

**DRAFT** 

# **Meeting of the Parliament**

Wednesday 3 December 2025

Business until 14:53



## Wednesday 3 December 2025

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### **Scottish Parliament**

Wednesday 3 December 2025

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

### **Portfolio Question Time**

## Constitution, External Affairs and Culture, and Parliamentary Business

The Deputy Presiding Officer (Annabelle Ewing): The first item of business is portfolio questions, and the first portfolio is constitution, external affairs and culture, and parliamentary business.

## Alcohol and Tobacco Duty (Devolution of Powers)

1. **Kenneth Gibson (Cunninghame North)** (SNP): To ask the Scottish Government what discussions it has had with United Kingdom Government ministers regarding the devolution of additional powers to the Scottish Parliament, including those over alcohol and tobacco duty. (S6O-05227)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): I begin by paying tribute to Richard Demarco, one of Scotland's greatest cultural figures. Together with Clare Adamson, the convener of the Constitution, Europe, External Affairs and Culture Committee, I attended an event at the Scottish Parliament yesterday at which he was recognised as the Scottish European of the year. I am sure that I speak for all members and parties in the Scottish Parliament in congratulating him and paying tribute to his remarkable contribution to culture in Scotland and Europe. [Applause.]

To answer Kenneth Gibson's question, ultimately, we believe that Scotland should be an independent country with full control over all the powers that we need to grow our economy. Decisions that affect Scotland should be made by the people who live here.

Scotland contributes a disproportionate amount of alcohol and tobacco duty to the Treasury relative to the rest of the UK. Although we have not had discussions specifically on the devolution of alcohol and tobacco duty, we have consistently called for a full devolution of income tax and VAT, alongside national insurance contributions and capital gains tax, to be considered as a priority.

**Kenneth Gibson:** I would add corporation tax to that list. Scottish ministers previously suggested

devolving alcohol excise duty in the Scotland Act 2016, but that was ignored by the UK Government. The Office for Budget Responsibility estimates that alcohol duties will raise £13 billion across the UK this year, and £8.1 billion will be raised by tobacco duties. As the cabinet secretary said, a disproportionate amount of that will be collected in Scotland. Does the cabinet secretary agree that devolving such duties would allow Scottish ministers to have greater resources to mitigate the damage that is inflicted on health and the economy by tobacco and alcohol?

Angus Robertson: I agree with Kenneth Gibson. It is clear that devolving additional tax powers would give the Scottish Government greater resources to tackle the health harms that are caused by tobacco and alcohol, which remain a significant health challenge. Disappointingly, our calls for the disparity in alcohol duty to be addressed in this budget went unheard. Greater control over taxation would ensure that the Scottish Government could design a system that better tackles public health challenges while supporting Scottish businesses and industry where it is appropriate.

Murdo Fraser (Mid Scotland and Fife) (Con): I remind members of my entry in the register of members' interests in relation to the Scotch Whisky Association.

I agree with the cabinet secretary's remarks about Richard Demarco, whom I congratulate on his well-deserved award.

On the substance of the question, although I agree with Mr Gibson about the negative impact of the chancellor's increase in alcohol duty on the Scottish economy, which was very unfortunate and unwelcome, I am not sure that the Scottish Government's track record is so tremendous when it comes to supporting the spirits industry, given the introduction of minimum unit pricing and the plans for alcohol marketing. For example, distilleries would have been unable to advertise tours due to the Government's draconian proposals. Can the cabinet secretary update us on where exactly we now stand with that?

Angus Robertson: I note that Murdo Fraser did not raise one of the most significant challenges that the whisky industry faces, which relates to tariffs. I hope that he will join the Scottish Government in endorsing the work of the First Minister and in hoping that the United Kingdom Government does all that it can in its discussions with the US Government on tariffs. He mentioned the scotch whisky industry which, along with American colleagues in the Distilled Spirits Council of the United States, is working very hard to ensure that we reduce the threat from tariffs.

A balancing act is to be struck when judging questions around alcohol duties and public health harms. I think that the Scottish Government has got that balance right, and we will do all that we can to deal with threats of tariffs to the likes of the whisky industry. We would be grateful to have the support of all parties in the chamber on that.

#### Freedom of Information Requests (Appeals)

2. Edward Mountain (Highlands and Islands) (Con): To ask the Scottish Government how many freedom of information requests that it has received during the current parliamentary session have subsequently been appealed by the requester. (S6O-05228)

The Minister for Parliamentary Business and Veterans (Graeme Dey): The Scottish Government has received approximately 25,000 FOI requests during the current parliamentary session. Our records show that we have been notified by the Scottish Information Commissioner of approximately 310 appeal cases arising from those requests, which represents less than 1.5 per cent

The Scottish Government currently responds to more than 95 per cent of requests on time. That performance has been recognised by the commissioner and has been achieved against a backdrop of rising request numbers. The number rose from approximately 4,500 in 2022 to more than 5,500 in 2024, and that figure has already been surpassed for the current year.

Edward Mountain: A lot of people feel that getting information from the Scottish Government is difficult. For example, after asking the Scottish Government numerous times the simple question of when the Cabinet Secretary for Climate Action and Energy agreed to visit Japan, I was directed to Scottish Enterprise, a Government body. Scottish Enterprise was evasive and refused to answer the question, so I have had to appeal its response. I asked the question—to ascertain when Gillian Martin agreed to visit Japan—52 working days ago. Will the minister prove me wrong by providing an answer? Failure to do so will further prove that the Government has an evasive nature when it comes to the release of information.

**Graeme Dey:** I do not accept the general premise that Edward Mountain has advanced. The numbers that I have cited relating to the Scottish Government's responsiveness to FOI requests—I could cite others—do not bear out the point that he has made. However, I undertake to look into the specific issue that he has raised and come back to him.

## Edinburgh (Support for Major Annual Cultural Events and Royal Visits)

3. **Miles Briggs (Lothian) (Con):** I associate myself with the warm congratulations to Ricky Demarco.

To ask the Scottish Government what discussions the culture secretary has had with the finance and local government secretary regarding providing support to Edinburgh in dealing with the pressures of holding major annual cultural events and royal visits, including reintroducing the capital city supplement. (S6O-05229)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): The Cabinet Secretary for Finance and Local Government and I regularly discuss financial matters relating to local government and the culture sector, which is on track to receive an extra £100 million by 2028-29. This year, councils, including the City of Edinburgh Council, received a record £15.1 billion, which represents an increase of 5.5 per cent in real terms.

Since 2008-09, Edinburgh has had additional funding for its capital city status, and that funding now amounts to £3.9 million a year. From summer 2026, the tourism visitor levy will provide significant new revenue to help the city to manage the pressures of major cultural events and royal visits.

Miles Briggs: As a fellow Edinburgh MSP, the cabinet secretary will be acutely aware of the extra pressures that Edinburgh is under due to annual cultural events such as the Edinburgh festivals, royal week and other national civic events. Will he agree to organise a funding summit with all interested partners to consider the growing pressures that the capital faces? He will be acutely aware of the complaints about refuse not being collected and of the need for better planning of public services during such events.

Angus Robertson: That is a very interesting idea. As Miles Briggs is aware, I have convened a standing strategic partnership involving Scotland's festivals, including a number from Edinburgh, because some of the challenges that exist in Edinburgh are also felt in the rest of the country. I have also had recent dialogue with the City of Edinburgh Council on festival matters.

I am open to suggestions. We are approaching the setting of budgets so, if Miles Briggs has any specific proposals, including details on how we would pay for them, I am open to receiving them. I look forward to receiving such contributions from him in the weeks ahead.

### **Israel (Cultural Institution Boycotts)**

4. Humza Yousaf (Glasgow Pollok) (SNP): To ask the Scottish Government what action it is taking in partnership with cultural institutions following the Parliament agreeing motion S6M-18686 on 3 September, which called for boycotts targeted at the state of Israel. (S6O-05230)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): We take the motion of 3 September very seriously. Although a ceasefire has been agreed since the motion was passed, that has not yet brought the peace that will end the bloodshed. That is why we continue to take very seriously the terms of the motion on matters such as boycotts.

Clearly, our cultural institutions are independent of Government, but I am clear in my expectations that all institutions in every part of Scottish public life should abide by the intent of the motion that was passed by the Scottish Parliament in September. The Scottish Government has implemented a range of economic and humanitarian measures in direct response to the motion, as that is the most direct and effective response that is available to us within our delegated powers.

Humza Yousaf: One hundred and thirty-sixthat is how many children have been killed in since the so-called ceasefire announced in October, according to Amnesty International. In the West Bank, summary executions, settler violence and land theft continue with absolute impunity. Israel is operating as a rogue state with no respect for-let alone adherence to-international law. As the question rightly says, we need action, not simply statements of condemnation. Will the cabinet secretary do everything in his power to ensure that cultural institutions do not collaborate with the state of Israel under the Netanvahu regime and that we treat Israel as we once treated the apartheid regime of South Africa?

Angus Robertson: The continued bloodshed—not least that of 136 Palestinian children—is absolutely abhorrent. Members will be aware that the First Minister has called on the United Kingdom Government to join South Africa's case at the International Court of Justice. Although cultural institutions are clearly independent bodies, I fully expect all publicly funded bodies to act in accordance with published Scottish Government and related regulatory frameworks that place respect for human rights and the rule of international law at their core. We will continue to give our voice to calls for a two-state solution, so that we can have a peaceful future for Palestine and for Israel.

John Mason (Glasgow Shettleston) (Ind): If we want to be consistent and are going to have boycotts against Israel, should we not have boycotts against other countries? I am thinking particularly of China, which has an appalling human rights record against Christians, Muslims and Tibetans—the list goes on and on. If we do not, are we just picking on Israel because it is small and it is Jewish?

Angus Robertson: No, I do not agree with that comparison. I think that all members of the Scottish Parliament have condemned Russia's aggression against Ukraine. The United Kingdom Government's position, which is supported by the Scottish Government, is that there should be a boycott of Russian firms. It is therefore clear that this is not aimed at just one country. It is a statement of fact that there are other parts of the world where such issues should be considered. Should Mr Mason want to draw any such issues to the Scottish Government's attention, I would be grateful for that.

## Energy Efficiency Support (Cultural Institutions)

5. Michael Marra (North East Scotland) (Lab): To ask the Scottish Government what discussions the culture secretary has had with ministerial colleagues regarding support available to cultural institutions for energy efficiency measures, in light of reports that Dundee Rep, and other similar cultural bodies that operate as wholly owned trading subsidiaries, have been unable to access the SME loan and cashback scheme. (S60-05231)

The Cabinet Secretary for Constitution, External **Affairs** and Culture (Angus Robertson): With the recent publication of the draft climate change plan, ministers have discussed energy efficiency measures and carbon emissions reductions across all sectors of Scotland's economy. I welcome the efforts of Dundee Rep theatre and other organisations to reduce their carbon emissions and to contribute towards meeting Scotland's net zero targets. The SME loan and cashback scheme continues to support many businesses across Scotland in all sectors. We are currently reviewing the scheme's terms and conditions to make sure that support is as widely accessible as possible.

Michael Marra: I welcome that. The cabinet secretary knows that Creative Scotland requires building-based charities such as Dundee Rep to adapt their premises in order to improve energy efficiency. However, Dundee Rep is currently prevented from accessing the scheme because of the situation that I have described. I do not believe that that effect was intended by the Government in establishing the scheme. The on-going review of

eligibility criteria is absolutely essential to make the change that will allow Dundee Rep to make the investment that it wishes to make. Will the cabinet secretary give a commitment that those who review the criteria will take that strongly on board and make sure that institutions such as Dundee Rep—there will be institutions across the country in the same situation—can access the scheme in order to make the necessary changes to its premises?

Angus Robertson: I unequivocally give Michael Marra that assurance. I know that he has been in correspondence with my colleagues and that this is not the first time that he and other members have raised the issue. He makes a good point in saying that unintended consequences sometimes play a role in things. As I said, I assure him that we are currently reviewing the terms and conditions of the scheme to make sure that support is as widely accessible as possible. The timing of his question is very good, because it will help those who are looking very closely at any potential changes-they will be encouraged to look at examples such as Dundee Rep, to see whether it is possible to make any necessary adjustments.

#### **Arts Participation (East Dunbartonshire)**

6. Rona Mackay (Strathkelvin and Bearsden) (SNP): To ask the Scottish Government how it supports cultural initiatives in East Dunbartonshire, such as Acorn Shed Music, to expand opportunities for participation in the arts across all age groups. (S6O-05232)

The Cabinet Secretary for Constitution, External **Affairs** Culture and (Angus Robertson): In 2025-26, Creative Scotland provided £30,000 from the youth music initiative to We Make Music instrument libraries to establish a lending instrument library Dunbartonshire and to allow children and young people to develop their music making outside school. We value culture in all its forms, which is why we increased the culture budget by more than £34 million in 2025-26 as part of our commitment to an additional £100 million per year by 2028-29.

Widening access to culture is central to the culture strategy. The Scottish Government supports community-based participative arts activities, including through the youth music initiative.

Rona Mackay: Acorn Shed Music in East Dunbartonshire is a fantastic organisation that shows how storytelling and songwriting can connect people of all ages, including those living with dementia and their carers. How will the Government ensure that innovative community arts organisations such as Acorn Shed Music

receive sustainable support, so that their impact is not limited by short-term funding?

Angus Robertson: I can give Rona Mackay the assurance that a central ambition of the culture strategy is for everyone to experience the transformative potential of culture. The Culture Collective and creative communities Scotland programmes support community-engaged creative activities that are driven by the communities where they are based, to shape the future cultural life of Scotland. Applications for the £3 million Culture Collective fund for 2026 and the £320,000 creative communities Scotland fund for 2026 are currently being assessed, and the five national performing companies, which are funded directly by the Scottish Government, work with local communities across Scotland.

Pam Gosal (West Scotland) (Con): As an MSP representing East Dunbartonshire, I have met representatives from many amazing organisations specialising in the arts, such as Creative Spark Theatre Arts, Kirky Cinema and many more, which do fantastic work involving people of all ages.

One key theme is the need for long-term sustainable funding. Will the cabinet secretary commit to establishing a stable, long-term funding framework instead of relying on short-term, project-by-project allocations that sometimes fail to generate sustainable benefits?

**Angus Robertson:** That is the driver behind the introduction of multiyear funding, the point of which is to fund more organisations and to do so on a longer basis than an annual application process. There are other pots of funding that can be accessed, as I have outlined. However, if there are organisations that might be in a position to access multiyear funding, I would advise the member to communicate that. I am sure that they are aware of that multiyear funding, but my hope is that more cultural organisations in all parts of the country will make use of it. I believe that its introduction is transformational for the culture sector, and I have no doubt that organisations in the member's region will be keen to make use of it.

# European Union-United Kingdom Trade and Co-operation Agreement (Impact on Touring Artists)

7. Clare Adamson (Motherwell and Wishaw) (SNP): My apologies to the Parliament for being late today.

To ask the Scottish Government what assessment it has made of the impact of the EU-UK trade and co-operation agreement on touring artists in Scotland, including any plans for discussion with the UK Government on this matter

in advance of the forthcoming review of the agreement. (S6O-05233)

The Cabinet Secretary for Constitution, (Angus External and Culture Affairs Robertson): Stakeholders have been clear that the lack of mobility provisions for touring artists in the TCA is making it harder to reach new audiences, harder to generate income, harder to collaborate across borders and harder to showcase internationally. It is critical that an agreement on cultural mobility is prioritised. I have frequently pressed for it to be prioritised in UK Government negotiations with the European Union, and I will continue to urge my UK counterparts to use the review, existing TCA structures and wider negotiations to seek progress on the issue, including at the next culture and creative industries interministerial group meeting.

Clare Adamson: There has been a dramatic impact on small artists in particular—not the bigarena artists, but smaller touring artists—and on our national performing companies. We have lost so much since Brexit—which, of course, Scotland did not vote for. Although there are possibly some opportunities ahead, does the cabinet secretary agree that the only way back to the full benefits of the EU is as an independent Scotland in Europe?

Angus Robertson: Yes, I agree. Member states of the European Union enjoy the benefits of free movement of people, including in the culture sector. The value of cross-border cultural exchange cannot be overestimated. The creative Europe programme, for example, represents one of the best means of facilitating it, given its unique focus on transnational cultural connections. It is therefore disappointing that the UK Government has not sought participation in that valued programme.

On Monday, when I was in London, I raised the issue directly with Ian Murray at the Department for Culture, Media and Sport. I would hope that the UK Government will understand the advantages of the UK again being part of the creative Europe programme. Of course, there is no substitute for being an independent member state of the European Union.

### "Independent Review of Creative Scotland"

8. Liam Kerr (North East Scotland) (Con): To ask the Scottish Government what its response is to the recently published "Independent Review of Creative Scotland". (S6O-05234)

The Cabinet Secretary for Constitution, External Affairs and Culture (Angus Robertson): I welcome the review and the opportunity that it provides for Creative Scotland to deliver on the ambition of the evolving sector with more efficiency, transparency and impact.

Consideration is being given to the recommendations, and the Parliament will be updated in due course. Ensuring that the support infrastructure for the culture sector is as effective as possible is vital while the Scottish Government continues to deliver on our commitment to increase the culture budget by £100 million. I am grateful to Angela Leitch and her team, and to all those who contributed views to the review, for their work.

Liam Kerr: Creative Scotland receives almost £90 million of taxpayers' money each year. The independent view points to excessive bureaucracy, weak leadership and no effective performance monitoring. The cabinet secretary has been in post for years. When did he become aware of the systemic failures occurring in a body that is directly within his ambit, and, having failed to involve himself thus far, what remedial action is he taking?

Angus Robertson: First, I pay tribute to Creative Scotland for introducing multiyear funding. It is a transformational shift in the culture sector—and I think that Liam Kerr agrees that that is a good thing. Having done that, Creative Scotland is now in a position to take seriously the suggestions that have been made as part of the review. More than 450 people and organisations took part in it; if Liam Kerr did, I am sorry that I have not seen his contribution of suggestions. If he has any contributions that he passed on to the review that he would wish me to look at closely, I would be delighted to see them.

**Neil Bibby (West Scotland) (Lab):** I join the cabinet secretary and Mr Fraser in congratulating Richard Demarco for his well-deserved award and recognition.

In relation to the Creative Scotland review, I met representatives from the creative sector who raised concerns about the fact that the series of consultation events took place during the summer, which meant that many people could not participate in them due to being on holiday. Concerns were also expressed to me that there was a lack of representation from marginalised groups, such as people from black and minority ethnic backgrounds, and that a request for a further consultation event was refused. Is the cabinet secretary aware of those concerns and that feedback, and what steps will he take to ensure that the most marginalised voices are not excluded from decisions on the future of Creative Scotland?

**Angus Robertson:** I am aware of the issues, which were shared with me at the same time, no doubt, as they were sent to Mr Bibby. I am also aware that Angela Leitch and her team added extra events so that people could take part in the review process.

I give an absolute assurance that marginalised groups who think that their voices have not been heard or who want to make additional suggestions can do so while Creative Scotland, the Scottish Government and our partners—such as our enterprise companies—are considering contents of the review. I encourage them to pass on their suggestions through Mr Bibby and through other members of the Scottish Parliament, whether those suggestions are made in the formal part of the process or afterwards. We are thinking about the culture sector more broadly, not just about Creative Scotland, and I give Mr Bibby the assurance that their views will be taken very seriously.

The Deputy Presiding Officer: That concludes portfolio questions on the constitution, external affairs and culture, and parliamentary business.

Douglas Ross (Highlands and Islands) (Con): On a point of order, Deputy Presiding Officer. I apologise for not giving you prior notice of this point of order. I seek your guidance. Members who ask questions must be in their place at the start of portfolio question time. If they are not, even for a small amount of time, they must apologise—as we heard Clare Adamson do. They also have to remain in the chamber for the entirety of the portfolio questions.

Today, the Minister for Parliamentary Business and Veterans, Graeme Dey, answered a question from Edward Mountain and then walked out midway through the item. Do the same rules apply to ministers as apply to back-bench MSPs, so that they should remain in the chamber for the entirety of the item during which they are answering questions?

The Deputy Presiding Officer: I had just noticed that the Minister for Parliamentary Business and Veterans had vacated his seat, notwithstanding the fact that portfolio question time had not completed. I have had a word with the clerk about looking into the matter further, and that is what we will now do. I hope that that responds to Mr Ross's question. [Interruption.] Excuse me—I am losing my voice.

### **Justice and Home Affairs**

The Deputy Presiding Officer: We move to questions on the justice and home affairs portfolio. I remind members that, as questions 6 and 7 are grouped together, I will take any supplementaries on those questions after both have been answered.

### **Greenock Police Station (Replacement)**

1. Stuart McMillan (Greenock and Inverclyde) (SNP): To ask the Scottish Government whether it will provide an update on any progress that is

being made to replace Greenock police station and increase police officer numbers in Inverclyde. (S6O-05235)

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): The future of Greenock station and custody provision for the area remains under consideration by Police Scotland as part of its wider estates master plan, which we have supported by increasing the capital budget to £70 million. Police Scotland recognises the need for a local policing service for Greenock, while also recognising that the current police station is not fit for modern policing.

Decisions on the deployment of police officers are a matter for the chief constable. As of 30 September 2025, K division, which covers Renfrewshire and Inverclyde, had 618 officers. That is 18 more than in the previous quarter and 17 more than at the same point last year.

**Stuart McMillan:** Earlier this year, I was informed that the finance was available for a new station, but that the clear stumbling block related to the custody suite capacity, which has been and remains crucial to maintaining a fully functioning police station locally.

Will the cabinet secretary press the chief constable to make a decision on the location of a new police station for Greenock urgently, as serving officers are working in a facility that is not fit for purpose? Will she also impress on the chief constable—notwithstanding the figures that she has just provided—the need to have more police officers operating in Inverclyde as a result of the demands that have been placed on a stretched workforce?

**Angela Constance:** I very much recognise the member's on-going diligent advocacy for the addressing of concerns about the provision of a new police station to serve Greenock and surrounding communities.

It is important that Police Scotland delivers the correct solution for Greenock, which includes appropriate custody provision for the Inverclyde area, as well as delivering on its overall estates master plan to ensure that appropriate solutions are delivered for communities across Scotland.

Although I respect those operational responsibilities and boundaries, I will raise the member's concern about Greenock police station with the chief constable at our next meeting, as we regularly discuss the estates master plan, which has identified Glasgow and the west of Scotland as a priority.

Katy Clark (West Scotland) (Lab): I am glad that the cabinet secretary seems to agree that we should have a police station in Greenock. As she

said, one of the concerns that has been raised is about the loss of the custody suite.

More generally, does she agree that it is important that we continue to have custody suites in local areas? Will she use the opportunity of her meeting with Police Scotland to raise that issue and to impress on the organisation the importance of having local custody suites to reduce the time that is spent escorting people when they are taken into custody?

Angela Constance: I reassure the member that, in my discussions with Police Scotland, it has always conveyed to me that where custody suites are located is a key strategic decision. We all know that there will not be a custody suite in every community, but we must have the right spread of custody suites, in the right locations across the country, for the practical reasons that the member has outlined.

Jamie Greene (West Scotland) (LD): Police Scotland wrote to me to confirm that, if the Scottish Government was forthcoming with financial resource, it would direct that investment into a new police station. That was in December 2023. Is it the case that the Government has provided the financial resource but it has not been delivered by Police Scotland, or has the financial resource that Police Scotland asked for—and needs—not been forthcoming? If so, why not?

Angela Constance: As I outlined in my original answer, in this financial year, the Government increased the capital resource provision to the Scottish Police Authority. Where Police Scotland deploys that is entirely an operational matter. We are in the middle of planning for the Scottish budget, which will be announced at the start of the new year. However, I point out that the capital allocation from the United Kingdom Government is far from generous.

### **Fatal Accident Inquiries (Legislation)**

2. Bob Doris (Glasgow Maryhill and Springburn) (SNP): To ask the Scottish Government what its position is on whether the legislation that gives the Lord Advocate discretionary powers to instruct fatal accident inquiries, in certain circumstances, into the deaths of persons normally resident in Scotland who die overseas, is operating as intended. (S6O-05236)

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): The Scottish Government considers that the legislation is operating as intended. It provides the flexibility for an investigation and an FAI into the death of a person who is ordinarily resident in Scotland when the death occurs outwith the United Kingdom. Its purpose is to allow an FAI when the Lord

Advocate considers it appropriate and in the public interest.

Fatal accident inquiries into deaths overseas were always expected to be rare and none have been held since 2017. Significantly, however, the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 has enabled the Crown Office to conduct inquiries that were not previously possible, including post-mortems and the gathering of evidence, which gives families meaningful answers and reassurance.

**Bob Doris:** I acknowledge that the Lord Advocate has indicated that the 2016 act has allowed various investigative matters to be undertaken following overseas deaths, as the cabinet secretary has indicated. That has perhaps included post-mortems, statements from witnesses based in Scotland, and the requesting of information from abroad about inquiries that have taken place into the findings of investigations there. That is welcome.

However, to date, not a single FAI using the Lord Advocate's discretionary powers has taken place. When I campaigned with my constituent, Julie Love, that was not the situation that we intended. Given that fact, will the cabinet secretary outline whether the Government will consider reviewing the impact of the 2016 act on overseas deaths and whether any legislative or non-legislative improvements could be desirable in the future?

Angela Constance: I acknowledge the tireless campaign—led by Mr Doris's constituent, Julie Love—which was instrumental in securing the change in the law, so that fatal accident inquiries could be held following the death overseas of a person ordinarily resident in Scotland.

Of course, it is a discretionary power that rests with the Lord Advocate and was viewed at the time as a historic change that provided the legislative basis for the Crown to investigate and enabled the Lord Advocate to instruct an FAI when the circumstances, in her view, had not been sufficiently established and there was a real prospect that an inquiry would do so.

The issue is close to my heart and my constituency, and I assure Mr Doris that, as with all legislation and non-legislative measures, we keep the law under regular review to ensure that it continues to meet its intended purposes and operates fairly and effectively in the public interest.

Liam Kerr (North East Scotland) (Con): I note the cabinet secretary's position that the 2016 legislation is operating as intended, as we have just heard. However, no FAIs into deaths overseas have happened so far. Families such as that of Montrose man, Davy Cornock, have been told for

years that the issue will be sorted, but nothing has been delivered.

I acknowledge the point that has just been raised, but does the cabinet secretary believe that it might be time for a committee-led, post-legislative review of the 2016 act to ensure that it was—and remains—fit for purpose?

**Angela Constance:** That would be a matter for the relevant parliamentary committee. The Government would stand by to give evidence on that as required.

When the 2016 act was going through Parliament, it was acknowledged by Lord Cullen, who did the review that underpinned the act—and in evidence that the Scottish Government gave and in some of the contributions of members in the chamber—that an FAI into a death overseas would be rare. The reason for that is that, without the co-operation of the domestic authority overseas, formidable hurdles exist. Of course, we cannot compel witnesses who are outwith the United Kingdom to participate. I hope that I have articulated those formidable hurdles accurately and fairly to those who have lost someone, such as Mr Cornock.

Michael Marra (North East Scotland) (Lab): Things that are rare do happen, but the cabinet secretary has conceded that these fatal accident inquiries do not happen—indeed, none have happened. In a letter to me on 19 November, she said that

"there are currently no plans to amend the legislation."

I think that we are making some progress today on the idea that a review might take place—the question is how. The First Minister said to a journalist on 10 October that he entirely understands the concerns of my constituent in that area and that he

"would want to see those addressed."

Yes, a committee review would be one option, but what is the Government doing, in its own time and capacity, to address the issue of review? It cannot be satisfied that the legislation is meeting the needs of ordinary Scots.

Angela Constance: I accept that rare things do, indeed, happen on occasion. I have been up front and candid with Parliament that we have no current plans between now and the end of the parliamentary session to review the legislation.

Irrespective of whether an FAI is permissible under the 2016 act, there are formidable hurdles that would be difficult for any Parliament to overcome. Those relate to the primacy of investigation lying with the jurisdiction where the offence took place. Meaningful investigations by either the Crown Office and Procurator Fiscal

Service or Police Scotland are virtually impossible without the co-operation of the other jurisdiction.

I reassure members that, both as cabinet secretary and, indeed, as a constituency MSP, I have shaken the issue up and down and I always try to look at it. However, I believe that we all need to keep an open mind.

### **Adult Education Services (Safety and Security)**

3. Emma Harper (South Scotland) (SNP): To ask the Scottish Government, in light of reported protests outside a primary school in Glasgow, what support it is offering to Police Scotland, local authorities and other agencies to ensure the safety and security of those using adult education services. (S6O-05237)

The Minister for Victims and Community Safety (Siobhian Brown): No one in a school community—children and young people, school staff, families or other visitors—should experience intimidating or racist behaviour. Early in 2026, we will publish new guidance that supports a whole-school approach to addressing racism and racist incidents, which includes guidance on responding to parents, carers and families who experience racism in a school setting.

The right to peaceful public assembly and freedom of expression should never be used to justify any form of hateful, violent or otherwise criminal behaviour. We support Police Scotland in taking appropriate action in response to any criminal offences that are being committed at, or around, protests.

**Emma Harper:** Those who are not content with intimidating asylum seekers in temporary accommodation and threatening those who offer their solidarity have now turned their attention to primary schools that are offering ESOL—English for speakers of other languages—classes.

Will the minister assure me, the chamber and the communities that are being targeted by those with extreme views, that every step will be taken by Police Scotland and the judicial system to ensure the safety of individuals and guarantee their right to education? What discussions have taken place with the United Kingdom Government about its role in fanning the flames of hatred with its recent rhetoric?

**Siobhian Brown:** There is absolutely no place for prejudice, discrimination or racism in Scotland. The First Minister reinforced that message at the weekend, at the Scotlish Trades Union Congress St Andrew's day march and rally to stand up against racism, when he committed this Government to tackling prejudice, rooting out racism and leaving no community marginalised, isolated or vulnerable.

I am sure that Ms Harper will be pleased to hear that the Scottish Government and the STUC have launched the united workplaces project, which is backed up by £200,000 of Government funding, to support trade unions to promote equality and diversity in the workplace, to challenge discrimination and to build stronger links with communities.

I will ask the Minister for Equalities to write to the member regarding conversations with the UK Government.

John Mason (Glasgow Shettleston) (Ind): As the minister probably knows, Dalmarnock primary school is in my constituency. Will she confirm that parents going into school to visit teachers or attend ESOL classes do not need to be part of the protecting vulnerable groups scheme, and that parents should be able to access all schools?

**Siobhian Brown:** My understanding is that that is correct.

# Transgender Prisoners Policy (Court Proceedings) (Scottish Government Question Responses)

4. Douglas Ross (Highlands and Islands) (Con): To ask the Scottish Government for what reasons it is choosing not to answer any questions on the court proceedings in relation to its policy on transgender prisoners, which allows biological male prisoners to be housed in women's prisons, despite the Supreme Court's recent ruling, in light of section 5 of the Contempt of Court Act 1981 allowing matters of general public interest to be discussed. (S6O-05238)

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): It is the Scottish Government's long-held position that it would be inappropriate for the Scottish ministers to comment on live court proceedings. In all cases, we have an obligation to uphold the independence of the judiciary. We do not ever want the Government to be seen as interfering in the work of our independent courts. The appropriate forum for discussions on live litigation is the court, and that ensures that the proper respect is afforded to the judiciary and also to the litigants.

**Douglas Ross:** The cabinet secretary spoke about respect, but where is the respect if she and her Government are going to court to demand that biological men should still be housed in women's prisons when the Supreme Court ruling was crystal clear? They should respect the Supreme Court ruling.

Let us be very clear that that is not part of a long-standing convention. The First Minister said outside the chamber that, legally, he was not able to speak about the issue, and that was also the position of the cabinet secretary. We had to find

out the actual reason why they could not speak from their special advisers and press spokespeople, who said that ministers are choosing not to speak, rather than being legally barred.

Will the cabinet secretary find a backbone and tell us exactly why the Government is taking the matter to court? Will she be honest with the public, who want answers, about why taxpayers' money is being used to defend the Scottish Government's position, rather than it respecting the Supreme Court judgment?

**Angela Constance:** It is the long-held position of the Scottish Government, which mirrors that of United Kingdom Governments past and present, that it would be inappropriate to comment on live court proceedings.

On Mr Ross's more general point about compliance with the law, the Scottish Prison Service, as a public body, is required to comply with the Equality Act 2010 and other legislation, as are ministers. The SPS is clear, as are Scottish ministers, that we need to uphold the rights of all individuals while they are in custody.

Pauline McNeill (Glasgow) (Lab): Until the Scottish Prison Service recognises the Supreme Court ruling on the meaning of sex and the Equality Act 2010, it will not be complying with the decision. That means that it implements a policy that assesses those with a history of violence and manages that at its discretion. We have seen today that Girlguiding and the Women's Institute have already complied, so why not the Scottish Prison Service?

What mechanisms are in place to monitor and review the current application of SPS policy on the admission of transgender prisoners to women's prisons? Will the Government publish data on how often that policy has been applied?

Angela Constance: I will certainly consider the detail of Ms McNeill's question, but I hope that she can be reassured, at least in the short term, that there is, right across Government, a clear commitment to comply with the law, which includes equality legislation.

The Government has clearly stated that it accepts the ruling from the Supreme Court. As previous updates by colleagues have confirmed, a breadth and depth of work is taking place to review policies and practices across the piece, which is obviously applicable to the justice system. For example, work has already taken place with Police Scotland on its interim code on stop and search, and there has been a change to guidance in schools and to gender representation on public boards.

## Scottish Prison Service (Transgender Women Prisoners)

5. Michelle Thomson (Falkirk East) (SNP): To ask the Scottish Government what it considers to be an acceptable risk of harm as defined in the Scottish Prison Service policy on the admission of transgender women to women's prisons. (S60-05239)

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): When placing a transgender person in the estate, the SPS adopts an individualised approach to assess and manage all known risks that supports the health and wellbeing of everyone living and working in our prisons.

The operational guidance states that a transgender woman will be considered for admission into the women's estate only when

"she does not meet the violence against women and girls criteria"

#### and

"there is no other basis to suppose that she poses an unacceptable risk of harm to those housed in the women's estate."

That does not mean that there is any acceptable risk, but all risks are assessed and there is consideration of how they can best be managed in a prison setting.

The SPS manages some of the most complex and vulnerable people in our society, and I both recognise and appreciate the unique skills and wealth of operational experience that it utilises daily to keep our prisons safe.

Michelle Thomson: I put on the record that the policy is about placing biological men in women's prisons. Risk has two components: first, the chance of harm, and secondly, the nature of that harm. Most violence against women goes unreported. A male prisoner may have been convicted for certain offences, but any other history is not known. Does that constitute an acceptable risk? Many women in prisons suffer from trauma caused by male violence. Does fear and anxiety, halted recovery or retraumatisation constitute an acceptable risk? Does the removal of a female prisoner's right to safety, privacy and dignity constitute an acceptable risk?

Unless the Government is happy to tolerate harm to women, it must inform the Scottish Prison Service to remove the notion of acceptable risk of harm from its policy. Even better, it should surely be told to obey the law as confirmed by the Supreme Court.

Angela Constance: I will not repeat the answers that I have given to other members, but I again clearly state that there is an obligation that

all known risks must be considered and assessed. The point about unknown risks was reflected in the change to admissions procedures as part of the policy, because it was recognised that, when prisoners are being admitted to prison, the organisation can be time and information poor. There are additional layers of assurance to manage risk.

Decisions about risk are taken by risk management teams. They ensure that decisions are evidence based and focused on public protection and safety. Those teams are multidisciplinary and they bring together expertise so that there can be reliability in decisions that are very much focused on keeping everyone safe.

Sharon Dowey (South Scotland) (Con): The Supreme Court ruling was clear, and men should not be in women's prisons. Will the cabinet secretary outline what review mechanisms are in place once an individual is transferred into the female estate? In particular, how are any emerging risks identified and acted on? What criteria would trigger any reassessment or removal from the women's estate?

Angela Constance: As I have intimated, the SPS has formal risk management processes with partners. It utilises its experience of managing risk when placing a transgender person, and known factors such as convictions and behaviours—past, present and pending—are all assessed. When the SPS does not feel that it has received sufficient information about a transgender individual's history or past behaviours, that is also taken into consideration to inform appropriate placement.

### Adapted E-bikes and E-scooters

6. Craig Hoy (South Scotland) (Con): To ask the Scottish Government what discussions it has had with Police Scotland regarding the illegal use of adapted e-bikes and e-scooters. (S6O-05240)

The Minister for Victims and Community Safety (Siobhian Brown): Ministers and officials regularly meet Police Scotland and others to discuss the impact of the illegal use of e-bikes and e-scooters on local communities and the powers that are available to tackle the crime. That has informed action, including our campaign in the summer to encourage anonymous reporting through Crimestoppers. The Minister Agriculture and Connectivity, Jim Fairlie, and I met His Majesty's chief inspector of constabulary on the issue two weeks ago, and we continue to engage with the United Kingdom Government, which has the powers relating to off-road vehicles, including vehicle licensing.

Craig Hoy: In recent weeks, I have knocked on doors in towns including Dumfries, Annan and Lockerbie, and residents have repeatedly raised

concerns about the illegal and growing use of escooters and souped-up e-bikes on roads and pavements. One elderly constituent in Annan said that she was scared to leave her house in case she was involved in a collision with youths who are often clad in hoodies or balaclavas. Those concerns are shared by Police Scotland and the Royal Society for the Prevention of Accidents, which I met recently to discuss the problem. Will the minister now ensure that the police in Dumfries and Galloway have the funding, the manpower and the support to tackle this mounting problem before someone is killed?

**Siobhian Brown:** I am aware of Dumfries and Galloway's community policing unit, which was out recently leafleting residents about the dangers of e-scooters. We support Police Scotland and its partners in dealing with the misuse of vehicles. Last week, Police Scotland confirmed that anyone who is found riding a non-compliant e-bike or e-scooter on public roads is likely to have it seized by officers.

It is important to highlight that, this year, we have increased police funding to £1.64 billion, which is an increase of £90 million, in order to support police capacity and capability. I note that Mr Hoy did not support that budget or vote for it.

## E-bike Users (Antisocial Behaviour and Criminality)

7. **Sue Webber (Lothian) (Con):** To ask the Scottish Government how it plans to respond to the reported increase in antisocial behaviour and criminality associated with people using e-bikes. (S6O-05241)

The Minister for Victims and Community Safety (Siobhian Brown): As I said earlier, our focus is on supporting the police to tackle that issue effectively. Enforcement is a matter for Police Scotland, and local policing teams are best placed to identify misuse and work to prevent future incidents. That has informed action, including a campaign to encourage anonymous reporting through Crimestoppers.

I was pleased to note that, last week, Police Scotland partnered with the Royal hospital for children and young people to launch an awareness campaign that urges parents and carers to consider the dangers that e-scooters and e-bikes present before purchasing one for a child this Christmas.

**Sue Webber:** I thank the minister for that response and for the letter that I received on Monday. She has used some of the content of that letter to respond to me and to Mr Hoy this afternoon.

Local authorities are already strained in trying to provide funding for youth work, and police budgets are stretched. Although I welcome the initiatives and operations that local authorities and the police are conducting, gangs and criminals have unlimited resources, and we need more than the occasional police operation—we need a serious plan that is targeted at this growing threat to public safety on our streets. Will the minister commit to prioritising that?

**Siobhian Brown:** Police Scotland has advised that the current powers under the Road Traffic Act 1988 and the Antisocial Behaviour etc (Scotland) Act 2004 are sufficient to respond to the misuse of off-road vehicles. I know that the member has attended several of our meetings in the past year and is aware of all the work that the Minister for Agriculture and Connectivity, Jim Fairlie, and I are doing.

I highlight a really good example that is going to committee at the City of Edinburgh Council tomorrow, of which the member might be aware. Council officers have proposed a targeted package of actions to address the misuse of quad bikes, dirt bikes and other non-compliant vehicles. That would be run through a cross-agency community interest partnership with Police Scotland, which would deploy mobile closed-circuit television in hotspot areas. We know that the problem exists across Scotland, but the situation in rural areas is very different from that in cities. That package of actions, if it is approved, will be a really good example, and other local authorities could follow suit.

The Deputy Presiding Officer: I apologise to those members whom I was unable to call, including the member who lodged question 8, but we have run out of time and I need to protect the rest of the afternoon's business. That concludes portfolio question time on justice and home affairs.

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