The rest of this Official Report will be published progressively as soon as the text is available.

Scottish Parliament

Tuesday 17 February 2026

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

Time for Reflection

The Presiding Officer (Alison Johnstone): The first item of business is time for reflection. Our time for reflection leader today is the Rev Ruth Harvey, leader of the Iona Community.

The Rev Ruth Harvey (Iona Community): Good afternoon, friends. I join you today from the relative peace of the island of Iona. As we look around at our world, however, there can be no doubt that we live in anguished and unsettling times. Yet still there is hope, so a question that I ponder, and one I would like to explore and share with you today, is this: to what can we pin our hopes today?

In 1937, when the world was catapulting towards war, a world conference was convened by a Quaker, Rufus Jones. In preparation, he wrote:

"I sincerely hope for good results, but I have become a good deal disillusioned over 'big' conferences and large gatherings. I pin my hopes to quiet processes and small circles, in which vital and transforming events take place."

To what can we pin our hopes?

I pin my hopes to the small circles and quiet processes that are created when people of goodwill gather to pray, reflect, welcome the stranger and take action together for peace and justice. Such groups flourish across our lands and are signs of hope in the midst of storm.

I belong to the Iona Community—a global, dispersed Christian community working for justice and peace. Rooted in Scotland, our worldwide membership meets monthly in just such small circles. We share concerns, we pray together and we commit ourselves to working on actions for justice.

I also pin my hopes to quiet processes where people with varying views can find a safe place for expansive conversations. A few years ago, I was honoured to co-convene, on behalf of the Parliament, Scotland's Climate Assembly. The model of citizens assemblies offers us all a respectful process to hear diverse voices and to understand, while not necessarily agreeing with, those whose views differ from our own. As we approach local elections, my hope is pinned to the possibility that diametrically opposed views may be heard with respect and that minds and hearts may be changed for good.

Notwithstanding the need for passionate chambers and large gatherings, it may be that where two or three gather in the name of love, such vital and transforming events can take place.

Today, at the start of the season of Lent, I pin my hopes to stories of love told in sacred texts and, in that, I pin my hopes to the witness of Jesus Christ, who reminds us that even in the smallest grain, in the tiniest seed, it is there that we find the entirety of the peace, love, justice and hope of our Creator.

To what do you pin your hopes?

Business Motion

14:04

The Presiding Officer (Alison Johnstone): The next item of business is consideration of business motion S6M-20825, in the name of Graeme Dey, 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 17 February 2026—

delete

7.45 pm Decision Time

and insert

The rest of this Official Report will be published progressively as soon as the text is available.

6.45 pm Decision Time

(b) Thursday 19 February 2026—

after

followed by Scottish Government Debate: Scottish Income Tax Rate Resolution 2026-27

insert

followed by Financial Resolution: Ecocide (Scotland) Bill

followed by Reappointment of the Chair of the Scottish Fiscal Commission—[*Graeme Dey*.]

Motion agreed to.

Topical Question Time

14:04

NHS Ayrshire and Arran

1**. Brian Whittle (South Scotland) (Con):** To ask the Scottish Government whether it will provide an update on its decision to escalate NHS Ayrshire and Arran to stage 4 of the national improvement framework. (S6T-02902)

The Cabinet Secretary for Health and Social Care (Neil Gray): As notified to Parliament on Friday through a Government-initiated question, the decision was made by Government, following careful consideration of NHS Ayrshire and Arran's position, for the board to be escalated to stage 4 of the NHS Scotland support and intervention framework, for finance, specifically with regard to financial sustainability; financial management and control; and financial governance and leadership.

The move to stage 4 provides NHS Ayrshire and Arran with support to improve financial sustainability. That will include a Scottish Government-led assurance board, chaired by a Scottish Government director, which will oversee progress and report to the chief operating officer and the director general to monitor improvements against key challenges.

I have a great deal of confidence in the interim chief executive, Gordon James, and his leadership team, and we will work closely with them over the coming months to return the health board to a sustainable financial footing.

Brian Whittle: One of the things that we may not consider when something like this happens is the impact on staff with regard to their morale and how the decision impacts their day-to-day work. I know that meetings have been held, but the staff are still no further forward in their understanding of the position. What more can the Scottish Government do to ensure that the staff are reassured?

Neil Gray: I am very grateful to Mr Whittle for raising that point, which I understand; I place a lot of importance on that aspect. I recognise that, when there is the perception of negative implications of a board's position, that has a substantial impact on staff, particularly with regard to the increased frustrations that may be brought to bear on them in their front-line service delivery. Mr Whittle's recognition of that is welcome.

We have support in place for staff who are going through such processes. I have confidence that Gordon James is ensuring that he and his leadership team are visible and providing leadership locally, and that staff are getting the requisite support that they need at this time.

Brian Whittle: We knew that the decision was coming. The Scottish Government is very keen on telling us about its record investment in the health service and the record numbers of nurses, doctors and consultants, yet the outcomes continue to slide. We have 14 health boards, 32 councils and 30 integration joint boards, which are supposed to be there to deliver healthcare, and yet we continue to see a slide in our health service in this country.

When will the Scottish Government recognise the need for a joined-up, revolutionary approach to healthcare that will include the deployment of significant healthcare and a reduction in the number of people who come to the front door of our healthcare services?

Neil Gray: Mr Whittle makes a fair point in that we have—as he said—provided record funding and record staffing levels in the national health service, but that is meeting with escalating demand. He is right, therefore, that we need to point to reform and improvement to ensure that we have a sustainable health service going forward. That is why I am pleased that he has engaged so constructively with the reform documents that we set out last year. The population health framework, the operational improvement plan and the service delivery

framework are all geared towards ensuring that we optimise the resource and capacity in the system and that we reduce demand, led in particular by the population health framework, a great deal of which Mr Whittle and I agree on—for example, the opportunity to prevent ill health and its escalation, through physical activity. There are a number of aspects in train in that reform and improvement journey arising from strategies that the Government has already published and is determined to deliver on.

Carol Mochan (South Scotland) (Lab): Can the cabinet secretary explain not only how the Government will fill the massive number of carer vacancies, as is required to end delayed discharge, but how it will better support existing staff who are working flat out to provide care to those who are stuck in hospitals?

Neil Gray: I thank Carol Mochan for her question, which recognises that not everything that arrives at the door of the health service is driven by issues for which the health service has a responsibility. She points to social care as one element of the whole-system approach that needs to be taken. That is why we are working very closely with the Convention of Scottish Local Authorities and why we have made further investments in social care in the current budget.

We are taking steps in relation to our investments in social care pay, as well as other elements of the budget, such as terms and conditions and the ability for social care staff to come forward with collective bargaining arrangements in order to make improvements.

I say gently to Ms Mochan that these matters could be improved if we were also able to attract social care staff here. She will be aware of the 77 per cent reduction in health and care visas that have been offered and the obliteration of the care route for international workers to come and work in this country. We could be working closer together to encourage United Kingdom colleagues to allow international workers to come and work in the social care sector in Scotland.

Palliative Care

2. **Alex Rowley (Mid Scotland and Fife) (Lab):** To ask the Scottish Government what its response is to new figures on unmet need for palliative care that were published by Marie Curie on 16 February, showing that almost one in three people in Scotland die with unmet palliative care needs. (S6T-02900)

The Minister for Public Health and Women's Health (Jenni Minto): I thank Marie Curie for that report and recognise its important work in advocating for the palliative care community.

The Scottish Government's "Palliative Care Matters for All" strategy highlights the changes that are needed to improve the experiences of people of all ages with life-shortening conditions, and their families and carers. It is focused on supporting enhanced delivery of palliative care in communities across Scotland. Marie Curie was involved in developing the strategy with the Scottish Government, and I have asked my officials to meet Marie Curie to discuss the figures that are contained in the report.

Alex Rowley: Marie Curie said that, without action, the number of people dying in Scotland with unmet palliative care needs will continue to increase. I believe that, over the recent period, in relation to the Assisted Dying for Terminally Ill Adults (Scotland) Bill, most members in the chamber have received heartbreaking emails from constituents, telling us of their experiences when loved ones died without the right support in place. Does the minister accept that every individual who is in need of palliative care should be able to access it when they are dying?

Jenni Minto: Very simply, yes, I do accept that. That is why I was very proud to introduce the "Palliative Care Matters for All" framework in September last year. In my ministerial foreword, I noted that, in Scotland, we still struggle as a society to talk openly about serious illness and death. Societal taboos around dying and stigma or fears about the withdrawal of treatment can lead to the marginalisation of palliative care services for adults and children. That is why I am very pleased that Marie Curie has done this work and that Mr Rowley has raised it in the chamber.

Alex Rowley: I welcome the fact that the minister says that her officials are going to meet Marie Curie, because the organisation is very clear that the situation does not need to be this way and it is calling for legislation to enshrine in law a right to palliative care.

Does the minister agree that every person must have the right to dignity at the end of life and access to quality palliative care? Will the Government therefore support the introduction—at some point—of legislation that gives everyone the right in law to palliative care?

Jenni Minto: Just on Friday, I was having exactly this discussion with one of my constituents. It is really important for us to have these discussions, which is why I am very pleased that the Scottish Government has good conversations and dialogues with Marie Curie on palliative care.

I underline again that the Scottish Government and I want everyone in Scotland, regardless of age, diagnosis or location, to have access to timely, high-quality and person-centred palliative care. I was very thankful for the consultation that Marie Curie did on the right to palliative care, alongside our colleague Miles Briggs and others.

As I have said before, we have the "Palliative Care Matters for All" strategy and its five-year plan, and I want to see how that develops, alongside the discussions that we will continue to have with members in the chamber and with Marie Curie.

The Presiding Officer (Alison Johnstone): There is much interest in this question. Concise questions and responses are appreciated.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Given that I chair Scotland's cross-party group on palliative care, and in the light of our ageing demographic, the level of unmet need in palliative care is not wholly surprising to me. Marie Curie has helped to push forward our debate on resourcing palliative care. We must identify and quantify the gap in provision as part of any strategy to fill that gap, and we need a baseline. Does the minister agree that our long-term strategy to address the palliative needs gap will require a long-term approach to uplifting resource in all aspects of palliative care, as well as encouraging innovation and service reform across all sectors?

Jenni Minto: I recognise the work that Mr Doris has done in this area. Outcome 3 of our "Palliative Care Matters for All" strategy notes that national and local leaders need to have relevant data to inform the planning and delivery of services, so I agree with his points.

Miles Briggs (Lothian) (Con): The report by Marie Curie is a wake-up call for us all regarding unmet need. Does the minister recognise that, in the 2025-26 budget, there is currently a shortfall of £3.9 million in the amount that the sector asked for to be able to deliver parity in pay awards between national health service staff and hospice staff? What plans does the Government now have to make progress on a national funding framework ahead of the election?

Jenni Minto: In the stage 1 budget debate last week, it was noted that the Scottish Government has increased its funding for hospices specifically to cover the difference in pay compared with NHS staff. We have increased the budget to £9.4 million. I am pleased to have supported that increase and that it gained support from members across the Parliament.

Michael Marra (North East Scotland) (Lab): During the stage 1 debate on the Assisted Dying for Terminally Ill Adults (Scotland) Bill, Liam McArthur said:

"Investing in improved quality of and access to palliative and hospice care… is imperative"—[*Official Report*, 13 May 2025; c 15.]

Given the stark reality that the Association for Palliative Medicine has set out, MSPs might question that rhetoric when voting at stage 3. Palliative care is not an available alternative for far too many people and, under the proposed law, an early death might be a choice that people feel compelled to make. Will the minister confirm whether any additional allocation was made in the Scottish spending review to strategically enhance the quality of and access to palliative care?

Jenni Minto: I have been clear, whenever I have answered questions about palliative care and assisted dying, that there are no either/or questions and that we need to ensure that investment is in place. As Mr Marra knows, funding is transferred from the Scottish Government to support health boards, which also provide a level of palliative care. As I have just indicated to Mr Briggs, we have increased the budget that will be available to hospices in the next financial year. I strongly feel that it is not an either/or question and that we must support people to live their best lives and to have the most dignified deaths that they can.

Edward Mountain (Highlands and Islands) (Con): The lack of palliative care is keenly felt in rural areas, especially across the Highlands. Some people need to travel hundreds of miles to get palliative care and are often separated from their family. We heard on television the other night that the lack of palliative care might give those people no option but to opt for assisted dying. That is surely not the position that we want to be in.

Jenni Minto: I agree with Edward Mountain that that is definitely not the situation that we want to be in. I, too, represent a rural constituency, which has islands as well, so I keenly feel that point. I have just returned from Inverness, where I was pleased to see big advertising hoardings for Highland Hospice and also one of its vans driving around the city. That hospice is important. We must also remember that hospices are not simply buildings; they are also about the people who go out to communities to support families at an important time in their lives.

Liam McArthur (Orkney Islands) (LD): The minister might be aware of the stage 1 evidence that the Health, Social Care and Sport Committee heard from witnesses from Victoria and Queensland, which

highlighted that improved investment in and access to palliative care followed the introduction of assisted dying laws in those states. That confirmed the conclusions of the House of Commons Health and Social Care Committee's 2024 report, which found no evidence of a deterioration in access to palliative care in any of the jurisdictions in which assisted dying laws have been introduced.

Will she reinforce that it is not a case of either/or? We need to improve both access to palliative care and the choice and compassion that we offer to terminally ill Scots who desperately need it.

Jenni Minto: As Mr McArthur will know, the Scottish Government is neutral on the issue of assisted dying, and the vote on the bill is a matter of conscience.

I absolutely agree that it is not an either/or situation. We must ensure that we are providing everyone who lives in Scotland with the appropriate level of palliative care, if that is their choice.

Roz McCall (Mid Scotland and Fife) (Con): I note the minister's comments that this is not an either/or situation. However, Marie Curie's research shows that 18,500 people die with unmet palliative care needs each year, and the Association for Palliative Medicine warns that 40 per cent of doctors might leave the speciality if assisted dying is introduced. Does the Government accept that losing those clinicians would widen the existing gap in end-of-life care? What assessment has the Government made of the impact on the workforce during the passage of the Assisted Dying for Terminally Ill Adults (Scotland) Bill through Parliament?

Jenni Minto: I am afraid that I cannot answer the second part of Roz McCall's question. However, I can be clear that the staff in our hospitals whom I met when I launched "Palliative Care Matters for All", and more widely, are absolutely focused on ensuring that they provide the best palliative care or end-of-life treatment. That is really important.

We, in this chamber, need to come together to work out the best way to support the strategy that the Scottish Government launched last year, which I am sure Ms McCall will have read, and the number of outcomes that are in it. That focuses very much on ensuring that we have the right outcomes for people and the right staff complement to support those families.

Stephen Kerr (Central Scotland) (Con): I listened very carefully to the answer that the minister gave to Alex Rowley's last question, which was a repeat of Marie Curie's request for a right to palliative care in law. Will the minister please respond to the question that Alex Rowley asked her? Does she support the right in principle and in practice? If she does, she will realise that the gap between what is described in the Marie Curie report needs to be filled pretty quickly.

Jenni Minto: In Scotland, everyone has a right to healthcare, including palliative care. The key information from the figures is that we must recognise as a society that we need to support people. That is why "Palliative Care Matters for All" is probably one of the most important documents that I have introduced in my role as Minister for Public Health and Women's Health.

Peter Murrell (Trial Date)

3. **Douglas Ross (Highlands and Islands) (Con):** To ask the Scottish Government whether anyone who works for the Scottish Government, including ministers, special advisers or civil servants, was involved in discussions concerning the postponement of the trial of Peter Murrell until after the Scottish Parliament election in May. (S6T-02896)

The Minister for Parliamentary Business and Veterans (Graeme Dey): There have been no discussions. Scheduling of trials is a matter for the independent judiciary and the Scottish Courts and Tribunals Service.

Douglas Ross: My question was worded very specifically because we have almost 20 special advisers, almost 30 Government ministers and more than 9,000 civil servants in the Scottish Government. Given Graeme Dey's categorical reassurance that none of those almost 10,000 individuals had any involvement or discussions at all, can he update Parliament on how he was able to assemble that information on almost 10,000 individuals in the past couple of days? If he has not done that, has he just come here to try to fob off the Parliament, which is a signal of this corrupt Government from a corrupt party of government?

Graeme Dey: I utterly refute the allegations in that commentary from Douglas Ross, which is typical of his approach to many subjects.

Let me be absolutely clear: this is a live court case, so I strongly suggest that all of us should be cautious about our comments in relation to it.

I reiterate that the scheduling of trials is a matter for the independent judiciary and the Scottish Courts and Tribunals Service. It is a matter entirely for the judge to determine the date for preliminary hearings and for trials. I reiterate that there have been no discussions of the nature that Mr Ross implied in his original question.

Douglas Ross: The minister is still avoiding saying it. Has he gone round almost 10,000 people in the past couple of days to check whether they had discussions about that or not? If he has not, he cannot possibly give that categorical response.

This comes down to transparency, because it stinks—it absolutely stinks—that an accusation that was first made before the 2021 Scottish Parliament election will now not come to court until after the 2026 Scottish Parliament election. Does the minister not even realise, or does he not simply accept, how bad that looks for his party, which is the party that is in government? Because of the delay and the postponement, the reporting restrictions cannot now be lifted until after the Holyrood election. Will he at least accept that his party benefits from that?

Graeme Dey: As a Scottish Government minister, I take very seriously my responsibilities and the need to respect the processes that cover our justice system. I am not going to be dragged into a to-ing and fro-ing, particularly under the terms that Mr Ross uses so typically. I want to make it absolutely clear that an independent process is followed in all these things, which is overseen by the Lord President. There have been no discussions of the type that Mr Ross suggests.

The Presiding Officer: That concludes topical questions. I will allow a moment or two for front benches to organise themselves.

Freedom of Information Reform (Scotland) Bill: Stage 1

The Presiding Officer (Alison Johnstone): The next item of business is a debate on motion S6M-20815, in the name of Katy Clark, on the Freedom of Information Reform (Scotland) Bill at stage 1. I call Katy Clark, the member in charge, to speak to and move the motion.

14:26

Katy Clark (West Scotland) (Lab): It is almost 25 years since the passing of the Freedom of Information (Scotland) Act 2002, also known as FOISA. My bill is not a criticism of that act, which has been a great success. Indeed, the same voices who campaigned for that legislation have been campaigning for the bill, such as the Campaign for Freedom of Information in Scotland and the late Jim Wallace—a prominent freedom of information campaigner who took FOISA through the Scottish Parliament.

In May 2020, as a result of campaigning for freedom of information reform along the lines that are being proposed today, the Standards, Procedures and Public Appointments Committee produced a report with a range of recommendations and concluded that, although the 2002 act had significantly improved transparency, an urgent update of the law was needed. The provisions of the current bill were based on that committee report, the recommendations of all four Scottish Information Commissioners who have held that post since the 2002 act was passed, the consultation on the proposal for the bill and previous consultations.

The bill reflects proposals from freedom of information campaigners, FOI practitioners and the Information Commissioners. The bill would close loopholes, strengthen the power of the Information Commissioner and address the reduction in freedom of information coverage that has taken place since the 2002 act. Significant work has been carried out with the Information Commissioner, his policy and legal experts and others to ensure that the bill is workable.

I understand the concerns that have been raised about parliamentary time, but my concern is that no proposals have been brought forward by the Scottish Government since the 2020 committee report. I fear that, if the bill fails to pass stage 1 today, we will have the same debate again in five years' time, still with no proposals forthcoming from Scottish ministers.

Whether it is in local government, justice, transport or social care, private companies have increasingly become major providers of public services, but they are not covered by current freedom of information laws. For example, when ferry services are publicly owned and funded, they are covered by freedom of information legislation, but that is not the case when they are publicly funded but run by private providers such as Serco NorthLink Ferries. Council house issues were previously subject to freedom of information but, when council houses were subject to stock transfer to bodies such as housing associations, that was no longer the case. It took 13 years of campaigning before information rights were reinstated by the current minister.

In most other areas, rights that have been lost over the past 25 years still have not been reinstated. The Public Audit and Post-legislative Scrutiny Committee in the previous session of Parliament and the Standards, Procedures and Public Appointments Committee, in its stage 1 report on the bill, were right to conclude that

"legislation is now needed to update the freedom of information regime in Scotland"

and that the Scottish Government has been slow to exercise its powers under the 2002 act.

The Scottish Government has been asked to introduce legislation over a number of sessions of Parliament, but it has failed to do so, which is why I introduced this member's bill. I was approached in 2021, when I was first elected to the Parliament, and asked whether I would proceed if the Government would not.

I welcome the Standards, Procedures and Public Appointments Committee's support for some of the bill's provisions. It supported a requirement for the Scottish Government to consider proposals from the Scottish Information Commissioner to extend the number of bodies that need to comply with freedom of information law.

Graham Simpson (Central Scotland) (Reform): Does Katy Clark agree that the Government could have taken on the bill, as it could with any member's bill? It chose not to, which shows that it has no appetite for this.

Katy Clark: I fully agree with that.

The committee backed bringing companies that are jointly owned by the Scottish Government and other bodies into the scope of freedom of information law and recognised that the First Minister's veto power is unnecessary. Of course, the First Minister has refused to rule out using the veto in relation to various current court cases. The committee recognised the benefit of other provisions in the bill, such as those on statutory freedom of information officers and greater enforcement powers for the Information Commissioner.

The bill includes provisions that were recommended by the Public Audit and Post-legislative Scrutiny Committee in the previous session of Parliament on a legal duty for proactive publication. That is in line with best international practice, was recommended by all four people who have held the post of Information Commissioner and is in accordance with codes of practice that are provided by the Information Commissioner.

The bill includes a new offence of destroying records with the intent to prevent disclosure before a freedom of information request is made. That provision mirrors existing offences that relate to the period after a freedom of information request has been made. That power is needed and is supported by the Information Commissioner, but it has a high test of criminal intent and would be used only in extreme cases.

The bill would also enable the Parliament's committee system to act when the Scottish Government fails to do so. For example, that would mean that, if the Scottish Government failed to introduce proposals to extend freedom of information law to the whole care sector or, indeed, parts of it, or even one or two organisations, a committee could make proposals on that.

I look forward to hearing members' contributions. I will address some of the other issues that are connected with the bill, such as that of costs, in my closing speech.

I move,

That the Parliament agrees to the general principles of the Freedom of Information Reform (Scotland) Bill.

14:33

Sue Webber (Lothian) (Con): Freedom of information is not an abstract constitutional principle; it is the cornerstone of public trust in Scotland's institutions, and it is how people understand what their Government is doing, how decisions are made and whether power is being exercised responsibly. However, despite clear and compelling evidence that our freedom of information framework is outdated and has been outpaced, the Scottish Government has consistently failed to modernise it.

The Standards, Procedures and Public Appointments Committee could not have been clearer: there is a need for FOI reform. The original 2002 act was designed for a totally different era—before digital comms, before arm's-length organisation service delivery and before the complex landscape of publicly funded but not publicly listed bodies. The world has moved on, and Scotland's FOI regime has not kept pace.

What we have witnessed from the Scottish Government over recent years is a refusal to accept that reality. Ministers insist that the fundamentals are still fit for purpose, yet we heard the Information Commissioner describe the pace at which they are bringing new bodies under FOI as "glacial". Stakeholders told us that the publication scheme is outdated and ineffective. Public functions remain exempt simply because they sit outside traditional structures. None of that is fit for purpose.

Freedom of information is supposed to empower the public, not exhaust them. It should encourage transparency, not create barriers to it. I give credit to Katy Clark for taking on the work, because nobody else had any appetite to do so. She has done so because the Scottish Government has simply chosen not to. Although it is true that many elements of the bill need further refinement—that is a euphemism—the need for reform is not in dispute. It is urgent, overdue and undeniable.

We, in the Conservatives, find ourselves between a rock and a hard place today. The stage 1 report sets out the substantial and complex work that would be required to make the bill fully workable, future proofed and comprehensive, and the time that is left in this parliamentary session is extremely tight. Some might call it legislative constipation.

At the same time, constituents are watching. One wrote to me to say:

"It feels like every time FOI comes up, Parliament asks for more time while the law gets older and weaker."

The frustration is real, and it reflects a wider public concern that delay looks a lot like protecting the Government from scrutiny.

I have lodged an amendment that reflects the reality that is before us. It would mean that, if Parliament agreed to the principles of the bill, we would also recognise

"the time pressure in the current parliamentary session and the views in the stage 1 report, including that Freedom of Information reform"

might ultimately need to be addressed in the new parliamentary session. That is not backing away from reform; it is being honest about the scale of the task ahead.

Let me be clear that the Scottish Conservatives will vote for the bill at stage 1. We will do so because the principles are sound and because Scotland cannot afford more drift. However, supporting the principles does not erase our concerns, and we are deeply worried about the sheer length of time and the level of work that will be required to resolve the issues that were identified by the committee. Progress must be real and not symbolic.

The public are watching the debate more closely than some in the chamber might realise. They demand transparency, not excuses. They expect us to strengthen their right to know, not to circle the wagons and shield the Scottish Government from scrutiny. The truth is that, every time FOI reform is delayed, resisted or redirected into yet another holding pattern, it reinforces the perception that those in power are more interested in protecting themselves than in serving the public interest. People can see the Government dragging its heels. They can see the areas in which loopholes remain open and enforcement powers remain weak, and they can see when proactive publication is discussed but never delivered. They rightly ask why, if we believe in openness, we will not modernise the law that guarantees it.

Let me be clear: this Parliament has a duty not to ministers or departments but to the people of Scotland. They are entitled to a system that is modern, transparent and future proofed. They are watching what we choose to do today, and they will judge us not on our words about transparency but on whether we deliver it for once.

By supporting the bill and my amendment today, while being frank about the reality of what remains to be done, we keep the pressure on the Scottish Government. We send a clear message that FOI reform cannot be allowed to drift into irrelevance, and we reaffirm that the public's right to know must be strengthened, modernised and defended, both now and in the next parliamentary session.

I move amendment S6M-20815.1, to insert at end:

", but, in so doing, highlights the time pressure in the current parliamentary session and the views in the stage 1 report, including that Freedom of Information reform should be addressed in the next parliamentary session."

14:39

Martin Whitfield (South Scotland) (Lab): I rise as convener of the Standards, Procedures and Public Appointments Committee. I thank everyone who contributed to the committee's scrutiny of the bill at stage 1. We had the opportunity to hear from academics and public bodies, and from information requesters and those who respond to them. We heard from the Scottish Information Commissioner, the minister and Ms Clark, the sponsoring MSP for the bill. In this speech, I will set out the committee's main conclusions on the bill.

The bill proposes alternative mechanisms for designating public bodies under the Freedom of Information (Scotland) Act 2002 on the basis that the Scottish Government has been slow in using its powers in that regard. That view was shared by many stakeholders, with the commissioner describing the pace of designation as "glacial". The committee had no concerns about providing for the Government to consider the

commissioner's proposals on designations. However, we had reservations about the proposals for the Parliament to have the power to designate. In our view, the process for using such a power has not been sufficiently considered or laid out in the bill, so we cannot determine whether the power would deliver a faster pace of designations or lead to more designations.

Similarly, greater detail is needed on the proposal for the Parliament to scrutinise the Government's section 5 reports on designation.

Several of the bill's provisions are aimed at improving compliance with information requests. The bill proposes that the limit of 20 working days for compliance be paused, rather than reset, when a public body seeks a clarification. We heard that some requesters might have experienced clarifications being used as a delaying tactic, but there is a lack of data to determine the extent of such practice. Although some stakeholders thought that the proposal would improve the relationship between public bodies and information requesters, others cautioned that it could lead to poorer responses and have an impact on front-line services. We think that further detailed work is needed to assess the impact that such a change might have.

Although we saw merit in the proposals for providing the commissioner with greater powers, particularly the power to require individuals to give evidence, we thought that such matters also required more detailed consideration by the Scottish Government. However, we were not persuaded by the Government's argument that the First Minister's veto power should be retained, because other safeguards exist regarding the disclosure of sensitive information.

The bill intends to promote a broader cultural change in public bodies towards greater openness and transparency. Provisions such as those introducing proactive publication, requiring authorities to create a statutory FOI office role and introducing a new offence relating to the destruction of information could all be seen as part of such cultural change. However, we had concerns about whether the bill could deliver that change.

We note the arguments for the presumption in favour of disclosure in section 1, but the necessity and material effects of the change are unclear, given that stakeholders noted that there is already such a provision in FOISA.

Furthermore, although we agree that introducing a proactive publication duty would reflect the original intention of FOISA, we note the concerns of stakeholders about the potential costs and challenges of the proposal. Again, we think that further consultation is required. We found the financial memorandum to be largely speculative on the potential for the proposal to lead to savings.

We did not think that the section 18 proposal to create an offence of destroying information with intent to prevent disclosure in the absence of an information request was an appropriate or proportionate approach to delivering cultural change.

Freedom of information reform is a substantial and complex endeavour. The work that Ms Clark has done on the bill has been incredibly valuable in highlighting the need for the freedom of information regime in Scotland to be updated. However, given the need for greater development of many of the bill's provisions, we do not think that the bill is the most effective vehicle for delivering that change. Instead, the committee considers that the Scottish Government should use its resources to take legislative action to update freedom of information law. If the Government is unwilling to do so, we suggest that a committee bill might be required in the next parliamentary session.

We agree with the need for freedom of information reform, but, for the reasons that I have set out, we do not recommend that the Parliament agrees to the general principles of the bill.

14:44

The Minister for Parliamentary Business and Veterans (Graeme Dey): In the extremely limited time that I have at my disposal, I will begin by acknowledging the significant contribution that Katy Clark has made to the debate on FOI rights and responsibilities. She is to be commended for ensuring that the Parliament has an opportunity to reflect on the successes of current FOI legislation and to debate areas in which improvements could be made.

I thank the Standards, Procedures and Public Appointments Committee for producing such a considered report. Although it found areas to support in the bill, it noted that there is not sufficient time in the current parliamentary session to carry out the substantial further work that would be required on it, as Sue Webber's amendment acknowledges. That is why the committee recommended that the Parliament does not agree to the general principles of the bill. I accept that recommendation, just as I accept Sue Webber's amendment,

which makes the same point. As Minister for Parliamentary Business, I can testify to how busy the Parliament will be with finalising legislation in the five weeks that we have left.

I want to be clear, however, that the Scottish Government believes that the bill and the committee's report provide solid foundations that will allow the Parliament to consider in the forthcoming session how it builds on freedom of information legislation.

Scotland has had strong—

Graham Simpson: Will the minister take an intervention?

Graeme Dey: Very briefly—if I get my time back, Presiding Officer.

Graham Simpson: Does the minister agree that the Parliament is not being asked to decide whether there is enough time to get the bill through? It is being asked to decide whether it agrees with the general principles of the bill, and that is all.

Graeme Dey: I am sure that Mr Simpson has been listening. If he listened to the points made by Sue Webber and the convener about the many issues with the bill, he would know that it would be impossible in the five weeks remaining in this session to undertake the tasks that have been laid out by the committee. That is the reality, and I am afraid that we have to deal in reality.

Scotland has had strong and internationally well-regarded laws on freedom of information for more than 21 years, and I pay tribute to Jim Wallace for his part in that. He transformed access to information about government and public services. Last year, more than 109,000 information requests were handled across the public sector, with 87.5 per cent resulting in the release of information. That shows that the legislation is delivering on its main purpose of providing information and developing a more open and transparent culture.

There are, of course, areas that can be improved on. FOI law has important strengths, but it is right that we consider areas for improvement. The extension of FOISA has been pursued far more actively in Scotland than in the rest of the UK. In 2013, coverage was extended to local authority culture and leisure trusts. In 2016, it was extended to grant-aided and independent special schools and private prisons. In 2019, it was extended to cover registered social landlords, bringing around 200 new bodies under FOISA. We are the only part of the UK to have done that. I acknowledge, as I did when Katy Clark raised the point at committee, that, much as a process is needed, it can be clunky at times. There are areas of the process that could be improved.

We are consulting on designating independent care homes and care-at-home providers, which would be the most significant extension to date and could mean that around 2,000 services that are delivered by around 1,000 different organisations would become subject to FOI law.

The committee recommended that today's debate should be used to set out plans to prioritise designations beyond the current consultation. That will be for a new Government and a new Parliament. However, for my part, I can say that we would set out a programme of work for considering extension to private and third sector organisations that deliver public services, drawing on the issues that were raised in discussions on the bill and working with stakeholders, including the commissioner.

There is, of course, no question but that FOI obligations place demands on resources, so we must take a well-considered and proportionate approach and ensure that any extension does not duplicate work but will add meaningfully to people's ability to access information without placing unreasonable burdens on organisations, particularly smaller organisations.

The Government is committed to strong FOI rights. We are consulting on the extension of the legislation and will lay a revised version of the statutory guidance for public authorities in the Parliament before the end of the current parliamentary session.

Again, I thank the committee and commend Katy Clark, who has restarted the debate on how we ensure that FOI legislation works well in Scotland.

14:48

Richard Leonard (Central Scotland) (Lab): It was the great French philosopher and civil rights campaigner Voltaire who warned:

"Don't let the perfect be the enemy of the good",

and that is the crime that we are being invited to commit in the Parliament this afternoon.

I have grown tired of members opting for inaction and mediocrity in place of action and ambition, or saying that we agree with these universal and immutable principles of democracy, of openness, transparency and accountability, but not here and not now.

We know that the provision of public services has become a mixed economy and that outsourcing is rife. It is because of that that, if we are to update our freedom of information, improve the statutory right of access to it, advance the proactive publication of how public money is used, defend public interest journalism and challenge the existing structure of power, we need to pass this reform bill today.

Bodies, including many transnational private corporations that deliver public services with public money, should be covered by freedom of information—of course they should. In fact, maybe that should be a condition of receiving public money or being awarded public contracts in the first place. Information, including data, should be published not just reactively but proactively. It is not a burden, it is not red tape, it is not an inconvenience or a distraction—it is a democratic right.

What we should have learned down the years is that our security and our wellbeing spring not from surreptitious secrecy but from open democracy, which is why many of us see this bill as an important antidote to the corrosion of trust in public life.

I am speaking in this afternoon's debate as a Labour Party representative, but my experience as the convener of the Parliament's Public Audit Committee is that there continue to be persistent data deficits and chronic information gaps right across the public sector in Scotland. When we conducted our inquiry into the ferries order at Ferguson Marine, we found that the Scottish Government's record keeping, up to and including meetings taken by the then First Minister, left a lot to be desired. We now know as well, because of the Covid public inquiry, of the deletion on an industrial scale of communications by SNP Government ministers, up to and including the current First Minister.

The culture change that the bill will help to drive is not just out there; it is in here—and we know that publicity is the best disinfectant. To the Minister for Parliamentary Business and Veterans, who tells us that the bill is timed out, I say: what about the Government's Covid emergency legislation, which we passed in a matter of days in 2020? What about the Government's deeply flawed Building Safety Levy (Scotland) Bill? Why is the minister pressing ahead with that and finding the parliamentary time for it? Why is it that the Government can find parliamentary time to pass legislation to collect rates on empty properties in days but there is no time to modernise our freedom of information laws in weeks?

This is member's bill in the name of Katy Clark, who is to be congratulated for getting it on the Parliament's agenda and for winning the argument. Let me make it clear to the Government, which seeks to wreck this bill today, that there is a movement out there demanding these reforms. It is a movement made up of campaigners who will not go away. If Parliament does not pass this legislation tonight—if the Government kills the bill today—it will return. We will see civil rights advance. We will see the veils of secrecy torn down by the people. We will see the triumph of hope and democracy. We will see the people empowered.

14:53

Patrick Harvie (Glasgow) (Green): It would not be a Richard Leonard speech if it did not begin with a quotation from a great philosopher. If I am lucky enough to be returned in the election I will miss those kinds of comments. I hope that somebody else will take up that tradition for him.

When discussing freedom of information, we sometimes suffer from a perception that FOI is still a new system or a new regime. It is clearly of the modern age but, as Katy Clark pointed out in the opening speech, it is nearly a quarter of a century since the system was designed. It was designed for an earlier era, both in terms of how public services are delivered and in terms of how modern data collection happens. I suspect that no one designing the FOI regime at the time would have been able to conceive of the sheer volume and breadth of data that public services now collect and have to manage—data that is now open to FOI.

The case for reform is therefore not new either. As Katy Clark mentioned, there were comments at the tail end of the previous session from the Public Audit and Post-legislative Scrutiny Committee, demonstrating

"clear weaknesses with the current legislative framework."

Referring to the work of the Parliament in this session, the committee recommended

"that the next Parliament robustly pursues the Committee's recommendations to ensure that the Scottish Government makes the necessary changes."

Well, the Scottish Government did not make those changes, so I strongly commend Katy Clark for the work that she has done in introducing her member's bill to try to move things along. I will certainly vote in favour of the general principles.

I thank Katy Clark for her work, and I thank the Government for engaging with me. As a member of a party that does not have a member on the lead committee, I took the time to engage with the member in charge and the minister. I thank the committee for its work, as well.

It is regrettable that a member's bill was necessary to try to achieve progress; there was a general consensus that reform is needed, and it would have been better delivered if Government legislation had been introduced. However, the Government has been slow to act, both in bringing forward reform and in exercising the powers that it already has to extend FOI to other bodies. Of the various elements of the bill, the granting of that power to the Parliament, in addition to the Government, is one of the most important, along with the shift in focus towards proactive publication and measures to take action against the destruction of information.

As far as the amendment goes, I recognise the lead committee's concern, particularly in regard to where we are in the past six weeks or so of the parliamentary session. We all understand why we have got to where we are and—I repeat—part of that is due to the Government's slowness to act. However, I understand the Government's concern about the need to have a system that balances the potential conflict of different legal duties. We would not want to pass legislation that made organisations unable to respect confidentiality, for example, or that would create a conflict between those duties and FOI duties.

We are where we are. I think that this will be a missed opportunity. It is fairly clear that the amendment is likely to have the majority of support in the chamber. I and my fellow Greens will abstain on it, but we will vote in favour of the motion, whether or not the amendment passes. It will be a missed opportunity, as the bill could have gone forward for scrutiny, if only to save time in the next parliamentary session.

Sue Webber: Will Patrick Harvie give way?

Patrick Harvie: I am afraid that I do not have time.

My party will make clear commitments. It is incumbent on every political party, including the SNP, to make clear commitments. If the SNP, reading the polls, expects to be returned as the Government in the next session, it will be particularly important that it gives a clear manifesto commitment about supporting a cross-party effort to bring forward the FOI reform that is so long overdue.

14:57

Jamie Greene (West Scotland) (LD): When trust in politics is pretty much at an all-time low, we should all be doing everything that we can to gain back that trust. It is a really bad look for any party, Parliament or Government to vote against extending freedom of information rights.

The stage 1 report on the bill concluded by saying that, although the committee agreed on the need for such reform—reform that should have happened years ago—it did not consider the bill to be the most effective way of achieving it. It also stated, as other members have, that we just do not have the time to do so. I completely disagree.

Scottish Liberal Democrats will be voting for the bill at stage 1. Why? It would provide a long-overdue and much-needed opportunity to make Scotland's public bodies more transparent. Those bodies too often hide behind redactions and bureaucratic points about what is or is not covered under the current, out-of-date legislation. Last year, the Information Commissioner received nearly 600 appeals after members of the public were refused the information that they had asked for in FOI requests. Thirty per cent of those were because the public body chose to withhold information. A further 35 per cent were because the body failed to respond to the request at all, and 10 per cent were because the public body claimed that it did not even hold the information. That is ridiculous and disgraceful. Therefore, the new crime of destroying records that would be introduced by Katy Clark's bill is much needed and would be very welcome.

The bill would resolve many of the outstanding issues with FOI legislation, not least because it would require public bodies to appoint a freedom of information officer who could be held to account for the openness and transparency of their organisation. This all matters, because FOI legislation gives the public, journalists and even we politicians the tools that we need to scrutinise public bodies in a way that no other method can, if we are honest about it, particularly when the parliamentary questions that we submit are responded to with one-line answers.

Mr Leonard spoke about the work of the Public Audit Committee. Some of the things that FOI requests have helped us to uncover have been on the front pages of newspapers for months. Those include the improper spending at the Water Industry Commission for Scotland, the golden goodbyes at Ferguson Marine and Caledonian MacBrayne, the cost overruns at the Cairngorm Mountain Railway and the credit card spending sprees at Historic Environment Scotland. All of that was uncovered under FOI, and Katy Clark's bill

will strengthen the ability of all committees and all members to properly scrutinise decisions, not least through its creation of a presumption in favour of disclosure.

I am not saying that FOI requests always give us good data. Pages 1 to 10 of the response to my latest FOI request about CalMac payoffs are all redacted. FOI is not the be-all and end-all, but underneath that black ink is information that we ought to have access to.

I am surprised by the Conservatives' reasoned amendment, because all that it has done, whether they meant it or not, is hand the Government a get-out-of-jail-free card.

Sue Webber: Will the member accept an intervention?

Jamie Greene: I just do not have time unless I can get it back, and I can see the Deputy Presiding Officer giving me a no to that.

I appreciate that Parliament will not have enough time to progress the bill during this session, but that is not Katy Clark's fault; it is a problem with this Parliament and Government. I gently suggest that the Conservatives should withdraw their amendment or vote against it. I know that that is a bit unorthodox, but I have done it myself. It is a bit awkward, but it would be worth it on this occasion, because I want to see the bill progress.

I am going to finish where I started. It will take more than a bill to repair trust in public bodies, but killing off the bill today would send the public a message that we are simply not up to the challenge. That is not a message that the Liberal Democrats are willing to send, so we will support the bill and vote against the reasoned amendment, and I plead with all members to do the same.

The Deputy Presiding Officer (Liam McArthur): We now move to the open debate.

15:01

George Adam (Paisley) (SNP): I thank Katy Clark for the way that she has gone about the business of progressing her member's bill.

Trying to sum up my thoughts on FOI in four minutes will be difficult, but I will be brutally honest. I should mention at this stage that I was the minister in post when Katy Clark originally published her bill and was at an FOI conference where I proposed my ideas about how we could move forward and she proposed hers.

My opinion, which I have shared before, is that the current FOI regime, which has been in place for 20 years, remains fundamentally sound. It provides a strong and enforceable right to know how the Government and other public services operate, while at the same time including safeguards to protect genuinely sensitive information. I have said those things numerous times before.

I say clearly at the outset that I am not against the idea of openness or the reform of FOI—some media outlets would probably have said otherwise when I was the minister, but that was a them problem and not a me problem. The question before us today, as many others have already said, is whether the bill, in its current form, is the right vehicle to deliver change and whether Parliament has enough certainty about what that would mean in practice across the public sector.

The evidence heard by the committee repeatedly returned to the central issues of cost, burden and uncertainty. The bill goes well beyond making small technical adjustments to introduce new statutory obligations across the public sector, including requirements for proactive publication—which, incidentally, I always believed that the Government should have done anyway. It also includes compliance monitoring and the appointment of FOI officers. Whatever the actual intention behind those proposals is, there would be real consequences for staffing, training, governance and digital infrastructure, and we cannot pretend that those consequences would just disappear into existing budgets.

In the material it provided to the committee, the Scottish Government set out its case that the 2002 act's section 60 code of practice provides good guidance but that the bill would introduce new statutory duties that would go beyond current practice, including creating a new legal duty of proactive publication under the enforceable publication code and the designation of FOI officers with defined responsibilities. My argument is that we are at a stage where public organisations already have people who do that. We often talk about culture change in organisations such as the Scottish Government, local authorities or other FOI-able organisations, but in order to have that culture change we must get beyond the idea that that is an addition to the job. FOI is not an addition to the job: it is part of the job, it is something that you have to do and it is a legal requirement.

At the same time, however, we have to strike the right balance, so that we do not take people away from their core duties and core jobs. I know the challenge that the Scottish Government faced during my time in

post in trying to ensure that we issued the required 95 per cent of FOI responses in time. What does not help is that we live in a political environment where we have the likes of Douglas Lumsden using artificial intelligence to generate around 1,300 FOI requests over four months. There were 987 in January 2025 alone, and that cost £185,000. That is the kind of thing that we have to be very careful about.

Nobody in the chamber should be satisfied with the status quo in areas where improvement is needed. However, the question is not whether we should reform but how we reform. We must do that with the evidence in front of us and with the costs properly understood, and we must do it in a way that strengthens openness and practice, and not just on paper. That is the responsible and workable approach, and that is why I will not support the bill at stage 1.

15:05

Mercedes Villalba (North East Scotland) (Lab): I begin by thanking my friend and comrade Katy Clark for taking up the challenge of reforming our freedom of information laws to be fit for the 21st century. The Freedom of Information (Scotland) Act 2002 was significant in that it gave everyone the right to obtain information held by public authorities, yet, as Katy has rightly highlighted, that law has not kept pace with the level of outsourcing to private companies of our public services. In effect, our right to know has been stripped back.

I will use buses as an example. In Edinburgh, the buses are owned and operated by Lothian Buses. Publicly owned Lothian Buses is the United Kingdom's largest municipal bus company and, as such, it is rightly subject to freedom of information requests. Elsewhere, however, First Bus, which is owned by FirstGroup plc, is not subject to freedom of information laws despite receiving huge sums of public money. People who live outwith the capital have no right to know about their local bus services. The Parliament has a duty to change that.

However, it is not just bus companies that have been allowed to avoid public scrutiny. In energy, we have seen the vast majority of the money from the Scottish Government's just transition fund siphoned off to the private sector. More than 40 per cent of that fund has gone to organisations that are linked to billionaire oil tycoon Sir Ian Wood, all while energy workers lose their jobs and are forced to pay out of pocket to retrain. Without this vital freedom of information bill, the public will have no right to ask questions about how that money is being spent. How can the Scottish Government justify that? What is it hiding? Who is it protecting? Is it not time that Scotland had a Government that will work in the interests of the people rather than those of big business, billionaires and barons?

The Covid pandemic exposed the hard reality of how few Government decisions across the world truly serve the people those Governments are supposed to represent. A harrowing example that brought that point home to many was the care home scandal. I highlight the tireless work of former MSP Neil Findlay, both inside and outside the chamber, on that issue. As members will remember, many people across the country spent their final days alone in care homes as part of a botched plan to free up hospital beds. Due to the outsourcing, bereaved families cannot make freedom of information requests regarding where their loved ones spent their final days, yet, if those people had remained in hospital, their families could have made such requests. That is another example of where the current FOI laws are simply not strong enough.

For victims, workers, the travelling public and many more, we need FOI reform. We need Katy Clark's member's bill. The Scottish Government clearly recognises that need, as it is now consulting on extending FOI to care homes. If it agrees that current FOI laws are inadequate and recognises the injustice that the public are facing in seeking crucial information, why on earth would it not support this timely bill today?

I commend the bill to Parliament and I thank Katy Clark for introducing it.

Sue Webber: On a point of order, Presiding Officer. In her remarks, the member stated that Lothian Buses is owned by the council in Edinburgh. She may want to correct the record and state that it is actually owned by a number of local authorities. Thank you.

The Deputy Presiding Officer: Thank you. That is not a point of order, but it is on the record.

15:09

Graham Simpson (Central Scotland) (Reform): I congratulate Katy Clark on getting the bill to this stage, but I have to say that I feel for her after what she must have thought was quite a negative report from the committee, which arrived at the conclusion that the Government should legislate in this area. As I said earlier in an intervention, the Government had the opportunity, as it does with all members' bills, to take on this bill; it chose not to. The member proceeded because the Government did not. That is perhaps not surprising,

because we have a Government that is addicted to secrecy, so it has chosen not to legislate in an area that could herald a new era of transparency.

The committee convener thanked Katy Clark for her valuable contribution. It has been valuable, but if we were to follow the committee's advice and wait for the Government, and then potentially wait for the committee to do something, we could be waiting for years and years, and we could be at the end of the next session of Parliament before anything happens, so we really have to agree to the bill at this stage.

The policy memorandum sets out that

"The main aim of the Bill is to improve transparency in Scotland by strengthening existing measures in the Freedom of Information (Scotland) Act 2002".

The committee agreed that there is a need for freedom of information reform—it agreed with that point—and surely we are here today to decide whether we agree with the aims of the bill rather than the details. I always understood that to be what stage 1 is about—the details come later. I can quite comfortably say that I agree with the general principles of the bill while having concerns about elements of it—at this stage, those concerns are not the point.

I have supported Katy Clark on this throughout. I have attended events put on by her and the Campaign for Freedom of Information in Scotland. George Adam, as he said earlier, was at one of those events, and it was at one such event in Glasgow that I met the late Lord Wallace, who was a strong supporter of what the member is trying to do.

The 2002 act came into force just over 20 years ago, so surely now is the right time to update it and improve its provisions. The bill addresses shortcomings in the current legislation that have been identified by campaigners, journalists and members of the public. We have the chance to end the years of secret Scotland and bring the country into the light of disclosure. Let us take it.

The Deputy Presiding Officer: We move to closing speeches. I call Patrick Harvie, who has up to four minutes.

15:13

Patrick Harvie: I may not use all of that time, Presiding Officer. I am not sure that I have a huge amount more to add beyond what I said in my opening speech, but I will reiterate that, if we do not progress with the bill, it will be a missed opportunity.

There is probably more consensus on the topic than some of the more extreme rhetoric might suggest. I know that there will always be those who think that the Government of the day is somehow overly secretive and corrupt and all the rest of that kind of stuff. That hyperbole is nonsense. I think that most of us know that it is nonsense. However, the current Government has been slow to act and it is regrettable that it has taken a member's bill to try to move things on.

I think that there is consensus across the chamber that we need a regime that is fit for the 21st century—I think that that was the phrase that Mercedes Villalba used—and that the system that we have at the moment is not such a regime, whether that is in relation to the changing patterns around the outsourcing of public services, as was mentioned, and the scale of the data that is collected and the nature of that information, or whether that is in relation to the issues not just to do with our current use of AI but to do with what we will encounter as AI proliferates further through our society, which, again, will change the expectations and needs of the FOI regime.

In addition, I think that our cultural expectations as a society have been changed by the Covid-19 pandemic, among other things, and the whole inquiry process that came out of that. More people have reflected on, considered and changed their views on what information should be kept, and what information should not be allowed to be kept, about us as individuals and as communities.

What is the balance between transparency and confidentiality, and how can we have an FOI regime that ensures that the powerful are held accountable for the way in which they exercise their power? All those things have changed since the system was designed, and they will continue to change. That is why we need to enable the powers to adapt and continue to develop the FOI regime to be used more flexibly—and, I say again, to be used by Parliament, not just at a time when Government is ready. There will continue to be a tension between the urgency of action and the need to take time to consider all the details and issues that members have raised.

I close by saying again that, if this opportunity is missed and we are left with the expectation that a committee bill in session 7 is the vehicle for FOI reform, it must be taken forward with momentum. It will have

to be a year 1 commitment, not a year 5 commitment, in the next session of the Scottish Parliament. I hope that the minister, in closing, will be able to give a clear commitment on behalf of his party. What will it be saying in its manifesto in a few weeks' time about its commitments not only to legislate, if it is in government, but to do so on a cross-party basis across Parliament?

15:16

Daniel Johnson (Edinburgh Southern) (Lab): Patrick Harvie, in summing up, poured a bit of scorn on those who like to claim that the Scottish Government wants to be secretive or to sit on information. I gently say to him that that is almost certainly what a former minister would say, if I can be somewhat impish.

However, Patrick Harvie made a number of good remarks, and his point that, overall, there is a consensus about the need for reform and to update the legislation on freedom of information is absolutely correct. In that context, Katy Clark is to be congratulated on taking forward a bill that is not only important but very technical and not trivial in any respect. She deserves a great deal of credit for that, and I also thank the committee for its work.

At the heart of the matter is the question of what kind of Parliament, politics and Government we want, what we claim that we have and what we really have.

I think that the two most important contributions this afternoon came from Jamie Greene and Richard Leonard. Jamie Greene highlighted the reality for those who seek to gain information through freedom of information legislation. To be frank, most people find it a battle, given the constant stream of reasons why information cannot be revealed, and the swathes of paper; we are not allowed props in the chamber, but I caught a glimpse of what Jamie Greene was holding up. Huge amounts of toner are wasted on redactions for those who seek to print out documents. That is not good enough. To be frank, the FOI regime is in a state that means that people are losing trust because of the secrecy and the reluctance to divulge information.

Richard Leonard was absolutely right that it is about principle—in my view, two very important principles. The first leads directly to democracy itself. If we seek to have democracy, we must have openness and transparency, because after all, this is the public's money: the money that they entrust to us to spend wisely. The only way in which the public can have trust and confidence is if they have clear transparency and openness on how that money is being spent.

Just as important is the question of how Government makes decisions on our behalf: how it understands those principles, the reasons and the information, and the way in which those decisions are being made. It is not just about secrecy; it is about good decision making. The ferries fiasco shines a great deal of light on that. The fact that it transpired that email chains were being used as evidence of decision making, with second-hand accounts of conversations being held with ministers, is not good enough, and we have to shine a light on poor decision making like that.

I commend the approach that has been taken in the bill—first, to follow the money, as it were, because, where public money is being spent, whether by the public or private sectors, we have to have accountability, and there has to be a presumption of disclosure. We must have frameworks that seek to proactively disclose information and remove exemptions, caveats and vetoes. That has to be the right way to proceed.

Today, it looks as though the Government may prevail in not allowing the bill to proceed, and that will be a great shame. The question for Parliament is how we want to proceed, because this work must proceed. I think that it would be an error for members to vote against the bill this afternoon. There may be a great deal of detail to be worked out, but at least it would be progress and something to be taken up by the next Parliament.

I do not believe that the Scottish Government is necessarily the best body to take the work forward. Parliament needs to think about how we could take it forward collectively on a cross-party basis. Ultimately, this is about scrutiny and accountability, and that is the business of Parliament. That is how I think that the work should be approached in the next session of Parliament, if the bill does not proceed today.

However, we have an opportunity to take this work forward and we all agree that it should be taken forward, so I urge members to vote for the bill at stage 1 this evening.

15:21

Annie Wells (Glasgow) (Con): When people submit a freedom of information request, they are not making a political statement. They are usually asking something very ordinary, such as, "Who took this decision?", "Why was this contract awarded?" or "How was this money spent?" Our responsibility in this Parliament is to ensure that the law behind such requests works, not just in theory but in practice.

It is not disputed that Scotland's FOI framework needs to keep pace with how public services now operate. The way in which information is created, stored and shared has changed dramatically since 2002. Public services are delivered through increasingly complex arrangements, which often involve arm's-length bodies, contractors and hybrid organisations. The legislation has not kept pace.

That is why I begin by recognising the work that Katy Clark has done in introducing the bill. She has forced Parliament to confront questions that have been left unanswered for far too long. That in itself is a valuable contribution that deserves acknowledgement, but recognising efforts does not remove our responsibility to scrutinise outcomes.

The evidence that was presented to the Standards, Procedures and Public Appointments Committee was clear on one central point. Although reform is needed, the bill does not yet provide a workable or reliable route to delivering it. The committee was not persuaded that legislating for a general presumption in favour of disclosure would materially change behaviour. It was unconvinced that replacing publication schemes with a broad, proactive publication duty would achieve the cultural shift that is needed. The committee also raised serious concerns about whether the proposed designation powers and enforcement mechanisms were sufficiently developed or practical.

Those are not minor technical points. They go to the heart of whether the bill would improve access to information or would simply create new uncertainty for public bodies and frustration for the public. That is why the amendment in my colleague Sue Webber's name is so important. It recognises the legitimate desire for reform, while making it clear that the bill in its current form cannot be the final answer. The amendment provides a clearer framework for how reform should be approached and sends a strong signal that the responsibility for introducing comprehensive, workable legislation ultimately rests with the Scottish Government.

Parliament is under real pressure in this debate. There is increasing public frustration about access to information and growing criticism of institutions that appear closed or opaque. In that context, it would be easy to present this debate as involving a binary choice between being in favour of transparency and being against it, but that framing is misleading. Supporting transparency means getting the law right. It means ensuring that reform is deliverable, properly resourced and capable of being implemented consistently across the public sector.

That is why Sue Webber's amendment matters so much. It allows the Parliament to acknowledge the need for reform while being honest about the limitations of the bill. If it is agreed to, it will strengthen the message that the work must not end here.

Freedom of information underpins trust in public life. That trust is too important to be dealt with by creating uncertainty or delay. This debate should send a strong signal that change is needed, that the Parliament is ready to engage and that, in the next parliamentary session, the Government must deliver FOI legislation that truly works in practice.

To answer Jamie Greene's question, we will vote for the general principles of the bill at stage 1, regardless of whether my colleague Sue Webber's amendment is agreed to, because the conversation must continue.

Once again, I thank Katy Clark for her work.

15:25

Graeme Dey: I thank all members who have contributed to the debate this afternoon, whether I have entirely or partially agreed or disagreed with them.

Richard Leonard made a typically passionate and thoughtful speech. There is no doubt that we will miss Richard in the next parliamentary session—or, rather, the Parliament will miss him; like him, I will not be here. However, the answer to his question about why we could not progress the bill to a conclusion in this session was provided a few moments earlier by the convener, who talked about the need for further consultation on key aspects of the proposals, the speculative nature of the financial memorandum and concerns about the creation of an offence of the deliberate destruction of information.

There is simply not the time to properly work on the bill. It is easy to say that we should find the time, but finding it is a completely different matter. Are members suggesting that we should scrap other business to facilitate the bill and deal with it as a committee of the whole Parliament? What business should we scrap? Are members suggesting that the Parliament should somehow order the Standards, Procedures and Public Appointments Committee to drop everything else that it is currently doing? I suspect that the convener might have something to say about that.

We have certainly heard a change of position from two parties that are represented on the committee. In its recommendations, the committee made it clear that the bill's general principles should not be supported at stage 1 because it did not

"consider this Bill to be the most effective vehicle to deliver the necessary change"

that is desired. It also recommended that the general principles should not be supported due to the lack of time that is available for the necessary policy development to be completed.

The Government has followed the committee's recommendation not to support the bill at stage 1 based on its report. However, Sue Webber has taken the unusual step of lodging a reasoned amendment to point out the lack of time. Therefore, I am slightly confused as to what the Conservative and Labour parties—which are both represented on the committee—want to do. They now seem to want to agree to the bill at stage 1, but they acknowledge that there is insufficient time for the bill to be developed in the way that is necessary. To be clear, if we agree to the bill at stage 1, it will go forward to the next parliamentary stage.

Daniel Johnson: I note that committee members are encouraged to leave their party hats at the door. That point notwithstanding, we are, as always, being asked to consider the general principles of the bill. If the Parliament subsequently runs out of time, that is another matter. Would it not send an odd signal to vote against the bill while suggesting that our successors in the next session should take up the issue? I find that strange.

Graeme Dey: I recognise Daniel Johnson's point. However, we are five weeks out from the conclusion of the parliamentary session. One member spoke about the public looking in on the Parliament. The action that some of the parties seek to take would raise an expectation that absolutely cannot be fulfilled. I contend that it is more sensible, pragmatic and practical for all of us—as we have done today, because there is more that unites us than divides us on this issue—to come forward and say, "We recognise that there is insufficient time to use this vehicle, which the committee has agreed is not the appropriate vehicle."

Jamie Greene: Will the minister take an intervention?

Sue Webber: Will the minister give way?

Graeme Dey: I offer my genuine apologies, but I have very little time.

We should come together to acknowledge that there is an opportunity in the next session of Parliament—whether the process is led by the Government or, as Mr Whitfield has innovatively suggested, a committee of the whole Parliament—to point the way forward. We can recognise the shortcomings of the bill as well as its positives; there is some good stuff in the bill, as the Government acknowledged in its response to the committee.

I am very conscious of time. Freedom of information is only one part of how we can build a more participative democracy in Scotland. The values of openness and participation certainly require the wide provision of official information. Those values also entail Government and public services being approachable, responsive and accountable to the people they serve. Throughout this session of Parliament, the Scottish Government has sought to progress those wider values through its open government agenda. As someone who started the session as a minister, took 14 months out and then returned to Government, I can attest to the progress that has been made on that.

In the light of the committee's recommendation, the Scottish Government will still be opposing the bill today. However, that does not detract from our commitment to robust FOI law in Scotland or from our openness to engagement on a cross-party basis on its further development.

The Deputy Presiding Officer: I call Katy Clark, the member in charge of the bill, to wind up the debate.

15:30

Katy Clark: This Parliament was founded on the principles of accountability, openness and transparency, and the bill gives us the opportunity to build on those principles today. I have outlined the process that led to the provisions that are in the bill that we are considering, which I believe is the correct starting point.

I thank the committee for the scrutiny that it undertook in preparing its stage 1 report, all the stakeholders who engaged with the process, Carole Ewart from the Campaign for Freedom of Information in Scotland and those in my office for their work on the bill. I also thank the Scottish Information Commissioner, his team and all the former information commissioners who engaged with the process.

The only issue that is before us today is whether we agree with the general principles of the bill at stage 1. I have listened carefully to members' speeches, and there seems to be a consensus that the public's right to

information is important, and that there must be accountability on public service delivery and transparency on the use of public money.

However, we must recognise that our current freedom of information regime has been in place for more than two decades and that the public, campaigners, organisations and Government have all experienced how it works, where it works well and what needs to change. That is why the current Information Commissioner and his predecessors support the bill. That is why the bill enjoys the support of so many organisations, and it is why so much of the evidence that was submitted, including from trade unions, care home relative campaigners and the third sector, supported the bill.

I will respond to some of the points that were made about specific provisions. On new designations, I agree with Daniel Johnson that this debate is also about the kind of Parliament that we want to have. It would not have been appropriate to put more detail on the process for designation in the bill, as that would be a matter for Parliament's standing orders, but we must say that the role of this Parliament is to hold the Scottish Government to account. Given that the Scottish Government has failed for more than two decades to keep freedom of information where it should be, it is appropriate that more power is given to the Parliament and its committees.

The idea of creating a freedom of information officer role came from freedom of information officers. I know that, like his predecessor, the minister attends the annual events that many freedom of information officers go to, so he will have heard them explain their belief that the creation of such a role would give them the power to enforce freedom of information in their own organisations. Many of them are data protection officers, and they believe that the bill, which mirrors the provision of the data protection regime, would enable them to get their organisations to comply with the law.

Section 18, which would create a new criminal offence, is designed to deal with serious situations. The Information Commissioner has said that it would enable them to do their job better, where information is deliberately destroyed with the intent to avoid the law.

The vast majority of the public support the key principles of the bill, which is why we must agree to its general principles today. The way in which public services are delivered has changed significantly since the 2002 act. Multinationals such as Serco, G4S and Mitie are now providing public services and in receipt of public funding, and we no longer have the information rights that we had in relation to those services in 2002. If those services were still being provided by Government, they would be subject to freedom of information laws.

The Scottish ministers have consistently failed to come forward with legislative proposals in this area. When I met the minister on Thursday, he said, yet again, that, in his view, legislative change was not needed.

As I outlined in my opening speech, the committee has indicated its support for many of the provisions in the bill. I am disappointed by the amendment to the motion that has been lodged. I believe that the Parliament should send a very clear message that we will vote—

Sue Webber: Will the member take an intervention?

Katy Clark: I am not sure whether I can, because I am over time.

The Deputy Presiding Officer: You can, provided that it is very brief.

Sue Webber: The amendment will not prevent the bill proceeding, as many members across the chamber have remarked. It simply makes it clear that we have a very challenging timeline. It is practical and commonsense—that is Sue Webber all over, but never mind.

Katy Clark: The decision that is before the Parliament today is on the general principles of the bill. [*Interruption.*] The Parliament should send a clear message—the strongest message—that it supports legislative reform of the freedom of information regime. That means clearly supporting the general principles of the bill today.

The Deputy Presiding Officer: That concludes the debate on the Freedom of Information Reform (Scotland) Bill at stage 1. There will be a brief pause before we move on to the next item of business to allow for a changeover of front-bench teams.

Jamie Greene: On a point of order, Presiding Officer. I will not take up much time as there is a lot to get through this afternoon. It has become clear over the course of the debate that there is confusion about what will happen to the bill at the next stage. If the general principles are agreed to, as seems to have been suggested by members, and the reasoned amendment is also agreed to, which calls for it to be considered in the next session of Parliament rather than this session, will the bill progress to stage 2—yes or no? It is entirely unclear. I wonder whether the chair could offer some advice on that.

The Deputy Presiding Officer: I can confirm that the bill would go forward in the event of the amendment being passed. The only decision that Parliament can take at stage 1 is to vote against the general principles of the bill or to allow the bill to proceed. It is then a matter for the committee and Parliament what happens thereafter.

Business Motion

15:37

The Deputy Presiding Officer (Liam McArthur): The next item of business is consideration of business motion S6M-20818, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill. I ask members who wish to speak against the motion to press their request-to-speak button. I call Martin Whitfield to move the motion.

Sorry—I call Graeme Dey to move the motion. That instruction to allow front benches to change did not extend to you, minister

Motion moved,

That the Parliament agrees that, during stage 3 of the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (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 3: 1 hour 10 minutes

Groups 4 to 6: 2 hours 5 minutes.—*[Graeme Dey]*

Motion agreed to.

Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill: Stage 3

15:39

The Deputy Presiding Officer (Liam McArthur): The next item of business is stage 3 proceedings of the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill.

In dealing with the amendments, members should have the bill as amended at stage 2—that is, SP bill 66A—the marshalled list and the groupings of amendments. The division bill will sound and proceedings will be suspended for around five minutes for the first division. 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 button or enter RTS in the chat function as soon as possible after I call the group. Members should now refer to the marshalled list of amendments.

Section 1—Pupil's involvement in decision about withdrawal from religious instruction or religious observance

The Deputy Presiding Officer: Group 1 is on the meaning and character of religious education and observance. Amendment 6, in the name of Maggie Chapman, is grouped with amendments 21, 11, 22, 22A and 24.

Maggie Chapman (North East Scotland) (Green): I begin these stage 3 proceedings by thanking the Cabinet Secretary for Education and Skills and her team for the many conversations that we have had about the bill over a very short period of time. I am grateful for that. We will come on to some of the areas of disagreement and agreement, but I want to put that on record. I am also grateful to my colleagues on the Equalities, Human Rights and Civil Justice Committee and to all the organisations that have contributed so much to the development of amendments and by giving their views on the bill.

I turn to the first group. In giving children and young people the right to withdraw, it is important that we are absolutely clear about the meaning and character of religious education. As a result of stage 2 amendments that I lodged and that were supported, children and young people will have additional rights around withdrawal

from religious observance but not religious education. We should not force children and young people into religious observance, which is also understood as worship, but it is equally important that they cannot withdraw from religious education, which is a core part of the curriculum.

As a society that respects those of all faiths or of no faith, and those who are not sure, it is important that children and young people receive education in different faith and non-faith beliefs. It is also important that they receive education to understand the diverse society in which we all live. However, in the bill, the remaining references to religious education use the original terminology of the Education (Scotland) Act 1980 of "religious instruction", which is an ambiguous phrase that could blur the important distinction between religious education and religious observance. My amendments 6 and 11 are tidying up exercises to avoid that confusion.

Amendment 22 is aimed at facilitating the exercise of the rights in the bill. Parents and pupils cannot meaningfully exercise those rights unless they know when religious observance is happening and what form it will take. Therefore, amendment 22 would require all grant-funded schools, except denominational schools, to inform parents and pupils at least 14 days before any planned religious observance in the school about the format and content of that observance and any alternative learning provision for pupils who are withdrawn. The amendment would also require an assessment of whether the information that is conveyed in any planned religious observance in the school is

"sufficiently objective, critical and pluralistic".

Amendment 22A would apply that provision to denominational schools as well.

A court judgment recently ruled that the parental right to withdraw from religious observance is a necessary but insufficient mechanism for protecting parents' and children's human rights and that the observance must be objective, critical and pluralistic. Amendment 22 would support best practice and ensure that all pupils can take part without compromise to their personal beliefs. In cases in which elements of an RO activity might not meet the criteria that the court specified—that is, if it involves asking pupils to pray, worship, sing hymns or affirm their belief in God—parents and pupils will be empowered to act in line with their conscience.

Turning to the other amendments in the group, amendment 21, which was lodged by Elena Whitham, is in the same vein and would require ministers to clarify what constitutes religious observance. I support that, in the belief that clarity is important.

I am unsure about the need for Paul O'Kane's amendment 24, and I have a question as to whether it could confuse or potentially prevent certain things later on. If we wished to amend the Education (Scotland) Act 1980 later, how would his amendment interact with that? I would be grateful if the member could address those points now or in his contribution.

Paul O'Kane (West Scotland) (Lab): I will, of course, refer to much of what Maggie Chapman described in my contribution in this group, so I do not intend to detain the chamber in that regard.

However, Maggie Chapman has made a number of assertions in her speech thus far, and I want to point out to her that, as we referred to at stage 2, there is a clear difference between denominational and non-denominational schools, in terms of religious education and religious observance.

As I said to Maggie Chapman at stage 2, I can understand where she is coming from on decoupling religious education and religious observance in a non-denominational setting, but does she understand and respect that RE and RO in a denominational setting are intrinsically linked, which would mean that some of what she is trying to do would actually be very difficult to implement in a faith school?

15:45

Maggie Chapman: I disagree. RE and RO do not have to be intrinsically linked, even in a denominational school. They might be, but they might not be.

Paul O'Kane: Tomorrow is Ash Wednesday, which is a good example. In Catholic schools across the country, children will learn about Lent. They will learn about it in an academic sense, probably write down what they will do for Lent and likely write a prayer to help them do that. They do all that in an RE class, but it is also RO. Does Maggie Chapman recognise that that is what I am talking about?

Maggie Chapman: In his contribution, Paul O'Kane separated the two things out. Learning about one thing is not the same as practising it, which is what we need to be clear about. It is what young people and their parents have told us that they want clarity about.

My amendments in the group, along with Elena Whitham's, would provide clarity by defining what constitutes religious observance, which helps us as legislators to understand the definition and ensures that

parents, young people, children and schools are clear about the different elements and know how to treat them. As Paul O'Kane might accept, those lines might be fuzzy or blurry, but there is a distinction between observance and education.

The Scottish Greens whole-heartedly support the role that religious education plays in any curriculum, but particularly in helping children to understand the diversity of the society in which we live. I ask members to support my amendments.

I move amendment 6.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): I will restrict my comments to my amendment 21. I also declare an interest as a member of the Humanist Society Scotland.

Amendment 21 would place a duty on Scottish ministers to issue statutory guidance that sets out the "meaning of religious observance" for the purposes of the bill. It would also require the statutory guidance to be published within 12 months of the commencement of the new guidance provision. The amendment reflects calls for clarity on the meaning of religious observance after stage 2, when religious observance and religious and moral education were separated in the bill and the parental right to withdraw was limited to apply only to religious observance.

Amendment 21 also responds to the concerns that were raised about instances of non-inclusive religious observance in non-denominational settings, most notably by Humanist Society Scotland in its "Preaching is not Teaching" report. Ministers preparing the guidance would therefore be required to consider the

"importance of inclusiveness in the content and delivery of religious observance".

That would support schools in ensuring that all pupils can participate in a way that respects their personal beliefs, while promoting a time-for-reflection approach.

Recognising the distinct context of religious observance in denominational schools, the amendment specifically includes representatives of denominational schools, alongside "operators of schools" and those who represent the interests of parents, pupils and teachers, as mandatory consultees. That would help to ensure that the guidance is workable and appropriate across all school types.

The requirement for ministers to publish the guidance within 12 months of the section's commencement reflects the importance of the guidance in providing clarity for schools, pupils and parents on how the changes in the bill should be implemented. I encourage members to support amendment 21.

Paul O'Kane: I add my thanks to all those who have been involved in the bill process. Scotland has a long tradition of providing parents and families with the option to send their children to denominational education in a setting that they choose. Much of that stems from a long history—it is more than 100 years since the Education (Scotland) Act 1918 brought Catholic schools into the state sector, which created a fairly unique social contract in Scotland. Colleagues will be glad to know that I will not re-rehearse all the reasons for that this afternoon, but the difference in provision stems from a time when there were certain prejudices about the Catholic community—particularly the working-class Irish Catholic community—in Scotland. It is important that, at the outset of our debate this afternoon, we recall that heritage, that history and the importance of the place of those schools in our public life.

That was followed by denominational schooling in the Episcopalian church and the establishment of our Jewish school, Calderwood Lodge primary school, in East Renfrewshire, which I know very well. Therefore, it is fair to say that, for at least 100 years, there has been denominational education in the state sector, which is provided by our local authorities in conjunction with religious bodies.

Amendment 24 seeks to reiterate the Parliament's commitment to the story of faith education and denominational schooling in Scotland. It also responds to the serious concerns that have been raised about the lack of direction that the bill sets. Amendment 24 would set out in the bill the Parliament's continued support for the role, place and function of denominational schools—most notably, Catholic schools, which account for the overwhelming majority of denominational school settings in Scotland. It would put beyond doubt that any provisions in part 1 of the bill would not infringe on or negatively impact section 16 or 21 of the Education (Scotland) Act 1980 or section 18 of the Education (Scotland) Act 1918, which established the right for denominational provision to exist and set out the powers, functions and responsibilities relating to the operation of such schools.

Amendment 24 responds clearly to concerns that the bill, or other amendments that we are considering today, would put into question the long-accepted settlement on denominational education in Scotland. In particular, I note the concerns that the Scottish Catholic Education Service has raised about amendments 6 and 11, which would change the terminology in statute from "religious instruction" to "religious education".

When I intervened on Maggie Chapman, we had a brief exchange about how complicated the issue is in many ways, and there is perhaps a lack of wider understanding of how these things operate in practice. I note that concerns have been raised that that change in nomenclature would weaken the protections that are in place that recognise that religious observance and religious education are inherently linked in a faith school. I simply put the point to Maggie Chapman that it is very difficult to separate those two things, particularly in a faith school. In a religious education class, there will be moments when the lesson goes into religious observance, so it is not simple to separate the two.

John Mason (Glasgow Shettleston) (Ind): I take Paul O'Kane's point that the two are interlinked just now. Is he arguing that the two have to be interlinked, or could they be separated?

Paul O'Kane: Mr Mason makes a fair point. I am arguing that the two should be interlinked. My understanding from my own education is that the two things are interlinked for a very strong purpose, which is about the unique ethos of a Catholic school being about both practice of someone's faith and learning about faith in an academic sense.

Going down the road of trying to separate religious observance from religious education in a denominational setting would be extremely problematic. It would also be hard to do, particularly in a Catholic school, although, from what I understand of Calderwood Lodge, having been there, I think that that would also be true of Jewish schools. The two things are interlinked. The link is probably more acute in the primary sector. In Catholic schools, children are taught how to prepare for their sacraments in an RE lesson, but that will involve an element of practice, as Mr Mason will understand. I do not think that the two things should be decoupled in such settings, and it would be very difficult for them to be decoupled in practice, if the Government chose to go down that road.

As I have said, narrowing the definition of RE in a faith school to, extensively, interpretations in the academic curriculum could lead to more problems than are being anticipated. As I said to Maggie Chapman at stage 2, I understand the desire to separate the two elements in a non-denominational setting, because I understand the academic value of religious, moral and philosophical studies compared with what religious observance looks like in a non-denominational school. However, I do not think that we can compare the two settings, because they work in different ways. For those reasons, we will not support Maggie Chapman's amendments.

We have concerns about amendment 21, in the name of Elena Whitham, because, although guidance on RO would be welcome, some of the text of the amendment suggests that it might lead to the deletion of ethos and nature within denominational settings, which I have referred to already. There would need to be strong assurances that it would not be used as a pretext to constrain or interfere with the ethos of faith schools.

I am conscious of time so early on in the debate, but I might just reflect on some of the information that was provided by the bishops of Scotland, who said:

"The inclusion of denominational schools in the state system in Scotland continues to be an example of a diverse, pluralistic, democratic education system in action."

The statement also pointed out:

"Religious Education gives knowledge of faith, while Religious Observance is the living expression."

That points to how those two things are interlinked in the denominational sector.

It is for those reasons that I urge members to support amendment 24, to make a clear statement about the value of faith schools in society and to affirm our commitment to their long-standing place and their future.

Stephen Kerr (Central Scotland) (Con): I will limit my remarks to amendments 22 and 22A, on requiring schools to provide parents and children with detailed information about planned religious observance at least 14 days in advance. That information must include not only the format and content but the assessment of whether the observance is

"sufficiently objective, critical and pluralistic".

I begin by saying that transparency is not the problem. It is right that parents should understand what is happening in their child's school, and it is right that observance should be inclusive and respectful. I do not think that anyone disputes that, but amendment 22 would go much further than transparency. It would introduce into primary legislation a formalised statutory test that misunderstands what religious observance is. Observance is not a classroom lesson in comparative religion. It is not an academic seminar. It might be reflective or devotional. In denominational settings, it is part of the faith character that parents have consciously chosen. To require schools to certify in advance that observance is sufficiently objective, critical and pluralistic is to apply a secular analytical framework to something that is not designed to function in that way. That is not a small drafting point—it is a conceptual mistake.

There is also a question of proportionality. We do not require 14-day statutory reports for assemblies, commemorations, themed events or visiting speakers. We do not require advanced legal assessments of whether those events meet an abstract standard. Why, then, single out religious observance for that level of prescription?

Amendment 22A would extend that requirement to denominational schools. That raises an even more serious issue. Parents who enrol their children in a denominational school do so in the full knowledge of its ethos. To subject those schools to a statutory objectivity test risks eroding the distinctive character that the Parliament has long recognised and protected. There is a difference between accountability and control. There is a difference between guidance and rigid statutory prescription. If further clarity is needed about the meaning of observance, guidance is the proper vehicle. Schools need flexibility; they do not need another layer of bureaucratic reporting embedded in statute.

The bill already seeks to narrow the parental conscience clause by removing the right to withdraw from religious and moral education. I happen to agree with that. It already seeks to introduce a new formal process around observance. In that context, we should be cautious about layering on additional statutory burdens that risk confusion, inconsistency and unnecessary administrative strain.

Matters of conscience and faith require careful handling. We should legislate with balance. That means respecting children's voices but also respecting parental choice and the integrity of different school types in our system. For those reasons, although I understand the intention behind them, I cannot support amendments 22 and 22A.

Pauline McNeill (Glasgow) (Lab): I will make a short contribution in support of amendment 24, in the name of Paul O'Kane. We are debating legislation on the right of a child to withdraw from religious education, but it is important that that does not undermine the ethos of denominational schools. If we ask any headteacher what is successful about those schools, they will say that their entire ethos is about the discipline and character of that school and that, without that, they would not be as successful.

The 1918 act is a key piece of law for Catholic education, which is enshrined in our education system. The 1918 act corrected historical inequalities, and it is important to note that that is one of the things that it does.

We have a highly successful Catholic education system. It is part of a modern system that reflects the minority character of the Catholic community while giving choice to all parents regardless of their religious background. I think that that is right for a modern Scotland.

16:00

This is what I want to say to the Government—although I have obviously not yet heard the Government's argument. The Government must recognise that there have been periodic attempts to eradicate or remove Catholic schools from the education system. I have had many letters over 20 years, and that point has been argued by the Humanist Society and others. Everyone has their view. I do not have any criticism of the Government in this regard but, if the Government recognises that that has happened, then, for the avoidance of doubt, we must ensure that the right of the child that we are dealing with today does not undermine that ethos in any way. It is imperative that nothing in the bill does that.

I would like to hear what the Government has to say about that. I do not see why the Government would be opposed to amendment 24. As I have said, the 1918 act is a very relevant piece of legislation. I would be interested to hear what the Government has to say. I will strongly support amendment 24 for the reasons that I have set out.

The Cabinet Secretary for Education and Skills (Jenny Gilruth): As we have heard this afternoon, Maggie Chapman's amendments 6 and 11 would replace references to "religious instruction" with the term "religious education" in section 8 of the Education (Scotland) Act 1980.

I understand that concerns have been expressed at use of the word "instruction"—a point that I recently discussed with the Humanist Society. National guidance has long been clear that religious and moral education is expected to cover learning from a range of faiths and world-views, including beliefs independent of religion, in an objective manner.

I discussed the amendments in this area with the Scottish Catholic Education Service last week and, as we have heard this afternoon, it expressed concern regarding the perceived impact on denominational schools in particular, including on learning outwith the classroom. In practice, the term "instruction" in the 1980 act has long been understood to mean teaching or education, and it appears throughout the 1980 act, including in contexts entirely unrelated to religion.

There are currently 27 uses of the term “instruction” in the 1980 act as it would stand after the passing of the bill. The amendments would update only a fraction of the references in the act, and they would they leave references to “religious instruction” in other sections unchanged—including in sections dealing with the management of denominational schools, for example.

While it might be fair to say that the terminology is somewhat outdated, especially given modern curriculum practice, the amendments risk creating inconsistency and uncertainty in how the legislation should be interpreted. They might create an argument that “religious education” and “religious instruction” are two substantially different things under the 1980 act, which of course is not the case.

Graham Simpson (Central Scotland) (Reform): I genuinely want the cabinet secretary’s help here, because my decision hinges on what she understands by the word “instruction”, as opposed to what she understands by the word “education”. Is she arguing that, legally, the two are the same? I genuinely still have to decide how I am voting on this point. We could easily think that the word “instruction” means religious observance. We could equally think that it means education. I genuinely want some advice—a steer—from the cabinet secretary.

Jenny Gilruth: I accept Mr Simpson’s question and I recognise some of his concern. There is dubiety on that point from some stakeholders, as I have set out, and I have also made the point that the term appears in the legislation—in the 1980 act—a total of 27 times, I think. There would be incoherence in amending the 1980 act at this stage, although I recognise some of the concerns that have been voiced to that end.

There is a great degree of complexity contained in the 1980 act, with the long-standing meaning attached to its terminology, which Mr Simpson rightly raises, but changes of this nature would require much more thorough consideration across the 1980 act to avoid unintended consequences.

For those reasons, I cannot support amendments 6 and 11.

Amendment 21, in the name of Elena Whitham, would require ministers to provide statutory guidance on the meaning of religious observance. I am very glad that we have worked with Ms Whitham on her amendment, which responds to concerns raised following stage 2 changes that separated religious observance and religious and moral education so that the parental right to withdraw would apply only to religious observance.

As members might know, and as we have heard from Mr O’Kane and other members this afternoon, there is a close relationship in denominational schools between religious education and religious observance. By providing a duty for ministers to issue guidance on the meaning of religious observance in schools, amendment 21 will ensure that clarity will be provided for schools, pupils and parents regarding where the right to withdraw continues to apply and where it does not.

Amendment 21 will require that ministers consider the importance of inclusiveness in the content and delivery of religious observance when preparing the statutory national guidance. That will support schools in ensuring that all pupils can participate in religious observance without contravening their personal beliefs. Recognising the particular context of religious observance in denominational schools, amendment 21 explicitly includes as mandatory consultees those who represent the interests of denominational schools, alongside education authorities and managers of grant-aided schools, to ensure that the guidance works for both denominational and non-denominational settings.

Amendment 21 will also require that the guidance be published within 12 months of the section being commenced, reflecting the importance of the guidance in providing clarity for schools, parents and pupils regarding the implementation of the changes. For all those reasons, I invite members to support amendment 21.

Maggie Chapman’s amendment 22 would require non-denominational schools to provide pupils and parents with details of the “format and content” of religious observance at least 14 days in advance—as we have heard from members today—alongside an assessment of whether religious observance activities are

“sufficiently objective, critical and pluralistic”.

Amendment 22A would apply those requirements to all public and grant-aided schools, instead of only non-denominational ones. Schools are already required by the school handbook regulations to provide information on the form and content of religious observance and on the arrangements for withdrawing a pupil. The introduction of a duty to provide an assessment of whether those activities are sufficiently objective, critical and pluralistic would place a significant administrative burden on schools, which I think is the point that Stephen Kerr made earlier.

We already expect schools to provide only activities that they believe to be sufficient in that regard, in line with the existing guidance. The new statutory guidance to accompany the implementation of the bill will

highlight the expectation that religious observance is inclusive, as well as how that might look in practice. In developing the guidance, we will engage with schools and other interested parties to determine what further support might be appropriate to ensure that religious observance is consistently and sufficiently inclusive of those of all faiths and no faith.

Martin Whitfield (South Scotland) (Lab): The cabinet secretary is talking about the guidance. What thought has been given to the depth of the guidance? As former teachers, she and I will both have received guidance in the past, so we know that, sometimes, it goes to the nth degree on how something is delivered, whereas other guidance contains just top-line phrases that, in times past, during in-service training days in particular, we might have struggled to implement.

Jenny Gilruth: I am sure that Mr Whitfield and I both have fond memories of the many in-service training days that we spent as teachers. I draw his attention to amendment 21, in which, under the requirement in proposed new section 9C(5)(a) of the 1980 act,

"Ministers must publish guidance issued under subsection (1) … within … 12 months".

That speaks to the broader point of the requirement to consult the mandatory consultees who are also stipulated in Elena Whitham's amendment 21. I hope that that gives him some degree of comfort.

For the reasons that I have set out, I cannot support amendments 22 and 22A. I would, however, be happy to consider looking at how the school handbook regulations might be updated alongside the development of the accompanying guidance, to ensure that parents and pupils get that important information in relation to religious observance and their associated rights that sit alongside that, so that they can make informed decisions accordingly.

Paul O'Kane's amendment 24, which we have heard commentary about from members this afternoon, provides that the changes that will be made to the 1980 act by part 1 of the bill would have no effect on

"section 16 or 21 of the Education (Scotland) Act 1980"

or on

"section 18 of the Education (Scotland) Act 1918."

The amendment therefore includes reference to a provision that has not been law for more than half a century. It might create a level of confusion by giving the false impression that the modifications will, in some way, affect those or other unreferenced provisions in legislation, which they will not.

However, I appreciate that amendment 24 likely aims—as we have already heard this afternoon—to give reassurance in response to concerns from the denominational sector that the bill will undermine the existing protections for denominational schools. To reassure Pauline McNeill and other members, I again put on the record the fact that the Government remains unequivocal in its support for denominational schools. We very much recognise the vital role that those schools play, in relation to religious observance and religious education in those settings. That will be evident in the Government's position on a number of amendments that will provide clarity, and it will also have been evident from my consistent engagement with the Scottish Catholic Education Service throughout the passage of the bill. I again say that SCES will, of course, be part of the mandatory consultation that is set out in Elena Whitham's amendment 21.

Paul O'Kane: Notwithstanding the cabinet secretary's technical point about amendment 24, she seems to want to accept it in spirit. Will the Government support that amendment today and will it put clearly on the record, for the avoidance of doubt, that those two pieces of legislation are supported? This is the moment for Parliament to do that in our modern context by using an avoidance of doubt amendment, which I think is important.

Jenny Gilruth: I very much appreciate the sentiment behind amendment 24. I make Mr O'Kane aware that I discussed the content of that amendment with the Scottish Catholic Education Service only last week and that I raised some of our concerns about the anomalies that might arise as a result of the way in which the amendment has been drafted.

The Government's preference is for members to, instead, support amendment 21, which allows for guidance to be issued and puts into statute the requirement for denominational schools, including those belonging to the Scottish Catholic Education Service, to be consulted on that guidance. The guidance that currently exists is not statutory in nature, which means that amendment 21 would arguably give further clarity and protection through legislation.

Paul O'Kane: The cabinet secretary supports amendment 21. Does she also recognise that the Scottish Catholic Education Service has suggested that the proposals that RO should be

"sufficiently objective, critical and pluralistic"

have the potential to create ambiguity and to be open to interpretation or to potential challenges about the denominational nature of education in Catholic schools?

Jenny Gilruth: I am not sure I would go as far as to recognise all of that critique, but I have discussed some of the challenges with SCES and directly with Barbara Coupar in relation to how the bill will operate in Catholic schools. Mr O'Kane will recall that my former employment, before I became an MSP, was in a Catholic school and I very much recognise that the division between RO and RME is inherent to the culture and faith within Catholic schools. Any work will need to be undertaken in a sensitive manner and done directly with SCES, which is included under the mandatory consultees that are set out Elena Whitham's amendment 21.

That is how the system currently operates and that is provided for in national guidance, so there has been no change in that respect. I encourage members to support amendment 21, which allows guidance to be issued.

Pauline McNeill: I did not understand what you meant, cabinet secretary, when you spoke about the 1918 act. It is a century old, but it is still the law. It does not really matter how old that act is, and we have laws that are much older than that. The 1918 act is really important for denominational education, so can you clarify whether that is the source of your technical problem with the amendment? Do you accept that it is still the law?

The Deputy Presiding Officer: Always through the chair.

Jenny Gilruth: The point that I was making is one that I have discussed with SCES. There is an issue in relation to drafting. I would have preferred it if Mr O'Kane and I had been able to work together on an amendment on the issue, but, although he and I met and discussed the point, that was not the case in the end.

There is a risk here of creating confusion or of creating a false impression that modifications in the bill will, in some way, affect legislative provisions that they do not actually affect. The bill will not affect denominational education in the way that the member suggests. However, I appreciate Mr O'Kane's point about the concern expressed by the sector, which is why I have spent a great deal of time engaging directly with the Catholic Education Service. We will come to this in a later group of amendments, but that is also why my officials have been engaging directly with SCES and with schools in relation to how the statutory guidance will be adopted and taken forward. All of that will be undertaken in conjunction with SCES and with the Catholic church more broadly, which is stipulated as a mandatory consultee.

I ask members to vote against all the other amendments in group 1, because although they are, as we have heard, well intentioned, they are unnecessary and likely to create confusion in our legislation.

16:15

Maggie Chapman: My amendments 6 and 11 seek to clarify the terminology and help to modernise the language in the 1980 act. Religious instruction is often considered to be the same as religious observance. My amendments would clarify that by replacing "instruction" with the term "education", helping to avoid that confusion or conflation.

Amendment 11 would clarify the language on the removal of the parental opt-out from RME as a classroom subject, which we agreed to at stage 2. To address the cabinet secretary's concern about unintended consequences, I note that the amendment refers only to section 8 of the 1980 act, but I appreciate that that may not be enough to sway the Government.

Amendment 22 would require non-denominational schools to provide pupils and parents with information about RO, including its format and content. That is not a mistake, as Stephen Kerr seemed to suggest. It is intentional.

Stephen Kerr: To be clear, I did not say that it is a mistake. I said that it was a technical issue. I hope that Maggie Chapman accepts that.

Maggie Chapman: I think that I heard the word "mistake", but I accept what Stephen Kerr has now said in his intervention.

Amendment 22 would support children's rights under articles 12 and 13 of the UNCRC—article 12 contains the right to be heard and article 13 contains the right to information—by ensuring that children have the information that they need to make informed and clear decisions. Obviously, schools should ensure that the information is provided in formats that are accessible to children and young people and their families.

Amendment 22A would go further, clarifying that all public and grant-aided schools should be subject to the duty to provide information.

I appreciate the cabinet secretary's comments about the guidance for schools on the matter, but we heard in committee that the guidance is not always clear and that, when it is clear, it is followed with very variable degrees of felicity across the country. However, I am grateful for her comments about her preparedness to look at the handbook in future to see whether we can get a little more clarity.

I press amendment 6.

The Deputy Presiding Officer (Annabelle Ewing): The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As this is the first division at stage 3, I will suspend the meeting for about five minutes to allow members to access the digital voting system.

16:16

Meeting suspended.

16:22

On resuming—

The Deputy Presiding Officer: We will now proceed with the division on amendment 6. Members should cast their votes now.

Jenny Gilruth: On a point of order, Presiding Officer, my app would not connect. I would have voted no.

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

INSERT VOTE

The Deputy Presiding Officer: The result of the division on amendment 6 is: For 14, Against 102, Abstentions 0.

Amendment 6 disagreed to.

The Deputy Presiding Officer: Group 2 is on process following receipt of parental withdrawal request. Amendment 1, in the name of Stephen Kerr, is grouped with amendments 2 to 5 and 19. I point out that, if amendment 19 is agreed to, I cannot call amendment 20, which is to be debated in the group on a pupil's right to withdraw from religious observance, due to pre-emption.

Stephen Kerr: For clarification, what I said to Maggie Chapman in the context of my remarks was that applying a secular analytical framework to something that is not designed to function in that way is not a small drafting point; it is a conceptual mistake, which is my polite way of saying that I do not think that it is understood.

Group 2 is at the heart of how the legislation will operate in practice. The new section 9A that the bill proposes to insert into the 1980 act establishes a formal process once a parent requests withdrawal from religious observance. That framework is now set out clearly in the bill as amended at stage 2. It requires operators to inform the pupil and invite their views and, if the pupil objects, to refuse the parental request. That is a significant constitutional and educational shift—it alters the balance between parental authority, institutional responsibility and the child's developing autonomy.

My amendments in this group seek not to undo that framework, but to ensure that it is workable, legally coherent and fair in its consequences. Amendment 1 addresses an issue that should concern every member of the Parliament: what actually happens to the child once withdrawal takes place? If we are going to formalise a process by which some pupils are withdrawn from religious observance, the statute must guarantee that those pupils are not educationally sidelined.

The bill currently protects against disadvantage in terms of secular instruction, but it does not explicitly guarantee purposeful alternative activity during the period of withdrawal. Amendment 1, therefore, would place a clear statutory duty on the authority or managers to provide

"suitable and purposeful educational activity".

Amendments 2 to 4 turn to the question of maturity and capacity. Proposed new section 9A, as drafted, states that a

"pupil is to be presumed to be capable of forming a view unless the contrary is shown."

In abstract terms, that sounds child centred; in practical terms, it places schools in a difficult and potentially adversarial position. The bill now creates a process by which, if a pupil objects, the parental request must not be given effect. That is not simply consultation; it is determinative.

In such circumstances, Parliament must be precise about thresholds. Amendment 2 clarifies that it is a

"pupil 16 years of age or older"

whose position carries that determinative weight.

John Mason: Will the member give way?

Maggie Chapman: Will the member give way?

Stephen Kerr: I give way to John Mason.

John Mason: Speaking—it is interesting to note—as one religious member to another, does the member not think that 16 is a bit on the high side? I would have accepted it if he had said that the threshold should be at secondary 1 stage or maybe somewhere in between, but 16? We allow young people at 16 to do a lot of things. Surely, below 16 they should be able to opt out of religious observance.

Stephen Kerr: Actually, John Mason makes my point for me—16 is not an arbitrary number. In Scots law, it marks a recognised threshold of legal capacity—

Alex Cole-Hamilton (Edinburgh Western) (LD): Will the member take an intervention?

Maggie Chapman: Will the member give way?

Stephen Kerr: It is the age at which young people acquire significant rights and responsibilities.

I give way to Alex Cole-Hamilton.

Alex Cole-Hamilton: I am grateful to Stephen Kerr for giving way; I have pressed my button to speak in this group on this particular issue. We have a range of ages of majority, as laid out by this Parliament. At the age of 12, a person's medical consent is sought and they are deemed to have capacity in medical decisions made about their body. The age of criminal responsibility is much lower than 16—in fact, the Scottish Conservatives have resisted an increase in that regard. I therefore ask him to explain those inconsistencies to the Parliament and say why he is bringing this one forward.

Stephen Kerr: Alex Cole-Hamilton is asking me to explain the inconsistencies of legislation for which the Parliament is responsible. I would like there to be less inconsistency in these areas; unfortunately, we live with these inconsistencies, and that is why I have lodged amendment 2 to set 16 as the age. I recognise what Alex Cole-Hamilton says, and I sympathise with his point of view about the confusion that exists around these matters. I wish that there was some clarity.

Maggie Chapman: I wonder whether Stephen Kerr is able to tell members whether he thinks that children under the age of 16 can make any decisions for themselves and therefore would be considered to have capacity in this regard. The UNCRC—which his party has agreed to incorporate in Scots law—is quite clear that children and young people should be assumed to have capacity unless it is proven otherwise. The bill as it stands is consistent with that. His amendments would put the bill at odds with that principle.

16:30

Stephen Kerr: Maggie Chapman is asking me whether I believe that children under the age of 16 can make their own decisions. As the father of four children, I assure members that children do have the capacity, in many instances, to make decisions for themselves. This issue happens to fall under an area that is covered by the 1980 act and deserves our careful scrutiny. In Scots law, the age of 16 is a recognised legal threshold for capacity. It is an age at which young people acquire, as I said a moment ago, significant rights and responsibilities under law. That is not the same as the issue that Maggie Chapman raised in her question. Aligning the bill with existing legal architecture is not restrictive—it is coherent.

I turn to amendment 3, which would replace the phrase "be capable of forming" with

"have the maturity to form".

That shift is deliberate. Capability suggests a minimum cognitive ability. Maturity recognises emotional

development, contextual understanding and the capacity to appreciate consequences. It is not semantic refinement. It is a more accurate articulation of what Parliament must mean if the child's view is to override their parents' statutory right.

Martin Whitfield: With a move from "capable of forming" to "have the maturity", is Mr Kerr not shifting from an objective assessment to a subjective assessment? He is seeking to shift the judge—to shift who decides that.

Stephen Kerr: Any decision on the maturity and emotional development of a child is an on-going subjective decision that is reviewed continually in the light of their development, which is highly individual, as I know and Martin Whitfield knows only too well.

It is important that we have clarity around the articulation of what Parliament means. I repeat this point, because it is important. The bill would mean that a child's view would override a parent's statutory right. That is why we require careful scrutiny of amendment 3 at this stage in the bill's progress.

Amendment 4 would establish a presumption that a pupil under the age of 16 is not to be treated as having the maturity to form such a view

"unless the contrary is shown".

That is not a blanket exclusion—it preserves flexibility. Where a younger child demonstrably possesses unusual maturity, the presumption can be rebutted, but the amendment would prevent the default position from becoming automatic opposition to their parent's request. That is the whole point of the bill.

Throughout our scrutiny of the bill, I have emphasised that the UNCRC speaks of "evolving capacities". It does not erase parental responsibility. Article 5 recognises

"the responsibilities, rights and duties of parents … to provide … appropriate direction and guidance".

If the bill is to claim UNCRC alignment, it must respect that dual principle. My amendments restore balance without denying the child's voice.

Amendment 5 is equally fundamental. It requires that operators "act impartially" and do not "seek to influence" the pupil's views. If the school is required to inform the pupil of the request and of the right to object, that communication must be neutral. It must not be framed in a way that steers the pupil towards objection, nor should it minimise the seriousness of the parental decision. Schools are trusted institutions. Parents must have confidence that they are not entering a process in which their child will be subtly encouraged to contradict them. Without explicit statutory impartiality, we risk creating a dynamic in which the school becomes an active participant in a dispute rather than an honest broker. That would be unfair to families and to teachers.

Against that background, I have serious reservations about amendment 19. A statutory duty to issue guidance on the withdrawal process may appear sensible, but we are being asked to endorse guidance that we have not seen, in an area that already places teachers in a sensitive and potentially invidious position.

Guidance can provide clarification, expand expectations and reshape practice. If the bill will already formalise a process that many people believe goes further than is necessary, layering additional statutory guidance without clear parameters risks compounding that shift. Teachers are educators; they should not be routinely drawn into adjudicating family disagreement on matters of conscience. Before granting ministers further influence over how this delicate process is conducted, the Parliament should be confident that such guidance will reinforce restraint, not extend intervention.

My amendments are principled and carefully framed. They would respect children's voices while preserving parental responsibility, provide schools with clearer statutory guidance and reduce the risk of an inconsistent application of practice across Scotland. If we are to legislate in this sensitive space of conscience, family life and education, we must do so with seriousness and balance. My amendments would help us to do exactly that, and I commend them to the Parliament.

I move amendment 1.

The rest of this Official Report will be published progressively as soon as the text is available.