are part of the consultation's remit.

I urge him not to press amendment 86 in order to enable views from the consultation to be heard.

17:45

Amendments 106 and 107, in the name of Russell Findlay, would, in effect, require that a prisoner was held in custody indefinitely until they provided certain information. As I set out earlier, I know how important that issue is for victims' families in such traumatising cases. That is why the Government supports Jamie Greene's amendments in that respect, as do victim support organisations.

For me, the issue goes back to amendments that Mr Greene lodged during stage 3 of the Bail and Release from Custody (Scotland) Bill in 2023. At that time, I gave a commitment to continue to engage with him on the matter, and I am glad that we have been able to progress matters to the satisfaction of the families that he represents.

The Government's position is that decisions on risk and release must be made, case by case, by the independent Parole Board, which may take all relevant information into account. In addition, amendments 106 and 107 could lead to the Parole Board's decisions being more vulnerable to legal challenge. I do not say that lightly, because I am acutely aware that legal challenge adds risk, as opposed to removing it, and adds to the pain and trauma of families. With respect to Mr Findlay, I say that I cannot play fast and loose with families in that regard. Therefore, I cannot support amendments 106 and 107, and I urge members not to support them.

**Russell Findlay:** Does the cabinet secretary recognise that giving the Parole Board powers to make the position absolute would reduce the risk of legal challenge? Does she accept that I have absolutely no intention of playing fast and loose with the families of victims?

**Angela Constance:** I did not say that; I said to Mr Findlay that I will not be playing fast and loose with the families of victims. As I have said, anything that we introduce in this area must be legally robust, and I will not compromise on that. I understand your position very well, Mr Findlay, but we have heard from Mr Greene and, at the end of the day, we are delivering what we can, without legal risk, to give at least some comfort to families. That is a big step forward.

I am very pleased that we have been able to make progress on Suzanne's law, which reflects the aims of Helen's law; that we have provided support for amendments on the summary of reasons; and that we have made progress on exclusion zones and in writing into legislation that the Parole Board must consider the security and safety of victims and their families. This aspect of

the bill contains a significant package of reforms, and having a full consultation on the areas of parole that require further examination and further work will allow us to do more. Agreed changes to amend Parole Board rules can be made through statutory instruments.

I do not support Liam Kerr's amendment 46, which seeks to increase from two years to three years the maximum length of time that an offender who is subject to a life sentence or an order for lifelong restriction is required to serve between their parole reviews. I understand that Mr Kerr has lodged the amendment because of the impact of hearings on families in relation to uncertainty and trauma. However, my reasons for not supporting it are very similar to the reasons why I cannot support Mr Findlay's amendments 106 and 107.

It is important that we are confident that any changes that are made as part of the bill can withstand legal challenge. I do not have that confidence in this instance—it is only right that I am candid about it—given that there is existing case law and practice throughout the UK that suggests that two years is a suitable frequency. I urge the Parliament to oppose amendment 46.

**Liam Kerr:** I would be interested to see it, but I know that the cabinet secretary will not disclose any legal advice that has been taken. Perhaps, however, either today or following the debate, she could set out to me the legal advice and the legal rationale behind rejecting my proposal for a three-year period.

**Angela Constance:** As I have already informed the Parliament, there is existing case law and practice throughout the UK in regard to the matter. To pick up on a point that Mr Kerr raised earlier, the reason why it is legally competent for people to stay imprisoned for lengthy periods of time—indeed, for decades—is that they are subject to regular reviews following the punishment part of their sentence.

Finally, my amendment 162 amends the long title of the bill to reflect amendments in this group.

**The Presiding Officer:** I remind members always to speak through the chair.

**Jamie Greene:** I thank members for their contributions on what are quite sensitive issues. I will start with the issue of Suzanne's law. I appreciate that I had a lot of amendments to talk to earlier, but I now wish to cover one or two issues in closing.

I want to be clear to the families affected by Suzanne's law. I know that they are watching, because I met them on Friday last week, and they said that they would be carefully watching today's debate and the vote tomorrow. I want them to be

clear that we will be passing Suzanne's law if our amendments are agreed to.

What was agreed to at stage 2 was supported by all parties represented in the chamber. I might have been sitting on the benches opposite at the time but, in the hours that followed stage 2, press releases and social media graphics went out, saying that Suzanne's law had been passed. If that was good enough then, it is good enough today, I would argue. It does not matter where we are sitting in the chamber; it is important that we get the legislation right.

There are, and were, concerns about legal challenges. Such challenges are more of a concern if the other amendments that are being proposed are agreed to. That is direct feedback from the families, and it is replicated in the briefing that Victim Support Scotland sent us. It

"welcomes amendments 40, 41, 42, 43, 44, and 45 ... We welcome the proposed change of 'may' to 'must' consider ... We firmly believe these provide a workable legislative solution, and progress that families welcome."

Families do welcome it. In fact, between speaking at the start of this debate and my summing up, I have had a message passed to me from Marie McCourt MBE. Marie is 81 years of age and she is the mother of Helen, after whom Helen's law was named. Just in the past 10 minutes, Marie has asked me to share these words with the Parliament:

"When I was fighting for Helen's Law, critics and sceptics said it wouldn't make a difference. Believe me, it does and it has. Due to parliamentary delays in Westminster, my daughter's killer came to the Parole Board before Helen's Law was adopted. To my horror and disbelief, he was released. It was a decision that nearly destroyed me. As a result of Helen's law, it is now a legal requirement for prisoners applying for parole to be questioned about non-disclosure."

Marie McCourt goes on to say:

"Families of the missing murdered are not vindictive people. We do not wish to see killers locked up forever. All we want is information that will lead to the recovery of our loved ones' remains so we can bring them home and lay them to rest.

For the sake of victims and families, I urge members of the Scottish Parliament to pass this crucial, essential piece of legislation."

If the proposed legislation has Ms McCourt's support, and if the families of Arlene and Suzanne are in support of it, I am in support of it, and I hope that the Parliament is, too.

On Michelle's law, there are three tests that I set the Government ahead of today's proceedings. First, the safety and security of victims must be the primary consideration for the Parole Board ahead of a prisoner's release.

Secondly, the use of exclusion zones must be enhanced and increased, and they must form a

vital part of the decision-making process. However, again, that is about not just the physical safety and security of those families but their mental wellbeing. That has been taken into account in the drafting of my amendment 48.

Thirdly, there must be more transparency in the Parole Board's decisions, which amendment 87 would achieve. The board would be required to publish decisions on parole that have never previously been given to victims or their families.

In the round, all that would deliver on Michelle's law and Suzanne's law. If we strip away all the politics, that is surely what the bill is about: improved law that is competent, workable and legislatively sound and that commands the support of Victim Support Scotland and the families who have been directly affected by the deficiencies in the law to date. That is what I have sought to achieve, and I believe that that is what we will deliver through my suite of amendments. I urge the Parliament to support them.

**The Presiding Officer:** Will you confirm, Mr Greene, whether you wish to press or withdraw amendment 86?

**Jamie Greene:** I have reflected on the cabinet secretary's comments and I will not press amendment 86.

*Amendment 86, by agreement, withdrawn.*

*Amendment 87 moved—[Jamie Greene].*

**The Presiding Officer:** The question is, that amendment 87 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Briggs, Miles (Lothian) (Con)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dowey, Sharon (South Scotland) (Con)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Annabelle (Cowdenbeath) (SNP)

Ewing, Fergus (Inverness and Nairn) (Ind)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Findlay, Russell (West Scotland) (Con)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greene, Jamie (West Scotland) (LD)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 Lumsden, Douglas (North East Scotland) (Con)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Simpson, Graham (Central Scotland) (Reform)  
 Slater, Lorna (Lothian) (Green)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Against

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Marra, Michael (North East Scotland) (Lab)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Sweeney, Paul (Glasgow) (Lab)

**The Presiding Officer:** The result of the division is: For 97, Against 19, Abstentions 0.

*Amendment 87 agreed to.*

**The Presiding Officer:** Group 13 is on fixed penalties. I call amendment 105, in the name of Sharon Dowey, which is grouped with amendments 105A, 105B, 105C, 105D, 105E and 53.

**Sharon Dowey:** My amendment 105 would provide for a much-needed review to be conducted into the statutory entitlement of victims to receive information on fiscal fine penalties. Specifically, it would look at the information that is provided on whether a fiscal fine is accepted or rejected by an offender and the reason given by an alleged offender as to why the fiscal fine was accepted or rejected. Victims deserve to be told that information. The amendment is intended to be complementary to Liam Kerr's amendment 53, which he will explain shortly. It will be for the Scottish ministers to prepare and publish the review within two years of the provision coming into force.

I am grateful that the Government has worked with me on my amendments. My additional amendments 105A to 105E make minor changes to ensure Scottish Government support. I also thank you, Presiding Officer, for allowing the submission of the late amendments.

I move amendments 105 and 105A.

18:00

**Liam Kerr:** My amendment 53 would ensure that an offender is prosecuted where they reject an offer of a fiscal fine as an alternative to

prosecution. Fiscal fines are commonly used to deal with crimes including common assault, shoplifting, antisocial behaviour, certain sexual crimes, and drug supply and possession. An offender can in some circumstances be offered a fine of up to £500 instead of being taken through the court process.

However, in the past year, a third of cases where an offender rejected an offer of a fiscal fine resulted in no further action, and that figure has remained roughly the same for years. In other words, a crime has been committed, the judge says, "You will pay a fine", the criminal says, "No, I don't want that", and that is the end of it in one in three cases.

In 2021, in this very place, John Swinney explained that, where a fiscal fine has been refused,

"the refusal is treated as a request by the alleged offender to be prosecuted for the offence".—[*Official Report*, 23 June 2021; c 64.]

Apparently not. Given that, in such cases, one in three people get off completely free, it cannot be a surprise that, in the year to June 2025, all the crimes that I listed have skyrocketed.

In her very helpful letter to me earlier, the cabinet secretary counters that prosecutors have duties to continue to review whether prosecutorial action is in the public interest. However, she must surely concede that it cannot be in the public interest to let criminals get away with no punishment at all, particularly when the very crimes for which that system is supposed to be used are skyrocketing.

As far as I can establish, there is no data as to the reasons why those matters were dropped altogether. What was the public interest that was considered and found to be persuasive in the rejection of the use of prosecution? I am afraid that the argument from public interest is founded on sand. My amendment 53 will ensure that no one can get away with breaking the law without consequences, just as the now First Minister said should be the case.

**Angela Constance:** I am pleased to be able to support amendment 105 from Sharon Dowey, as adjusted by amendments 105A to 105E. Other parts of today's debates have examined proposals to enhance the information that victims—in particular, victims of serious offending—are entitled to. I recognise the member's desire to ensure that we are not complacent when it comes to victims' rights where their cases are dealt with by fiscal fines. It is right that ministers review and identify whether legislative changes are necessary to afford better outcomes for victims. I am, therefore, pleased to support amendment 105 if amendments 105A to 105E are also agreed to.

However, I cannot support amendment 53 from Liam Kerr. Figures from the Crown Office and Procurator Fiscal Service show that, over the past six-years, where charges were dealt with by fiscal fine, 90 per cent were paid, deemed accepted or the subject of on-going proceedings. In the year 2023-24, of more than 12,000 charges in which a fiscal fine was offered, only 368—that is, 3 per cent—were refused and then marked for no further action by prosecutors. The amendment is therefore targeted at an extremely small minority of cases that are dealt with by fiscal fines, and in my view it is unnecessary for a number of reasons.

There are many reasons why independent prosecutors, after initially marking a case for a fiscal fine, may decide to take no further action if that fine is refused, and it is absolutely right that they have the power to do that. Such decisions are made individually, case by case, and are based on assessments of the evidence and the public interest.

Examples of reasons for no action after the refusal of a fine include where further evidence has been provided that undermines the Crown evidence or indicates that the accused did not commit the offence; where there is no longer a sufficiency of evidence for whatever reason, including where a witness has died; or where the circumstances of the accused, such as significant ill health, or death, mean that prosecution is not possible or in the public interest.

**Liam Kerr:** The cabinet secretary adduces the reasons why that might happen; she does not produce data to say why it is happening. Perhaps she could provide that to members.

**Angela Constance:** There is data produced by the Crown Office. I am also aware that the Lord Advocate very regularly writes to the Criminal Justice Committee on those matters.

I assure Mr Kerr that, as I have indicated, prosecutors have an on-going obligation to consider any change in the situation at any point and, as a result, the requirements of amendment 53 would mean that the notification to an accused would not always be accurate, and would in fact misrepresent the role and the independence of prosecutors.

If the intention of amendment 53 is to actually bind prosecutors to take action to prosecute in all cases where a fiscal fine is refused, it is outwith the competence of the Parliament, given the independence of the Lord Advocate.

We must also recognise that not all those who are offered a fiscal fine will have committed an offence, and that, if fresh evidence is available, prosecutors should be able to take that into account when deciding what action to take after a

fiscal fine is refused. I appreciate that members are keen to understand how fiscal fines are used; as I said earlier, the Lord Advocate has been writing to the Criminal Justice Committee with updates at regular intervals.

Fiscal fines should be seen as an important measure that provides a proportionate response to lower-level offending, and prosecutors must continue to have the discretion and flexibility to make decisions independently on the use of such fines.

For those reasons, I cannot support amendment 53, and I urge Parliament to oppose it.

**The Presiding Officer:** I call Sharon Dowe to wind up and say whether she wishes to press or withdraw amendment 105A.

**Sharon Dowe:** I have nothing else to add, and I press the amendment.

*Amendment 105A agreed to.*

*Amendments 105B, 105C, 105D and 105E moved—[Sharon Dowe]—and agreed to.*

**The Presiding Officer:** I ask Sharon Dowe whether she wishes to press or withdraw amendment 105, as amended.

**Sharon Dowe:** I will press it.

*Amendment 105, as amended, agreed to.*

#### **Section 29H—Parole Board rules: decisions where prisoner has information about victim's remains**

*Amendments 40 to 42 moved—[Jamie Greene]—and agreed to.*

**The Presiding Officer:** I remind members that if amendment 106 is agreed to, I cannot call amendment 43 due to pre-emption.

*Amendment 106 moved—[Russell Findlay].*

**The Presiding Officer:** The question is, that amendment 106 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foyso (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Dowe, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Findlay, Russell (West Scotland) (Con)

Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### **Against**

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greene, Jamie (West Scotland) (LD)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)

MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rennie, Willie (North East Fife) (LD)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 45, Against 71, Abstentions 0.

*Amendment 106 disagreed to.*

*Amendments 43 to 45 moved—[Jamie Greene]—and agreed to.*

*Amendment 107 not moved.*

#### After section 29H

*Amendment 46 moved—[Liam Kerr].*

**The Presiding Officer:** The question is, that amendment 46 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### For

Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Dowey, Sharon (South Scotland) (Con)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)

Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lumsden, Douglas (North East Scotland) (Con)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)

#### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greene, Jamie (West Scotland) (LD)  
 Greer, Ross (West Scotland) (Green)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnson, Daniel (Edinburgh Southern) (Lab)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Michael (North East Scotland) (Lab)

Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mochan, Carol (South Scotland) (Lab)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Rennie, Willie (North East Fife) (LD)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Sweeney, Paul (Glasgow) (Lab)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 28, Against 86, Abstentions 0.

*Amendment 46 disagreed to.*

18:15

*Amendments 47 and 48 moved—[Jamie Greene]—and agreed to.*

**The Presiding Officer:** Group 14 is on connected proceedings. Amendment 108, in the name of Russell Findlay, is grouped with amendments 152, 152A, 152B and 152C.

**Russell Findlay:** Amendment 108 is a clean, simple and necessary amendment. It is informed by victims' experience of the justice system, specifically that of victims of domestic violence and abuse who often suffer the prolonged and dramatic ordeal of a criminal justice prosecution process while subject to simultaneous civil proceedings.

There have been some real horror stories of women being dragged through the small claims court or being subjected to civil cases in relation to child custody by the very same men who abused them. Abusers often use the civil courts to delay criminal proceedings, and vice versa, causing further painful delay. Such civil actions are often

weak or downright vexatious, with those men effectively weaponising the criminal justice system to continue abusing their victims. There is even a name for that: legal system abuse. We can fix that today by ensuring that the same sheriff or judge hears the parallel civil and criminal cases as they go through the courts, which would give the courts critical information and would curtail such system abuse.

I lodged an amendment on a similar theme at stage 2 but did not press it. At the time, the justice secretary was fairly cryptic about whether the judiciary was in favour of the proposal. We now know that they do not like it because we have since seen a letter from the Lord President to Parliament's Criminal Justice Committee. I will not address all the points that were in his letter or that were put to me by the cabinet secretary at stage 2, but it is enough to say that what I am proposing would be entirely subject to judicial discretion.

I will make two points. First, amendment 108 simply requires the Lord President or the sheriff principal to "have regard to" a single judge or sheriff hearing parallel cases, where that is possible and practical. The amendment is therefore not political interference with the independent judiciary. I am grateful to the cabinet secretary for her comments at stage 2, when she said that she agreed that I had

"attempted not to interfere with the independence of the judiciary".—[*Official Report, Criminal Justice Committee*, 12 March 2025, c 54.]

Amendment 108 is backed by Victim Support Scotland and Scottish Women's Aid. SWA told me that every sheriff they have spoken to thought it was a good idea, while Victim Support Scotland said in support of the amendment that

"women, children and young people are endangered and harmed through courts making decisions without information and understanding of the context and abuse".

They recognise that the amendment is clean, simple and effective. It would do exactly what it sets out to do and would make a very real difference to victims in the real world, so I urge all members to back it.

I move amendment 108.

**Maggie Chapman:** I am grateful to the cabinet secretary for the discussions that we have had about this issue, especially as I tried to get a more prescriptive amendment, which was quite similar to the one that Russell Findlay just moved, into the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill at stage 2. I am glad that we can discuss the issue here.

I am also grateful that manuscript amendments 152A to 152C have been accepted for debate this

evening. They would make amendment 152 clearer by requiring a review to take place within two years of the section coming into force.

We know that, sadly, in many criminal cases of domestic abuse, parallel civil cases are required to deal with questions of child contact, guardianship and the like. Victims/survivors have said that the lack of communication between criminal and civil cases that are clearly connected is a source of great distress. Scottish Women's Aid has been campaigning on the issue for a very long time.

The connected issues of domestic violence, child protection and child contact are not well considered in our current justice systems. That is a cross-jurisdictional problem. A recent report from England and Wales describes how victims and survivors of domestic abuse do not feel understood or taken seriously in the family court. In the Scottish context, the issue has been discussed by the Law Society, the Children and Young People's Commissioner Scotland and others. A recent report by the Scottish Centre for Crime and Justice Research identified key problems, including a lack of mechanisms to communicate information between different court proceedings and a limited, siloed understanding and consideration of domestic abuse by the judiciary.

Various recommendations have been made, some of which have been implemented, but we know that the problems persist, at huge cost to the wellbeing of women and children. Scottish Women's Aid suggested the solution that, where possible, the same sheriff would hear both the domestic abuse and child contact cases. That would make it much more likely that the evidence of abuse and its effects would be properly considered in all its depth and breadth. It would also help to bridge the current disconnect between the child protection, child contact and domestic abuse issues, and prevent the manipulation, coercion and on-going abuse of victims/survivors. I appreciate that the Scottish Government is probably not willing to support that approach, as outlined in relation to Russell Findlay's amendment 108 just now.

My amendment 152 seeks a review of connected proceedings, which would consider how best to share information and whether shared jurisdictions would be helpful and appropriate, among other things. I also hope that the discussions could identify what else might be done in the shorter term to improve the connections between related criminal and civil cases.

I am confident that the collective intelligence in our legal and political systems can determine a way through this knotty problem, so that we can better support and protect women and children in

domestic abuse and child contact situations, in particular.

**Angela Constance:** Amendments 108, 152 and manuscript amendments 152A, 152B and 152C are about the interface between the criminal and civil courts in relation to domestic abuse. The Scottish Government can support amendment 152, as amended by amendments 152A, 152B and 152C, but not amendment 108.

I fully recognise that the criminal-civil interface in relation to domestic abuse is more than worthy of further consideration, which is why the Scottish Government is already doing work in that area. We are already carrying out further research on integrated domestic abuse courts, which will be published early next year. In addition, we have an on-going programme of work using improvement methodology. I have also written recently to the Criminal Justice Committee, seeking its comments on our draft policy paper to go to the Scottish Civil Justice Council, proposing new civil court rules. We will also progress this year a Scottish statutory instrument under section 102 of the Courts Reform (Scotland) Act 2014 to give the courts the power to make an order in relation to a person who has behaved in a vexatious manner in civil proceedings.

Mr Findlay's amendment 108 is in the same terms as the amendment that he lodged at stage 2, which he did not press. As we know, the Lord President has recently written to the Criminal Justice Committee to outline major concerns with what Mr Findlay is proposing. In particular, the Lord President raises concerns about potential delays and scheduling issues, and says that the amendment "would impose unmanageable burdens".

We need to work with the courts, not against them, and so I urge Parliament to reject amendment 108.

I am happy to support amendment 152, as amended by amendments 152A, 152B and 152C, which would require the Scottish ministers to carry out a review and to provide a report to the Parliament.

**Russell Findlay:** On the Lord President's position on imposing unnecessary burdens on the court, surely that is completely contradicted by my amendment, which says only that the judiciary should "have regard to" having a single sheriff or judge preside.

**Angela Constance:** I appreciate Mr Findlay's views on the matter, but I am sure that he will understand that I also have to give consideration to the views of the Lord President, who has said:

"However, this potential amendment is counter-productive and at odds with the trauma-informed approach that all of us so strongly support ... This amendment would

entail wholesale reshaping of the way that the courts operate, in both civil and criminal cases”,

and that he is concerned about

“extended delays”.

I was frank with Russell Findlay at stage 2 and was clear about the work that I wanted to be progressed on the matter; however, it is an area in which work has to be done, and done properly; and, particularly given the Lord President’s views, I do not think that there are any shortcuts in the matter.

As I said, I am happy to support amendment 152 and the manuscript amendments to it in Maggie Chapman’s name. It will be of use to explore further whether more information should be shared between the criminal and civil courts in relation to domestic abuse, how such information should be shared and whether criminal courts that deal with domestic abuse offences should have jurisdiction over related or connected civil proceedings. I see merit in the arguments for integrated courts to deal with civil and criminal aspects of domestic abuse, but we need to ensure that we have thought through the issues carefully—and, vitally, that we work closely with the courts on potential models. I therefore invite the Parliament to reject amendment 108 and to accept amendments 152, 152A, 152B and 152C.

**The Deputy Presiding Officer:** I call Russell Findlay to wind up and to press or withdraw amendment 108.

**Russell Findlay:** I repeat the point that amendment 108 does not impose any burden on the courts or the judiciary. At stage 2, the cabinet secretary accepted that such a provision would not meddle with the independence of the judiciary but would cause it to have regard to the implementation of a single sheriff or judge for parallel criminal and civil cases. I have heard absolutely no good reason for it not to happen, and I do not think that victims would be particularly assured by workshops, talking shops or any such thing.

**Audrey Nicoll:** We all understand, I think, the point that Russell Findlay is making. However, the Lord President’s letter stresses the “extended delays” that could be expected in both criminal and civil cases, which is contrary to being trauma informed and trauma responsive. Further, with respect to the member, his party is frequently critical of the backlog of criminal court cases, with which we are still grappling.

**Russell Findlay:** There is that phrase “trauma informed” again. I still do not know what it means. It seems to mean whatever the person who uses it wants it to mean—there is no actual definition. It can be bandied around to justify any action or, in this case, inaction.

**Kevin Stewart (Aberdeen Central) (SNP):** Will Russell Findlay give way?

**Russell Findlay:** I will finish my point. The Lord President is, of course, in charge of the judiciary, and amendment 108 has sought deliberately not to meddle in his independence. It is about respecting what Victim Support Scotland and Scottish Women’s Aid have said about the very real problem of the weaponisation of the criminal and civil courts, by abusers.

**Kevin Stewart:** I am surprised that Russell Findlay has said what he has said about trauma-informed practice. Training is available in trauma-informed practice. Ministers have taken that training, and members of committees including the Social Justice and Social Security Committee have completed that training. Before anyone submits amendments on such issues, it would be wise to take that training and learn what trauma-informed practice is all about.

**Russell Findlay:** Sitting on the Criminal Justice Committee for years, I tried my very best to get to the bottom of what the Government meant when it talked about trauma-informed practice, but it could never define it. If Kevin Stewart wants to enlighten all of us on that, I would be delighted to hear it.

I press amendment 108.

18:30

**The Deputy Presiding Officer:** The question is, that amendment 108 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

**For**

Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Dowey, Sharon (South Scotland) (Con)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Findlay, Russell (West Scotland) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lumsden, Douglas (North East Scotland) (Con)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Webber, Sue (Lothian) (Con)

Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)

### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greene, Jamie (West Scotland) (LD)  
 Griffin, Mark (Central Scotland) (Lab)  
 Harper, Emma (South Scotland) (SNP)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Marra, Michael (North East Scotland) (Lab)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Mochan, Carol (South Scotland) (Lab)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Rennie, Willie (North East Fife) (LD)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)

Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Sweeney, Paul (Glasgow) (Lab)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Abstentions

Burgess, Ariane (Highlands and Islands) (Green)  
 Chapman, Maggie (North East Scotland) (Green)  
 Greer, Ross (West Scotland) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)

**The Deputy Presiding Officer:** The result of the division is: For 27, Against 80, Abstentions 7.

*Amendment 108 disagreed to.*

### Section 30—Vulnerable witnesses

**The Deputy Presiding Officer:** Group 15 is on special measures in civil cases. Amendment 49, in the name of the cabinet secretary, is grouped with amendments 50, 51 and 52.

**Angela Constance:** The amendments in this group are technical and correcting.

The bill lays down criteria for a person being deemed to be a vulnerable witness in a civil case. At stage 2, amendments were agreed to add to those criteria in order to include people who are applying for a civil protection order or are seeking damages for relevant behaviour, such as sexual assault or domestic abuse.

When a person is deemed vulnerable, that generally flows through into the rest of the legislation. However, there is a presumption about when personal conduct of a case should be prohibited, which makes specific reference to the criteria that are laid down for deeming a person vulnerable. As a result, the bill needs to be amended to reflect the changes that were made at stage 2. Amendment 49 does that.

Amendments 50, 51 and 52 correct a minor error that is contained in a stage 2 amendment, where reference was made to the Children (Scotland) Act 2020 when it should have been to the Vulnerable Witnesses (Scotland) Act 2004. Amendments 50, 51 and 52 correct that error.

I move amendment 49.

**The Deputy Presiding Officer:** No other member has sought to make a contribution on this group. Does the cabinet secretary have anything to add by way of winding up?

**Angela Constance:** No, thank you.

*Amendment 49 agreed to.*

### Section 33—Vulnerable parties

*Amendments 50 to 52 moved—[Angela Constance]—and agreed to.*

### After section 36B

*Amendment 53 moved—[Liam Kerr].*

**The Deputy Presiding Officer:** The question is, that amendment 53 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

The vote is now closed.

**Carol Mochan (South Scotland) (Lab):** On a point of order, Presiding Officer. My app has gone blank. I wanted to know whether my vote has been recorded.

**The Deputy Presiding Officer:** Thank you, Ms Mochan. Your vote has been recorded.

**Brian Whittle (South Scotland) (Con):** On a point of order, Presiding Officer. My app froze. I would have voted yes.

**The Deputy Presiding Officer:** Thank you, Mr Whittle. Your vote will be recorded.

### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foyso (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)

Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O’Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)

### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greene, Jamie (West Scotland) (LD)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McArthur, Liam (Orkney Islands) (LD)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine)

(SNP)  
 Rennie, Willie (North East Fife) (LD)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 42, Against 69, Abstentions 0.

*Amendment 53 disagreed to.*

**The Deputy Presiding Officer:** Group 16 is entitled “Sexual Offences Court: establishment”. Amendment 109, in the name of Pauline McNeill, is grouped with amendments 110 to 113, 116 to 122, 124 to 126, 128 to 146 and 158 to 160.

**Pauline McNeill:** I will speak to amendment 109 and also to amendments 110 to 113, 116 to 121, 125 and 126, which are all consequential amendments. I will not go through them all.

The amendments relate to the creation of a sexual offences court. We all acknowledge the growth in the volume of sexual offence cases. The last time that we were notified, 69 per cent of cases in the High Court involved sexual offences. The Scottish Courts and Tribunal Service has said to the Criminal Justice Committee that the only realistic opportunity is to create a stand-alone court, but it is not the only option. My amendments deal with what I believe would be a more sensible option.

I do not intend to move amendments 110 and 111, because they just set out different ways of doing the same thing as amendment 109.

Amendment 109, along with most of the amendments that run from 112 to 160, would allow the High Court to make the sexual offences court a division within the High Court. There would also be a sexual offences division within the sheriff court. I understand that we would have the same number of courts, because the High Court uses nine locations and there are 38 sheriff courts. The High Court is a peripatetic court, so it could extend the number of locations that it uses if it so wished—it has previously done so.

As with the proposed sexual offences court, there would be judges and counsel dedicated to

dealing with sexual offences. It is important to note that the figures show that High Court judges already deal with a high number of rape and sexual offences cases, so they are specialists in what they do to some degree. However, rape cases will no longer be heard in the High Court as a result of the Government’s proposals but will be heard in the new sexual offences court. I am sure that the Government will say that the new court will have the same sentencing powers, but let us be clear: it is not the High Court. The highest court will still be the High Court of Justiciary, which currently operates. The new court could be trauma informed, but I do not believe that we need legislation for a trauma-informed court—it could be done now, although the bill talks of “trauma-informed practice” throughout.

Having a stand-alone court in the bill has created many problems that the Government has had to go back and fix. One of the substantial issues that it had to fix was on rights of audience, which is not an insignificant matter and proved to be quite a serious omission from the bill as drafted. The Government did not consider who would represent whom—for example, senior advocates who represent people in the High Court would not necessarily be in the sexual offences court. However, the Government has now corrected that, and we have to hope that it has got that right and that there are no gaps. My proposal would not require to fix that at all. I could have been persuaded—

**Nicola Sturgeon (Glasgow Southside) (SNP):** Will Pauline McNeill take an intervention?

**Pauline McNeill:** Yes, of course I will.

**The Deputy Presiding Officer:** We need Nicola Sturgeon’s microphone on. Does the member have her card with her? She could collect a spare one and come in shortly.

**Pauline McNeill:** I am happy to come back to Nicola Sturgeon when I am summing up, if she wishes.

**Nicola Sturgeon:** I apologise, Presiding Officer, for omitting to put my card in, and I thank Pauline McNeill for taking the intervention. Does she acknowledge that it is the overwhelming view of survivors of sexual offences that a stand-alone specialist court would help to reduce the compounding trauma that they are often subjected to in criminal proceedings under the current system? As she progresses her argument, will she address the question of how her amendments would effect the culture change that many people think is essential and how her amendments would address the delays that often bedevil the current system? In the amendments that she has lodged, neither of those points is clear to me.

**Pauline McNeill:** That is a central question. The evidence that survivors gave to the committee said that delay is the most concerning aspect of their poor experiences in the criminal justice system. If we do not reduce delay, victims will continue to experience something that is unacceptable. That is my primary concern.

The creation of a stand-alone court is a big, bureaucratic organisational change and I am not convinced that it will get delay down, which, as I said, is my primary worry. Otherwise, I might have been persuaded that it is the best way to proceed.

**Rona Mackay:** Will Pauline McNeill take an intervention?

**Pauline McNeill:** I will take one in a minute; let me just develop the argument.

There will be no additional sheriffs. There will be the same number of sheriffs and judges—there is no suggestion that new members of the judiciary will be appointed.

The Law Society of Scotland supports the division of existing courts, which is what my amendments seek. The society said:

“We consider that the new court will create more complexity in the system, affecting the efficiency of criminal proceedings in cases of sexual offences. ... While we appreciate the efforts made by the Scottish Government in addressing some of the concerns expressed at earlier stages, we are still unconvinced that a standalone court is needed. We have expressed our support to the creation of specialist divisions within the current court structure. We therefore support amendment 109 and consequential amendments 112 to 160 introduced by Pauline McNeill MSP”.

To answer the question that Nicola Sturgeon raises about culture change, I note that I am still arguing that there should be culture change. However, creating specialist divisions in the existing court structures would be the easiest and most efficient way of achieving that.

**Rona Mackay:** I hope that Pauline McNeill will forgive me for quoting from last year’s Labour manifesto. It says:

“While structural change is important, transformational change within the court system will only come through changing culture and practice. The first step is to embed trauma-informed practices and procedures throughout our courts and justice system. To reduce court delays, Scottish Labour supports the proposal to establish a special sexual offences court”.

I am curious to know why there has been a change of heart.

**Pauline McNeill:** There has not been a change of heart. I am arguing that there can still be specialism and trauma-informed practice. I will go on to talk about and welcome some of the fundamental changes that the Government has made, with the Lord Advocate contributing to

those. There is no contradiction between the Labour manifesto and what I am arguing for. I am simply saying that the structure should be the High Court, a specialist division of the High Court and a specialist division of the sheriff court. That is what I am arguing for today. Putting all solemn cases—sheriff and jury—that deal with sexual offences, including solemn cases that are currently heard in the sheriff court, into one court will create a very large court. We need to be satisfied that, in doing that, we will achieve a reduction and get those delays in court proceedings reduced. The volume of cases is potentially a problem.

18:45

We have already heard that witnesses and victims can give their evidence via commission. The Government has championed that, which I totally applaud. We have already taken steps to change the court system. Tackling rape myths, which juries are told to sign up to, is now part of the judge’s direction to a jury. We are beginning to make incremental change in the system. The rule on corroboration has been changed, which affects all cases, not just sexual offences cases, and trauma-informed practice can be applied to any court. I do not think that the bill currently requires the defence to do that, but all practitioners must be able to do so.

When we are looking at how a court system fits together, it is very important to address all the problems. We know from debates in the Parliament that one of the big issues that has not been addressed is the number of defence practitioners who are leaving the profession. If we do not address the gap in relation to lawyers leaving the criminal justice profession, we will not be able to run any court, whether it introduces my proposal or the Government’s proposal. The Law Society and the Scottish Bar Association will tell you that recent audits suggest that we have 250 lawyers in the whole of Scotland.

Sheriffs sitting in the High Court as temporary judges are acting as High Court judges in all cases. Sheriffs who are appointed as judges in the sexual offences court will be exercising the powers of maximum sentencing. There is a difference there, and, whether members support the proposal or not, it is important to understand some of the structural changes and make some assessment of whether they are the right changes. More sheriffs will be appointed to the sexual offences court, but they will not be new ones. They will not be additional ones, but they will preside over cases.

It slightly concerns me that rape cases will be taken out of the High Court. In speaking to another amendment, I will address the question whether it is right that High Court judges should not preside over rape cases, which they currently do. That

begs the question of what the High Court will do if all those cases are taken out, but there was not really any examination of that. As members will, I am sure, hear in the debate tomorrow, the committee had to wrestle with big, fundamental issues, which the Parliament is having to wrestle with now, such as the removal of the not proven verdict and the creation of a new court—there is a lot of fundamental reform in this—but we have not really addressed what will happen to the High Court if all those cases are moved out. It may be a minor issue, but, at the end of the day, we should have the chance to consider the impact.

The new court will not be a new facility. It is not as though we are creating a new sexual offences court; it will be the same courts that we already have. It is important to note that there will be no new facility. I concede that, under the Government's proposal, because sheriffs are interchangeable in rape cases, more courts might be able to be used than under my proposal, but some of it will be limited by geography. We would not use all 38 courts that we have in the sheriff courts system, because we would not want a victim to have to go to Inverness if they were a victim of a crime in Glasgow. There will still be limitations on which courts can be used. Crucially, that issue should have been given much more consideration than it got.

If nothing else, it is really important to test this. A lot of resource will be put into making this fundamental change. We have to make sure that it is right, but I think that we are all committed to making that transformation and fundamental change. I certainly am.

I move amendment 109.

**Douglas Ross (Highlands and Islands) (Con):**

I come at this series of amendments as a member who was not on the committee but who has followed the issue with interest. I refer members to my entry in the register of members' interests, which shows that my wife is a sergeant with Police Scotland. I wanted to speak because amendment 112, in Pauline McNeill's name, is the same as an amendment that Russell Findlay lodged at stage 2, which was spoken to by my colleague Sharon Dowey.

I listened to Nicola Sturgeon's intervention. On the face of it, if we suggest to people in the wider public that we are going to introduce a specialist court for sexual offences, that sounds like something that would garner support and be positive. However, when we start to look at the evidence that the committee took—I have to say that the cabinet secretary's responses were quite dismissive of serious points that were made, whether about the costings in the financial memorandum or some of the words of victims,

which I will come on to in a moment—we find that there are serious concerns about that.

We all want sexual offences to be treated extremely seriously. We want justice for the victims, offenders to be severely dealt with and a better experience for victims. What we have to determine tonight is whether the suggestion in section 37 is the right approach or whether it sounds like a positive suggestion that we should support but is one in relation to which, when we look at the detail, too many questions remain unanswered and too many issues are yet to be rectified. Maybe we should consider the option of making a specialist division of the High Court or sheriff court.

I am sure that the cabinet secretary, in summing up, will use the same argument that she used at committee, which is that Lady Dorrian, in her review, suggested that specialist courts are the way forward. The cabinet secretary also asked whether, if we do not take this opportunity, there will be people in the same room—the committee room where the issue was discussed—in 40 years' time making the same argument. However, what if we go down this route and make this massive change, which has so many questions around it? Will there be people in 40 years' time saying, "Actually, the Scottish Parliament took the wrong decision—it didn't enact legislation in a way that serves the victims of the most horrendous crimes"?

For me, that is the risk and the worry. Pauline McNeill was right to say that, currently, 69 per cent of High Court cases are sexual offences cases. At committee, Sharon Dowey made the point that the area is one of increasing problems in our society. Since 2020, the number of sexual crimes has gone up by 11 per cent; rape and attempted rape is up by 25 per cent; and sexual assault is up by 15 per cent. Those are horrendous crimes, and they are becoming more common. More victims are suffering, so, for them, we have to ensure that the justice system is working.

There are many elements of the issue about which victims are speaking out and raising their concerns. It sounds like a positive proposal, but the detail in this element of the bill might cause more problems. Pauline McNeill was right to speak about the High Court, which is the highest court in our land and which was established under the Scotland Act 1998. It has a status. When a crime goes to the High Court, people know that it is the most severe crime. At the committee's session on 17 January 2024, victims of crime and survivors of crime raised concerns about the status of their crime and what they had gone through if the cases had not gone to the High Court. Rape survivor Sarah Ashby said:

"I would not like for such cases to be dismissed or for us to be made to feel that they are any less significant than they are. When you get the information through that the trial is going to the High Court, there is an element of realising how important that is."

Another rape survivor, Ellie Wilson, told the committee:

"Rape is one of the most serious crimes in Scots law; such cases are only ever heard in the High Court. That solemnity is sacred, and it is important that we maintain it."—[*Official Report, Criminal Justice Committee*, 17 January 2024; c 43, 4.]

When the victims are telling us that and when they come to a committee of the Parliament to raise such concerns, there is an obligation on us to listen to them. I know that there will be arguments from the cabinet secretary that others support the proposal. I think that everyone would support the general idea of a specialist court. However, what if it simply involves changing the name on the door or is basically "window dressing", to use the words of Simon Di Rollo, who said that

"there is a danger that creating a specialist court would be just a bit of window dressing"?—[*Official Report, Criminal Justice Committee*, 24 January 2024; c 39.],

If so, I do not think that that is the right approach to take. I do not think that it is the right approach to spend £1.4 million—I think—on that when we could use that money and the resources to better support our victims through the current system and see whether there are other changes that could be made instead of making a fundamental change that has not brought victims with it.

I hope that, in considering what Pauline McNeill has proposed at stage 3 and what Russell Findlay and the Scottish Conservatives proposed at stage 2, the Government will recognise, even at this late stage, that although the intention may be good and valid, the reality is that the bill may end up failing victims. That is not what any of us would like to see. That is why I will support amendment 112, which I hope will remove section 37 from the bill.

**Angela Constance:** I have a lot to say about the amendments in group 16, but I assure Parliament that what I have to say is important and that it relates to the amendments in this group and group 17.

Ms McNeill's amendments are, in my view, a licence to do nothing. They would only give the High Court the power to establish specialist divisions. They would create no obligation, and they therefore represent no guarantee of action being implemented.

The creation of the sexual offences court is a key reform in the bill that has been shaped by the voices of victims and survivors and their families.

We know that victims of sexual offences require additional support throughout their interactions with the court system. A stand-alone national specialist sexual offences court will respond more appropriately to the unique needs of victims in such cases while continuing to protect the rights of the accused. The court will embed specialist approaches to the way that such cases are managed and the way that complainers are treated. It will drive reform of practice, process and culture, and it will increase efficiency and effectiveness, reducing the number and frequency of unnecessary court adjournments and ensuring that cases reach trial more quickly.

I would have liked the support of all of this Parliament for the creation of the sexual offences court, which is backed by victims, their support organisations and leading members of the justice system. They have been clear that the court can deliver future improvements in culture, process and practice. However, despite that strong backing, it has not been possible to reach collective consensus across Parliament. That is a disappointment to me, as it will be to victims. We must, as a Parliament, recognise the opportunity that we have in establishing the new sexual offences court. We must design it with the jurisdiction and the judiciary that will enable it to succeed in delivering meaningful and sustained change for victims. The status quo is not an option.

That is why I cannot support any of Pauline McNeill's amendments in groups 16 or 17, which are symptomatic of thinking that prioritises hierarchies, status and tradition over progressive and practical solutions that will improve the experiences of complainers in sexual offences cases.

As MSPs, we regularly hear about such cases in our casework, just as we hear about high-profile cases at the centre of many campaigns backing the creation of the specialist court. The amendments in groups 16 and 17 present this Parliament with a choice about how it proceeds with the creation of a specialist court that will work for victims. Pauline McNeill has suggested that we abandon plans for a distinct sexual offences court that have been developed over years with victims and partners and, instead, pursue specialist divisions of the High Court and sheriff courts—a proposal that has been resoundingly rejected by virtually every senior figure in the criminal justice system.

**Douglas Ross:** On that point, why does the cabinet secretary believe that the Faculty of Advocates has said:

"Faculty considers that there is no single feature of the proposed court which could not be delivered rapidly by

introducing specialism to the existing High Court and Sheriff Court structures.”

Is the faculty wrong?

19:00

**Angela Constance:** I believe that, in this instance, the Faculty of Advocates is wrong. I will quote Lady Dorrian’s response to a question from the convener of the Criminal Justice Committee about whether her review group had considered specialist divisions. Lady Dorrian said:

“Our view—although the review group was not unanimous on everything, it was unanimous on this—was that an approach was necessary that would go beyond tinkering and creating a little specialist group within the overall judiciary ... we felt quite strongly that simply creating another division of the High Court, for example, would not achieve the necessary end. What was needed was a court of full national jurisdiction, with trauma-informed practices embedded; common training of individuals across the court; procedures that are uniformly applicable to the sheriff court and the Court of Session, which is not currently the case; and uniformly applicable practice notes and directions, which, again, is not currently the case. High Court directions apply only to the High Court, whereas the sheriff court and the sheriff principals in each sheriffdom are responsible for issuing directions in that sheriffdom. Uniformly applicable procedures, expectations and case management, with uniformity from Dumfries to Wick, are therefore required.”—[*Official Report, Criminal Justice Committee*, 10 January 2024; c 3-4.]

We want consistency of treatment for all victims of sexual crime.

As I said, the amendments in this group present us with a choice. Fundamentally, the case for establishing a specialist division of the High Court has been resoundingly rejected. The establishment of specialist divisions of existing courts is little more than a continuation of the iterative, piecemeal approaches of the past, which, despite the best intentions, have simply not delivered meaningful improvements in the experience of victims of sexual offences.

As Lady Dorrian set out, those who work in the criminal justice system have learned from experience the shortcomings of seeking to introduce changes to the management of sexual offences cases within the confines of existing court structures. If we in this Parliament fail to heed that experience, it will be the victims of sexual offences who fail to see the improvements that we all agree are needed.

Ms McNeill has recognised that specialism is needed. If that is the case, she must surely agree that we need an approach that we can be confident will actually be effective at embedding specialism. Creating divisions of existing courts is not an effective way to do that. Indeed, it could be argued that the High Court already has the power that it needs to create divisions, but it has not

considered that appropriate or sufficient to deliver the changes that are needed.

Judicial specialism develops when cases of a particular type are considered together in a single forum, where it can be enhanced by bespoke training, practice and rules. That has been the experience across different jurisdictions and areas of law. The larger the pool of cases, the greater the opportunity there will be for the procedures and processes that are intended to streamline the management of these cases and better support victims. Distributing sexual offences cases across a diffuse structure of numerous specialist divisions would blunt the capacity to develop best practice and would create additional complexity and bureaucracy.

Perhaps more importantly, divisions would make it all but impossible to apply specialist approaches in a consistent way across all sexual offences cases. To ensure national coverage, seven different specialist divisions—one in the High Court and one for each of the six sheriffdoms—would need to be created. Those seven divisions would each have distinct processes, procedures and ways of operating that would add significant complexity and confusion to the existing court system.

By contrast, the proposal for a stand-alone sexual offences court emerged from a judicial-led review into how the management of sexual offences cases could be improved to better support victims, and it enjoys strong support from senior figures across the justice system.

Those who work in the criminal justice system and victims with lived experience recognise that what is required is a complete rewiring of the way in which sexual offences cases are managed. That requires us to move out of the confines of tradition. It is perhaps an uncomfortable truth, in particular for those who have dedicated their professional lives to our criminal justice system and who care deeply about the issues that we are talking about today, that the hierarchy and tradition that is woven through our system is not delivering for victims.

We need systemic reform that will enable us to build a new culture, and new processes and procedures, from the ground up. We need to embrace this opportunity and equip the court with the building blocks that it needs to succeed, and that can be done through the jurisdiction, the judiciary and the sentencing powers with which the bill will endow it.

While changes such as the requirement for trauma-informed training and the presumption that victims will be able to pre-record their evidence will introduce immediate benefits for how such cases

are managed, the creation of a stand-alone sexual offences court is just the start of the journey.

The real benefits of creating a stand-alone court lie in its role as a platform for change: one that fosters a culture that is not about status or tradition, but which is, rather, about identifying and adopting progressive and humane approaches to the management of sexual offences that are created for, and centred on the needs of, victims. Every member in the Parliament should be able to get behind that.

I make it clear that there is no downgrading—it is quite the contrary, as the proposal for such a court is recognition of the particular care and attention that such cases demand. The bill will deliver a court that will be able to utilise the combined court and judicial resources of both the High Court and the sheriff courts. That will not only allow the sexual offences court to call on the wealth of skills and experience that exists among the judiciary across those courts; it will ensure that the entirety of the court estate can be used to hear sexual offences cases.

The High Court currently sits in nine locations and the sheriff courts sit at 39 locations. The sexual offences court will have access to all those locations, which will enable more capacity for trials to be scheduled in a way that supports the delivery of local justice.

That will be of huge benefit to victims, as it will support their cases to reach trial more quickly and will possibly mean that the trial is closer for them to travel to, and it will ensure that we have a sustainable model for the management of sexual offences cases. That is a necessity for a number of reasons, not least because there continues to be growth in the number and complexity of such cases, as more women have faith in our justice system and report cases. We know that, for years, women simply did not report sexual offences—they stayed hidden due to stigma, shame and a lack of faith in the justice system, from reporting to court conclusion.

We have seen a shift as a result of changes over decades in culture, legislation and attitudes, but we need to support those who come forward, just as we need to continue to tackle all the underlying causes of abuse and violence against women and girls. As campaigners have said, it is the perpetrators of those offences, not the victims, who should feel the real shame.

I want to see the creation of a sexual offences court that works, so I urge every member in the chamber to reject Ms McNeill's amendments in groups 16 and 17 and back the bill.

**The Deputy Presiding Officer:** I call Pauline McNeill to wind up and say whether she wishes to press or withdraw amendment 109.

**Pauline McNeill:** I think that I have demonstrated, in the Parliament, that I share the view that the cabinet secretary expressed in her last comments about how the system has failed women and girls and how much work we have still to do.

What we are debating now, however, is whether the Government's proposal for a stand-alone sexual offences court will do all that the Government claims that it will do, and whether it is the only way, or the best way, in which to proceed.

We are already not standing still. We have already discussed giving evidence by commission. The current Lord Advocate has done more, during my career, to look after victims than was previously the case. Those victims have given evidence to the Criminal Justice Committee to say that this is the only Lord Advocate under whom they have been able to sit down with their advocate and talk about their case. I would argue that such a single point of contact should be a statutory requirement. Victims talk about all these things—for example, how they are not told about their case, or are told not to talk to their advocate depute. Change is already happening, regardless of whether we pass the bill.

However, there is no guarantee that all aspects of the proposal will work. I agree whole-heartedly with the unique emphasis on embedding a trauma-informed approach, but a stand-alone court is not the only way in which that can be done. I do not fully understand why the proposal would reduce the number of court adjournments. We are always reforming the court system. It is unfair to say that we would be supporting the status quo: the status quo is already changing, for the reasons that I have already said.

I do not think that the Government has demonstrated how delays will be reduced—it has made a series of statements about its ambitions, but there is nothing concrete about how it will reduce delay. I do not think that that has been demonstrated.

I agree that it is important that there is consistency of treatment for victims, but I do not see how this is the only way to achieve it. I accept that one way forward is to change the structure of the way that we do things, but it has got to be acknowledged that we might lose something. Rape is one of the most serious crimes that can be committed, and rape cases would no longer be heard in the High Court of Justiciary; they would be heard in the sexual offences court. There is, perhaps, an argument that reducing the delay would compensate for that. However, I do not accept that the Government has demonstrated all of what it claims.

There are nine High Court locations. My proposal would create a specialist division—those nine locations would be available for a specialist court. If there were a specialist division of the sheriff court, there are 38 sheriff courts that could be used. I do not understand the Government's argument that somehow, under my proposal, there would be fewer locations. I have already considered the differences that there would be if the sheriff courts were to be used; that is not included in my proposal.

I will press amendment 109. It has the support of the Faculty of Advocates. We do not all agree on everything, but you cannot suggest that there are not some legal minds who think that the approach set out in amendment 109 is the best way.

My worry about the proposed court is that we will spend so much time and resource on a bureaucratic change that we will not get the delays down. The question of who the practitioners will be has not been addressed by the Government.

I press amendment 109.

**The Deputy Presiding Officer:** The question is, that amendment 109 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foyso (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by

Michael Marra]  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

#### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)

Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Simpson, Graham (Central Scotland) (Reform)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 45, Against 66, Abstentions 0.

*Amendment 109 disagreed to.*

*Amendments 110 and 111 not moved.*

### Section 37—Sexual Offences Court

*Amendment 112 not moved.*

**Pauline McNeill:** If it is helpful to know, Presiding Officer, I do not intend to move any of the consequential amendments.

**The Deputy Presiding Officer:** We will come to that—we are coming to group 17 shortly.

### Section 38—Jurisdiction and competence: general

*Amendment 113 not moved.*

19:15

**The Deputy Presiding Officer:** Members will note that we have passed the agreed time limit for debate on this part of the bill. I have exercised my power under rule 9.8.4A(c) to allow the debate to continue beyond the time limit in order to avoid that debate being unreasonably curtailed.

### Section 39—Jurisdiction: sexual offences

**The Deputy Presiding Officer:** Group 17 is on sexual offences court: jurisdiction, judges and organisation of business. Amendment 114, in the name of Pauline McNeill, is grouped with amendments 115, 88 to 93, 123 and 127.

**Pauline McNeill:** Amendment 114 would ensure that cases dealing with the crime of murder may not be heard in the sexual offences court. The Law Society said:

“Amendment 114 in the name of Ms McNeill maintains the jurisdiction of the High Court of Justiciary for charges of murder. We consider this is a sensible approach if a standalone court is introduced and we are supportive of this amendment.”

The senators of the College of Justice said that murder should only ever be tried in the High Court and that

“the anecdotal nature of para 280”

of the policy memorandum

“gives no confidence that this major constitutional change has been thought through properly.”

Paragraph 280 of the policy memorandum says:

“There are known cases in which sexual abuse perpetrated by an accused is alleged to have escalated over time, against multiple complainers, ultimately leading to a murder. Given the experience of the surviving complainers and the nature of their evidence ... the policy objective is to afford those complainers the benefits of the case being prosecuted in the Sexual Offences Court.”

The senators say:

“While this is undoubtedly true, there are not many such cases and the anecdotal nature of para 280 gives no confidence that this major constitutional change has been thought through properly. The appropriate place for charges of murder and attempted murder is the High Court. Murder is the most serious charge in the criminal canon. It is that charge which should determine the forum. The suggested change ignores the fact that in the very few cases where sexual offences are alleged against a surviving complainer, it is likely that the case will be tried before a judge who is also a judge of the sexual offences court and that most if not all of the benefits of that court will be able to be afforded to such a complainer.

We remain firmly of the view that life imprisonment and OLRs should be the exclusive province of the High Court.”

Amendment 115 would have the effect of ensuring that only a judge from the High Court, the Lord Justice General, or the Lord Justice Clerk could try a case that involves the offence of rape. The Law Society has also expressed support for that amendment, saying:

“We also consider appropriate that when a charge of rape is tried before the Sexual Offences Court, at least one of the Judges should hold a relevant high judicial office. This seems to be consistent with Section 3(6) of the 1995 Act.”

Amendment 123 would require the president of the sexual offences court to prepare a plan that ensures that the new court is operating efficiently and to keep the plan under review and revise it when necessary. Part of Lady Dorrian’s rationale for recommending the creation of a specialist court was to ensure that cases would be disposed of more quickly than they are currently. She said that the court would be

“essential to meet the increased workload”

in sexual offence cases, because the number of such cases has risen dramatically in recent years.

I have expressed concerns about whether simply saying that the new sexual offences courts could reduce delay will, in fact, mean that they do so. Should the bill pass, I hope that the Government will give due consideration to setting out a plan that we can see.

Amendment 127 is a consequential amendment that would remove the offences of murder and

attempted murder from the part of the bill that sets out when solicitors have rights of audience in the sexual offences court, because that would no longer be required.

I move amendment 114.

**The Deputy Presiding Officer:** I call the cabinet secretary to speak to amendment 88 and other amendments in the group.

**Angela Constance:** In my remarks on the previous group of amendments, I said what I wanted to say about the creation of sexual offences courts and about my opposition to Ms McNeill's amendments in both that group and this one, but I will take the opportunity to provide some specific detail.

The status of our institutions, or of those who work in them, does not protect victims from unnecessary retraumatisation. Victims must have their cases heard by judges who are capable of embedding specialist, trauma-informed approaches. Those judges include sheriffs and sheriffs principal who have a wealth of skills and experience. In the review that underpins the creation of these courts, Lady Dorrian recognised that allowing specially trained sheriffs to hear rape cases would unlock both skill and capacity, to the benefit of victims. That is the core aspect of the model that she set out and it reflects that many sheriffs are currently appointed as temporary judges and are hearing those cases.

Specialist approaches must be applied consistently to all victims of sexual offences, regardless of what other offences are included on the indictment. That includes murder. There have been some deeply troubling cases in Scotland in which multiple surviving victims of rape and sexual abuse are called to give evidence in cases where the accused's offending has escalated to murder. Those victims' needs are the same as those of others, and they deserve to be able to access the court and benefit from the specialist trauma-informed environment that it will provide.

I therefore oppose amendment 114 on grounds of principle. I would also note that the way in which it interacts with amendment 127 would mean that, while only murder would be removed from the jurisdiction of the court, both murder and attempted murder would be removed from the category of cases in which an accused must be represented by counsel. That would mean that an important measure that we introduced at stage 2—to offer the accused certainty that, if they were prosecuted in the sexual offences court for attempted murder, they would as a matter of law be entitled to be represented by counsel—would be lost.

I also oppose amendment 123, on the ground that it is unnecessary and will contribute nothing to

the effective functioning of the court. I recognise that the member who lodged that amendment has concerns about the size of the case load and about how the volume of cases indicted to the court will be appropriately managed. However, the case load will not be an outlier compared with that of other criminal courts. It is important to note that the new court will not create new cases; it will simply redistribute the cases that we have more efficiently and to a wider number of locations, making accessing the court easier for all. I therefore urge Parliament to reject all of Pauline McNeill's amendments.

Turning to my own amendments in this group, it is on the shoulders of those judges who are appointed to preside over cases in the sexual offences court, above all, that the success of the court will ultimately rest. They will have the power to embed the specialist, trauma-informed approaches that will be so crucial to improving the management of sexual offence cases. Given the vital importance of their role, we must make absolutely sure that the legislative processes in place for appointing judges to the court are appropriate and effective in delivering the pool of experienced and specialist judges required. During stage 2, I highlighted the need to strike a balance between rigour and proportionality in those appointments, but I also signalled that I would keep that under review.

Having had the opportunity to reflect and engage further on the issues, including with the Lord Justice General, I now consider that further adjustments are needed to avoid unintended consequences. As I have discussed with Opposition spokespeople, and as I set out in my letter to the Criminal Justice Committee, which was sent in advance of stage 3, there is concern at the lack of flexibility inherent in a process that requires sheriffs and sheriffs principal to be appointed as judges of the court by Scottish ministers.

On reflection, I feel that some of the amendments to the process that were made at stage 2 tended towards an approach that is too rigid and overly cumbersome. Instead, what is needed is an appointments process that enables the Lord Justice General to identify and deploy to the court those who possess the skills and experience that are necessary to progress the changes in culture, practice and procedure that will be so important.

Accordingly, amendments 89 to 92 will remove responsibility for appointing sheriffs and sheriffs principal to the office of judge of the sexual offences court from Scottish ministers and will return that power to the Lord Justice General.

**Liam Kerr:** At stage 2, it was the Government that changed the bill as introduced to say that

ministers would appoint the judges, rather than the Lord Justice General. The cabinet secretary will remember that I raised the matter at stage 2, suggesting that the proposed change might be a power grab, but my concern was dismissed, and the cabinet secretary told me that it was necessary and in line with the committee's recommendation. It now appears that I was right.

I should say—and I want to put it on the record—that I respect the willingness to reconsider the matter and come to a different view. I will ask the cabinet secretary this, however. Does she agree that this process shows the benefit of being able to debate substantive amendments such as those before us at all stages of the legislative process, and that it will rarely, if ever, be a good idea to bring in substantive, significant amendments at stage 3 that have far-reaching consequences and that do not have the benefit of the full process that she is talking about?

**Angela Constance:** I agree that scrutiny and debate are important in order to test all propositions. However, as a matter of record, I clearly said to Mr Kerr during stage 2 that I would continue to keep the matter under review, given its importance. I am not sure how serious Mr Kerr was about his question at committee about a power grab, but as he is clearly concerned about it, I am sure that the amendments will allay his fears.

Collectively, amendments 89 to 92 revert the position in relation to the appointment of sheriffs and sheriffs principal as judges in the court back to what was set out in the bill at its introduction. The one exception is that the appointment must be for a period of five years. That takes account of earlier concerns that were raised about security of tenure for judges of the sexual offences court.

As well as streamlining the appointments process, I have lodged amendment 88, which will expand the pool of judicial resource that the Lord Justice General can draw from when making appointments to the court by including eligible former senators. Former senators have a wealth of experience in the management of sexual offence cases, and the court should be able to access that experience.

Amendment 93, in my name, is a technical amendment that adds High Court judges and temporary judges to the list in section 41(8) so that they will be automatically suspended from the office of president or vice-president if they are suspended from their substantive judicial office.

I urge the Parliament to support my amendments in the group and to reject those of Pauline McNeill.

**Pauline McNeill:** I do not have much to add, but I want to make one point in relation to the

appointment of sheriffs. However you view this, it is important to note that there is a distinction. Sheriffs who are appointed to the High Court as temporary judges sit as High Court judges, and they will sit in rape and murder cases; sheriffs who are appointed to the new sexual offences court will not sit as High Court judges, so if they sit in a rape case they will sit as a sheriff. I point out that difference because the two are not the same.

It was the senators of the College of Justice who raised the question where murder should be tried. Their view was that murder should continue to be tried as the most serious offence in the High Court of Justiciary. I still have some concerns about completely taking down a system that has served some purpose, for reasons that I am not too clear about. That is the point that the senators made: why would you do it? The power will not really be used. However, the Government has set out its arguments against the amendment.

With that, I will press amendment 114.

**The Deputy Presiding Officer:** The question is, that amendment 114 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]

Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Regan, Ash (Edinburgh Eastern) (Alba)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)

Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 47, Against 65, Abstentions 0.

*Amendment 114 disagreed to.*

*Amendment 115 moved—[Pauline McNeill].*

19:30

**The Deputy Presiding Officer:** The question is, that amendment 115 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division. Members should cast their votes now.

### For

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)

Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)  
 Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

#### Against

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)

Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 46, Against 65, Abstentions 0.

*Amendment 115 disagreed to.*

*Amendment 116 not moved.*

#### **Section 39A—Judges of the Sexual Offences Court: Lord Commissioners of Justiciary and temporary judges**

*Amendment 117 not moved.*

#### **After section 39A**

*Amendment 88 moved—[Angela Constance]—and agreed to.*

#### **Section 40—Appointment of Judges of the Sexual Offences Court**

*Amendments 89 to 92 moved—[Angela Constance]—and agreed to.*

*Amendment 118 not moved.*

#### **Section 40A—Remuneration and expenses of Judges of the Sexual Offences Court**

*Amendment 119 not moved.*

#### **Section 41—President and Vice President of the Sexual Offences Court**

*Amendment 93 moved—[Angela Constance]—and agreed to.*

*Amendment 120 not moved.*

#### **Section 42—President and Vice President: incapacity and suspension**

*Amendment 121 not moved.*

#### **Section 43—President's responsibility for efficient disposal of business**

*Amendment 122 not moved.*

#### **After section 43**

*Amendment 123 not moved.*

#### **Section 44—Sittings of the Sexual Offences Court**

*Amendment 124 not moved.*

**Section 45—Transfer of cases to the Sexual Offences Court**

*Amendment 125 not moved.*

**Section 46—Transfer of cases from the Sexual Offences Court**

*Amendment 126 not moved.*

**Section 47—Rights of audience: solicitors**

*Amendments 127 and 128 not moved.*

**Section 48—Rights of audience: advocates**

*Amendment 129 not moved.*

**Section 49—Statement of training requirement for prosecutors**

*Amendment 130 not moved.*

**Section 49A—Rights of audience: review**

*Amendment 131 not moved.*

**Section 50—Clerk of the Sexual Offences Court**

*Amendment 132 not moved.*

**Section 51—Deputy Clerks of the Sexual Offences Court**

*Amendment 133 not moved.*

**Section 52—Clerk and Deputy Clerks: further provisions**

*Amendment 134 not moved.*

**Section 53—Sexual Offences Court records**

*Amendment 135 not moved.*

**Section 54—Sexual Offences Court records: authentication and electronic form**

*Amendment 136 not moved.*

**Section 55—Sexual Offences Court procedure**

*Amendment 137 not moved.*

**Section 56—Prohibition on personal conduct of defence**

*Amendment 138 not moved.*

**Section 58—Ground rules hearings**

*Amendment 139 not moved.*

**Section 59—Pre-recording of evidence**

*Amendment 140 not moved.*

**Section 60—Taking of evidence by a commissioner**

*Amendment 141 not moved.*

**Section 60A—Admission of the record of a prior examination of vulnerable complainer as evidence**

*Amendment 142 not moved.*

**Section 61—Giving evidence in the form of a prior statement**

*Amendment 143 not moved.*

**Section 61A—Statutory offences: art and part and aiding and abetting**

*Amendment 144 not moved.*

**Section 62—Sentencing power of the Sexual Offences Court**

*Amendment 145 not moved.*

**Section 62A—Exception to rule against double jeopardy in the Sexual Offences Court: new evidence**

*Amendment 146 not moved.*

**After section 62C**

**The Deputy Presiding Officer:** Group 18 is on special measures in criminal cases. Amendment 54, in the name of the cabinet secretary, is grouped with amendment 163.

**Angela Constance:** Amendment 54 relates to changes that I made at stage 2 about how the pre-recording of evidence of child witnesses will operate in the sexual offences court and how it currently operates in other courts under the Criminal Procedure (Scotland) Act 1995. Those changes removed the distinction between children aged under 12 and children aged 12 or over, to enable the court to give due weight to the views of all children about how they would prefer to give their evidence in the sexual offences court and other criminal courts.

However, reference to the distinction remains in section 271E of the 1995 act, albeit that that is compatible with the United Nations Convention on the Rights of the Child, because it does not prevent the court from having due regard to the views of children under 12. Nevertheless, our broader policy position is that we should move away from presumptions that children of a certain age or older are able to form a view about how

they wish to give evidence. Amendment 54 therefore removes that presumption while maintaining the provision in section 271E of the 1995 act that allows for the parent or guardian of a child witness to give views about how their child should give evidence.

The overall effect of amendment 54 is to allow the court to give appropriate consideration to the views of child witnesses and their parents or guardians, based on the circumstances of the case and the best interests of the child.

Amendment 163, which is a related amendment, makes the relevant changes to the long title of the bill.

I move amendment 54.

**The Deputy Presiding Officer:** No other member has asked to speak, cabinet secretary. Do you have anything to add by way of winding up?

**Angela Constance:** No, thank you.

*Amendment 54 agreed to.*

#### After section 63

**The Deputy Presiding Officer:** Group 19 is on restrictions on evidence and independent legal representation in sexual offences cases. Amendment 55, in the name of the cabinet secretary, is grouped with amendments 56 and 57.

**Angela Constance:** Amendment 55 is a response to a gap that I believe should be covered by the restrictions in section 274 of the Criminal Procedure (Scotland) Act 1995. Those restrictions prohibit the leading of evidence that relates to the sexual history or the character of complainers in sexual offence cases. Those protections can be removed when certain conditions are met, and it is for the court to decide when that may be permitted, by applying the statutory test that is contained in section 275 of the 1995 Act.

I am conscious that, over the weekend, there was media interest in these amendments. I want to address some of the issues that were raised, to ensure that the Parliament is clear on the effect of what is proposed.

I also want to make clear that the regime that is set out in sections 274 and 275 has, in its current form, been in place for 23 years, and the European Court of Human Rights has expressly approved those provisions and stated that they are capable of being applied in a manner that is compatible with the accused's right to a fair trial. Nothing that we do should look to unpick those protections—nor, equally, should we unpick the fairness to the accused.

I turn to the detail of the amendments. Amendment 55 extends section 274 protections to docket witnesses. A docket can be added by the prosecutor to an indictment or complaint when it is necessary to lead evidence of criminal conduct but not competent to libel a charge that details that conduct. That might be, for example, because the offence is time barred or the accused has already been tried for the behaviour. I stress that an accused cannot be convicted of any conduct that is contained in a docket; however, the evidence that is led in relation to that conduct can provide corroboration for the charges on the indictment or complaint.

Amendment 55 will ensure that the restrictions in section 274 will apply also to witnesses who give evidence in relation to an act or omission on a docket that could amount to a sexual offence. That means that they will be given the same protection as is given to complainers. I absolutely agree that fairness to all parties is essential. That is why the right to section 274 protections comes with the associated statutory right for the accused or prosecutor to ask the court that the evidence be admitted under section 275.

The second element of amendment 55 seeks to extend the restrictions in section 274 to cover complainers in all cases that involve offences under section 1 of the Domestic Abuse (Scotland) Act 2018, which introduced the new offence of abusive behaviour towards a partner, where the course of behaviour includes behaviour that could amount to a sexual offence.

The current law requires the prosecutor to satisfy the court that there is a substantial sexual element contained in the charge for the restrictions to apply. I consider that the intimate nature of the relationship between the accused and the complainer, together with the vulnerabilities associated with coercive control, means that the restrictions should apply to all such complainers when they are giving evidence about behaviour that could amount to a sexual offence.

Amendment 55 provides certainty and reassurance to the complainers about the protections that they can expect, and means that the prosecutor does not have to seek an order from the court before the restrictions are deemed to apply. As with docket witnesses, the accused and prosecutor will have the right under section 275 to apply for the evidence to be admitted during the trial, and the decision lies with the court. As the right to independent legal representation is linked to applications under section 275, those groups of witnesses and complainers will be entitled to independent legal representation.

Amendments 56 and 57 are two vital correcting amendments relating to deceased complainers. They address an unintended consequence of an

amendment that was agreed at stage 2, during which I set out our position on deceased complainers and access to independent legal representation. Section 274 protections already apply to deceased complainers under the current law, as is necessary in cases where a woman is raped and murdered, for example. However, at stage 2, we lodged an amendment to change the definition of “complainers” at section 275 to make it clear that the right to ILR does not apply to the complainers if they are deceased. In doing so, we inadvertently removed the right of the accused and the prosecutor to make an application to lead evidence of a deceased complainers’ sexual history or character.

The purpose of amendments 56 and 57 is to reinstate the fundamental balance afforded by section 275, to ensure that proceedings continue to be fair and that an accused is able to make an application under section 275 where they consider that to be necessary.

I therefore call on members to support the amendments, which do not alter the current law on how sections 275 and 274 apply to deceased complainers, but ensure that the accused continues to have access to their rights under section 275 in those cases.

I move amendment 55.

**Liam Kerr:** I rise to speak to—but neither for nor against, at this stage—amendment 55. In doing so, I remind members that I am a practising solicitor and that I am registered with the Law Society of Scotland.

At the outset, I once again express my significant disquiet with the increasingly blurred distinctions between each stage of the legislative process in this, our unicameral Parliament. The bill was first introduced in April 2023. The stage 1 vote, on the principles of the legislation, took place on 23 April 2024. There then followed extensive rewriting of the bill, many representations from expert groups, further committee evidence sessions and a long, detailed, intense and—I dare say—very constructive stage 2 process.

Stage 3 is the stage at which this Parliament votes to pass or not pass a bill. There is scope to amend, but because we are a unicameral Parliament with no revising second chamber or any scope to address unintended consequences post-stage 3, it is very important that matters that make fundamental changes should not be introduced just prior to stage 3, especially where there has been zero discussion of them in any of the previous stages.

Yet, here we are, considering amendment 55, which was introduced on 4 September, and which seeks to make a fundamental and decisive change to a 30-year-old act. It will do so based on this

debate today—a debate in which Government back benchers will have been whipped to support it, regardless of what I or anyone else in the chamber says.

19:45

Against that background, let me be clear that I completely understand the principle of what the cabinet secretary seeks to do with the amendment. I totally understand why the issue is important to groups such as Victim Support Scotland, which argues that it will give complainers in such cases more consistent protection.

However, I also note that, in the restricted time that was available to consider such a far-reaching amendment, the president of the Scottish Solicitors Bar Association was quoted at the weekend as saying that the impact of the amendment is far from closing a loophole or a “gap”, as the cabinet secretary styled it, and that, rather, the proposal is potentially extremely prejudicial in relation to the strength of the evidence and the inability to cross-examine, and could also have the opposite effect to that intended by the amendment.

Then, just yesterday, we received a significant note from the Law Society of Scotland, which reiterated my point about process and suggested that, if the cabinet secretary wanted to expand the scope of section 274—the one that will be amended by amendment 55—it should have been done at earlier stages to ensure a proper and informed debate. It went on to suggest that amendment 55 may fundamentally change the evidential picture in a large number of cases where there is no sexual element.

**Jamie Greene:** I have been listening carefully to the comments that have been made by the member, who clearly has a far greater legal understanding than I do. I am concerned by the two particular interventions that have been made by external partners about amendment 55 and by the sheer volume of communication that I have had from members of the public, who, if nothing else, believe that there is a perception that it will water down rights.

The note that we have all been sent, which we have heard quoted repeatedly, suggests that the proposed changes would mean that juries could be asked to convict on the basis of untested and “unchallenged” evidence. The problem is that I do not know whether that is true, yet we will be asked to make a decision in a short few minutes. Could the Government find other means of introducing such changes outside the realms of the bill that would make it open to more scrutiny by the Criminal Justice Committee?

**Liam Kerr:** Jamie Greene has precisely predicted my intervention on the cabinet secretary's closing speech. He is absolutely right that we have received a lot of representations raising concerns about amendment 55. Equally, it must be considered that we have received a lot of interventions and communication saying why people are in favour of the amendment. We have to balance that, and we have to do that on an amendment that was lodged and put before us less than two weeks ago.

Jamie Greene may also wish to consider that the Law Society and the Faculty of Advocates have raised issues regarding the sections that will be amended by amendment 55. In the cases of *Keir v HMA* and *Daly v HMA*, the Supreme Court has yet to issue judgment, but that might directly impact the interpretation of section 274, which is sought to be amended by amendment 55. The Law Society of Scotland and the Faculty of Advocates suggested that legislating now on something that the Supreme Court will shortly rule on would be less than prudent.

I reiterate that the Scottish Conservatives completely understand the good intentions behind the amendment, but we will reserve our position on the vote pending the cabinet secretary's closing speech. We need to hear an answer from the cabinet secretary to Jamie Greene's challenge regarding why we must vote for the proposal despite the representations that we have heard. We need to hear powerful and compelling reasons for why we should vote for the cabinet secretary's interpretation of the law and reject the views that have been presented to us by the Law Society of Scotland, the Faculty of Advocates and the Scottish Solicitors Bar Association. We need to hear why there is no alternative to stepping back and waiting for the Supreme Court judgment, as was recommended to us.

**Pauline McNeill:** In a similar vein, I am not comfortable with amendment 55. I think that it is more than technical. I listened to what the cabinet secretary said and I am trying to understand it. My understanding of what has been said is that a person cannot be convicted on docket evidence but that it can be used as corroboration. However, I am not wholly sure what that means in reality, because I have not had a chance to test it. It might be fairly straightforward, but it might not be. It seems that Jamie Greene is right. Is there another way of doing this that would allow us a chance to understand it, first of all, and then to understand its implications? What would be the detriment if we did not agree to the amendment?

Liam Kerr is quite right: the operation of sections 274 and 275 of the 1995 act is currently being considered by the Supreme Court in *Daly v HMA*. From what I know of that case, it seems to fall

outwith the boundaries of what that act set out to do.

I am not clear why amendment 55 has appeared at this stage, or why the Government has lodged it now. Has something happened? Is it just a case of the Government saying, "All right—we'll tag this on because we can"? I am not comfortable with the amendment, because there has been no discussion or understanding of it. I do not even know what docket evidence is, to be honest, not being a practitioner. I would have liked a chance to try to understand it. I appreciate that it might be straightforward, in which case I would not want to stand in the way of the Government doing something that needs to be done. That is how I feel right now. Jamie Greene made that point as well.

What I do understand about docket evidence is that, rightly or wrongly, it cannot be cross-examined. That is the concern of the Scottish Solicitors Bar Association. It is not saying that it is the most outrageous thing or that it is really problematic, but it is saying that that evidence cannot be cross-examined, and we do not know whether that is fair or unfair. We do not know whether it is a simple matter or not.

The Government needs to give us some understanding of why it was necessary to lodge the amendment now and why it could not have been lodged at stage 2. If it had done that, we would at least have had time to consider the matter between stages 2 and 3. I know that the Government is under the same pressure as we are, to some extent, given the timescales that we are all bound by, but this has happened so quickly. When we are looking at amendments, we have to go back and check all the letters that the Government has sent us to clarify the position, and it is a lot of work. It is problematic that the amendment was thrown in at stage 3 and I would like to hear the justification for that.

**The Deputy Presiding Officer:** As we are nearing the agreed time limit for groups 17 to 19, I am prepared to exercise my power under rule 9.8.4A(c) of standing orders to allow the debate on group 19 to continue beyond the limit in order to avoid debate being unreasonably curtailed. With that, I call the cabinet secretary to wind up.

**Angela Constance:** Let me try to untangle this a bit. On the points that members have raised about why we have lodged amendments at stage 3 about the extension of section 274 of the 1995 act to DASA victims where there is a sexual element and to docket witnesses, I will run through the history of that.

The Lord Advocate initially raised the matter with my officials back in 2022, and the Crown Office and Procurator Fiscal Service summarised

those views in its written evidence to the committee at stage 1 of the bill. As for the committee, we originally shared our intention to lodge the amendments ahead of stage 2. A letter was sent to the committee on 4 March, and the Lord Advocate reaffirmed her support for the amendments in her correspondence with the committee on 18 March. I say that to give a bit of context. The issue has not just arrived at stage 3. It was our intention to bring it forward at stage 2.

I make it clear that amendments 56 and 57 do not extend section 274 protections for deceased complainers. Those are already in place. However, without the amendments, the defence would not be able to make an application to lead evidence under section 275. They are technical amendments. I strongly recommend to Parliament that we pass those technical, correcting amendments so that we can continue to have a fair application of the sections 274 and 275 regime.

**Liam Kerr:** I want to be absolutely clear about what the cabinet secretary is saying. Is she divorcing amendments 56 and 57 from amendment 55, such that parliamentarians might choose to vote against amendment 55 if it is pressed, or are they inextricably linked?

**Angela Constance:** Amendment 55 has two purposes. It extends the section 274 protections to docket witnesses and to DASA victims, where there is conduct that amounts to a sexual offence.

Obviously, I am in favour of passing all the amendments in the group, but I reiterate that amendments 56 and 57 are technical and rectify unintended consequences of amendments that were agreed to at stage 2 when we were changing the definition of “complainer”. They ensure that the new definition of “complainer” in section 275 of the Criminal Procedure (Scotland) Act 1995 clarifies that ILR is not available in respect of deceased complainers.

In short, amendments 56 and 57 are technical and are needed to protect the rights of the accused. Sections 274 and 275 of the 1995 act are part of a package. Amendment 55 extends the 274 protections in a new way. I emphasise that I would not like it to be misrepresented as an entirely new issue at stage 3; it has a history and the committee has been informed of it.

As I mentioned in my opening remarks, there is debate by some about the sections 274 and 275 regime, and some people have concerns about how those provisions are applied by the courts. The way to challenge that is through the courts, and not, in my view, by attacking the legal framework that upholds the fundamental protection for those whose sexual history and

character have been called into question as well as for the accused.

A legal matter is on-going, but that should not be conflated with what we are trying to do with the amendments in this group. Members will come to a view about whether they support the amendments.

**The Deputy Presiding Officer:** The question is, that amendment 55 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

The vote is closed.

**Liz Smith (Mid Scotland and Fife) (Con):** On a point of order, Presiding Officer. My app froze. I would have voted no.

**The Deputy Presiding Officer:** Thank you, Ms Smith. I will make sure that that is recorded.

#### For

Adam, George (Paisley) (SNP)  
 Adam, Karen (Banffshire and Buchan Coast) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Brown, Siobhian (Ayr) (SNP)  
 Burgess, Ariane (Highlands and Islands) (Green)  
 Callaghan, Stephanie (Uddingston and Bellshill) (SNP)  
 Chapman, Maggie (North East Scotland) (Green)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Constance, Angela (Almond Valley) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Don-Innes, Natalie (Renfrewshire North and West) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Dunbar, Jackie (Aberdeen Donside) (SNP)  
 Fairlie, Jim (Perthshire South and Kinross-shire) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Gray, Neil (Airdrie and Shotts) (SNP)  
 Greer, Ross (West Scotland) (Green)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Kidd, Bill (Glasgow Anniesland) (SNP)  
 Lochhead, Richard (Moray) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Mackay, Gillian (Central Scotland) (Green) [Proxy vote cast by Ross Greer]  
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Maguire, Ruth (Cunninghame South) (SNP)  
 Mason, John (Glasgow Shettleston) (Ind)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAllan, Màiri (Clydesdale) (SNP)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McLennan, Paul (East Lothian) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)

McNair, Marie (Clydebank and Milngavie) (SNP)  
 Minto, Jenni (Argyll and Bute) (SNP)  
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)  
 Robertson, Angus (Edinburgh Central) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Roddick, Emma (Highlands and Islands) (SNP)  
 Ruskell, Mark (Mid Scotland and Fife) (Green)  
 Slater, Lorna (Lothian) (Green)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Kaukab (Glasgow Kelvin) (SNP)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Sturgeon, Nicola (Glasgow Southside) (SNP)  
 Swinney, John (Perthshire North) (SNP)  
 Thomson, Michelle (Falkirk East) (SNP)  
 Todd, Maree (Caithness, Sutherland and Ross) (SNP)  
 Torrance, David (Kirkcaldy) (SNP)  
 Tweed, Evelyn (Stirling) (SNP)  
 Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

### Against

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Bibby, Neil (West Scotland) (Lab)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Carlaw, Jackson (Eastwood) (Con)  
 Carson, Finlay (Galloway and West Dumfries) (Con)  
 Choudhury, Foysol (Lothian) (Lab)  
 Clark, Katy (West Scotland) (Lab)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Dowey, Sharon (South Scotland) (Con)  
 Duncan-Glancy, Pam (Glasgow) (Lab)  
 Eagle, Tim (Highlands and Islands) (Con)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (Ind)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallacher, Meghan (Central Scotland) (Con)  
 Golden, Maurice (North East Scotland) (Con)  
 Gosal, Pam (West Scotland) (Con)  
 Greene, Jamie (West Scotland) (LD)  
 Griffin, Mark (Central Scotland) (Lab)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Kerr, Liam (North East Scotland) (Con)  
 Kerr, Stephen (Central Scotland) (Con)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lumsden, Douglas (North East Scotland) (Con)  
 Marra, Michael (North East Scotland) (Lab)  
 McCall, Roz (Mid Scotland and Fife) (Con)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mochan, Carol (South Scotland) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Mundell, Oliver (Dumfriesshire) (Con)  
 O'Kane, Paul (West Scotland) (Lab) [Proxy vote cast by Michael Marra]  
 Rennie, Willie (North East Fife) (LD)  
 Ross, Douglas (Highlands and Islands) (Con)  
 Rowley, Alex (Mid Scotland and Fife) (Lab)  
 Russell, Davy (Hamilton, Larkhall and Stonehouse) (Lab)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Reform)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Sweeney, Paul (Glasgow) (Lab)  
 Webber, Sue (Lothian) (Con)  
 Wells, Annie (Glasgow) (Con)  
 White, Tess (North East Scotland) (Con)  
 Whittle, Brian (South Scotland) (Con)

Wishart, Beatrice (Shetland Islands) (LD) [Proxy vote cast by Willie Rennie]

### Abstentions

Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 63, Against 48, Abstentions 1.

*Amendment 55 agreed to.*

### Section 64—Applications to admit certain evidence relating to sexual offences: rights of complainers

*Amendments 56 and 57 moved—[Angela Constance]—and agreed to.*

### After section 64

20:00

**The Deputy Presiding Officer:** Group 20 is on non-harassment orders and protective orders made outwith Scotland. Amendment 3, in the name of Sharon Dowey, is grouped with amendments 147, 147A, 148 to 151, 164 and 165.

**Sharon Dowey:** Non-harassment orders are a vital tool in protecting victims from further harm. They can be used to prohibit an offender from contacting or approaching a victim and so enable the police to intervene to prevent further harassment, even where the offender's behaviour might not otherwise constitute a criminal offence.

Amendment 3 would extend the duty that currently applies in domestic abuse cases—in which the courts must always consider whether to make an NHO to protect the victim, without the need for the prosecutor to make an application for such an order—so that it would also apply in all cases involving sexual offences, stalking and intimate image abuse. By requiring the court to consider an NHO in those cases, the amendment would ensure that the court must actively consider in every case whether an NHO is required to protect the victim and that it must make such an order unless it considers that it is not necessary to do so to protect the victim.

In addition, members might be aware that NHOs in domestic abuse cases can make provision in favour of a child who normally resides with the victim or the perpetrator, or both. In view of the fact that stalking offences often involve a perpetrator who is fixated on the victim and who may seek to target their family to continue to abuse the victim, amendment 3 would extend that power to cover people who are convicted of stalking.

I know that members across the chamber share a commitment to strengthening protections for victims.

I move amendment 3.

**Pam Gosal (West Scotland) (Con):** Before I speak to my amendments 147 and 147A, which relate to domestic abuse, I want to put it on record that I am grateful to the Scottish Government for its advice to support my amendments on non-harassment orders, particularly on removing the proposed subsection (2) from amendment 147. That is the reason why I asked for a manuscript amendment, which is amendment 147A. I am also grateful to the Presiding Officer for allowing that.

Even though I believe that the Victims, Witnesses, and Justice Reform (Scotland) Bill has many shortcomings, I have proposed my amendments in the hope of improving the bill. My amendments 147 and 147A would address a serious gap in protection for survivors of domestic abuse. I was recently contacted by Families Outside, which is an organisation that works to support families who are affected by imprisonment. It told me about a legal gap where bail conditions such as non-harassment orders are put in place to protect survivors but expire once an offender is sentenced. As a result, if a non-harassment order is imposed in such cases, the victims of those crimes are left vulnerable, with the perpetrator still able to contact them from prison. Shockingly, Families Outside reports that some victims are coerced into contact with the offender as a result.

That is why my amendment 147 would require courts to consider any bail conditions that have been imposed when deciding whether to issue a non-harassment order in domestic abuse cases, including where the offender is imprisoned or remanded in custody. My amendment 147A would make a minor change to ensure that that requirement would apply only in domestic abuse cases.

My amendments in this group would ensure that survivors of domestic abuse continue to be protected, and I urge members to support them. I hope that the Scottish Government finds some common sense and makes the right choice to support my amendments, along with other Scottish Conservative amendments, and truly transform victims' rights.

I turn to amendment 3, in the name of my colleague Sharon Dowey, which I support. It would rightly require a court to consider imposing non-harassment orders, without the need for the prosecutor to make an application to the court, in all cases involving sexual offences, stalking or intimate image abuse.

During stage 2 of the bill, I—alongside Sharon Dowey—submitted an amendment with the intention of making it mandatory to impose non-harassment orders in sexual offence cases.

Although the Government did not support that, I am glad that the cabinet secretary has reached a compromise with us to instead make it mandatory for the courts to consider imposing a non-harassment order in such cases.

Over the summer recess, I met representatives of Action Against Stalking, which is an organisation that helps survivors of stalking to regain control of their lives. They made it clear that stalking is a terrible crime that often goes hand in hand with other offences such as domestic abuse and that experiencing it can leave survivors scarred for life.

That is why I am particularly pleased that the offence of stalking has been added to the amendment, which would rightly extend the power that the courts have to make provisions to protect children who are impacted by stalking cases. I believe that amendment 3 will help survivors. I am proud to support it today, and I hope that members will, too.

**Maggie Chapman:** I begin my comments on the amendments in this group by recognising the work and tireless campaigning of Amelia Price. She has shown true dedication to bringing about change in how non-harassment orders operate, not just for her but for victim and survivors in the future, as she does not want anybody else to go through what she went through.

I have three amendments in this group—amendments 148, 149 and 150—and I will speak to them in turn. Amendment 148 would turn NHOs, which are currently optional, into mandatory orders. The need for that has been recognised for a long time. Indeed, the Justice Committee discussed it in 2017, at stage 2 of the Domestic Abuse (Scotland) Bill, when Linda Fabiani lodged an amendment calling for mandatory non-harassment orders. It was supported by John Finnie and by Scottish Women's Aid. Linda Fabiani had heard evidence that she described as “compelling” and quoted a survivor, whom I will quote again this evening. The survivor said:

“A criminal conviction ... was of absolutely no use to me as a victim since that conviction on its own contained no provision to protect me ... from further abuse”.—[*Official Report, Justice Committee*, 21 November 2017; c 22.]

However, that was not enough to change people's minds eight years ago.

Amelia Price, who is a dedicated campaigner on the issue, says that those words still resonate with her. She asked about NHOs that were granted in cases of rape against a partner, and the Scottish Government said that it did not have that information. On domestic abuse cases, although we know that the number of such orders have increased, there are still more cases in which

NHOs are not granted than cases in which they are.

Amelia's own story was that her former partner was sentenced to a 49-month custodial sentence after being unanimously found guilty of assault and rape by strangulation. An NHO was not granted on the grounds that Amelia had moved to England and her abuser had not contacted her while he was on bail, but one of his bail conditions had been that he was prohibited from doing so. Neither of those factors was relevant to her risk after the trial. A King's counsel, referring to the case, said:

"Clearly there are unlimited ways that an offender can harass a person in England from a location in Scotland. As to the second, that strikes me more as an argument for making an order—the last order worked."

Amelia has said:

"In the sentencing statement for my case, Lord Boyd references the online abuse and humiliation I suffered at the hands of my abuser which ultimately was the cornerstone of his conviction. He didn't attempt to contact me on bail when there was the deterrent of custody but, without this deterrent, I have no doubt that he will. I do not need to live in Scotland for digital abuse to continue and therefore the Judge has been negligent in choosing not to eliminate that risk if it was at his disposal to do so."

My amendment 149 would require the Scottish Sentencing Council to provide clear sentencing guidelines on the use of non-harassment orders. I appreciate that that demand is perhaps beyond what we should ask of the council, and I ask the Scottish Government for any clarification or confirmation that it can give about engagement with the council on the issue.

Amendment 150 seeks a report on non-harassment orders, their use, how many were issued, for which offences they were issued, those that were applied for but not issued, and so on. I firmly believe that we need to collect and monitor that information. It is correct that the number of NHOs has increased in recent years, but we still do not know the details or reasons for that or for when NHOs are not made.

I am aware that the cabinet secretary will ask me not to move amendment 150, given the volume of work that would be required. However, I hope that she will be able to recognise the need to get to grips with the important tool of NHOs, which should be being used to protect victims/survivors, and that there will be further work in that regard.

**Rona Mackay:** Amendment 151 would address a gap in the law concerning the ability of police, prosecutors and courts to enforce certain protective orders imposed on other jurisdictions in the UK. Members might be aware of a recent case in which a person residing in Scotland found that conditions contained in a restraining order made by a court elsewhere in the UK against a person

convicted of abusing them could not be enforced in Scotland. That is clearly unacceptable. The case highlighted a wider issue in the law that needs to be resolved, and I hope to use today's bill proceedings to address that.

A protective order such as a restraining order can prevent an individual from doing a range of things, which might include acts that would otherwise be legal, such as approaching or contacting a victim. In such situations, where behaviour amounting to a breach of a condition is not a criminal act, protecting the victim through the restraining order cannot take place in Scotland. That is what amendment 151 would change.

Amendment 151 would make it an offence for a person to

"knowingly and without reasonable excuse"

do

"anything which the person is prohibited from doing by a relevant UK order, or fails to do something which the person is required to do by such an order."

Those relevant UK orders are restraining orders, non-molestation orders and stalking protection orders that are imposed by courts in England, Wales or Northern Ireland.

The maximum penalty for the offence on conviction on indictment would be five years' imprisonment, unless the maximum penalty for the equivalent offence for breach of the order under the law applicable in the other jurisdiction was lower, in which case that would be the maximum penalty.

Amendment 151 includes the power, subject to affirmative procedure, for Scottish ministers to add to the list of protective orders covered by the offence. That could be used if there were changes to relevant legislation in other jurisdictions in the UK.

My amendment 165 would amend the long title of the bill to reflect amendment 151. I ask members to support both of my amendments.

**Angela Constance:** The amendments in the group are on protection for victims and I am pleased that I have been able to work with members on that important issue. Even though I do not support the amendments in the name of Maggie Chapman, I welcome her continued and constructive engagement on the issue.

I have been able to work with Sharon Dowe on her amendment 3, which will ensure that courts must consider non-harassment orders in cases involving sexual offences, stalking and intimate image abuse. I am sure that all members will be able to support that amendment, as well as Pam Gosal's amendment 147, subject to amendment 147A being agreed to.

Unfortunately, as I have said, I cannot support Maggie Chapman's amendments. In the case of amendment 148, my main objection is that there would be considerable legislative competence concerns, as it would remove prosecutors' discretion by requiring them to apply for an NHO in every case in which an offender was convicted of what the relevant legislation calls "misconduct towards another person".

That interference with the independence of how prosecutors, on behalf of the Lord Advocate, conduct prosecutions is outwith the legislative competence of the Parliament. Even if that was not the significant concern that it is, the term "misconduct" is likely to capture a wide range of offences, potentially including fraud and theft, even where there is no direct contact between offender and victim.

20:15

The amendment could impact on around 30 per cent of all convictions in Scottish courts. That would, therefore, dramatically increase the number of cases requiring judicial consideration of NHOs, placing unsustainable pressure on the Crown Office and the Scottish Courts and Tribunals Service and risking diverting resources away from those cases where consideration is most needed.

There is already a requirement for the courts to consider imposing an NHO in all domestic abuse cases. If agreed to, Sharon Dowe's amendment 3 would extend that to cover those convicted of sexual offences, stalking and intimate image offences. I reassure Parliament that the current system allows the Crown Office and Procurator Fiscal Service to exercise discretion to apply for NHOs, where appropriate, in all other cases involving misconduct towards the victim. That strikes a sensible balance by focusing the courts' attention on those cases where an NHO is most likely to improve victim safety.

Ms Chapman's amendment 149 would mandate the Scottish Sentencing Council to prepare sentencing guidelines on the use of non-harassment orders. Although amendment 149 is well intentioned, it is for the independent council to decide its priorities. Its current business plan includes progressing guidelines in the areas of sexual offences and domestic abuse—exactly the type of offences where NHOs are often imposed by the court.

In addition, the Scottish ministers already have power to request that sentencing guidelines be prepared on any matter. That means that there are existing routes that do not require legislation in order to feed into the council's programme of work. Therefore, I commit to the member and Parliament that I will write to the council this week

to request that it confirm that it will consider the use of NHOs as part of its work on those guidelines. That will include making as much relevant information and data available as possible.

Ms Chapman's amendment 150 would require the Scottish ministers to report annually on matters relating to the use of NHOs by the criminal courts. However, that would require reporting on matters about which information is unlikely to be available—for example, cases in which the victim asks for an NHO and the court declines to make one cannot be recorded, as there is no formal mechanism in law for victims to request that the court make an NHO.

**Maggie Chapman:** The example that the cabinet secretary has just given, where somebody requests an NHO and it is not granted, is surely exactly the kind of case on which we should be gathering information so that we can better understand whether there are other protection mechanisms that we can provide for victims/survivors.

**Angela Constance:** I do not disagree with Ms Chapman's point of principle. I merely point out that her amendment asks us to do something that there is no existing mechanism to do. The broader point is that the information that Ms Chapman seeks is not information that can or would come from the Scottish Government but from the courts. The courts have established systems for operational purposes to manage cases as opposed to gathering data, but I very much appreciate Ms Chapman's point about the lack of available data, which is important and considered. It is fair point, and I will raise it directly with the Scottish Courts and Tribunals Service when I next meet the chief executive.

I urge Ms Chapman not to press the amendments in the group and, if they are pressed, I ask Parliament to oppose them.

I thank Rona Mackay for working with me on amendment 151. As she outlined, there is currently a gap in the law that arises when a court in England, Wales or Northern Ireland imposes a protective order that is breached in Scotland. Amendment 151 introduces a direct enforcement model and ensures that an individual will be protected in Scotland in the same way that they are in the jurisdiction in which the order is made. I welcome that additional protection to close an identified gap, and I urge members to support amendment 151.

Amendments 164 and 165 are minor consequential amendments relating to amendments 3 and 151, and I ask members to support them.

**The Presiding Officer:** I call Sharon Dowey to wind up, and to press or withdraw amendment 3.

**Sharon Dowey:** I have no further comments. I press amendment 3.

*Amendment 3 agreed to.*

*Amendment 147 moved—[Pam Gosal].*

*Amendment 147A moved—[Pam Gosal]—and agreed to.*

*Amendment 147, as amended, agreed to.*

*Amendment 148 moved—[Maggie Chapman].*

**The Presiding Officer:** The question is, that amendment 148 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

The vote is closed.

**Brian Whittle:** On a point of order, Presiding Officer. My app would not connect. I would have voted no.

**The Presiding Officer:** Thank you, Mr Whittle. We will ensure that your vote is recorded.

*The division list for amendment 148 will be published as soon as it becomes available.*

**The Presiding Officer:** The result of the division is: For 12, Against 101, Abstentions 0.

*Amendment 148 disagreed to.*

*Amendment 149 not moved.*

*Amendment 150 moved—[Maggie Chapman].*

**The Presiding Officer:** The question is, that amendment 150 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

The vote is closed.

*The division list for amendment 150 will be published as soon as it becomes available.*

**The Presiding Officer:** The result of the division is: For 52, Against 61, Abstentions 0.

*Amendment 150 disagreed to.*

*Amendment 151 moved—[Rona Mackay]—and agreed to.*

*Amendment 152 moved—[Maggie Chapman].*

*Amendments 152A, 152B and 152C moved—[Maggie Chapman]—and agreed to.*

*Amendment 152, as amended, agreed to.*

## **Section 66A—Review of operation of Act**

**The Presiding Officer:** Group 21 is entitled “Review of Act”. Amendment 1, in the name of Pauline McNeill, is grouped with amendments 2 and 153 to 156.

**Pauline McNeill:** Amendments 1 and 2 expand the reporting requirements in section 66A. I thank the Government for working with me on the amendments.

At stage 2, I highlighted the importance of the Parliament maintaining the power of scrutiny of the law on corroboration, which the courts may continue to develop. On 30 October 2024, the High Court of Justiciary published an appeal judgment about how corroboration is used in Scottish criminal trials. The judgment was published after the Lord Advocate had asked the court to review how corroboration is used and the specific requirements for corroboration in sexual offence cases.

The judgment sets out that, from now on, although corroboration is still required, there is

“no requirement to prove the separate elements of a crime by corroborated evidence.”

The change means that

“distress which was observed by a third party ... could corroborate a complainer’s account”

that they had been raped. Penetration does not need to be corroborated separately. Rape Crisis Scotland said that the judgment was

“a seismic change in the approach to corroboration in sexual offence cases in Scotland”.

Currently, section 66A requires the Scottish ministers to undertake two reviews of the operation of the bill once it has been enacted. The first review must be concluded as soon as reasonably practicable, five years after royal assent; the second must be conducted five years after the first review. Ministers must prepare a report on each review, which they must publish and lay in the Scottish Parliament. Amendments 1 and 2 require each report to also set out any changes to the law relating to corroboration that have taken place during the review period.

I move amendment 1.

**Katy Clark (West Scotland) (Lab):** I lodged my amendments in the group following from previous amendments that I lodged at stage 2 on independent legal representation for rape victims, and further to discussions with the Scottish Government. I am grateful to Scottish Government officials for their engagement.

I will speak to amendments 153, 155 and 156. I will not move amendment 154.

Amendment 153 requires the Scottish Government to set out in the review measures to

improve the experience of women. Amendments 155 and 156 expand the reporting requirements on the Scottish Government to include engagement with the lived experience of women. The amendments follow from representations that I made at stage 2 about extending independent legal representation and advocacy for rape victims, to empower survivors in the justice system.

My amendments seek to ensure continued consideration of the impact of the welcome measures that are included in the bill—particularly those that allow advocacy in court when the defence is seeking access to medical records—as well as of other initiatives, such as the legal advice work that is being undertaken at the University of Glasgow.

20:30

We hear repeatedly that rape victims find the justice system retraumatising. In many other jurisdictions, there has been a significant expansion of independent legal representation over recent decades, which has helped to empower victims.

Scotland still lags behind much of Europe and many other parts of the world when it comes to legal representation of victims. For example, in Denmark and Norway, victims are entitled to legal representation at the reporting stage, before the trial and during the trial. In Spain, the law allows female victims of gender violence free legal assistance regardless of the existence of resources to mitigate the cost. Many other legal systems—some similar to ours and some less so—outside Europe also provide legal representation for victims.

I intend to move amendments 153, 155 and 156 and I hope that, in the review of the legislation, further consideration is given to expanding independent legal representation, advice and advocacy for rape victims and other victims.

**Angela Constance:** I am pleased to support all the amendments in the group apart from amendment 154, which Katy Clark has confirmed that she will not move.

I recognise Pauline McNeill's views on continuing to monitor developments in corroboration, which is a distinctive part of our criminal law that has been refined and modernised by the courts for decades. At stage 2, I confirmed to her that the Government would engage with her on how best to achieve that, and I am pleased that we have been able to work together on her amendments.

I am proud to take forward a bill that contains landmark reforms that will improve how survivors

of sexual offences—the majority of whom are women and girls—are treated in our justice system. Katy Clark's amendments ensure that the review of the act will consider the

“experiences of victims and witnesses, in particular women”.

I am happy to support amendments 153, 155 and 156 in her name.

**Pauline McNeill:** I thank the cabinet secretary for working with me on the corroboration issue. I did not say this from the outset, but it is important to review the interaction between the new provisions to remove the not proven verdict and the very fine balance of the new jury size. It is important to continue to review the different elements and, as corroboration is a significant part of the process, that was one reason why I felt that it should be reviewed.

*Amendment 1 agreed to.*

*Amendment 2 moved—[Pauline McNeill]—and agreed to.*

*Amendment 153 moved—[Katy Clark]—and agreed to.*

*Amendment 154 not moved.*

*Amendments 155 and 156 moved—[Katy Clark]—and agreed to.*

## Section 71—Commencement

**The Presiding Officer:** Group 22 is entitled “Changes to jury size and verdict”. Amendment 157, in the name of Pauline McNeill, is the only amendment in the group.

**Pauline McNeill:** Amendment 157 would ensure that specific training is given to judges, sheriffs principal, sheriffs and members of staff in the Scottish Courts and Tribunals Service before the change in the jury size comes into effect. I am pretty certain that the Government will oppose the amendment.

I just want to be honest with members. It is half past 8 in the evening and members are tired. It has been a long day for everyone. However, I want to draw to members' attention an issue in the bill that the Government and the Criminal Justice Committee have wrestled with: despite widespread agreement on the removal of the not proven verdict, there was widespread disagreement on the size of the jury. If I had not lodged amendment 157, that would not have been mentioned at all at stage 3, although I am sure that we will debate it tomorrow.

Saying that there should be training may not be the right way forward, but it should certainly be recognised that, if the bill is passed, we will have a fundamentally different jury system, and we will

not know whether that is for better or worse until the bill is enacted. The Government moved from a jury size of 12 to a jury size of 15 with a majority of 10. Not everyone agreed with that. It is important to highlight that, and there should be some way for the Government to mark how it will be taken forward.

The bill is massive and the Government has set out its timescale for when it will enact which aspects. In doing so, it has to recognise that juries will come to their decisions in different numbers and in a different way. I do not plan to press amendment 157 but, if I had not lodged it, there would have been no debate on something that has taken a long time to come to pass and is very significant.

I move amendment 157.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** I thank Pauline McNeill for lodging amendment 157, because we are faced with one of the most radical parts of the bill and, as she has, rightly, said, because it is not subject to an amendment, we would have had no opportunity to discuss it. We are changing the not proven verdict, removing it from most criminal proceedings, both solemn and summary.

My concern is that there appears to be a presumption that abolishing the not proven verdict, with changes to the jury majority—we do not quite know how those will interact—will lead to more convictions. I am not saying that that is the purpose, but there is a presumption that it will happen.

I do not think that that presumption can be made. I am teaching my granny to suck eggs, but “not proven” means that the Crown has failed to prove its case beyond reasonable doubt—the onus being on the Crown, with its evidence, to establish its case. To me, it follows that “not guilty” meets the same test—that the Crown’s case is not beyond reasonable doubt. Doubt in the mind of a sufficient number of jurors must lead, rightly, to a not guilty verdict. I therefore do not necessarily see an increase in convictions—bearing in mind, too, that, although much of the bill rightly focuses on sexual offences, those radical changes will apply across most crimes and whether there is a jury or a sheriff sitting alone.

I hope that abolishing the not proven verdict will not disappoint victims—especially those against whom there have been serious crimes and who may think that a conviction is more likely. I do not think that that necessarily follows.

Controversially, too, the not proven verdict has been described as being unjust to the accused and to victims. My story is that I was a victim and the main witness in a summary trial in which the

Crown pursued a conviction against a constituent who had intimidated and harassed me for years. In my view, there was sufficient evidence for a guilty verdict, but, to my astonishment, the verdict was “not proven”. At first, I was furious. However, on reflection, I must say that I prefer that to “not guilty”.

I have lost the argument on not proven, not guilty and guilty—the three verdicts have gone.

**John Mason (Glasgow Shettleston) (Ind):** I follow Christine Grahame’s argument with interest, because I, too, feel that, to some extent, the not proven verdict is a more honest verdict, whereas, if there is a verdict of not guilty, somebody may have got off on a technicality or for all sorts of reasons. Is there at least a strong argument for the two verdicts being “proven” and “not proven”—albeit that I accept that we have lost that argument?

**Christine Grahame:** I will not fight a battle that has been lost, as it is a waste of my energy. I am just presenting the case that a crime being found not proven was not always bad news from the victim’s point of view. The sword of Damocles went over the head of that gentleman, and he has stopped his misbehaviour—so far.

While we will just have the two verdicts, let us please not presume that that will lead to more convictions. It may very well be neutral at best.

**Angela Constance:** Ms McNeill is correct, I am afraid: I cannot support her amendment 157. Under the Judiciary and Courts (Scotland) Act 2008, the Lord President is responsible for the training of the judiciary, and it would not be constitutionally appropriate for ministers to pass judgment on judicial training.

There are also some drafting issues with the amendment: it is not clear what is meant by “sufficient training”, nor is the level of detail clear regarding the training to be supplied to the Parliament.

Abolishing the not proven verdict is, indeed, a significant step for the Parliament. I am pleased that there was cross-party support for the change in the Labour, Tory, Green and SNP 2021 manifestos, which has permeated through to support during the bill’s passage.

The issues are, of course, complex, but they have been thoroughly and carefully scrutinised, particularly by those on the Criminal Justice Committee. As we are on the last grouping, I take this opportunity to thank the committee members for their considered engagement throughout the bill process.

I say to Christine Grahame that this part of the bill is about modernising our system. Not proven is a widely misunderstood verdict. It traumatises

victims, as it is a verdict that they do not trust or understand, and it leaves a lingering stigma on the accused.

On John Mason's point, there is an argument for having the two verdicts as proven and not proven. To my surprise, nobody really made that argument during the passage of the bill, and there have been no amendments to that effect. The two verdicts of guilty and not guilty are unambiguous and clear, and they had the most support in the consultation that was led on the bill.

I will finish by—

**Christine Grahame:** Will the cabinet secretary give way?

**Angela Constance:** Oh, okay.

**Christine Grahame:** That sounded like resignation.

Does the cabinet secretary consider that the change may lead to more convictions?

**Angela Constance:** Let me be clear to Ms Grahame: the purpose of this part of the bill is neither to decrease nor to increase convictions; it is to ensure that we have balance in the system. It is about modernising our system, ensuring that there is transparency in decision-making processes.

I am sure that we will debate not proven more tomorrow. In my view, it is a reform that is long, long overdue.

As we finish the amendments on this landmark bill, let me pay tribute to the victims, families and support organisations who have shaped it, including those who have campaigned for many years for the abolition of the not proven verdict. It is now time to act and to implement the reforms in the bill. I look forward to our continued debate tomorrow.

In the meantime, I ask Pauline McNeill not to press amendment 157. If she does, I ask Parliament to vote against it.

**Pauline McNeill:** I do not intend to press the amendment. In some of her contribution, Christine Grahame has demonstrated why it is still worth having this debate, however. She is absolutely right. Depending on whom we speak to, we will get a different answer. When the Lord Advocate gave evidence to the Criminal Justice Committee, she said that it would be harder to get a conviction. Others think differently.

I wholly appreciate where the Government was coming from: it tried to maintain the balance, if we can achieve such a thing. The bill was published with 12 jurors, and the conviction would be on eight jurors; now, we have 15 jurors. It is probably right for the Government to decide that, but it must

be noted that Scotland will still be an outlier. That is one of the arguments about not proven, and members should bear that in mind when voting on the bill tomorrow. I am comfortable with it, because there are many differences between the criminal justice system in Scotland and the English system and those in other jurisdictions. Our system has grown over many years, but it has to be modernised—I totally accept that.

It was our position that we should remove the not proven verdict. If I remember rightly, it was first attempted by Michael McMahon, who had a member's bill on the issue in an earlier session of Parliament. I am sure that, if he is listening, he will be pleased about it finally happening. We do not know what will happen.

To conclude, I hope that the cabinet secretary agrees that a future Parliament needs to have a look at jurors and how valued they should be. Not much work has been done on that. We have talked about juries and jury myths and everything that is expected of juries. Without juries, we cannot run our criminal justice system. If members have spoken to anyone who has served on a jury, they will know that there is a lot of negative feedback about serving as a juror. It is maybe work for a future Government to recognise the importance and value of our jurors.

I will not press amendment 157.

*Amendment 157, by agreement, withdrawn.*

### **Schedule 1—The Office of Victims and Witnesses Commissioner for Scotland**

*Amendment 58 moved—[Angela Constance]—and agreed to.*

### **After schedule 2**

*Amendments 94 and 95 moved—[Siobhian Brown]—and agreed to.*

### **Schedule 3—Sexual Offences**

*Amendment 158 not moved.*

### **Schedule 4—Minor and Consequential Modifications**

*Amendments 159 and 160 not moved.*

### **Long Title**

*Amendments 161 to 164 moved—[Angela Constance]—and agreed to.*

*Amendment 165 moved—[Rona Mackay]—and agreed to.*

**The Presiding Officer:** That ends stage 3 consideration of amendments. As members will be aware, I am required, under standing orders, to

decide whether, in my view, any provision of a bill relates to a protected subject matter—that is, whether it modifies the electoral system and franchise for Scottish parliamentary elections. In the case of this bill, in my view, no provision of the Victims, Witnesses, and Justice Reform (Scotland) Bill relates to a protected subject matter. Therefore, the bill does not require a supermajority to be passed at stage 3.

## Decision Time

20:48

**The Presiding Officer (Alison Johnstone):**  
There are no questions to be put as a result of today's business.

*Meeting closed at 20:48.*



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