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Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 29 February 2012

Session 4

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Scottish Parliament

Wednesday 29 February 2012

[The Presiding Officer *opened the meeting at 14:30*]

Time for Reflection

The Presiding Officer (Tricia Marwick): The first item of business this afternoon is time for reflection. Our time for reflection leader is the Rev Dr Ian Wills, a senior pastor in the Church of the Nazarene in Glasgow.

The Rev Dr Ian Wills (Senior Pastor, Church of the Nazarene, Glasgow): Assuming that the Scottish Parliament continues to host time for reflection on a Wednesday for the next 400 years, I will be the first of only 15 to address the chamber in this capacity on a leap day. For a moment, this unique privilege offers me a vain and futile sense of my own importance, which I confess is unbecoming of a man of the cloth.

However, today represents a reality that we must come to accept: that we are all subjects of, and governed by, systems, structures, and schemes that are far greater than our human minds can comprehend or human endeavour can change. We create extra days in our calendars to keep in tune with nature's laws, lest we become out of sync. In the end, we find ourselves humbly submitting to those higher ways and that higher power. We surrender to their superiority, living our lives in line with them.

Scotland's environment bears glorious witness to such natural systems that govern our life, testimony to the creative power of something or someone beyond our ken. Some of our best academic research and entrepreneurial creativity is defined by that reality. Whether we are discovering the potential of Scotland's natural resources, harnessing the power of its wind and waves or writing about its abundant beauty and generous hospitality, we do so with thankful humility, careful responsibility and a sense of our real place in this awesome world.

Scotland provides us with an environment that we cannot and would not change—except, perhaps, when attempting a summer barbecue. Yet, in submission to her and in awe of her, we strive to learn from her, to live from her power and to love amidst her beauty and hospitality.

We are all subjects of a greater way, and privileged stewards of its bounty. There is a sovereignty that lives above our temporary rule and reign, a non-human, yet strangely personal sovereignty with whom we already work, to whom we inevitably find ourselves submitting. His ways

may be higher, greater, but they are infinitely hospitable, loving, a reality that caused an ancient to write:

"When I consider the heavens, the work of your fingers, the moon and stars that you set in place, what is humanity that you are mindful of them, that you care for them?"

Our national history and heritage has been forged under such wisdom and faith, from our early Celtic roots. They remind us that we do not struggle against a hostile creator, but, rather, that we are invited to walk with a hospitable saviour.

Business Motion

14:34

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-02149, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a revision to the business programme for today.

Motion moved,

That the Parliament agrees the following revision to the programme of business for Wednesday 29 February 2012—

delete

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Ministerial Statement: Post-16 Reform

followed by Scottish Government Debate: Human Trafficking

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

and insert

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Ministerial Statement: Lockerbie

followed by Ministerial Statement: Post-16 Reform

followed by Scottish Government Debate: Human Trafficking

followed by Business Motion

followed by Parliamentary Bureau Motions

5.30 pm Decision Time

followed by Members' Business—[Bruce Crawford.]

Motion agreed to.

Lockerbie

The Presiding Officer (Tricia Marwick): The next item of business is a statement by Kenny MacAskill on Lockerbie. The cabinet secretary will take questions at the end of his statement, so there should be no interruptions or interventions.

14:35

The Cabinet Secretary for Justice (Kenny MacAskill): I once again put on record my sympathy for the relatives of all those who were lost in the Lockerbie atrocity—whether they were Americans or people of many other nationalities murdered in the air, or Scots lost on the ground. The anguish remains with them constantly.

I have been asked by the Opposition to make a statement to Parliament on the matter once again, and I am willing to do so. The Government and I have always sought to be as open and transparent as we can be on all matters that relate to Lockerbie.

The need for the statement relates to claims that were made in a book that was written by a former researcher with Mr al-Megrahi's legal team. Those claims are wrong. Minutes of meetings that related to Mr al-Megrahi were made at the time and have been published, except where permission was not given by other Governments. A minute of my meeting with Libyan representatives is one of them. Unlike the claims of recent days, those minutes are not hearsay, but are an accurate record that was made at the time. That minute has been in the public domain since September 2009. It is quite clear, and it refutes the assertions that have been made. Those records are made by impartial civil servants to ensure that there is a proper historical record of important discussions.

In addition to the minute that was kept, let me be quite clear that Scottish Government officials were present throughout my meeting with Mr al-Obeidi, and at no time did I or any other member of the Scottish Government suggest to Mr al-Obeidi, to anyone connected with the Libyan Government, or indeed to Mr al-Megrahi himself that abandoning his appeal against conviction would in any way aid or affect his application for compassionate release.

Let us remember what the two different processes were. One process was an application under the prisoner transfer agreement, made by the Gaddafi regime. That required an end to any appeal proceedings before a transfer could happen. The second process was an application for compassionate release made by Mr al-Megrahi himself, to which no such condition applied.

We vigorously opposed the prisoner transfer agreement that was negotiated by the then United Kingdom Government with the Gaddafi regime, not least because it represented interference in the Scottish legal process. Between June 2007 and September 2008, we wrote to the UK Government no fewer than eight times setting out our position. I considered but rejected the application for prisoner transfer that was made in respect of Mr al-Megrahi, and I granted a request for compassionate release that he submitted, as I believed that it adhered to the laws and values that we hold in Scotland. I did so on the evidence that was before me from the Parole Board for Scotland, the prison governor and the director of health and care in the Scottish Prison Service.

The Scottish Government had no interest whatsoever in Mr al-Megrahi's appeal being abandoned, and I had no involvement in Mr al-Megrahi's decision to drop his appeal against conviction. That was entirely a matter for him and his legal team. However, one thing that is now clear from the new book is that, as detailed on page 352, Mr al-Megrahi signed a provisional undertaking to abandon his appeal on 23 March 2009. It is therefore clear that he was considering dropping his appeal several months before either of the two applications was put before me.

At the time Mr al-Megrahi had no way of knowing what my decision would be, either on compassionate release or on the prisoner transfer agreement. However, he knew that a prisoner transfer application would have been refused had there been any on-going legal proceedings.

The author of the book, John Ashton, accepted on BBC radio yesterday that the claim in the book is hearsay. The Government has shown consistently that we want to be as open and transparent as we can be on all aspects surrounding the al-Megrahi case. That is why we have introduced the Criminal Cases (Punishment and Review) (Scotland) Bill to aid publication of the statement of reasons. An assertion by the author is that we, the Scottish Government, do not want the statement of reasons to be published. Nothing could be further from the truth.

The bill, introduced by this Scottish Government, will enable the Scottish Criminal Cases Review Commission to decide whether it is appropriate to disclose information in cases that it has investigated when a subsequent appeal has been abandoned. The bill helps to leave the commission as the decision maker with regard to whether it publishes its report on the al-Megrahi case. Under the bill, the commission must decide whether, in the whole circumstances, it is appropriate to disclose its statement of reasons. The commission will want to consider a range of

factors when deciding whether it is appropriate to disclose information.

One key factor is likely to be how much of the statement of reasons is already in the public domain. With the publication of the book and the broadcast of television documentaries containing what apparently may well be significant material from the statement of reasons, that could be an important factor that the commission may want to consider when it decides whether it is appropriate to disclose information that it holds.

As members know, we are limited within the powers of the Parliament as to how far our legislation can go in freeing up the commission to disclose information. Data protection, which is a reserved matter, is a key obstacle to disclosure. I first spoke to Kenneth Clarke on this issue back in September 2010. Since our bill was introduced, I have already written to him on the issue three times.

We are now faced with publication of material that is apparently from the statement of reasons. That means that the case for an exception to be made to data protection rules is now overwhelming, but that is for the UK Government to act upon. That is why I have today written again to Kenneth Clarke urging that the UK Government now makes a decision for an exception to be made to the normal statutory data protection rules for this unique case. That will help to ensure that the wider public interest can be served and that the road to publishing the statement of reasons is further cleared.

Let no one be in any doubt: we want the statement of reasons published and we are doing all that we can, within the powers of this Parliament, for that to happen.

Mr al-Megrahi was convicted in a court and that is the only place where his guilt or innocence should be determined. We recognise that some have concerns regarding the wider issues relating to the atrocity. The wide-ranging and international nature of the issues involved means that there is every likelihood of issues arising that are not devolved, which would require either a joint inquiry with, or a separate inquiry by, the UK Government. We remain ready to co-operate on an inquiry.

Members will want to know whether there is a mechanism for an appeal still to be heard, even posthumously, and I confirm to the Parliament that there is. It would involve an application being made for a further reference by the SCCRC, the commission deciding to make such a reference and the High Court accepting it. Those, of course, are not matters for me as Cabinet Secretary for Justice to decide upon. They are decisions for others to make, but it is important that the Parliament is aware of the position.

As I sought neither the abandonment nor the continuation of Mr al-Megrahi's appeal, it is not for me to seek or oppose a potential appeal, posthumous or otherwise. It is, correctly, a matter for others, and I would have every confidence in the Scottish criminal justice system were there to be another appeal. I would be entirely comfortable with that.

We want the commission's report to be in the public domain to help to ensure that public confidence in our justice system is retained. The Government is doing all that it can to bring about disclosure of the statement of reasons and I urge all members to support those efforts by supporting our bill and our efforts to get the UK Government to make an exception to data protection rules.

The Presiding Officer: The cabinet secretary will take questions on the issues that were raised in his statement. I intend to allow around 20 minutes for questions, after which we will move on to the next item of business.

Lewis Macdonald (North East Scotland) (Lab): I thank the cabinet secretary for an advance copy of his statement and welcome his decision to come to the chamber and make a statement on the matter today.

We are here because of the connections between decisions that were made in August 2009 first by Abdelbaset al-Megrahi and then by the cabinet secretary. Mr al-Megrahi's decision was to withdraw his appeal against his conviction for the worst mass murder in Scottish legal history. Mr MacAskill's decision was to let that man go on the grounds that he had only a few months to live.

We are here today because the man whom Mr MacAskill released on those grounds has now asserted, two and a half years later, that he dropped his appeal because the cabinet secretary used a third party to encourage him to do so. The cabinet secretary confirmed that he met that third party—Mr al-Obeidi, a minister in Colonel Gaddafi's Government—and has drawn our attention to the minutes of the meeting and those of the meeting that he had with Mr Megrahi in Greenock prison.

Those minutes make interesting reading because, at both meetings, time and again, Mr MacAskill and his officials stressed that release under the prisoner transfer agreement could proceed only if Mr Megrahi dropped his appeal. It appears from the minutes that Mr MacAskill did not, at any time, make the point that he made today and has made repeatedly over the past two years, namely that his decision to release Mr Megrahi had nothing to do with the prisoner transfer agreement—or that compassionate release would not require Mr Megrahi to drop his appeal. *[Interruption.]*

Those are the words of the minutes of the meetings. When Mr Salmond suggests from a sedentary position that that is a misrepresentation, is he telling us that the minutes are not a full and accurate record of the meetings that were held? If they are a full and accurate record, I would like to hear the cabinet secretary's comments. Does he now accept that his conversations with Mr al-Megrahi and Mr al-Obeidi left both men with the very clear impression that withdrawing the appeal was the prudent thing to do? Does he now regret either of those meetings or the way in which he handled them?

Kenny MacAskill: No. Mr Macdonald is quite right that there were two separate meetings. There was a meeting with Mr al-Megrahi in Greenock, at which he was supported and represented by his lawyer, a member of the legal profession who is probably better known to some of Mr Macdonald's colleagues than to me. He was present throughout. At that stage, no application for compassionate release had been submitted; the discussion was simply on the issue of the prisoner transfer agreement.

At the meeting with Mr al-Obeidi, both matters were touched on, but I make it quite clear that it was never suggested to Mr al-Megrahi directly or to a third party that the appeal required to be dropped. It was simply made clear that under the terms of the prisoner transfer agreement, which was entered into by a Labour Government south of the border with Colonel Gaddafi's regime, a prisoner transfer could not be considered while any proceedings were on-going. That was a matter of legal fact, which was put to him.

David McLetchie (Lothian) (Con): Mr MacAskill was absolutely right to begin his statement by saying that we should remember the victims of Lockerbie, but we should also reflect on the fact that the man who was convicted of their murder by a Scottish court has enjoyed 923 days of freedom, courtesy of the Scottish National Party, which is a remarkable period of survival for someone who, apparently, had only around 90 days to live.

The key allegation that is made in the book is that some kind of deal was made between the Libyans and the Scottish Government whereby Megrahi would be released on compassionate grounds if he dropped his appeal. Interestingly, that allegation is the same allegation that was previously made by Christine Grahame MSP, who said that she had been told that very thing by a whistleblower in the Scottish Executive. To that extent, one allegation corroborates the other. *[Interruption.]* Ms Cunningham may be contemptuous of her colleague, but Ms Grahame may have something to say later.

Is it Mr MacAskill's position that both those parties are in error and that their allegations are figments of excitable imaginations, which do not contain a shred of truth?

Furthermore, the suspicion that Mr MacAskill took an unduly favourable view of the medical evidence to facilitate a deal would, of course, be allayed if all the medical reports on which the three-months-to-live assessment was made were released. The Scottish Government has consistently and conspicuously failed to do that. Does Mr MacAskill not recognise that the public interest and the questions surrounding the integrity of the decision-making process now demand that that evidence be released and made available for public scrutiny?

Kenny MacAskill: There are two aspects here. One is whether any factor was involved in the release of Mr al-Megrahi other than the criteria for compassionate release, on which my decision was based. It is clearly the position that no other factor was involved. As I made clear in 2009, we did not consider any other matters, whether economic, political or diplomatic, despite the criticism that we received. It is clear that the United Kingdom Labour Government was openly conniving while Labour representatives were openly criticising me.

The same applied to the Conservatives. I make it clear to Mr McLetchie that we refused the suggestions from various Tory members. I remind him that Daniel Kawczynski, a Tory member, wrote to me on 14 August 2009 to suggest that Mr al-Megrahi should be used as a bargaining chip in negotiations. I refused that suggestion. On 17 July 2009, the Tory peer and former Tory minister Lord Trefgarne wrote to me to say that speed was of the essence in returning Mr al-Megrahi to Libya for reasons of business interests. I made it quite clear that we would not broker economic, political or diplomatic matters, and that the decisions that we made were subject to the laws of Scotland and the values of its people.

David McLetchie: Where is your higher power now?

The Presiding Officer: Mr McLetchie—enough.

Kenny MacAskill: Let me deal with the question about medical reports. First, the only medical report on which I based my decision was that from Dr Fraser, the director of health and social care in the SPS. That report has been made available, and doubtless Mr McLetchie has read it. It is already in the public domain and has been so since September 2009. Members will be aware that medical records are subject to the common-law duty of confidentiality, and we are bound by that as we are bound by other legislation.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): First, I

declare that I am a member of the Justice for Megrahi campaign.

I turn to the exact words of Abdelbaset al-Megrahi, on page 352 of the book to which the cabinet secretary referred in his statement. With regard to the prisoner transfer agreement, Mr al-Megrahi says:

“For my family's sake I decided I must choose the latter”

—that is, the prisoner transfer—

“and on 23 March 2009 I signed a provisional undertaking to abandon the appeal.”

That considerably predates any memos, and anything that has been said in hearsay. Those are the direct words of Abdelbaset al-Megrahi.

It seems that, instead of going on this wild goose chase now, we should be looking at having a full inquiry—

The Presiding Officer: Do you have a question, Ms Grahame?

Christine Grahame: Is it not the case that we should have a full inquiry into all aspects of the Lockerbie atrocity, for the sake not only of Abdelbaset al-Megrahi and his family, but—more importantly—for the people of Lockerbie and the victims' families, who still need answers?

I would like to ask the cabinet secretary a supplementary—

The Presiding Officer: No, you cannot. Cabinet secretary—

Christine Grahame: Has he had any indication of an inquiry from Westminster?

The Presiding Officer: Cabinet secretary.

Kenny MacAskill: I have always made clear that I stand by the decision that was made by the Scottish court and upheld by the Scottish appeal court. It is for others to decide whether they wish to pursue matters through an appeal, as has been detailed, or to request a further inquiry.

We have made it clear as a Government that the restrictions on our jurisdiction mean that any appeal or inquiry in Scotland would be limited. We would be dealing with reserved matters, so they would have to be dealt with either through more than one inquiry or in conjunction with the United Kingdom.

We have said that we will happily co-operate with any inquiry, but it would be for others to pursue that. I return to my statement, in which I made it clear that it is not for me—and it never was—to decide whether proceedings are carried out. I simply abide by the laws of Scotland.

Jenny Marra (North East Scotland) (Lab): It is clear that as much as possible of the information

surrounding the case needs to be in the public domain. The Scottish Government has expressed a commitment to transparency through the Criminal Cases (Punishment and Review) (Scotland) Bill, and the cabinet secretary has stated today that data protection is a key obstacle to the disclosure of the statement of reasons under the bill.

However, in evidence to the Justice Committee on 7 February, the assistant commissioner for Scotland and Northern Ireland said that the Data Protection Act 1998 did not prevent disclosure, and that the Parliament has the power to define the conditions for processing by passing an act that allows the Scottish Criminal Cases Review Commission to disclose.

Last week, the cabinet secretary told the committee that the assistant commissioner had changed his mind. Will the cabinet secretary tell us the most recent opinion of the assistant commissioner on data protection and disclosure? Will he publish the correspondence between his office and the assistant commissioner between 7 and 21 February in the interests of transparency?

Kenny MacAskill: We are always happy to publish whatever is necessary in the interests of transparency, and we do so. I can hypothesise on the current position of the assistant commissioner, but the thoughts of others—whatever they are or were—with regard to the abandonment or lodging of further appeals are not under my control.

We have made it clear that we do not accept the assistant commissioner's statement that, simply by making a change to a piece of subordinate legislation, we can change matters through primary legislation. We must be cognisant of the restrictions on us even more so in subordinate legislation than in primary legislation.

I pointed out in my exchange with Ms Marra in committee that, if it was so easy to change such matters through subordinate legislation, I—and no doubt others in the Scottish Government—would have made it clear that we were not going to enter into illegal wars, impoverish the poor and a whole variety of other things. If only life were so simple.

John Finnie (Highlands and Islands) (SNP): Does the cabinet secretary agree that there is an element of hypocrisy among Opposition members, who are calling for an inquiry when their colleagues down south have failed to disclose the UK Government's position?

Kenny MacAskill: It is for other Governments to explain their actions throughout. There has been a great deal of hypocrisy, particularly with regard to Mr McLetchie.

However, it would be unfair and remiss of me not to remind Lewis Macdonald and others on the

Labour benches that they sat there and berated my decision to release Mr al-Megrahi on compassionate grounds when the UK Labour Government was conniving and conspiring to have Mr al-Megrahi returned to Libya whether on compassionate grounds or under a prisoner transfer agreement. I cannot decide the actions of other Governments; I can comment only on my actions and the actions of the Scottish Government, and on this decision we have been quite clear.

Graeme Pearson (South Scotland) (Lab): Will the cabinet secretary outline to Parliament his specific reasons for meeting al-Megrahi at Greenock prison? Does he now recognise that, in the minds of some people, his handling of that process lends credence to the current controversy over the deal in respect of the subsequent withdrawal of al-Megrahi's then imminent appeal? Will he publish all briefing papers leading up to that prison visit? I understand that, prior to the decision to liberate al-Megrahi on compassionate grounds, negotiations and contacts were maintained between the Scottish Executive's civil servants and representatives of the then Libyan Government regarding al-Megrahi's release. Was there any conflict of interests, given the other roles and responsibilities of civil servants, and will he publish the papers?

Kenny MacAskill: We have sought to publish everything that we can, except where that has been precluded either by medical confidentiality or by the clearly expressed wishes of other Governments.

Mr Pearson asks why I went to see Mr al-Megrahi in Greenock prison. Let me make it quite clear: I went to see him at his request. Why? I had to see him on both the prisoner transfer agreement and his application for release on compassionate grounds. The primary matter was that he had submitted an application under the prisoner transfer agreement. As I pointed out, this Government consistently opposed that but it was driven through by a Labour Government down at Westminster. The agreement applied only to the only prisoner of Libyan nationality that we have ever had in Scotland, and it was clear when the UK Government entered into the prisoner transfer agreement that it related to Mr al-Megrahi. Our request to have him specifically taken out of the agreement was refused by the UK Government.

The prisoner transfer agreement was different in that an application could be submitted not just by the individual, but by the Government concerned. The Government concerned had submitted an application—the Libyans submitted the application—and I was required to ensure that the prisoner had an opportunity to be heard, because there could be scenarios in which an application

for a transfer was made by a Government but the individual did not wish that to happen. I offered Mr al-Megrahi the opportunity to make representations and to be heard; he requested the right to make those representations. He wished to make them formally to me so, accordingly, I went to see him in Greenock prison. I did so because the legislation that had been introduced by the UK Government required me to take into account his views on an application on his transfer back to Libya. More important, had I refused to go, the likelihood is that I would have faced being judicially reviewed by his legal team.

The Presiding Officer: We have very little time to conclude the questions on the statement. *[Interruption.]* I ask Mr McLetchie to keep quiet, please. I remind members that they should ask one question without a preamble. In that way, I may be able to get in as many members as have requested to speak.

Roderick Campbell (North East Fife) (SNP): Would Mr al-Megrahi have been granted compassionate release if he had continued his appeal?

Kenny MacAskill: Yes. The prisoner transfer agreement required an end to the appeal before transfer, but there was no such requirement for release on compassionate grounds. The criteria for release on compassionate grounds were the evidence that was put before me by the Parole Board, the prison governor and the director of health and social care. Release on compassionate grounds would have been granted.

Alison McInnes (North East Scotland) (LD): Can the cabinet secretary tell me whether the present Lord Advocate has personally assessed the allegations that have been made against the Crown Office of obstruction, in covering up evidence, which are reported in the book? If so, has that assessment been shared with the Cabinet?

Kenny MacAskill: Matters in respect of the Crown Office are for the Lord Advocate. I have had discussions, because I am aware that the Lord Advocate has made it clear that this is an on-going inquiry. No one has ever suggested that Mr al-Megrahi acted alone. For that reason, matters are on-going, with inquiries through the Crown Office and by Scottish police. It would not be appropriate or correct for me to comment on other matters, other than to say that I have the utmost faith in the Lord Advocate.

Colin Keir (Edinburgh Western) (SNP): Can the Scottish Government require the SCCRC to publish a statement of reasons in circumstances in which an appeal has been abandoned?

Kenny MacAskill: We cannot require the statement of reasons to be published; what we

can do is provide a framework in which the commission can put forward the statement of reasons. We tried that initially through the subordinate legislation route. Consent was not forthcoming from a variety of parties, and the commission requested additional powers. For that reason, we introduced the Criminal Cases (Punishment and Review) (Scotland) Bill, which will give the commission a framework in which to consider a variety of matters, such as the Official Secrets Act 1989 and human rights considerations. As I said, all the actions of the Government are predicated on enabling the commission to be in a position to publish.

Elaine Murray (Dumfriesshire) (Lab): On behalf of my constituents in Lockerbie and all the friends and relatives of the people who died on the ground and in the air, I ask the cabinet secretary to give his assurance and his word that neither he nor anyone connected with the Scottish Government or the Scottish Court Service at any time put pressure on Mr al-Megrahi, his legal team or the Libyan delegation with regard to the withdrawal of his second appeal.

Kenny MacAskill: I absolutely give that assurance.

Humza Yousaf (Glasgow) (SNP): As the cabinet secretary said, the Criminal Cases (Punishment and Review) (Scotland) Bill will add transparency to the issue. Can the cabinet secretary say whether Mr al-Megrahi has consented to release of the statement of reasons?

Kenny MacAskill: My understanding is that Mr al-Megrahi has not consented to release of the statement, which is one of the reasons why we require to proceed with the bill.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): Is the cabinet secretary suggesting that the UK Government has a veto on the publication of any report from the commission, because of the reservation of data protection?

Kenny MacAskill: It is not for me to be responsible for what the commission publishes, but it is clear that data protection is likely to be a significant impediment. For that reason I entered into discussions with Kenneth Clarke and—as I have said on other occasions in the Parliament—I have been grateful to him for the spirit in which he has considered matters.

However, over recent days, with books appearing and documentaries forthcoming, it is important that we have a balanced position out there. It is therefore important that the statement of reasons be published. All that I can do is provide a framework that I hope will enable the commission to be in a position to publish, but it is for the commission to make the decision, when it

has considered all the criteria that are set out in the bill.

Post-16 Reform

The Presiding Officer (Tricia Marwick): The next item of business is a statement by Michael Russell on post-16 reform. The Cabinet Secretary for Education and Lifelong Learning will take questions at the end of his statement. There should therefore be no interventions or interruptions.

15:08

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): In September last year, I launched “Putting Learners at the Centre—Delivering our Ambitions for Post-16 Education”, which was a consultative paper that set out my ambitious proposals on reform of post-16 education. I am pleased to be able to address Parliament today to report on some of the key issues that are emerging from the consultation.

I thank everyone who has taken the time to contribute their views through written responses or as part of the consultation discussions. Today, I am publishing all the individual responses, alongside our consultation analysis, so that everyone can access the wide range of views that have been presented.

Much of the attention in past months has fallen on the implications of my plans for colleges; my proposals for the sector are unashamedly far reaching. During the consultation process we listened to the sector, and we have responded with the college transformation fund and the resources that are necessary to support students.

I have made clear my plans for regionalisation and I am fully committed, with the Scottish Further and Higher Education Funding Council, to working closely with colleges to implement those essential reforms, which will bring benefits for learners and employers. I met college principals and chairs only yesterday to discuss the way forward on the important issue of governance. I am listening to their views and to the views of many other people and I will say more about the matter before the Easter recess.

Over the coming year, our programme of reform will gain pace. We will move to redistribution of resources based on needs, we will develop outcome agreements with our new regions, and many colleges will continue with their plans to merge because they think that that is the right thing to do.

My overall intention is to refocus our existing systems to ensure that they are driven by the needs of learners and not by the needs of institutions, so I was very pleased to see that

proposition being strongly supported in the consultation responses. We have already made a great deal of progress by starting to reform college delivery structures and by making wider changes to underpin effective delivery in the sector.

Today, I want to focus on all the reforms that will put learners at the centre to create better life chances for young people and support our ambitions for sustainable economic growth. That will mean building on our many existing strengths and responding to the new opportunities that are emerging as curriculum for excellence becomes fully embedded in our schools.

As was reflected in the responses, the transition from school into training, college or university and the progression of young people through those systems into work are critical. The responses also demonstrated a great deal of consensus; in particular, the need to recognise and clarify the full range of possible pathways from school and to strengthen the system's connectedness were paramount. From community learning and development to workplace learning right through to college and university, all parts of the post-16 system must be linked more effectively.

Equally, many respondents stressed the need to develop stronger partnerships across sectors. The consultation highlighted many areas where such partnerships are already emerging to create more coherent pathways. For example, the Dumfries and Galloway Council submission sets out how it is developing links through closer working between schools, CLD, colleges, universities and business and it is one of many good examples that I think reflect a commitment, across Scotland, to work differently to learners' benefit.

Another emerging theme is the role of the Scottish credit and qualifications framework, which I am glad to say was fully recognised and supported. However, views differed on how it might better support progression, with the key area of contention being whether it should form a basis for funding, and important points were made about raising its profile for learners, parents and employers.

In response to those views, I want to take a number of steps. First, I will issue new community learning and development guidance. I will also consider how I can use forthcoming legislation to develop stronger links between the provision that is offered in colleges and that which is offered elsewhere in communities.

I also want to make progress on the important issue of pathways. There was a clear view that learner journeys are not always linear and that we must do more to map out learner pathways to reflect that fact. I have asked my officials to work with Skills Development Scotland, learners and

others to consider how best to achieve that objective.

Our fundamental challenge is to strike the right balance between having a flexible system that provides the best possible choices for learners, and making that system sustainable and reducing unnecessary duplication. Part of the answer to that will rely on making better use of the SCQF and developing clearer pathways. I will explore those issues further over the coming months.

We also received a big response on widening access. The clear message is that widening access goes beyond admission to university and that it is essential that we focus on other areas, including provision for those with more complex needs, opportunities for older learners and maximising the contribution of community learning and development. Although much of the work that I have already discussed will address that, I want to focus on three particular issues. First, we will continue to work through curriculum for excellence to enhance the offer in the senior phase of education. That will include not only promoting and extending the use of the Scottish baccalaureate and advanced higher, but looking at how schools prepare learners for transition into other areas such as college, training or employment.

Next, I want to work with the Scottish Further and Higher Education Funding Council, the National Union of Students Scotland and institutions to take forward the report that I commissioned last year from the council on improving articulation and transition, which sets out the current situation and what we might be able to achieve.

Finally, I want to develop further and more fully the case for a stronger legislative base for access. In so doing, I want to ensure that we recognise the importance of curricular links, and reflect learners' different needs and the sector's diversity. There seems to be clear support for legislation to support the current activity on access agreements that is being led by the Scottish funding council, and that is the route that I will pursue.

Continuing with the theme of building on curriculum for excellence—and, in particular, the senior phase—we must give learners the opportunities that they need to enhance their skills at every level. As we recognise the importance of higher level apprenticeships in supporting businesses to develop their staff, I am pleased to announce today that, following the conclusion of the "Making Training Work Better" consultation, higher level apprenticeships at SCQF level 8 or 9 will become technical apprenticeships while those at level 10 will become professional apprenticeships. Such a move will develop the flexible framework that will enable all businesses to develop their staff to acquire the skills that they

need to grow at their own pace and without any limit on their ambition.

Our post-16 reforms will also contribute to achieving the aims that were set out by Angela Constance at the end of January in the draft youth employment strategy. The bedrock for that will be the opportunities for all scheme, which will guarantee every 16 to 19-year-old a place in education or training. I will also look at ways to improve our engagement with employers, and we will develop a more flexible approach to pre-employment training to ensure that that support is better aligned with the needs of learners, the labour market and our economic priorities. We are clear about the continued importance of local employability partnerships in delivering tailored employability programmes, and we will continue to work with the Department for Work and Pensions and other partners to drive better alignment.

On student support, the consultation responses generally welcomed the commitment to ensuring fair and affordable support arrangements. To deliver that, we continue to work closely with NUS Scotland on the commitment for a minimum income of around £7,000 in higher education. That work is on track and I expect to announce more details in the summer.

Alongside that, I want to ensure that we strike a balance between the consistency that will be achieved through a national policy on support for college learners and the local discretion of colleges to deliver tailored support and to improve support for part-time learners. The value of part-time learning was made clear in the responses, and I am also keen to build on our progress.

I make no apology for focusing on issues that address the learner, but before I conclude, I need to mention research. A key part of our proposals is the need to make better use of the world-class outputs from our universities, in order to support our ambitions. To achieve that, I have set out proposals to develop a single knowledge exchange office to help businesses to access that resource. I am pleased to say that, building on the responses, I have asked the Scottish funding council to set up a working group with Universities Scotland and business representatives. I look forward to seeing the output from their work later in the year.

The breadth of the consultation and the responses means that I have not been able to address every aspect of our reforms—far from it—but the paper that I have published today provides a lot more detail. I have tried to capture the key issues and, in concluding, I want to draw attention to what is at the centre of the issue: it is partnership, the importance of which was emphasised time and again during the consultation. Strong and purposeful partnership

working is critical to the success of our reforms and to meeting our objectives in life chances, in jobs and growth, and in sustainability. The Government is focused on delivering the best education for our young people by protecting free access to undergraduate education, reforming student support, and building on the international excellence of our research reputation.

There is no doubt that we could do more if we had more powers, which is why we will hold a referendum on independence in 2014. For now, we will focus on what we can do within the existing arrangements.

I am far from being the first nationalist to see in education the bedrock for the new nation of Scotland. In his maiden speech to the House of Commons in 1945, the first ever Scottish National Party member of Parliament, Robert McIntyre, said:

“I happen to be more interested in the education and welfare of the people of Scotland than in any party consideration. We need a real programme for rebuilding our educational system in Scotland. We need a thorough-going measure of educational reform in Scotland.”—*[Official Report, House of Commons, 1 May 1945; Vol 410, c 1299.]*

We needed that then and we still do.

The Government's commitment to such reform is stronger than ever. I will continue to work with our partners across the education landscape to deliver it and I will introduce a bill after the summer recess to support it. I will also make announcements before the summer recess on how I intend to proceed on governance and a range of other matters.

The Presiding Officer: Members who want to ask a question of the cabinet secretary should press their request-to-speak button now. Hugh Henry will be followed by Liz Smith.

Hugh Henry (Renfrewshire South) (Lab): I thank the cabinet secretary for the advance copy of his statement.

I share the cabinet secretary's aspirations for learners in Scotland and support the need for improvement and clarification of possible pathways from school. We need to reflect on how we enhance the experience of the senior school years and consider how that fits with the transition to college and university. We should also recognise that increasingly poorer subject choices are being made available to fifth-year and sixth-year pupils, which needs to be addressed.

I agree with the cabinet secretary that there is more to do to ensure wider access for all students regardless of their background, and I look forward to seeing details, at some point, of the commitment to a minimum student income of £7,000 per year in higher education.

The statement was disappointing. It contained no detail about what is going to be done. It is about aspirations and I am not sure what its purpose is and how it allows questions to be asked. It is full of commitments to say more later and makes promises for new guidance. It asks officials to consider how best to achieve progress on learning pathways. On the SCQF, the cabinet secretary said that he would explore the issues

“further over the coming months”,

and, on student support, he said that he expects to “announce more details in the summer.”

He also said that he has

“asked the Scottish funding council to set up a working group”,

and that he will have more to say about colleges before the Easter recess. Such statements make me wonder what the point is.

Will the cabinet secretary reconsider his decision to force through significant changes to college structures, which already have to cope with large-scale budget cuts? Will he abandon full centralisation and the increase of ministerial control? Will he provide the details of the number of subjects that are being studied in the Scottish baccalaureate and the number of schools that are participating in it? Will he ensure a reversal of the cuts to careers service staff?

Michael Russell: I welcome the fact that Hugh Henry and I can make common cause on many areas of my statement. I hope that we will enjoy the support of the Opposition as we advance important issues such as the pathways, the details for which I have given. I regret, however, that Hugh Henry is not able to be more positive about the range of subjects that I have talked about, which are full of detail and consideration. We are also publishing comments today on some important initiatives.

There are two ways to approach education. The first is to work together to ensure that we improve Scottish education, and the second is to be bitterly partisan. The first part of Hugh Henry’s response hinted that he wants to work together but, alas, he ended up being bitterly partisan. That will not help Scottish education.

We are making a range of reforms in the post-16 sector, and they are regarded as being long overdue and essential. My discussions with the principals and chairs of Scotland’s colleges are positive, as are those with a wide range of people in the sector, including the trade unions. We have important reports on governance. I would very much welcome the support of the Opposition and its constructive criticism. To say simply, “Stop what you are doing,” is not constructive criticism.

Liz Smith (Mid Scotland and Fife) (Con): What did the cabinet secretary mean when he said that he would be

“promoting and extending the use of the Scottish baccalaureate and advanced higher”,

which is on page 6 of his statement? Is that meant in relation to entrance qualifications, employability skills or greater opportunity for flexibility in the transition process? Will the deliberations be concluded at the same time as the new Scottish Qualifications Authority details are announced in April?

Secondly, does the cabinet secretary now accept that the timescale that he gave colleges to seek assistance from the college transformation fund was too short, given the enormous importance of the restructuring programme and given the contention—this is mentioned on page 4 of his statement and page 17 of the responses—about the basis for funding decisions?

Finally, what principles will underpin the legislation that the cabinet secretary intends to use to develop stronger links between college provision and communities?

Michael Russell: Those are important and good questions. On the principles that will underpin the link between colleges and communities, I want each of the regional boards to focus closely on that question as they develop. How can we ensure that the wider recognition of what the region needs and what is needed throughout the community is reflected in the college delivery structures? I would be very happy to discuss with the member those principles in detail and how they work together. It is an important issue.

On flexibility and funding, I want to be as positive as I can be. The resource will be available in the coming year. When I met the college principals yesterday, I think that they agreed that we have to stick to a demanding timetable, given the demands of the budget that comes to us from elsewhere. Were we living in a more normal nation that had full control of its resources, that would not be the case. Within that, I am willing to be as flexible as I possibly can be in relation to access to transformation funding.

The points about the baccalaureate and advanced higher are interesting. I accept that we need to make sure that they dovetail with other changes in Scottish education. We need to look at three things. The first is, undoubtedly, a widening of the scope of the baccalaureate. I have supported the baccalaureate. Its uptake is small, but growing, and we need to see what else can be addressed. Indeed, I anticipate an early announcement from the SQA on that.

Secondly, transition is extremely important. This morning, I spoke to a headteacher who is concerned that the universities need to give a much clearer indication of how they understand what is happening with curriculum for excellence and what will flow out of that, as well as what is taking place with the baccalaureate and advanced highers. We are making progress on that and there are interesting indications. I have spoken to universities on a number of occasions about how important that is, and we will follow that through.

Thirdly, I am keen that the range and depth of qualifications improve. One of the most impressive things in curriculum for excellence is the understanding by young people not just of what they are learning, but of why they are learning it. In one sense, that understanding of what skills are and how they build up is the most extraordinary change. We need to see that in the higher-range qualifications, too, because that is good preparation for further learning and development.

The Presiding Officer: I remind all back-bench members that, if they are going to pose a question to the cabinet secretary, it should be one question and there should be no preamble.

Marco Biagi (Edinburgh Central) (SNP): I welcome the commitment to provide more detail on the £7,000 minimum income. Will the cabinet secretary make clear what the objective is and say what he sees as being the likely benefits of delivering the policy?

Michael Russell: The likely benefits include more money in the pockets of students, which is what many students are looking for. We understand and need to break the link that exists between the difficulty of supporting oneself as a student and the pressure that might apply and which might lead to people dropping out or not completing a course. I want to ensure that we give our students the best possible opportunities.

Neil Bibby (West Scotland) (Lab): I welcome the commitment to guarantee a place in education or training for every 16 to 19-year-old, which is a policy that the Labour Party proposed five years ago. Will the guarantee be met by the target date of April 2012? How many extra college and training places are required to meet the target?

Michael Russell: The guarantee will be met. We intend to do that and we are working hard on it. I will not get into the business of who is the only begetter of a policy, but I am glad that the member likes it and that we are on the same page. We could make common cause and make the policy work well. We have given a guarantee, and the necessary places are being provided. As the member will know from discussions with his local college, there is a clear understanding of the

number of places that are being supported through our guarantee for places, which is absolute.

Stewart Maxwell (West Scotland) (SNP): I want to follow on from Liz Smith's question about what might underpin the forthcoming legislation. The cabinet secretary stated that he would consider how best to use that legislation. Will he outline the perceived benefits that he sees from introducing legislation to widen access to all aspects of post-16 education?

Michael Russell: The use of legislation is important because it will underpin our aspirations. We have been making slow but steady progress on increasing access under previous Administrations and the present one. However, as I said in my statement, the access issue is not just about access to university; it is about a range of possibilities. We need to consider whether we can guarantee continuing improvement in access. In some areas, it is possible to underpin that with legislative force. One important area that I mentioned is the access agreements that are negotiated by the SFC. That is our direction of travel and where the support lies. We now need to ensure that we devise legislation that will be effective and will produce a result. I am not interested in legislation for legislation's sake; I am interested in legislation that will assist the good efforts of a range of people.

Neil Findlay (Lothian) (Lab): How will the loss of 100 more staff at Skills Development Scotland that was announced this week improve the learner journey through education into work?

Michael Russell: The question of how Skills Development Scotland takes forward its business and activities is for Skills Development Scotland. If the member wants to ask that as a parliamentary question, I will ensure that the chief executive of Skills Development Scotland answers it. However, if the member is simply arguing, as he frequently does, that nothing should change and everything must stay the same in education, I will introduce him to the philosophy of conservatism.

Jim Eadie (Edinburgh Southern) (SNP): What action will the Scottish Government take to ensure that research intensive universities, such as the University of Edinburgh, which has a *Times Higher Education* ranking of seventh in Europe, can derive the full economic benefits from the development of a single knowledge exchange office? That would support the university's world-class outputs in renewables and life sciences, as the basis for future sustainable economic growth.

Michael Russell: Knowledge exchange is extremely important. We have a strong world-beating research sector in Scotland, which—considering our size—is quite remarkable. We need to ensure that we do everything possible to

encourage and support the sector, but translating the outcomes of the research into other activities in Scotland has been difficult. Some places have succeeded very well—the University of Edinburgh being a good example—but some have done fairly badly.

In my discussions with the universities, we have come to the conclusion that those that are doing well need to influence the process for those that are not. That is why the combined working between the funding council and Universities Scotland that I announced today, which will refine the proposal and ensure that it both learns from the experience of places such as the University of Edinburgh and brings some added value to that university, is the right way forward. Both sides are keen to work in that way, and I am keen to encourage them.

Liam McArthur (Orkney Islands) (LD): I thank the cabinet secretary for advance sight of his statement, and I welcome his other comments this afternoon, notably on widening access.

May I focus on colleges? With ministerial endorsement of chairs, direction of and through the strategic forum, and what the cabinet secretary has called his “unashamedly far-reaching” process of merger, how can he allay fears that more controls are being invested in ministers and wrested away from local colleges and the communities in which they operate?

Scotland's Colleges says that there is ambiguity about the status of a regional college, and the Griggs report appears to suggest that merger is inevitable. Can the cabinet secretary give us more detail about the status he sees collaboration and federation arrangements having? Will the £15 million transformation fund be exclusively for colleges that go down the merger route, or will it be open to those operating collaborative and federal approaches?

Michael Russell: Let me start with the last point, because it is an important one. I made it clear yesterday, and am happy to make it clear again, that merger is not a precondition for access to the transformation fund. There are a number of other models developing in Scotland, including some collaborative agreements, but there has to be reality in those agreements. In one or two places, there is much talk about collaboration but little sign of such. We need to understand that, but merger is not a prerequisite.

I had an interesting discussion about regionalisation with principals and chairs yesterday. I hope that Scotland's Colleges is much clearer now about the issue, but it is absolutely clear that the relationship between a regional strategic board and an individual college will change from place to place. In some places, there

will be one single delivery college and in others there might be two or three colleges. We need to get that relationship right where structure is concerned. The paramount body will be the regional one because it will have the strategic overview.

I am grateful to be asked to allay fears, and I am sure that the fears are real in the member's mind. I want to ensure that the structure is much more accountable. From the very beginning, I have pointed out that there is a lack of accountability in the college structure that needs to be addressed. Russel Griggs made the important point to the committee that there is a considerable difference between appointment and approval.

I want to ensure that the regional chairs are people with whom we can all work, but I have no desire to control the structures. I want to ensure that the structures emerge as accountable ones, and I want to create the ways in which there can be full accountability. The Griggs report and, in parallel, the von Prondzynski report talk strongly about how accountability can be applied to further and higher education, and I am keen to see those principles applied firmly and properly, providing an accountable sector. To be honest, we have not had that in every place up to now.

Paul Wheelhouse (South Scotland) (SNP): I very much welcome the fact that the Scottish Borders has been recognised as a separate region. How much progress does the cabinet secretary feel there has been since the consultation launched last September with organisations that initially were unconvinced by the reform proposals? Have those groups now joined Universities Scotland, the Alliance of Sector Skills Councils, the SFC and Professor Anton Muscatelli, among others, in committing to work towards change?

Michael Russell: Yes, I think that they have. There are still odd pockets that need to be convinced—mostly Labour members. However, I am not entirely sure that I will ever convince Mr Findlay of the need for change—such a natural conservative he has become—but we have made significant progress with those of more open mind and disposition. There have been consultation responses from more than 300 organisations, individuals and institutions, and they have shown broad overall support for reform. “Putting Learners at the Centre” and the concurrent SFC consultation on college regionalisation have received strong support from colleges for the regional college model. In fact, the SFC described it as overwhelming support. As part of my continuing commitment, I have held regular meetings with principals, chairs, college leadership teams and a range of others including students,

those who work in the colleges and the trade unions, and I will continue to do so.

I have met—I think—every single college principal. I have had meetings in a number of colleges and I am happy to go on doing so. Indeed, members have been bringing college principals to me, and I am happy to meet them with members. Consistent with that, I am establishing a change team that comprises core Scottish Government officials, the SFC and senior representatives in the college sector to continue to drive forward what is recognised as necessary change that will produce benefits for learners.

Kezia Dugdale (Lothian) (Lab): The statement refers to the opportunities for all agenda and the challenge that faces us all when it comes to tackling Scotland's youth unemployment crisis. Some people believe that youth unemployment is endemic. Does the cabinet secretary share that view? If not, does his ambition for young people in Scotland extend to full employment?

Michael Russell: My ambition for the world extends to full employment. I have lived through generations of Labour Governments that have never delivered it, but I am, as they say, aye hoping.

I want to see progress on youth employment. I was happy to see that the member was present at the event on 1 February. There is considerable scope for us to regard youth employment as a national priority and to work together on it, and I encourage that. If contributions are made from members in every part of the chamber, I will welcome that, and we will get things done together. We can choose to do that, or we can choose the sniping from Labour's front bench. That is the choice—join in, and let us get it solved, or keep sniping. I know which I prefer, and to be honest, I think that Kezia Dugdale is the type of member who could contribute a great deal to that, if only her front bench would let her.

Stuart McMillan (West Scotland) (SNP): There will be outcome agreements with the new regional colleges. What does the cabinet secretary foresee that they will focus on initially, and will they be developed year on year?

Michael Russell: I believe that college regional outcome agreements will be developed year on year, and I think that they will be very helpful. First, they have to focus on the aims of the post-16 reforms, meeting the needs of learners, supporting jobs and growth, delivering life chances, and developing the sustainability of the college sector. Initially, I expect colleges to focus on meeting the needs of learners in their own defined regions, and on delivering the structural change that will allow them to do that, in the process focusing on the needs of those regions. That will involve them

delivering on our opportunities for all guarantee, putting in place effective structures and then looking forward.

I think that the agreements will be annual, in line with academic years. I suspect that, in time, they will develop to reflect the changing needs of regions and, more important, learners within those regions.

Duncan McNeil (Greenock and Inverclyde) (Lab): Will the cabinet secretary give an assurance that mature students who return to further education to build on their skills or go on to higher education will be recognised and supported, and not disadvantaged as a result of his wide-ranging strategy of reducing budgets and of centralisation?

Michael Russell: There is no such strategy, but let me give a guarantee that I am keen to encourage mature students. Indeed, I understand that Drew Duncan, the former chair of James Watt College, is at a loss to know what to do, given that he resigned in a pet because he was not being listened to. If he would like to learn in his own college, I am sure that he will get a place.

Human Trafficking

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-02133, in the name of Kenny MacAskill, on human trafficking.

15:39

The Cabinet Secretary for Justice (Kenny MacAskill): I welcome today's debate on trafficking in human beings and I acknowledge the interest that other members have in the subject.

We are here to debate one of the most abhorrent and evil practices of which mankind is capable—the trafficking of human beings as commodities, for the purpose of subjecting those individuals to suffer a form of exploitation, or in some cases several, in order to allow the perpetrators to profit from their misery. The exploitation that the victims experience includes forced labour, domestic servitude and prostitution. I understand that, in England and Wales recently, victims for exploitation by way of organ removal have been recovered.

As a Government, we aim to ensure that people live their lives free from crime, disorder and danger. In that context, we place a high priority on combating trafficking. Trafficking and the subsequent exploitation that its victims suffer create and perpetuate human misery, and we as a society should not tolerate that abhorrent crime.

We know and accept that trafficking is happening here in Scotland. That is confirmed by the national referral mechanism statistics that are available for Scotland, which show that 228 referrals were made from April 2009 to 10 February 2012. Of those, 126 cases were confirmed as victims. However, given the crime's covert nature, it has been difficult to quantify the scale of the problem.

Scottish Government funding enabled the Scottish intelligence co-ordination unit of the Scottish Crime and Drug Enforcement Agency to be set up to assess the nature and extent of human trafficking in Scotland and the organised criminal gangs that are involved. The recently published SCDEA human trafficking intelligence assessment acknowledges the difficulties in quantifying the scale of the problem, but I understand that the SCDEA has set up separate trafficking strategic and tactical groups, which will look at the issue. Collectively, we need to move on from looking to prove the scale of the issue to accepting that it exists and concentrating our efforts where they count most—on the front line, pursuing the traffickers and supporting victims.

As for the nature of the problem, the debate has tended to concentrate on exploitation by way of prostitution. That remains an important focus, but I fear that that narrow approach does the issue a disservice. From the latest statistics that are available, trafficking for forced labour appears to be the most prevalent form of exploitation in Scotland. As the Equal Opportunities Committee said in its report in 2010, it is time that we shift the focus on to exploitation rather than any particular form of it.

We welcome the recent reports on trafficking in Scotland that the Equality and Human Rights Commission and Scotland's Commissioner for Children and Young People have produced. They have added to our knowledge of the subject and helped to raise awareness of this hideous crime. The EHRC report acknowledged

“evidence of much good work at all levels in government, enforcement, prosecution, and, vitally, victim support”.

Both reports contain a range of suggested improvements and numerous recommendations and conclusions for various organisations, including the Scottish Government.

I can say straight away that the Scottish Government accepts the principle of almost all the recommendations that are directed to us. I will set out our initial thinking about our response in key areas. In closing, the Minister for Children and Young People will say more about child trafficking. I hope that we will hear a constructive debate that helps to inform the Government's more formal response to both reports.

The main common theme throughout all those reports is that the Government should demonstrate leadership in tackling trafficking in human beings. We think that we do so already, but we are always prepared to consider suggestions on how we can do better, because we acknowledge that we require to do better, as do all the agencies that work with us.

I therefore plan to bring together a wide range of stakeholders in the coming months to help to map out a new strategic direction for how we can work together to tackle trafficking in Scotland. That will refresh and reinvigorate our approach and help us to put in place actions to address the various recommendations for improvement that have been made.

There are aspects of human trafficking, in particular immigration, that are currently reserved to the United Kingdom Government, but I expect it to play a constructive role in our approach to tackle the issues in Scotland.

Much of the focus on human trafficking to date has been on enforcement, and that will continue to be an important strand of our work. The additional

funding that has been made available to the SCDEA to provide a dedicated expert resource to build the intelligence that is necessary to support and improve human trafficking investigation has ensured that resources are now in place. However, it is not always serious and organised criminal gangs that are involved in the crime of trafficking. Therefore, combating trafficking remains core police business and the SCDEA works closely with all Scottish forces to identify and address those involved in trafficking.

The security of our sea crossings is vital. We take the policing of our ports seriously. Members may recall that we made clear to the Home Secretary and the UK Border Agency chief executive our concerns over the decision by the UKBA to withdraw UKBA officers from the port of Stranraer. However, in November, at Cairnryan, I met David Ford, who is the Northern Ireland Minister of Justice, Dumfries and Galloway Constabulary, the Police Service of Northern Ireland, and the UKBA, and I understand that Dumfries and Galloway Constabulary and the UKBA are now working closely together on a joint plan to make the crossings more secure and to deter criminal activity. That meeting was followed up with trilateral discussions at Stormont castle between myself, David Ford and Alan Shatter, who is the Minister for Justice and Equality in the Republic of Ireland. That shows that we are seeking to co-operate with agencies not only within Scotland and the UK but across a variety of countries, because we know that this trade is international.

In October 2011, the police-led operation factor, which involved Scottish police, the Police Service of Northern Ireland, the Crown Office and victim support agencies resulted in the first prosecutions for the offence of trafficking, with the two offenders being sentenced to 44 months and 18 months respectively. That said, I acknowledge that the number of prosecutions remains low compared with the number of victims being identified in Scotland, and this is an area that we will continue to work with partners to develop and improve.

Support to victims is also a prominent element in our approach. The Scottish Government has funded two agencies—Migrant Helpline and the trafficking awareness-raising alliance, or TARA, project—to support suspected victims of trafficking. The arrangements for supporting victims have grown over time and are still evolving. The EHRC report recommends that a service standard should be developed for supporting victims of human trafficking. I support that recommendation, and the Government has commissioned research to help inform our consideration of future care standards. We will also review our approach to the commissioning of

support services, to ensure that we make progress on that important recommendation.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): The cabinet secretary referred to the excellent work that TARA does. During the evidence that he gave to the Equal Opportunities Committee in the previous session, when it was pointed out that its services are concentrated in Glasgow because of a lack of funding, he said that he would investigate whether funding could be increased so that it could operate across Scotland. Has there been any progress in that regard?

Kenny MacAskill: I am happy to get in touch with the member about that. As far as I know, we have maintained the funding. Whether it has expanded beyond Glasgow, I am not yet able to say. However, I accept the point that Mr Chisholm makes, which he made as a member of the Equal Opportunities Committee before.

The problem is not located in only one geographical area of Scotland, and we must ensure that victims are dealt with wherever they are. I assure the member that I will respond to him in more detail. He can rest assured that we are seeking to ensure that, wherever victims are and however and for whatever reason they have been trafficked, they are given the care and support to which they are entitled.

The first external link that a victim comes into contact with may be healthcare professionals. To support staff in that role, the NHS Scotland gender-based violence programme, which is funded by the Scottish Government, has developed guidance on trafficking, and it will provide training and learning resources to raise awareness of the issue and how to provide an appropriate response.

I want to touch on the EHRC's recommendation for stand-alone trafficking legislation in Scotland. I do not rule out the idea of bringing together all aspects of human trafficking legislation under one umbrella, but we need to be aware that parliamentary time is precious and that that proposal will have to be considered alongside a wide range of other potential priorities for legislation. However, one issue that can be explored now is the possibility of introducing a statutory human trafficking criminal aggravation, which the Lord Advocate suggested. That would allow the trafficking aspect to be put before the courts where it is evidentially more appropriate to prosecute for other offences, such as labour exploitation. That could be an important tool in improving the number of convictions for trafficking in Scotland.

Jenny Marra (North East Scotland) (Lab): Can the cabinet secretary clarify the number of

convictions that there have been to date for human trafficking in Scotland?

Kenny MacAskill: I cannot do that off the top of my head. However, I assure Ms Marra that we will provide that information in summing up if we can; if not, we will write to her.

I reiterate that the forces of law enforcement, whether the Crown under the direction of the Lord Advocate or the police led by the SCDEA, take human trafficking very seriously, and they are doing everything that they can to ensure that there are prosecutions in this country and in Northern Ireland. It is clear that a recent successful prosecution in Northern Ireland for trafficking related to people of Scottish ethnicity. There is therefore co-operation between myself and the justice department in Northern Ireland and between the Scottish police and the PSNI.

We believe that the use of an aggravation could be important in increasing the number of convictions for trafficking in Scotland. I should add that, following the changes that were made in the Criminal Justice and Licensing (Scotland) Act 2010, our assessment is that we are already broadly compliant with the European Union trafficking directive.

As I said earlier, we are open to suggestions from all sides. The issue unites the chamber, as nobody can possibly support the exploitation and trafficking of human beings, other than those who do so deliberately to profit from it. For that reason, we are happy to work with other members in the same way that Scottish officials are prepared to work with others in other jurisdictions in whatever capacity.

I move,

That the Parliament welcomes the reports issued by the Equality and Human Rights Commission and Scotland's Commissioner for Children and Young People about trafficking in human beings; acknowledges the work undertaken to date by law enforcement agencies to tackle criminals engaged in human trafficking; commends the work of statutory and third sector bodies that have worked to raise awareness of human trafficking in Scotland and offer support to victims of this abhorrent crime, and welcomes the Scottish Government's intention to host a summit with key delivery partners to refresh the strategic direction for policy and delivery in this important area.

15:53

Jenny Marra (North East Scotland) (Lab): I thank the Scottish Government for the opportunity to debate human trafficking. I also thank the cabinet secretary for his speech on this very important issue and for the tone of his speech. When I was preparing for the debate this morning, I was mindful that the debate would be a missed opportunity if we spent the whole of it telling each other what a horrendous crime human trafficking

is. We all agree that it is horrendous, despicable and inhumane. No person should be forced to do something or sold against their will for someone else's profit or gain. We agree on that, so we must move to take action. The cabinet secretary expressed willingness to do that, for which I thank him.

As the cabinet secretary said, we cannot be under the illusion that human trafficking is not happening in Scotland. I was glad about the tone of his speech, because he told us in the chamber only last year that there was not enough evidence of human trafficking in Scotland to warrant action. I note that he has noted the reports that have been published this year and I note from his speech that he has paid special attention to a report that I thought was very instructive from his own Scottish Crime and Drug Enforcement Agency director, Gordon Meldrum. Gordon Meldrum believes that ignorance of the problem is not an excuse to ignore it but an incentive to tackle it. I will quote part of Mr Meldrum's report, because I believe that his words, as head of the SCDEA, are very instructive. It states:

"There has been an understandable desire to put a scale on the size of the human trafficking problem we face. Our assessment is that the information currently available from existing sources does not present an accurate picture of what is truly taking place ... Knowing whether you are one of 10 victims or one of a hundred doesn't change the hell you have been through. So collectively, we need to move on from looking to 'prove' that this is an issue to one in which we accept that it is an issue and concentrate on developing our knowledge where it will count. Count for the victims, and count against the traffickers."

I point those who still need proof on the figures to the SCCYP's report last year. It reported that social workers in Scotland had concerns that 249 children whom they had seen had been trafficked. Those 249 children are in Scotland today. If we compare that with the number of referrals of children that the UK Border Agency received, which was only 14, we can see that something is far wrong.

As the cabinet secretary said, we can no longer afford to wash our hands of the problem and put it at the door of the UK Border Agency, because it is primarily concerned with immigration. Trafficking is a different problem, as victims are forced against their will. Trafficking raises child protection issues, domestic abuse issues and forced marriage issues. It also involves criminal gangs and proceeds of crime. There are myriad problems that we in this Parliament have devolved competence to legislate on and tackle, so why wait?

Labour is today asking the Government to show leadership on the issue and introduce, as the cabinet secretary suggested, a statutory aggravation and also introduce a Scottish national referral mechanism and a statutory obligation for

agencies to work together under a Scottish Government strategy with targets, which would be set by the cabinet secretary and approved by the Parliament.

First, the cabinet secretary will be aware that the Lord Advocate, Frank Mulholland, has publicly backed the introduction of a statutory aggravation. He thinks that it is a very good idea. Some people who traffic other human beings can be brought into court on other charges, such as benefit fraud, assault and child abuse. Making trafficking an aggravation is a simple legal measure that the Government could take to show the courts and the police the severity of the crime and increase the number of perpetrators who are brought to justice for it.

In considering a statutory aggravation, the Government may also want to consider having a lesser burden of proof. That suggestion was made by Baroness Helena Kennedy in her report, which was published in November last year following her inquiry. The justification for the lesser burden of proof is the intrinsic difficulties in identifying victims, because victims fear for themselves and for their families if they speak out. The nature of the lives that they lead here keeps them concealed; it keeps them out of the eyes of witnesses and the authorities.

I will give you an example that Women's Aid gave me yesterday here in Parliament. There are women in Edinburgh today who are living in forced domestic servitude. They came to this country on a false promise of a better life and marriage. When they arrived, they were coerced into a marriage, which often develops into domestic abuse, and forced to provide permanent care for relatives. They have no money, no freedom and no life. They are not allowed to go out alone. The testimony that I heard yesterday from Women's Aid is just one example that shows the difficulties in identifying victims and indicates why a lesser burden of proof could be considered for the statutory aggravation.

What else can be done? A Scottish national referral mechanism could be introduced. Given that victim care, policing, criminal justice and criminal compensation are all devolved matters, the Scottish Government could consider establishing a Scottish national referral mechanism. Any immigration issues should be referred to the UK Border Agency, but a Scottish national referral mechanism should be established to provide a multi-agency identification and referral mechanism. The system would be closer to victims and could build on existing successful multi-agency models. As decisions can have a significant impact on an individual's rights, a swift and effective process to appeal negative decisions could also be introduced.

Thirdly, we call for leadership from the Scottish Government and a statutory obligation for all relevant agencies to work together to ensure that traffickers cannot disappear between the cracks as they do at the moment. One point on which all the major reports agree is that the Scottish Government is the prime body with the power to convene, provide a platform for and set priorities for those agencies. The forum that the Government suggests in the motion is good, but it does not go far enough to put in place the comprehensive channels of communication that are necessary to allow the agencies to co-ordinate, share information and protect the victims of trafficking.

If, by supporting our amendment, the Government could commit to putting in place a statutory obligation, there would be more confidence in its commitment to tackling trafficking, which is becoming an even more realistic threat in Scotland.

In December, in a debate on the legacy of the Commonwealth games, I expressed to the Minister for Commonwealth Games and Sport, Shona Robison, the concern of Baroness Helena Kennedy that the Commonwealth games pose a stark risk of an increase in persons trafficked into Scotland. I called on the Scottish Government to provide anti-trafficking training to front-line, emergency service workers in the greater Glasgow area to mitigate that risk. Indeed, some of the games contractors are already undergoing anti-trafficking training that has been organised by Glasgow City Council.

Unfortunately, Shona Robison said that there was not enough evidence of trafficking to justify that training. I hope that she will reconsider that response after the debate, and I urge the minister to reflect in her closing speech on whether she believes that the risk of human trafficking is still insufficient to provide such training and, if not, whether the Government will reconsider the idea.

It is also critical that we raise awareness among the rest of the population, because the victims are difficult to identify. I have lodged a motion that has attracted cross-party support and urges the Government to introduce legislation similar to that in England that recognises anti-slavery day on 18 October with the purpose of raising public awareness of human trafficking, which is the modern form of slavery. Anti-slavery day has proven to be a successful means of capturing public attention in England, and I ask the minister again whether she will set the ball rolling for Scotland to recognise it this year and in years to come.

The Deputy Presiding Officer (Elaine Smith):
Ms Marra, I would be grateful if you could come to a conclusion and move your amendment.

Jenny Marra: Thank you, Presiding Officer.

Those are a few of the recommendations from the report on human trafficking, and I urge the Government to pull those three recommendations together in a human trafficking bill in this Parliament.

I ask the Presiding Officer to allow me to finish with some words from John Stuart Mill:

“A person may cause evil to others not only by his action but by his inaction, and in either case he is justly accountable to them for the injury.”

I move amendment S4M-02133.1, in the name of Lewis Macdonald, to insert at end:

“and believes that strategic leadership from government must be provided and urgent action must follow across the range of agencies to tackle human trafficking and its consequences for victims.”

16:03

David McLetchie (Lothian) (Con): Like Ms Marra, I thank the Scottish Government for bringing the debate to the chamber and wholeheartedly concur with the sentiments that the cabinet secretary expressed in his opening speech. Like him, I welcome the reports by the Equality and Human Rights Commission and Scotland’s Commissioner for Children and Young People as useful contributions to the further development of our response to human trafficking.

Slavery and exploitation should rightly be taken with the utmost seriousness by the Government and require a collaborative approach at all levels. When the Scottish Government has co-operated with the United Kingdom Government—as it has done in drafting and updating the UK national action plan on trafficking—the result has been to develop a coherent policy throughout the United Kingdom, which, in turn, forms part of a wider co-ordinated international response.

The matter has a substantial reserved dimension, and we must not overlook the broad nature of the organisations that are involved in tackling human trafficking, especially at international level. We must also be mindful of our own failings on the matter and how we may lag behind other parts of the United Kingdom in addressing the crime.

As we have heard, an average of around 75 reports a year to the UK’s national referral mechanism originated from Scotland in a period that saw only two convictions secured in our country for trafficking offences. They were the first two such convictions in Scottish legal history. We have been informed that the Crown has prosecuted a number of trafficking-related crimes as more traditional and compartmentalised crimes

and offences, but they carry lower penalties, which may fail to reflect the seriousness of the activity.

I submit that it is not the law that is particularly lacking in this area. As has been highlighted time and again in the reports that we receive, there seems to be a shortage of knowledge of the issue and of collective will to address its particular attributes. In evidence to the Parliament’s Equal Opportunities Committee in 2010, the former Lord Advocate Elish Angiolini noted that the problem with conviction numbers was less to do with the law and more to do with the fact that the Crown

“can prosecute only what comes through the door and is reported to us”.—[*Official Report, Equal Opportunities Committee*, 5 October 2010; c 2074.]

What makes trafficking for sexual purposes difficult to combat is the iniquitous nature of the control that is exercised over its victims and of the relationships between traffickers and those who are trafficked. Often, weak and vulnerable people are groomed before being gradually pushed—by partners, family members and people who themselves have been trafficked—into a lifestyle that they would never choose of their own free will and accord. It is well recognised that the problem can be particularly difficult to detect, prosecute and deal with using conventional policing and judicial means.

To improve on how we combat trafficking, we must rely on effective and joined-up intelligence across the range of organisations in the public, private and third sectors that deal with people who may be trafficked and subjected to servitude, as opposed to being genuine migrant workers who are here of their own free will and accord. Only in that way can we ever hope to enable the criminal justice system to punish appropriately the people who commit this pernicious crime.

Although the particular problems of dealing with sex trafficking are considerable, the more neglected forms of human trafficking are often the most common. We see cases of people being exploited in domestic servitude or in industries in which they are difficult to track or trace. Comparatively, we focus little on the use of trafficked labour in sectors such as agriculture and construction.

An attribute that all forms of trafficking have in common is the involvement of organised crime, which means that the financial element often reigns supreme. There is evidence that cuts and commissions are taken at many stages in the trafficking process. The closer working arrangements between the Serious Organised Crime Agency and HM Revenue and Customs are to be welcomed, and the EHRC’s suggestions on extending the use of asset recovery powers in trafficking cases are worthy of detailed examination.

Also of significance is what happens outside our own borders. The UK Government has been working with other nations to increase the priority attached to trafficking in their jurisdictions with the intention of disrupting the criminal activity at its source. In addition, the Foreign and Commonwealth Office and the Department for International Development are working in those countries to raise awareness among the people who are most at risk of becoming trafficking victims.

The UK has a long and admirable history of tackling forced labour and servitude. In 2007, as we have heard, we celebrated the 200th anniversary of the abolition of the slave trade. That campaign was led by William Wilberforce, a towering figure and parliamentarian of his time, who was the subject of an excellent biography by our current Foreign Secretary, William Hague. The abolition of the slave trade was enforced across the Atlantic by the Royal Navy's west Africa squadron, and other European nations soon followed Britain's lead in the area. Slavery, a status that was unknown to the law of Britain, was later outlawed across the British empire in 1834. In keeping with that tradition, in more recent times the UK has been active in the international community in co-ordinating action to tackle the problem of forced labour.

I commend the Scottish Government's initiatives on human trafficking and its willingness to collaborate and to co-ordinate policy, the need for which we have underlined in our amendment. I signify our support for the cabinet secretary's motion and the amendment in the name of Lewis Macdonald, which Ms Marra moved.

I move amendment S4M-02133.2, to insert at end:

"; welcomes the active cooperation among governments and agencies across the UK to tackle this issue, and acknowledges the need for policy coordination."

16:10

Roderick Campbell (North East Fife) (SNP): I welcome the opportunity to speak in the debate, and I declare a relevant interest as a member of Amnesty International and of the Faculty of Advocates.

The insomniacs among us in the chamber may have seen last week's Scottish questions from Westminster, which was broadcast on BBC 2. Fiona Bruce, a Conservative member of Parliament—not to be confused with Fiona Bruce of BBC fame—raised the issue of human trafficking in the House of Commons and asked David Mundell whether he agreed with her view that human trafficking was an issue best tackled at UK level. Mr Mundell answered by saying:

"I absolutely agree with my hon. Friend that the UK can bring great weight to this issue on behalf of Scotland. It is also an issue where we have been able to work with the Scottish Government, demonstrating that the two Governments can work together on matters of great importance on a day-to-day basis."—[*Official Report, House of Commons*, 22 February 2012; Vol 540, c 857.]

It is clear that David Mundell was nearer the mark than Fiona Bruce, and the Scottish Government must and should co-operate with the UK Government on these issues. However, this subject above all should not be a constitutional one. Scotland can and must be able to do more, because human trafficking is deadly serious.

Human trafficking knows no boundaries and if Scotland is to challenge it, it cannot do so within boundaries. Trafficking must be confronted by the international community through international strategies and multilateral involvement in global humanitarian organisations.

I had the good fortune to be present at the launch of Baroness Helena Kennedy's report, "Inquiry into Human Trafficking in Scotland", at the Hub in Edinburgh in November last year. The recommendations aside, the background information in the report concerned me. Perhaps unsurprisingly, the EHRC was unable to determine accurately the extent of trafficking in Scotland due to its particularly clandestine nature, but, based on referrals to the national referral mechanism during a sample period, a conservative estimate of 75 victims each year is likely.

We should reflect on that: every year, 75 vulnerable adults—and children—arrive here in Scotland, often promised a stable job and basic pay, only to end up bonded with debt, imprisoned in flats run by trafficking circles and forced into the sex trade, domestic servitude or the drug trade, or even into forced work in legitimate employment such as agriculture or catering. As Scotland's Commissioner for Children and Young People has highlighted, there are currently no reliable data on the scale and nature of trafficking of children.

It is clear that the conviction rate is an issue. Section 22 of the Criminal Justice (Scotland) Act 2003 deals with trafficking in its most prevalent form: prostitution and sexual exploitation. However, since 2003, there has been only one successful prosecution under the act, which affected only two offenders. Since an equivalent act came into force in England and Wales, there have been 150 successful prosecutions.

Recent legislation such as the Criminal Justice and Licensing (Scotland) Act 2010 confronts trafficking, but there is no doubt that we can do more. We can look to the EHRC report for guidance on where to start. Although the parliamentary timetable is tight, I hope that the Scottish Government will find the time to consider

seriously whether a new catch-all piece of legislation can be introduced. I welcome the cabinet secretary's comments in relation to statutory aggravation in that regard.

It was suggested in the EHRC report that prosecution of trafficking in Scotland faces an additional hurdle in the form of the requirement for corroboration in criminal cases. In December last year I welcomed the Carloway review and the proposal to end the requirement for corroboration if appropriate safeguards were forthcoming. Whatever the merits of the review's proposals, there can be no doubt that corroboration can be a barrier, and when we reflect on it, we should not forget its relevance to trafficking offences.

Most importantly, human trafficking—as the EHRC report argues—should not be viewed as a “foreign problem”. Scotland is a destination country: it is our problem as much as anyone else's, so what more can we do? The report calls for a strategic approach to trafficking, and I am pleased that the Scottish Government is hosting a summit to refresh the strategic direction for policy.

A summit will, itself, raise the profile of the issue among the wider public—another key recommendation of the report. There are many other recommendations, all of which merit closer examination. For example, the report states that

“human trafficking thrives where there is inequality”.

It is clear—however optimistic it may be—that inequality must be reduced if we are to create an environment in which trafficking is less likely to occur.

International co-operation is also paramount. Article 4 of the United Nations Universal Declaration of Human Rights states:

“No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”

Amnesty International did sterling work in relation to trafficking in its 2008 report, “Scotland's Slaves”. However, as Amnesty International states, human trafficking is a form of modern-day slavery and we need international strategies to deal with that modern-day problem.

On a European level, let us not forget the Council of Europe Convention on Action Against Trafficking in Human Beings, which also outlines a pan-European strategy for tackling the problem. At a UK level, we need to continue to co-operate with the UK Government and UK agencies with the same determination to facilitate seamless co-operation around the globe. At the domestic level, I welcome the Scottish Government's commitment to the introduction of a trafficking care standard and an end-to-end service for trafficking victims.

I support the Government's motion and I am very glad indeed that we are having the debate. I hope and believe that Scotland can take the lead in the defence of fundamental human rights in this area.

16:16

Mary Fee (West Scotland) (Lab): I welcome and support all the input into today's important debate. Human trafficking is a gross violation of fundamental human rights. It is a heinous crime that needs to be addressed globally as well as in the UK and right here on our doorstep in Scotland.

As described by many professionals and reports on the issue, human trafficking is fast becoming the world's biggest example of organised crime. It is a disgusting crime that involves vulnerable people being exploited for the benefit of criminals. Those vulnerable men, women and children are exploited with empty promises or violence and are then desperately trapped and forced into prostitution, slave labour and criminal activity.

The report that was published by Scotland's Commissioner for Children and Young People said that 80 children in Scotland have been trafficked within Scotland and that many more child victims who have been sold, stolen and transported thousands of miles remain unidentified. The report draws on many sources and the research revealed that awareness of child trafficking in Scotland is low. That lack of awareness may have led to a significant number of cases remaining unidentified, with vulnerable children not being referred to relevant agencies. Those children are the most vulnerable people in our society and we are not doing enough to identify, locate and help them.

As many members know, Scotland recently had its first conviction for human trafficking. However, that is only one conviction. There are many more traffickers in Scotland and the UK who are getting away with this awful crime. One reason why Scotland has such a low conviction rate is that there is no separation between the crime of human trafficking and immigration crime. Victims of trafficking do not want to be referred through the national referral mechanism because they are afraid of retribution by their traffickers or fearful of the consequences of being brought to the attention of the authorities because of their immigration status. That situation must be addressed.

The report by Baroness Kennedy QC highlights many problems in Scotland and gives several recommendations that the Equality and Human Rights Commission thinks will help to tackle human trafficking in Scotland and get more of these repulsive criminals convicted and sent to jail. The report asks many questions, some of which

are vital given the approaching London 2012 Olympic games and, more important, the 2014 Commonwealth games in Glasgow. I recently asked the Scottish Government how it plans to tackle possible increases in human trafficking to Scotland that might arise from the 2012 Olympic games and the 2014 Commonwealth games. Shona Robison answered that the Government is working closely with the police and that

"There is currently no intelligence to indicate that human trafficking will be an issue for Scotland from either games."

Sandra White (Glasgow Kelvin) (SNP): Will the member take an intervention?

Mary Fee: No. I have got a really tight six minutes. I am sorry.

However, Baroness Kennedy's report warned that human trafficking will increase in Scotland around the time of the London 2012 games and significantly in Glasgow in 2014. It also said that there is a significant gap in police intelligence on the issue of human trafficking. We have two years in which Scotland can tackle human trafficking and make this a hostile environment for traffickers.

Helena Kennedy's report raised many issues, provided much information and asked many questions. I have asked the Scottish Government many of those questions and I hope that the Government will give me and members a straight answer.

Many organisations that have helped victims of trafficking agree with all the inquiry recommendations, especially the recommendation that consideration be given to introducing a human trafficking bill in Scotland and the call for greater leadership from the Government. During the past year, Northern Ireland published the organised crime task force "Annual Report and Threat Assessment 2011", as a tool for researching and assessing human trafficking in Northern Ireland. Wales appointed an anti human trafficking co-ordinator, to monitor anti-trafficking efforts and to make recommendations for improvement. When will Scotland get an anti-trafficking monitor or, better, a multi-agency task force to tackle human trafficking in Scotland?

Baroness Kennedy recommended that the Scottish Government run a nationwide campaign to raise awareness of human trafficking in Scotland. The blue blindfold campaign is one of many initiatives that have helped to raise awareness of human trafficking in England and Wales but, unlike our neighbours south of the border, we in Scotland have not had a concerted campaign to raise awareness of human trafficking. A vocal campaign would raise public awareness of the issue and enable people to know what to look for if they think that they have spotted a sign of human trafficking. A campaign is a crucial

measure that we can take to help to rid our nation of the crime of trafficking and make Scotland a hostile environment for traffickers.

In a debate last year I said that Phil Taylor, the UK Border Agency's regional director for Scotland and Northern Ireland, had criticised the criminal justice system for being too slow to deal with sex and labour trafficking. Such comments must be taken seriously. I hope that MSPs, who are representatives of Scotland, can take collective action to vanquish human trafficking and all other forms of modern slavery.

The inspector general of the United States Department of Defense said in 2008:

"for those of us who are in a position to do something to combat human slavery, however small our contribution, neutrality is a sin."

I say to all members of the Parliament that we are in a position to act not only to combat human slavery but to take the lead on human trafficking, so that such a monstrous crime has no place in Scotland.

16:22

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): I welcome the decision to devote debating time in the Parliament to a serious subject on which I have spoken on many occasions. I declare an interest, because I am a campaigner for Stop the Traffik. I also welcome the publication of the two reports that are referred to in the cabinet secretary's motion.

We have had several debates about human trafficking in the Parliament over the years and I have raised the issue in letters and questions to ministers and the First Minister. I have been left in no doubt about how seriously the Scottish Government takes the issue. Baroness Kennedy herself said that her discussions with the First Minister and the Cabinet Secretary for Justice during her inquiry impressed on her how personally committed they both are to eradicating trafficking from Scotland.

Baroness Kennedy's report is a substantial and serious piece of work, which provides much food for thought and a useful road map for building on and enhancing the work that the Scottish Government and the relevant agencies in Scotland have done and the systems that have been put in place. I fully endorse Baroness Kennedy's recommendation that

"Scotland should be taking steps to make it clear that it has established an environment which is totally hostile to trafficking and that the police, border agency and all other parts of the state apparatus are geared up to stamp it out",

although I add that the activities of the UK Border Agency are—somewhat notoriously—not exactly

open to the influence of the Scottish Parliament or the Scottish Government. I will come back to that.

I am glad that the Scottish Government has agreed in principle to accept the vast majority of the recommendations in Baroness Kennedy's report. That does not detract from the actions that the Scottish Government has already taken or the significant investment that has been directed towards preventing trafficking and dealing with its consequences in Scotland. However, we all recognise that the area is one in which, in many respects, our work is never done. The nature of trafficking will change and evolve at different times and in different places. The traffickers themselves are by their very nature cunning and manipulative, and they will change their methods in an attempt to get round the systems that are put in place to stop them. Therefore, there will always be room for improvement and we must always be vigilant, to ensure that our response to trafficking keeps pace with the nature of the crime.

I welcome and look forward to the summit on trafficking that the Cabinet Secretary for Justice has pledged to convene. It will help to bring together everyone with an interest in this issue, in order to identify and implement the continuous improvements that I am talking about.

I endorse Baroness Kennedy's recommendations. To them, I would add a particular concern that has been brought to my attention—that the emphasis on organised crime in discussions about trafficking could, in some cases, detract from situations in which children who are trafficked are victims not of organised crime but of more random criminal behaviour by families who sell on their children. We must keep that form of trafficking in our minds at all times.

I said that I would come back to the UK Border Agency. Anyone who knows me will know that I do not get on with the UK Border Agency. Some of its methods and attitudes act as a hindrance to identifying and tackling trafficking in Scotland. I would go so far as to say that the UKBA lacks humanity. In my opinion, that puts lives at risk. The UKBA's refusal to communicate with MSPs at any level has been an issue in this chamber before, but this bears repeating: immigration and asylum may be reserved matters, but their impact is felt in devolved areas and is just as likely to be dealt with by a member of this Parliament as by an MP. By continuing to refuse to deal with MSPs, the UKBA is placing barriers in the way of the properly co-ordinated response that we all recognise is required to deal with trafficking. The UKBA is putting people who have been trafficked at risk of not receiving the recognition and support that they need.

That brings me on to the national referral mechanism, which has serious weaknesses. In the

mechanism, the UKBA and the UK human trafficking centre are identified as competent authorities with the right to make decisions on trafficked status. We do not have that ability in Scotland because the UKBA does not even speak to us.

In evidence to an Equal Opportunities Committee inquiry, in which I took part, Michael Emberson of Migrant Helpline said:

"it is the only system in the world that requires the victim to consent to being a victim. They have to sign the form; otherwise, it cannot be put into the NRM and they cannot get a decision."—[*Official Report, Equal Opportunities Committee*, 4 May 2010; c 1670.]

During the committee's inquiry, a report, "Wrong kind of victim?", was mentioned that was highly critical of the NRM. It was produced by the anti-trafficking monitoring group—a coalition including Anti-Slavery International, Amnesty International UK and TARA, the trafficking awareness-raising alliance. The report found that new anti-trafficking measures were "not fit for purpose" and that the UK Government was breaching its obligations under the European convention against trafficking. It also found that the NRM was "flawed", possibly discriminatory and operated by "minimally trained" UKBA staff who put the emphasis on the immigration status of the presumed trafficked people. Trafficked people are victims of crime, not criminals.

I raise the problems with the UKBA not to absolve the Scottish Government of responsibility—far from it. I am sure that the justice secretary will confirm that I have sent letters to him on these issues. However, it would be remiss of me to ignore the fact that if the Scottish Government does not have control over the policing of borders or the identification of victims of trafficking, it does not have control over some of the most crucial tools that are available in tackling trafficking.

It is not only the current UK Government that has had such issues brought to its attention; the previous UK Government did too. Neither of them has dealt with them, and that should be to their eternal shame.

16:28

John Finnie (Highlands and Islands) (SNP): I, too, declare my membership of Amnesty International.

I am the convener of the cross-party group in the Scottish Parliament on human rights. Last week, a meeting of the group, which was well attended by members from a variety of parties, dealt with the same issue that we are dealing with today. Such a consensual approach needs to be adopted both within this nation and further afield.

At that meeting last week, we heard from Amnesty International Scotland, Scotland's Commissioner for Children and Young People, the Equality and Human Rights Commission and TARA. All made excellent contributions, many of which have been referred to today.

We heard from Amnesty about its groundbreaking report in 2008, "Scotland's Slaves". The report highlighted the prevalence of human trafficking in Scotland, focusing on women and girls who are trafficked into the UK for sexual exploitation and domestic servitude.

The children's commissioner spoke about identifying the number of children involved. Without in any way seeking to minimise the importance of the matter, I would say that the figure given earlier does not tally with a figure that was sent to me in a briefing yesterday—80 children in the past 18 months, which is clearly 80 too many. The clear consensus is that quantifying the issue is proving to be very difficult.

We also heard from TARA. It is unfortunate that Malcolm Chisholm is not still in the chamber, because TARA gave examples of the support that is given across the central belt and beyond, and the complexities involved in that. TARA also gave us a very harrowing report about the horrendous circumstances in which some people find themselves, the impact of their incarceration on people who are still in their country of origin, and the predatory individuals who deal with them. Migrant Help works closely with TARA—both organisations are funded by the Scottish Government—and last year helped 130 individuals.

We have heard trafficking described as modern-day slavery. The Equality and Human Rights Commission describes it as "the underbelly of globalisation". It is a global problem, and it is shameful that I can use the words "Russian mafia" and "Isle of Skye" in the same sentence. That is the reach of the problem, and a global effort from a variety of agencies will be required to tackle the many problems that create the environment in which trafficking flourishes.

The situation is not helped by the withdrawal of the three specialist UKBA officers who were assigned to Stranraer. The connection between Scotland, the north of Ireland and the Republic of Ireland is well understood; trafficking flows in both directions, and was the subject of a prosecution. I was delighted to hear the cabinet secretary's comments about his discussions.

There is a contrast in respect of the additional £4 million that the Scottish Government has put into the Scottish Crime and Drug Enforcement Agency. There is important expertise within the agency, which can deal with international policing

and drugs-related issues. Of course, organised crime is not always involved, but it is clear that serious crime, which comes under the SCDEA's remit, is involved. The opportunity to stop money laundering and confiscate assets cannot be lost.

The international dimension is very important. The Serious and Organised Crime Agency leads on that for the UK and runs the trafficking centre. It is important to co-operate across boundaries, not least the boundaries between the nations of these islands.

Much has been made of the fact that there has been only a single prosecution, although the sentences were certainly salutary. The reality is that there have been related prosecutions for offences involving people living off immoral earnings or for identity card offences and fraud. The issues are not simple. As Roderick Campbell alluded to, many of them were picked up in the Criminal Justice and Licensing (Scotland) Act 2010.

There are limitations on what can be done, given that certain matters are reserved. However, a statutory aggravation for trafficking would be an excellent way of dealing with the issue. It might be a swifter solution, as it could be appended to a variety of already serious crimes. I think that the judiciary would respond accordingly.

I was reassured by an answer to a parliamentary question to the Lord Advocate, who said:

"all human trafficking offences are ... considered by specialist prosecutors at a very early stage to ensure that a specialist and consistent approach is applied to maximise the quality of the investigation and outcome."—[*Official Report*, 23 June 2011; c 1039.]

There is so much to say on the subject and so little time. It is important that we find victims and that they are confident in coming forward. As the EHRC report says, it is vital to see trafficked people as victims of crime rather than as immigration offenders. I am grateful to all the organisations that have sent us information.

I could not agree more with Christina McKelvie about the UKBA, which would do well to reflect on the statement that it is vital to see trafficked people as victims rather than as immigration offenders because, as the EHRC report says, it has a clear conflict of interest.

There is a clear role for the referral mechanism, but I support Christina McKelvie's position that that is not a role for the UKBA and is one that should be undertaken by local authorities.

Jenny Marra: Will the member take an intervention?

The Deputy Presiding Officer (John Scott): The member is in the final minute of his speech.

John Finnie: There is a link between trafficking and poverty; trafficking also has an international dimension. I welcome the Scottish Government's research, which will inform future care standards. The hidden victims of the terrible crime of trafficking must have justice, and adding a trafficking aggravation to crimes is one way to do that.

16:34

Graeme Pearson (South Scotland) (Lab): I declare an interest as the previous director general of the Scottish Crime and Drug Enforcement Agency, and the first law enforcement officer in Scotland to focus on human trafficking as a major problem, based on my experience elsewhere in Europe and the world.

It is always more comfortable to speak in the chamber when there is cross-party agreement on an issue, and it is salutary for anybody outside this building to know that Parliament is unified in its acknowledgement of the problem of human trafficking and in its disgust for those who engage in it.

The debate is timely for me. Only last month I was asked by a defence agent to visit a young man on remand in Barlinnie prison who was awaiting trial for engagement in organised crime on a cannabis farm. I agreed to see him. He had been brought to this country by an organisation that he described as snakeheads—an organised crime group from China. He had been brought here in the belief that he would be able to earn a living somewhere in Europe, so he did not know that he would end up in Scotland. He was in abject poverty, had lived in Scotland for more than two years, had one other associate in the country whom he deemed a friend, could not speak English, was completely powerless, had no official documents, and lived life in debt to the organisation.

On a week-to-week basis, he was delegated work selling counterfeit DVDs and, in the interim, looked after cannabis farms at the behest of the gang. When he initially decided that he would not become involved in that criminality, he was attacked with machetes and spent time in the Southern general hospital being treated for the wounds that he suffered, which I saw with my own eyes.

He was obviously in poverty. His clothes were of the lowest standard. He had no contact from outside the prison—he received no letters or telephone calls—and, other than the solicitor who represented him, no one offered him any support. There is no doubt that he is a victim. He was brought to this country by alleged human beings for one purpose only—to create profit for the

people running that business, whether as an organised crime group or as a small local industry. That profit is reinvested in crime.

It is not only for reasons of criminality that people are brought to this country. As other members have said, people are brought here to be entered into domestic servitude, to berry pick and perform other menial tasks on farms, to work in the fish or cockle industries, or to work in the fast-food industry or restaurants. Throughout Europe, those are recognised as parts of a major trail. People are exchanged between countries and bartered as though they were coupons, and we stand aside, almost powerless to intervene.

I agree with everything that Christina McKelvie said about the UK Border Agency. It is too comfortable to find someone outside the country to blame. I applaud the cabinet secretary for all that he has done so far in combating organised crime. He mentioned his contacts with Eire, Northern Ireland and Wales, but there was one obvious omission. I encourage him to engage with the Home Secretary and to make personal contact with her—a task that I think he is yet to undertake. Such a link could persuade UK agencies to engage more productively with us in Scotland.

Members have already spoken about the sex industry, so I do not intend to address it in any detail. The industry is UK-wide and young women are moved around the country on a regular basis according to demand—almost in the same way as hire cars. There is no doubt that the Olympics and the Commonwealth games will create a market of men who come to this country to look for those services.

Members have also mentioned the exchange and sale of children across countries. Such cases are not often recognised as trafficking, but that is what they are. We should bear in mind that, at the time of Wilberforce, who has been mentioned, human beings probably did not recognise that having people as slaves was immoral and unjust. For that to be recognised, it took a man to stand on his feet and argue against that culture. In passing, I mention that evidence from elsewhere in the UK indicates that children in care homes are sometimes trafficked by men who identify them, subvert them and use their powerless situation to engage them in the sex trade.

I support all that has been said about the need to name the crime and use the aggravation element; to create a database that would give us the services landscape; to co-ordinate all our agencies; to develop interpretation services to enable people to speak and communicate; and to have the minister lead on a strategic plan with adequate resources to train staff and to properly respond to the challenge that we face.

16:40

Sandra White (Glasgow Kelvin) (SNP): I welcome the opportunity to take part in the debate and I pay tribute to all those who are involved in the fight against the truly horrendous crime of human trafficking. As other members have done, particularly my colleague John Finnie, I put on record my concerns about the withdrawal of funding for the three specialist UKBA officers at Stranraer, which, as he eloquently said, is a strategic point. I welcome the cabinet secretary's announcement of the close working among other agencies on the issue.

The Palermo protocol to the United Nations Convention against Transnational Organized Crime states:

"Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".

The removal of organs has been mentioned. Although the public and media perception of trafficking perhaps centres on sexual exploitation, it is clear from the convention's definition that trafficking encompasses a wide range of exploitative practices.

Trafficking is not a new phenomenon. For centuries, we have been blighted by the barbaric practice of slavery, which many people have put their lives on the line to stop. It is often mentioned as one of the great success stories of the modern era that, as a society, we confronted the issue and put an end to the practice. Unfortunately, as with many things in the modern day, that is simply not true. Perhaps we have done away with state-sponsored slavery but, more than 60 years after article 4 of the United Nations Universal Declaration of Human Rights banned slavery and the slave trade worldwide, there are more slaves than at any time in human history. Conservative estimates put the figure at around 30 million, but many sources put it at 10 times that amount, which means a staggering 300 million people are being exploited in one way or another.

Until we send a clear message to those who are involved in any form of human trafficking or slavery, the numbers will continue to rise and more people will have to endure that truly horrendous crime. That is why the Equality and Human Rights Commission's report is a wake-up call in the fight against human trafficking. It is disappointing that, as my colleague Roderick

Campbell said, despite the fact that we have specific legislation that is aimed at tackling trafficking, when the report was produced, there had been only one successful prosecution in Scotland, while in England and Wales there had been more than 150.

In June last year, I asked the Lord Advocate why that was the case. He replied that, although there had been few prosecutions that were directly related to human trafficking, there had been other connected convictions for offences such as living off immoral earnings and fraud and for offences under the Identity Cards Act 2006 and the Immigration Act 1971. Although I do not doubt that any prosecution is to be welcomed, like my colleague John Finnie, I would like the prosecution service to give far more priority to gaining convictions for trafficking.

We will begin to win this battle only through making it clear to those involved that trafficking is unacceptable and that they will face the full force of the law for their crimes. The report states that Scotland should

"make it clear that it has established an environment which is totally hostile to trafficking and that"

all bodies

"are geared up to stamp it out."

I welcome the cabinet secretary's announcement of a summit to bring together relevant agencies to consider the policy and its delivery. Mary Fee, Jenny Marra and Graeme Pearson all mentioned the Commonwealth and Olympic games. If there is any movement towards trafficking at either of those games, will the summit address what we can do about that?

I do not doubt the resolve and commitment of all those involved in the fight against human trafficking, but we must do better. We must do everything that we can to send out the clear message that Scotland does not tolerate any form of human trafficking and will use all the power at its disposal to convict those responsible. If that requires further legislation, as suggested by the report, I will welcome that legislation. I note the Scottish Government's response that any bill would have to be considered alongside a wide range of other potential legislative priorities. I genuinely welcome the cabinet secretary's announcement that the Lord Advocate will consider bringing in a statutory aggravated criminal offence for trafficking. I hope that it is recognised that that should be a priority. We need to act now.

Human trafficking is the fastest growing organised criminal activity in the world. The stories are horrific and harrowing, and it is happening here, today, in Glasgow and throughout Scotland. Legislation is the best way to tackle this crime and

bring justice for the victims, and I would be happy to support, sponsor or introduce any consultation or legislation that might be required, should the Government be supportive of that approach. I will certainly support the Government on any legislation that it introduces to bring an end to this horrendous crime.

16:47

Alison McInnes (North East Scotland) (LD): I declare an interest as a member of the cross-party group on human rights.

I, too, welcome the opportunity to take part in this important debate. It should be a matter of great shame that this modern manifestation of a truly vile crime exists at all here in Scotland. There is a widespread lack of public understanding of the problem and of its manifestations. Most Scots are unaware of the extent of the problem and they would, of course, be appalled to learn what is going on, but that lack of knowledge allows the crimes to go undetected.

Trafficking is multifaceted, and by its very nature is a hidden crime. Those who ought to help and protect its victims, including police officers, border officials and social workers, must rely on a degree of public awareness to alert them to potential trafficking victims. We need to develop far better public and professional awareness of trafficking. The debate will, I hope shed some light on the issue and be a catalyst for change.

We can draw on a series of studies and reports published over the past two years that scope out the scale of the problem of human trafficking in Scotland and identify shortcomings in our approach to stamping it out. I refer to the Scottish Parliament's Equal Opportunities Committee report on migration and trafficking, the report by Scotland's Commissioner for Children and Young People, entitled "Scotland: A safe place for traffickers", and the January 2012 EHRC Scotland inquiry report, which many of us have focused on this afternoon. Disappointingly, there has been little response to the reports so far. If the recommendations were acted on, the situation for victims could be improved and Scotland made a more hostile and less profitable place for traffickers.

The EHRC inquiry report, which is the most recent of the reports, is unambiguous in its recommendations. The Scottish Government must accept the 10 key recommendations and take action. The inquiry's findings are shocking. They state that human trafficking exists throughout Scotland, with its victims—women, girls, boys and men—found not only in private sex flats but in hotels, restaurants, farms, sweatshop factories and domestic servitude.

We know that Scotland is lagging behind in tackling this most appalling crime. We have heard already that it was last September when Scotland eventually saw the conviction of two individuals for sex trafficking—the first successful prosecution under section 22 of the Criminal Justice (Scotland) Act 2003. That compares with more than 150 successful prosecutions in England and Wales.

We have already heard that the scoping study by Scotland's Commissioner for Children and Young People found that at least 80 children, and possibly many more, were trafficked into Scotland over a period of 18 months without a single person being convicted of that crime. Those children have been sold, stolen, taken off the streets and transported thousands of miles—sometimes, they were just given up by their families in the belief that they would have a better life elsewhere. While trafficked children might face sexual exploitation, other forms of abuse, which might be just as common, include forced labour, benefit fraud and domestic servitude.

It is clear that the number of referrals of suspected child trafficking cases is likely to represent only the tip of the iceberg. Many more children are likely to remain unidentified.

It is important to stress that trafficked people are victims and not an immigration problem. Policing and victim care and support must be improved, and the restoration of the victim's human rights must be put at the heart of a new approach.

The EHRC reports that Scotland does not yet have a comprehensive, end-to-end service for victims of human trafficking. To my mind, that is a comprehensive failure. The Human Trafficking Foundation has identified that the level and quality of accommodation, medical assistance, health services, interpreting services and legal assistance that are made available to trafficked people varies widely depending on the type of exploitation to which the person has been subjected, their location and the capacity of the local support providers.

The foundation also points out that, although safe and appropriate accommodation is vital, the convention includes lots of other support that people are entitled to, such as access to psychological support, interpretative material, medical assistance, legal advice, compensation, legal redress, assistance with repatriation and return, and education for children. We are a long way from reaching that standard. That chimes with the recommendation on finding 10 in the EHRC report, which states:

"The Scottish Government should develop a Trafficking Care Standard and introduce an end-to-end service for trafficking victims."

My predecessor in my portfolio, Robert Brown, raised concerns in the previous session that the Commonwealth games in Glasgow would bring an increase in trafficking. I think that his concerns were taken lightly, despite the evidence from other events. For example, in the run-up to the Olympics in London, the vice unit of the Metropolitan Police was given an extra £600,000 to pay for a specialist unit to work over three years to tackle trafficking in the five Olympic boroughs.

Jenny Marra: Does the member agree that awareness training is necessary for front-line emergency staff, such as the police, ambulance staff and firefighters, before the Commonwealth games in Glasgow?

Alison McInnes: Jenny Marra makes a good point. We hope that the Government will pick up on that. Such training would be sensible.

As Mary Fee said, Baroness Kennedy, the investigating commissioner for the EHRC inquiry, said that Scotland should be taking steps to make it clear that it has established an environment that is totally hostile to trafficking, and that the police, border agencies and all other parts of the state apparatus are geared up to stamp it out. She emphasised that,

"It is important that this is done well before the Commonwealth Games. Such international sporting events can be magnets for traffickers because of the huge number of male attendees."

I hope that the Government will now pay heed to the issue.

The convention also includes a non-punishment provision to protect from prosecution trafficked people who are forced or coerced into committing criminal acts.

The Deputy Presiding Officer: I would be grateful if you would close, please.

Alison McInnes: Okay.

I welcome the cabinet secretary's offer to have a multi-agency summit to refresh the strategic policy, but that must be only the beginning. We will support Labour's amendment, which emphasises that point. Scotland must stamp out this crime. A modern Scotland should not harbour human traffickers.

16:53

Gil Paterson (Clydebank and Milngavie) (SNP): I, too, am pleased that the Parliament has taken time to discuss this important issue, as that in itself will raise awareness among the general population and help to combat this scourge in our society.

In March 2008, I led a debate in the Parliament to mark the anniversary of the United Kingdom

signing the Council of Europe Convention on Action Against Trafficking in Human Beings. I was delighted that the convention was finally ratified by the UK Government in December of that year, which brought about the rights of victims of trafficking in domestic law. Since that time, action has been undertaken by the Scottish Government and the UK Government, for which they should both be commended.

The Scottish Government has increased funding for the trafficking awareness-raising alliance and the Migrant Helpline, both of which support suspected victims of trafficking. In 2006-07, funding for those agencies was £39,469. In the financial year 2010-11, they received funding to the tune of £750,000, which allowed them to support nearly 130 individuals. John Finnie mentioned that. I am sure that all the parties in the Parliament welcome that funding increase, as the issue is too important to be used for political gain. The support that those agencies offer is fundamental, because victims require a great deal of support and understanding, especially as many of them do not speak English, are scared and sometimes ashamed and need immediate care.

Non-governmental organisations play an important and vital role. Victims of trafficking are unlikely to disclose information to police officers or immigration officials for a number of reasons, including threats from traffickers; shame and guilt at having been involved in commercial sexual exploitation; concern about their insecure immigration status; fear of the corruption of home-state officials; and suffering from post-traumatic stress disorder.

I encourage the Scottish Government, the police and international and transnational agencies to work closely together. That is equally important, as the approach to the problem must be unified, or our efforts might be wasted and many more young lives might be ruined.

We all know that more must be done not only in Scotland, but internationally. Preventing human trafficking must be seen as a priority for the international community. Only when we have achieved that will we be in a better situation to move forward.

Human trafficking has a worldwide, well-connected criminal network and is a professional and formidable force. It is often connected with other criminal activities, so we must pursue a joint approach. That is why I welcome the additional funding of £4 million over 2009 to 2011 that was allocated to the Scottish Crime and Drug Enforcement Agency from the Scottish Government in a bid to tackle organised crime and to set up Scotland's first dedicated expert resource to build the necessary intelligence to support and improve human trafficking investigation.

Human trafficking—or should I say slavery, as other members have—comes in many different forms. It involves women who are trafficked for the sex trade, manual workers, farm workers, child pickpockets and children who are trafficked for sexual abuse. According to evidence that was given to the House of Commons, a person was even trafficked for the fishing industry in Scotland.

In a modern society, we must stand together to combat those who seek to undermine our values and beliefs by treating fellow human beings as disposable objects. That is why I very much welcome the Scottish Government's announcement that the Cabinet Secretary for Justice will host a summit with key delivery partners to refresh the strategic direction for policy and delivery. Following that, I am sure that consensus will be found across the Parliament and the country on how best to combat the despicable and evil practice that is known as human trafficking.

We all have a part to play—politicians, non-governmental organisations, international agencies and ordinary people alike. If we all work together, I am sure that we will take another step forward in preserving our society and at the same time protecting some of the most vulnerable people in the world.

I commend the motion to the Parliament.

16:59

Margaret McDougall (West Scotland) (Lab):

As we have heard many times this afternoon, human trafficking is an extremely serious issue—a form of modern slavery; the buying and selling of people. It is a global problem, yet it is occurring right here on our doorsteps. It takes many forms. Forced street crime, domestic servitude and sexual exploitation are just a few of the forms of abuse.

It is heart wrenching to read accounts of those who have experienced the trade, people who have been sold into the trade by their own families, people who have had sons, daughters, brothers or sisters simply disappear, people forced into the sex trade and forced to endure psychological torture on a daily basis for years and people who have been forced into hard labour, working in dangerous conditions. They have no passport, no money and no hope of escape—if they escape, it could cost them their lives or the lives of people in their families.

Stop the Traffik estimates that between 2 million and 4 million men, women and children are trafficked across borders and within their own country every year, and one person a minute is trafficked across borders. It is a trade that earns twice as much worldwide revenue as Coca Cola

does. It is an organised crime on a massive scale and, according to the blue blindfold campaign, many criminal organisations are now switching from smuggling drugs to trafficking humans, as that is seen to be lower risk and to offer higher profits. How can we stand by while the selling of people into those kinds of abuse is seen to be a low-risk business?

The first conviction in Scotland for the statutory offence of human trafficking was given on 9 September 2011. In England and Wales there had already been more than 150 prosecutions. An inquiry into human trafficking in Scotland was commissioned to find out why there was such a large difference. Was it not happening in Scotland? The report found that it is happening, as we have heard many times this afternoon, but it is unseen. It is critical to acknowledge that point so that we can start to tackle the extent of the problem. For example, any statistics regarding the issue need to be taken with a pinch of salt. The report states:

“As a consequence, there are significant difficulties in obtaining a reliable estimate of how many victims of trafficking there are.”

Hence, when committing resources to the problem, we cannot solely depend on the statistics that are available, as that would lead to undercommitting resources and would mean that we could not tackle the issue to its full extent.

Organisations such as the TARA project in Glasgow try to help identify women who are involved in trafficking. In 2010-11, it provided support to 57 women, 56 of whom were new referrals. Twelve of the women received short-term support and 21 received long-term support. Seventy per cent were helped by the project to work with the police. Many women do not go the police, however, and are not even identified, which means that intelligence on this issue is lacking. Agencies must share information more systematically in order to improve performance on gathering intelligence, successful prosecutions and supporting victims. This is not a problem that can be tackled effectively by one agency; it needs a multi-agency approach.

There needs to be more leadership from the Scottish Government on this issue and a victim-centric approach to human trafficking, with the focus on human rights and crime prevention. As many others have said this afternoon, it is important that that approach should be adopted before the Commonwealth games, as large events tend to increase activity, as was the case in Athens in 2004.

Given the low conviction rate, the Government should consider coming forward with a new human trafficking act, so that the crime of trafficking can be tackled head-on, rather than being lumped

together with other forms of serious crime, which means that we have to depend on several acts to deal with the issue. The new act should be developed through work carried out alongside the United Kingdom Government. That would allow Scotland to have dedicated legislation relating to human trafficking, give clarity on which practices fall under that heading and enable easier prosecution of those involved.

Scotland's Commissioner for Children and Young People, Tam Baillie, published "Scotland—A safe place for child traffickers?". In it, he recommends that the Scottish Government should revise its now outdated guidance on safeguarding children in Scotland who may have been trafficked, and support and co-ordinate training and awareness-raising programmes about trafficking for all relevant professionals, including those in social work, the police, education and health.

The reports that are mentioned in the motion make harrowing reading, and it appears that Scotland has so far failed to tackle human trafficking successfully or effectively. I welcome the cabinet secretary's commitment to implement the recommendations in the reports and call on the Government to do so before the Commonwealth games in 2014.

17:05

Annabel Goldie (West Scotland) (Con): I, too, thank the cabinet secretary for bringing the important issue of human trafficking to the chamber. The debate has been well informed, and there has been much agreement on a range of points.

Human trafficking—the recruitment, transportation, intimidation and incarceration of vulnerable persons—is deception and exploitation at their very worst, and it is to be condemned in the strongest possible terms. A simple Google search on human trafficking in Scotland in 2012 brings up horrifying headlines. There are details of victims of human sex trafficking in modern-day Scotland. Victims are threatened with witchcraft and subjected to torture and are vulnerable to death. Women are viewed as commodities and are forced to take alcohol and drugs. Trafficked women are forced to work for 16 hours a day and to have sex with numerous men. Those violations, including domestic servitude, occur throughout Scotland, not just in the shadowy back streets of our cities, and those abused individuals are not just physically captive; they are mentally shackled and controlled by traffickers. We must resolve as one to root out that evil and bring an end to that suffering. Law enforcement is important, and I welcome the cabinet secretary's commitment to it.

Jenny Marra was correct to say that quantifying the problem is difficult. As long ago as 2001, the International Organisation for Migration estimated that 1 million people were trafficked for sexual exploitation each year, and the United States Department of State claimed that 600,000 to 800,000 people were trafficked globally each year and that 80 per cent of them were female. That is simply a catalogue of incalculable human misery.

The Equality and Human Rights Commission's inquiry into human trafficking in Scotland was therefore timely. It was helpful that the Scottish and UK Government response was positively acknowledged, but it was still recognised that more could be done. As other members have indicated, it is disturbing that a low awareness of human trafficking was found among professionals and the public. It was also questioned whether authorities such as the police and health workers were sufficiently well attuned to spot or consider human trafficking issues. If that is allied with the conclusion that police and victim support services often did not work in co-operation and the fact that trafficking was observed to be an issue across Scotland, not just in cities, a troubling picture emerges. Given that the report recommended that the Scottish Government must be willing to take a leadership role in devolved areas and be proactive in its relationship with the UK Government over reserved areas, I am encouraged by the cabinet secretary's response in holding this debate, and am encouraged by the motion and the intention to host a summit to refresh the strategic direction for policy and delivery. I say to the cabinet secretary that that should be sooner rather than later.

I share Mary Fee's and Alison McInnes's anxiety about the possibility of trafficking increasing around the Commonwealth games. It is therefore urgent to frame a date and a structure for the summit. I hope that the minister will expand on that in her speech.

The amendment that was lodged by my colleague Mr McLetchie underlines the need for cross-border co-operation. I thank Roddy Campbell for acknowledging the positive approach from Westminster. I realise that Christina McKelvie has a slightly less positive perception of the UK Border Agency, but I urge the cabinet secretary to share any concerns directly with the Home Secretary. I support that approach. Graeme Pearson also made that point. I have always found the Home Secretary to be reasonable and helpful.

John Finnie: Will the member take an intervention?

Annabel Goldie: I have a very tight time limit. If the member will forgive me, I want to expand on an important point.

As other members have indicated, the report that Scotland's Commissioner for Children and Young People published last year has also made an important contribution to the debate. It has some common themes with the report from Helena Kennedy, such as issues about awareness and training. We cannot disregard those conclusions, nor can we disregard the concerns that trafficked children are not identified when they come to the attention of agencies and that the capacity to investigate child trafficking is low.

At Westminster, as my colleague Mr McLetchie indicated, the UK Government is taking steps to tackle trafficking and raise awareness. Much good work has been done there.

Closer to home, there is one local weapon available to us in fighting this repugnant trade. As both reports confirm, awareness of trafficking is low. The justice system is supposed to prevent trafficking, but something has to trigger the intervention of the justice system and other agencies. Sadly, sex trafficking is very much a hidden crime and there are concerns about detecting the trafficking networks. These activities are covert; they are out of sight and in the shadows. The traffickers dread exposure. The prospect of being brought out into the light stops them in their tracks and brings an end to their nasty operations and their parasitic lifestyles. One weapon that we have is community intelligence. Individuals throughout Scotland need to be vigilant to report any suspicious activities. We are all observers and we can be the key to unlocking a trafficking network.

I hope that the minister will reflect on that and perhaps indicate in her wind-up speech whether there could be a place for community representatives, in whatever form, at the proposed summit. Those horrid activities take place at community level and they can be uncovered and tackled at community level. I support the motion and the amendments.

17:11

Lewis Macdonald (North East Scotland) (Lab): There has been a great deal of agreement in the debate and some good contributions from around the chamber, not least the case study that we were offered from Graeme Pearson's latest visit to Barlinnie. The speeches have shown that there is a broad consensus on the issue.

Our amendment emphasises the need for strategic leadership from Government and for action to be taken across all agencies to tackle both human trafficking and its consequences for victims. Many members around the chamber have reflected that emphasis.

I welcome the cabinet secretary's comments on statutory aggravation. He was more cautious on the consolidation of the existing law. He will know, of course, that the EHRC's recent report found that the current statutory provision is piecemeal and inconsistent. It has grown through legislation passed in the Scottish Parliament and at Westminster over the last 20 years, rather than being founded on a thorough consideration of what is needed in law to deal with the whole problem.

Yet the Council of Europe Convention on Action against Trafficking in Human Beings, which Gil Paterson mentioned, starts from a very specific definition of what human trafficking means. In short, it is the recruiting and transporting of people, using coercion, for the purposes of exploitation, whether in a domestic situation, in conventional employment or in prostitution. That is where our law on these matters should start, too. There is a strong argument for a consolidating bill that brings together all the existing provision, provides a single clear definition of trafficking and a definition of what constitutes unlawful exploitation in this context.

Trafficking and its consequences are, of course, not only a matter for the criminal justice system. A cross-cutting approach will be required in order to make a real impact. That implies the introduction of a bill that addresses the range of issues, deals specifically with the victims of this very specific set of offences and puts measures in place to require agencies to share information and work together.

EU directive 2011/36, on preventing and combating trafficking in human beings and protecting its victims, which the UK Government accepted in principle last July, now needs to be fully implemented in practice. Mandatory prison sentences, for example, may apply in Scotland for trafficking into prostitution but not for trafficking in general. That is something that the EU directive requires and I would welcome the minister's comments on that when she closes the debate.

The directive offers protection to the victims of trafficking from prosecution for offences carried out under duress. Fiscals in Scotland follow that approach, but the problem is that they must rely on the UK Border Agency's determination of whether a person is a victim of trafficking. As we heard from Graeme Pearson, Christina McKelvie and other members, that is also an issue, as the UKBA has responsibility for managing the flow of immigration.

If the UKBA fails to identify someone who is referred to it as a victim of trafficking, that person cannot access relevant services or protection and may quickly find their immigration status becoming the number 1 issue, which it should not be. Therefore, it may make sense for fiscals to make

their own informed judgment of whether someone is a victim of trafficking, to have more local input into determining who is and is not a victim of trafficking and to consider whether there should be a right of appeal against a negative decision. All those things could be addressed by a Scottish referral mechanism of some kind, and we would welcome ministers' comments on that.

There is also a significant intelligence gap in what the police know about the activities of the criminal gangs that run the human trafficking. That is part of the reason why there have been few prosecutions of traffickers in Scotland, as is recognised in Gordon Meldrum's report, about which we heard earlier. Asset recovery powers have not been widely used to date, and many police officers would say that they are not adequately trained in how to recognise and deal with trafficking.

I would be interested in the ministers' response to those observations, whether they acknowledge those enforcement issues and what they intend to do about them.

It may also be time to revisit the restricted power of arrest that is available to enforcement agencies such as the Gangmasters Licensing Authority, which is required to obtain a warrant in Scotland but not England. Those agencies often have only one chance to detain a suspected trafficker before he flees to a country where his assets cannot be touched and that chance should not be lost. Again, I would be interested in the Government's views on that.

Enforcement is part of the picture, but the other is support for victims. One option might be a dedicated support unit for trafficked victims. I would be interested to hear the Scottish Government's views on that. Such a unit could help to identify victims of trafficking and could provide some advocacy for them in their dealings with the UK Border Agency and other bodies.

We know that the trafficking of children for domestic servitude can be an opportunistic crime—that has been referred to in the debate—and I look forward to Aileen Campbell's suggestions for what should be done to tackle that in particular.

The recommendations have received support across the parties, but there is no doubt that some of them would cost money. It is for ministers to indicate which of those possible measures they will support and, where it is necessary to do so, with what extra resource they will support them.

In light of the evidence from police witnesses to the Justice Committee yesterday about the potential loss of 1,100 support staff in year 1 of the new policing structures, I would be particularly interested to hear whether the spirit of consensus

will extend to supporting investment in training and additional intelligence for the proposed police service of Scotland or whether some of the expertise that has already been built up will be put at risk when 1,100 volunteers for redundancy are sought from among civilian police staff.

I welcome the broad consensus in the debate. The real test of that will come when the planned summit—the date of which must, as Annabel Goldie said, be set soon—makes recommendations that have financial implications for the Government, which it surely will. I hope that ministers are able to respond positively at that stage too.

I support the amendment in my name and the amendment from the Conservatives.

17:19

The Minister for Children and Young People (Aileen Campbell): I associate myself with the points that the Cabinet Secretary for Justice made in opening the debate. I also welcome the opportunity to speak on this important subject and to reinforce the message that the evil practice of human trafficking will not be tolerated. That message has been shared by everyone who has contributed to this constructive debate.

The Scottish Government takes very seriously all areas of trafficking, including child trafficking. As Minister for Children and Young People, I am committed to improving the life chances of all children and young people in Scotland: there is no more important role for us than keeping all children safe and well. Along with colleagues, I will do all that I can to create a society that leaves no one, especially the most vulnerable people, behind—a place where every child, regardless of how they got here, gets the best start in life. Sadly, a number of children are trafficked for the purposes of exploitation or abuse, so I will set out some of the issues that affect children.

Our work on child trafficking is grounded in our commitment to working together with partners at local and UK levels. I welcome any work that helps to highlight and to reduce the risks to our children. Scotland's Commissioner for Children and Young People helped to publicise the hidden crime of child trafficking through last year's report on it, which highlighted the complex issues that are connected to child trafficking, from the various modes of trafficking to the heightened vulnerabilities of the child victims—which Mary Fee raised and in which I know she takes a great interest. The report contains recommendations that are aimed at helping all the relevant partners to identify and support children who have been trafficked. I urge all those who are involved to act on the report's recommendations.

Christina McKelvie noted that although immigration processes are reserved, we are responsible for the welfare of children in Scotland, and this Government is committed to ensuring that when trafficked children are uncovered, they are supported appropriately. John Finnie and Rod Campbell spoke about the number of children who are involved. We are working closely with the police and other agencies to combat the trafficking of children, and we will continue to do so.

The Scottish Government's approach to child trafficking is set in the context of our wider approach to child protection. We have embedded child trafficking firmly in our national guidance on child protection. The guidance contains a dedicated section on the subject that makes it clear that when child trafficking is suspected, it is essential that timely and decisive action be taken. The guidance also sets a national framework to help to shape local practices and procedures, which many members have called for. It aims to improve the way in which all professionals and organisations work together to give all children the protection that they need quickly, effectively and at the earliest possible stage.

Lewis Macdonald: Does the minister concede that some of the guidance that is in place is out of date, given the changes that have taken place over the past three years, and that there would be merit in looking at it again and bringing it up to date?

Aileen Campbell: The guidance is refreshed continually, because child protection is an ever-changing arena, but if Mr Macdonald has specific views that he would like to express, I invite him to let me know. We are working to make a difference in this area, and we are constantly vigilant for changes that are required in child protection.

We have created a risk-assessment toolkit, which will support front-line practitioners in assessing all vulnerable children and young people at risk. The toolkit is being piloted and will be published in spring 2012. In addition, my officials are working with the west of Scotland child protection sub-group on child trafficking to explore how the tools that the London Safeguarding Children Board has developed can best help local authorities in Scotland. I hope that that provides further reassurance to Lewis Macdonald.

Following the recommendations in the commissioner's report, the Scottish Government will explore local protocols for child trafficking with the Scottish child protection committee chairs forum at its next meeting in March. I believe that it would be beneficial to encourage awareness raising among children of the dangers of child trafficking, as the commissioner has mentioned. My officials intend to work with key stakeholders over the course of 2012 to explore how that can

be achieved. Many members have called for such awareness raising work to be done.

I highlight the promising results from the first annual evaluation of the Scottish guardianship project, which is provided by Aberlour and the Scottish Refugee Council, and is supported by funding from the Scottish Government. It is a pioneering project that has the aim of helping unaccompanied asylum-seeking and trafficked children to navigate their way through the complex welfare and immigration processes. Since it was set up in the autumn of 2010, it has helped to match more than 60 unaccompanied children with guardians. It is the first service of its kind in the UK, and it demonstrates the Scottish Government's commitment to ensuring that all children in Scotland get the help that they need when they need it.

I turn to some of the points that were raised in the debate. Malcolm Chisholm, John Finnie, Gil Paterson and Margaret McDougall reminded us that trafficking is not a Glasgow-only problem. I know that they will welcome the fact that the trafficking awareness-raising alliance provides a service across Scotland and continues to be financially supported, along with Migrant Help in Scotland, which provides much-needed help and support to the victims of trafficking.

Jenny Marra: Will the minister take an intervention?

Aileen Campbell: Yes—I was just coming to the points that Jenny Marra raised.

Jenny Marra: I thank the minister for taking my intervention; perhaps she was about to answer it.

On the point about Glasgow, does she agree with our call for trafficking awareness training for staff in the key front-line services—ambulance, fire and police—in advance of the Commonwealth games?

Aileen Campbell: Jenny Marra raises a point about training, which is always on-going. Agencies are training their staff: the national health service is developing training and resources, and other agencies remain vigilant in that regard. The child protection training toolkits that I mentioned are constantly being updated.

That was not the point by Jenny Marra that I was coming to—she also raised the issue of prosecutions. She may be interested to know that the multi-agency pentameter 2 operation, which focused on human trafficking, led to 21 people being prosecuted. We remain committed to working on that issue, and we can keep Jenny Marra updated on that work.

David McLetchie and Annabel Goldie explained why collaboration across boundaries—professional or geographical—is important, and

made a positive argument from their side of the chamber for how we can deal appropriately with the perpetrators of human trafficking.

Roderick Campbell mentioned the barriers in the legal system and welcomed the summit to which the cabinet secretary referred, which will progress a strategic approach. A lot of members have called for a strategic approach to tackling trafficking, and I know that everyone will welcome the summit. The cabinet secretary will get back to people on the date, and we will ensure that everyone is informed of it. We will listen to Annabel Goldie's point about ensuring that communities are engaged on the problem of human trafficking.

Annabel Goldie: Is the summit proposed for later this year?

Aileen Campbell: The cabinet secretary has just indicated to me that he will try to do it this year, but he will let people know as soon as possible of the date on which he intends to hold the summit.

Christina McKelvie and Sandra White raised some interesting issues, and they have had a long and outstanding interest in, and personal commitment to, tackling human trafficking. Christina McKelvie made a good point about the changing nature of the crime and—relating to my brief—the need to be vigilant about child trafficking, which is not always related to serious and organised crime.

Graeme Pearson and John Finnie gave us a professional insight into the issue. Their comments were useful, and we are happy to engage with them on the issue of children being sold from care homes. I would be interested to hear more from Graeme Pearson on that point. He may be interested to know that the cabinet secretary has met the Home Secretary and is a member of the inter-departmental ministerial group on human trafficking, which includes several UK Government ministers and ministers from the devolved Administrations.

Members raised the important issue of the national referral mechanism discouraging victims from co-operating with prosecutions. We accept that immigration concerns are a major issue for victims, and we would welcome any constructive suggestions on how to address that.

The debate has been good and a lot of constructive points have been raised. We can progress those issues, on which we are constantly willing to engage with members from across the political spectrum. I thank members for their contributions, and I thank the EHRC and Scotland's Commissioner for Children and Young People for highlighting in their reports so many

important issues that relate to human trafficking and the child element within that.

Business Motion

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-02176, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, which sets out a business programme. It replaces motion S4M-02150, and includes a Public Petitions Committee debate next Wednesday afternoon. Section A of the *Business Bulletin* has been revised and is available at the back of the chamber.

17:29

The Cabinet Secretary for Parliamentary Business and Government Strategy (Bruce Crawford): I thank the business managers from the various parties for being flexible enough to allow the Public Petitions Committee debate to take place as well as the Health and Sport Committee debate, following discussions this afternoon. It was very helpful of them.

I move,

That the Parliament agrees the following programme of business—

Wednesday 7 March 2012

2.30 pm Time for Reflection
followed by Parliamentary Bureau Motions
followed by Health and Sport Committee Debate: Regulation of Care for Older People
followed by Public Petitions Committee Debate: Pernicious Anaemia and Vitamin B12 Deficiency (Understanding and Treatment)
followed by Business Motion
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Thursday 8 March 2012

9.15 am Parliamentary Bureau Motions
followed by Scottish Labour Party Business
 11.40 am General Question Time
 12.00 pm First Minister's Question Time
 2.15 pm Themed Question Time
 Education and Lifelong Learning
 2.55 pm Scottish Government Debate: The Future of Tourism in Scotland
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Wednesday 14 March 2012

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions
followed by Scottish Government Business
followed by Business Motion
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business
 Thursday 15 March 2012
 9.15 am Parliamentary Bureau Motions
followed by Scottish Government Business
 11.40 am General Question Time
 12.00 pm First Minister's Question Time
 2.15 pm Themed Question Time
 Finance, Employment and Sustainable Growth
followed by Scottish Government Business
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Motion agreed to.

Parliamentary Bureau Motion

17:30

The Presiding Officer (Tricia Marwick): The next item of business is consideration of a Parliamentary Bureau motion. I ask Bruce Crawford to move motion S4M-02151, on approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the Advice and Assistance (Assistance By Way of Representation) (Scotland) Amendment Regulations 2012 [draft] be approved.—[Bruce Crawford.]

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

Decision Time

17:30

The Presiding Officer (Tricia Marwick): There are four questions to be put as a result of today's business. The first question is, that amendment S4M-02133.1, in the name of Lewis Macdonald, which seeks to amend motion S4M-02133, in the name of Kenny MacAskill, on human trafficking, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that amendment S4M-02133.2, in the name of David McLetchie, which seeks to amend motion S4M-02133, in the name of Kenny MacAskill, on human trafficking, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S4M-02133, in the name of Kenny MacAskill, on human trafficking, as amended, be agreed to.

Motion, as amended, agreed to,

That the Parliament welcomes the reports issued by the Equality and Human Rights Commission and Scotland's Commissioner for Children and Young People about trafficking in human beings; acknowledges the work undertaken to date by law enforcement agencies to tackle criminals engaged in human trafficking; commends the work of statutory and third sector bodies that have worked to raise awareness of human trafficking in Scotland and offer support to victims of this abhorrent crime; welcomes the Scottish Government's intention to host a summit with key delivery partners to refresh the strategic direction for policy and delivery in this important area and believes that strategic leadership from government must be provided and urgent action must follow across the range of agencies to tackle human trafficking and its consequences for victims, further welcomes the active cooperation among governments and agencies across the UK to tackle this issue, and acknowledges the need for policy coordination.

The Presiding Officer: The next question is, that motion S4M-02151, in the name of Bruce Crawford, on approval of a Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the Advice and Assistance (Assistance By Way of Representation) (Scotland) Amendment Regulations 2012 [draft] be approved.

Access to Justice

The Deputy Presiding Officer (Elaine Smith):

The final item of business is a members' business debate on motion S4M-01654, in the name of Iain Gray, on access to justice across Scotland. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes the content of the Scottish Court Service document, *Future Court Structures*; expresses concern that the paper proposes closing up to 15 of Scotland's 49 sheriff courts, including Haddington, and reducing the number of sheriff courts hosting jury trials from 47 to 14; has grave reservations about the potential impact that such a reduction in service could have on access to justice for communities across Scotland; believes that these proposals could make it harder for victims of crime and witnesses to get to court, and considers that any proposals for major changes to the court structure merit a full and robust consultation process to allow communities across Scotland to play a meaningful role in determining how justice is delivered in their areas.

17:32

Iain Gray (East Lothian) (Lab): This year is Charles Dickens's bicentenary, and he once wrote:

"Charity begins at home, and justice begins next door."

If justice is not only to be done but to be seen to be done, indeed, it must begin next door.

On 26 September, the Scottish Court Service issued a report on future court structures that was intended for discussion by those involved in our courts. The paper's conclusions are the second iteration of a proposal to remove court services from many of Scotland's communities. In fact, the proposals are drastic and involve the closure of 15 out of 49 sheriff courts and a reduction in the number of sheriff courts holding jury trials from 47 to 14. The report is absolutely explicit about the driver behind the proposals: cuts in the service's budget of 6.9 per cent next year, 8.4 per cent the year after and 11.1 per cent in 2014-15. The proposals have nothing to do with justice; they are a cost-cutting exercise.

My particular concern is with Haddington sheriff and justice of the peace courts, which are both targeted for closure because of their so-called proximity—around 20 miles—to Edinburgh. However, I have no doubt that my reasons for opposing the closure of my local courts will apply in most or all of the communities that are threatened by the plans. I am sure that colleagues will take the chance this evening to speak up for their towns, too.

The closure of Haddington sheriff court might be an attractive cost-cutting measure for the Scottish Court Service, but it would be a significant blow to

the people of East Lothian. After all, not just people on trial but victims and witnesses would face longer journeys and longer waits. Our justice system often fails victims and witnesses, without our imposing an additional cost in time and travel. We must also consider local police officers, who already spend too much time away from their front-line duties in the community but would have to be extracted for even longer so that they could give evidence. It is no wonder that Sheriff Peter Gillam said that closure would be "extremely detrimental". He also pointed out that cases in Edinburgh sheriff court already face serious delays, without having the burden of additional work from East Lothian.

The issue is not just criminal cases. Citizens who seek recourse in civil law would find that such recourse was offered not next door but a significant distance away. Then there is the whole court supply chain; fiscals, lawyers and court workers could all go. Our local newspapers, the *East Lothian News* and *East Lothian Courier*, would find it hard to maintain their coverage of local cases. The papers are to be commended for their campaigning against the proposal. Justice must be not only done but seen to be done.

Haddington's justice of the peace court would go, too. Such courts embody the principle of justice that is delivered in one's own community by one's peers. Lay justice was introduced in 1609 by James VI, precisely to protect the people and their communities from the high-handedness and arbitrary decisions of the elite—barons and lords, who could not be trusted to act in the interests of the people. We ask a lot of JPs, not least that they sit on the bench at least 12 times a year. There is no doubt that finding candidates in East Lothian who would be willing to discharge those duties would be made harder if JPs were required to sit in Edinburgh. The effect would be to make the other duties that they undertake more difficult.

The closure of Haddington court would diminish the actual and perceived effectiveness of the justice system in my constituency. If justice delayed is justice denied, justice displaced is also justice denied.

There is another point. Like many towns in Scotland, Haddington's reasons for being have changed and been challenged over the centuries. It was a major port when the River Tyne was navigable—that is long gone. Its function as a market town in a rural county, which served farmers and farm workers, has also gone. It has been a shopping centre with a wide catchment area, but as we speak my town centre is fighting for its life in the face of supermarket developments and online shopping.

However, Haddington remains the administrative centre of East Lothian, and the

court is a central component of its stature and standing. To remove the court would be to diminish the town a little more, to question its purpose a little more, to reduce its vibrancy a little more and to hurt its pride a lot. Some of us find it passing strange that a Government that concerns itself so centrally with the stature, strength and sustainability of the nation can seem so cavalier with the vitality and vigour of the small towns that make up so much of the nation.

Haddington has certainly had a court for 600 years and there is every reason to believe that there has been some kind of assize there since the 12th century. In some form or other, the court has survived the siege of Haddington, the reformation, Cromwell, the union, the industrial revolution and two world wars. It would be a tragedy if it did not survive this Scottish National Party Scottish Government.

I know that the minister will say that there are no firm proposals, that savings must be made and that there will be consultation. I certainly hope that there will be consultation.

Roderick Campbell (North East Fife) (SNP): I sympathise with many of the points that have been raised, but does the member accept that when the Lord President of the Court of Session gave evidence to the Justice Committee in November last year, he confirmed that 40 per cent of the Scottish Court Service's expenditure went on maintaining court buildings?

Iain Gray: I am sure that some of that is true, but I have tried to make the case this evening that the courts are not about the buildings, but about the justice that is served in our towns and communities. Consultation will be important if the proposals come forward, but I must be honest and say that the truth is that no consultation will convince the people of my town that justice should not begin next door and no saving will convince them that the compromise of their justice is justified.

The minister can end this now by telling the Scottish Court Service that Haddington wants, needs and deserves its court, and that the SCS should not waste her time by suggesting to her that she closes it.

The Deputy Presiding Officer: Speeches should be of four minutes, please, as a number of members wish to speak in the debate.

17:40

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I congratulate Iain Gray on securing the debate and on his robust defence of the case for keeping Haddington sheriff court open. I did the same

when the Liberal-Labour coalition was going to close the sheriff courts at Peebles and Jedburgh, so we have been here before.

I return to Roderick Campbell's intervention, just to give Iain Gray the facts on the Lord President's evidence to the Justice Committee last year. He said:

"40 per cent of the Scottish Court Service's expenditure is on court buildings, another 40 per cent is on the wages of staff, and there is a balance of 20 per cent. ... As some of those buildings are rather old, the maintenance costs are high."—[*Official Report, Justice Committee*, 1 November 2011; c 390.]

The committee challenged the Lord President on the lengthy timescale for the SCS proposals. Committee members John Lamont, John Finnie and I—all with rural constituencies—also challenged him to give huge consideration to travel costs not just for witnesses and victims but for the police and the sheriffs, and to all the paraphernalia, as it were, that is required to deliver justice not just in criminal matters, as Iain Gray quite rightly said, but in civil matters. In the majority of cases, Scottish people are involved in the civil court because of cases involving, for example, matrimonial disputes, contact with children, small claims actions in which someone is suing a local tradesman, and so on.

The Lord President also said that the judicial members of the SCS board, which includes the Lord Justice Clerk, will

"consider what principles we ought to apply in the provision of court services in future."—[*Official Report, Justice Committee*, 1 November 2011; c 390.]

They will take on board all the reasonable concerns that Iain Gray has expressed.

However, we must consider whether there is wastage in the justice budget. There is wastage in some processes and money can be saved by addressing that. For example, there are too many court hearings and too many postponed hearings. Those issues will be considered as part of the review.

We must also consider the state of the sheriff courts. Iain Gray referred to Dickens in his speech, and some of the SCS buildings are Dickensian. I have been in Haddington and Selkirk sheriff courts—I hasten to add that I appeared as a solicitor and was not in front of the bench for any other purpose—and I believe that they do not have proper facilities.

When I started in legal practice several years ago, I was shocked to find that witnesses for opposing sides in both criminal and civil cases would be in the same room, and sometimes the air could have been cut with a knife. For example, people who were involved in a bitter dispute over their children would sit facing each other, which is

not suitable. In other courts, I do not know how anybody who was disabled got access. Moreover, there would not be proper facilities for parking at the court.

The issue is huge and long term. We want to get rid of some of the costs in the process for what is not needed, so that the money can be put back into, for example, extending legal aid to allow more people to have representation in court. Iain Gray made some good points, but he must consider the whole package. For example, videoconferencing could be used in some cases so that the police would not have to be brought to the sheriff court and, by agreement with both parties, individuals would not need to come, which would save costs.

I sympathise with Iain Gray's defence of Haddington sheriff court. If the SCS tried to close Peebles sheriff court, I would say "Over my dead body." Peebles is very much like Haddington, in that it has its own personality; it is a community that is fighting against the same kind of things as Haddington, such as supermarket developments, and is competing with other places—Edinburgh, in the case of Peebles. All that is true, but it is also true of places such as Peebles that if the sheriff court closed, access to justice would be extremely difficult for many people, particularly those who do not have their own transport.

I agree with all the points that Iain Gray made in that regard, but I ask him to consider, too, that in the 21st century our sheriff courts should be built so that they serve all the people properly. They should separate out witnesses, have proper facilities and give people access to justice and they should not cost an arm and a leg to heat and maintain. When the buildings were first put up, they were really threatening because they were big, terrifying baronial places that said to people, "Here's the court." However, we have got past those days. In fact, most of the people who are going into the courts do not want them to be threatening, baronial places. They want to be in civil courts, for example, in which they feel comfortable and justice is done.

I ask Iain Gray to look again at the issue and take some comfort from the fact that the Justice Committee will be robust in dealing with the issue when it comes before it.

17:45

Claire Baker (Mid Scotland and Fife) (Lab): First, I apologise because I have to leave the chamber before 6 pm and I will miss the minister's closing remarks.

I welcome the opportunity to speak in this important debate on the future of our courts and I congratulate my colleague, Iain Gray, on securing

parliamentary time to discuss an issue of importance to my constituency of Mid Scotland and Fife. I also welcome the opportunity to put on the record my concern about the proposals to close courts in my region that are contained in a document that the Scottish Court Service has produced.

The Government has been uncomfortable discussing the document "Future Court Structures", which asks whether we can manage with fewer courts. According to the document, three courts in my region—Alloa sheriff court, Cupar sheriff court and Kirkcaldy justice of the peace court—could be considered for closure because they fall below two key tipping points in being courts that sit for three days per week or fewer or that are in a settlement with 20,000 people or fewer that is within 20 miles of another court.

That rationale is difficult to apply to services in rural communities. Is it fair to determine access to justice by uptake? Less populated areas will always lose out against such a criterion. As far as possible, we must make sure that access to justice is delivered locally and in a meaningful way. I accept, for example, that Cupar is not far from any major centre for someone who drives a car, but if they have to rely on public transport, travel to another court could be costly, time-consuming and inconvenient.

The Scottish Government has failed to rule out court closures, stating that they are a matter for the Scottish Court Service, but pressure from budget cuts is driving many local decisions. The Scottish Court Service has received a 20 per cent budget cut as well as a significant cut in capital budgets. The Scottish Government made those decisions and must recognise that budget cuts on such a scale will have consequences. It needs to take responsibility for the proposals that are being made.

In response to a question from me on this issue, the cabinet secretary accepted that a final decision would be made with parliamentary approval. I hope that we get the opportunity to scrutinise the proposals properly—Christine Grahame talked about the Justice Committee's role—and that the Government will accept responsibility for the final decision.

I look forward to the roll-out of a consultation on the plans. Many local voices in Mid Scotland and Fife are speaking out against the proposals. I have no doubt that many of those people will wish to make the strength of their feeling known to politicians when the opportunity arises.

Mid Scotland and Fife's network of local courts not only delivers justice in the communities that it

serves, but provides crucial support for witnesses to and victims of crime.

Christine Grahame: I am not familiar with the courts that the member is talking about. Do they have proper facilities for witnesses on either side of a case?

Claire Baker: It is important to understand the possible consequences of closures. I am not saying that everything in the current court system is perfect but residents in Cupar are looking at travelling long distances and at other similar pressures and there needs to be a balance. That is why I am hopeful that the Justice Committee will look at the issues. Christine Grahame represents Peebles, which has one of the courts that is on the list for closure, so I am sure that she appreciates that there is another side to the argument.

People in Mid Scotland and Fife deserve to have access to justice where they live. They do not want to have to travel beyond their local area, which would present many families and individuals with difficulty in accessing justice services. I want to ensure that we retain the vital services that the courts in Alloa, Kirkcaldy and Cupar provide and I hope that the Scottish Government will listen to people's concerns about proposed court closures now and at any time during this parliamentary session.

17:49

Joan McAlpine (South Scotland) (SNP): I, too, congratulate Iain Gray on highlighting this issue, which is important to many of the local communities that are in the South Scotland region that I represent.

The leaked document outlines options and I understand that the Scottish Court Service has made no decision. It is also important to emphasise that the SCS and its Lord President are, quite properly, independent of the Scottish Government. I have no doubt that their suggested changes will, in their view, be best for the future of the Scottish justice system.

Iain Gray: It is true that the judiciary is independent of the Scottish Government, but the cabinet secretary made it clear earlier that this will be a decision for ministers, if and when firm proposals are made.

Joan McAlpine: The cabinet secretary did indeed say that it will be a decision for ministers, and the document makes that clear. The recommendations, however, will be made by the SCS and there will be extensive consultation.

The proposals are influenced not only by the desire to influence the future of Scottish justice, but by the need to save money in the face of unprecedented cuts to Scotland's budget by the

United Kingdom coalition Government. I urge anyone with worries and strong feelings about the proposals to respond to the consultation when the time comes. Nothing is set in stone.

The "Future Court Structures" document makes it clear that the way in which we deliver justice needs to change. Indeed, it is changing and, I am glad to say, improving, partly because the number of cases disposed of in court is falling and partly because crime itself is at a 35-year low, so fewer cases are going to court. We now deliver justice more efficiently—the delays and adjournments that are so frustrating to the system's users are gradually being reduced.

As Christine Grahame has said, the document makes valid points about the suitability of certain buildings to serve the needs of those who use them. It is of particular concern that some courts do not have space to separate witnesses properly from a defendant's family. Moreover, as the Justice Committee has heard, many of the buildings are expensive to maintain.

Notwithstanding the need to serve the interests of justice itself, I agree with Iain Gray that we must look at the function of a local court in the context of its role in the wider community. For example, we should consider the distinct identities of our town centres and how they maintain the civic pride of the communities they serve. Often, courts are in former county towns, such as Haddington, Kirkcudbright and Lanark, which in the past were home to many institutions that have long since been centralised in larger urban centres. The maintenance of courts, which are often architecturally significant buildings, adds immensely to a sense of place and continuity.

I disagree with Iain Gray's suggestion that the Government has ignored the needs of town centres. Only this week, Fiona Hyslop, the Cabinet Secretary for Culture and External Affairs, announced a fifth round of conservation area regeneration schemes. The Scottish Government is investing another £10 million in protecting and preserving the historic environment of Scotland, to strengthen the vibrancy and strong sense of identity of our town centres.

The built environment is a hugely important aspect of that, especially buildings that continue to serve the purpose for which they were created. That is why we need to pause and reflect on the social and, indeed, psychological impact that closing a court would have on a town. We would still have the building but, in effect, it would be a museum. We would also lose some of the liveliness and bustle that the court brings, the staff spending money in local businesses and the local newspaper reporter making his living on the press benches.

I join Iain Gray in congratulating the *East Lothian Courier* on its campaign for Haddington sheriff court, the closure of which—I emphasise that that is only an option in a leaked paper—would end more than 500 years of administration of justice in the county. Locals are rightly proud of that history. Their identity is grounded in both the buildings and the process that takes place in them.

I understand the economic context that requires savings to be found in the justice budget as a result of the £1.3 billion-worth of cuts coming from the coalition to Scotland this year alone.

The Deputy Presiding Officer: Could you come to a conclusion please?

Joan McAlpine: Savings must be made—of that I am sure—but our town centres must be allowed to thrive and justice should be as local as possible.

17:54

Elaine Murray (Dumfriesshire) (Lab): I congratulate Iain Gray on securing this debate. I am experiencing déjà vu in relation to Annan court. On 5 May 2009, the justice secretary brought the Justice of the Peace (Sheriffdom of South Strathclyde, Dumfries and Galloway) Order 2009 before the Justice Committee. The order was made under the Criminal Proceedings etc (Reform) (Scotland) Act 2007 and it proposed to establish justice of the peace courts in nine locations, including Dumfries, and to repeal the provisions of the District Courts (Scotland) Act 1975 in relation to a number of district courts, including Annan court.

The plan to close Annan district court met widespread opposition from the local press; from Labour, Conservative and Liberal members of the Scottish Parliament and councillors; and from local solicitors and a senior justice of the peace from Annan, who spoke on behalf of the vast majority of JPs in the south-west of Scotland. I am sorry to say that, at that time, no SNP politician was prepared to speak out in favour of the court although, having listened to Joan McAlpine's speech, I hope that she might be more sympathetic this time round.

My colleague Cathy Jamieson, formerly of this chamber, attended that meeting of the Justice Committee with me to oppose the closure of the Cumnock and Girvan courts, which was included in the statutory instrument. Cathy Jamieson did not speak only as the local member representing Cumnock and Girvan, as she was the Minister for Justice who introduced the bill that became the primary legislation, the Criminal Proceedings etc (Reform) (Scotland) Bill, to the Scottish Parliament in 2006. In speaking of her role at that time, Cathy Jamieson told the Justice Committee:

"The decision to retain lay justice was very much based on ensuring that communities could see justice being done and that crimes and offences that had been committed in communities and which were particularly relevant locally could be dealt with there."—[*Official Report, Justice Committee*, 5 May 2009; c 1754.]

I moved a motion to annul the statutory instrument, which the Justice Committee, in its wisdom, agreed to by five votes to three.

Christine Grahame: For the record, I ask the member to keep saying that she is talking about the previous Justice Committee and not the present one.

Elaine Murray: Yes. It was in 2009—I think that I made that clear.

I will not repeat the speech that I made to the committee that morning, but the arguments are as relevant now as they were then. I am therefore disappointed that the proposal to close Annan court has come back again. Like Haddington court, the court in Annan has centuries of history and is now a justice of the peace court. It is disappointing that the proposal is back again.

I will not be the only person who is disappointed by the list that has come out. When I looked back at the *Official Report* of that meeting of the former Justice Committee, I saw that my colleague Cathie Craigie, the then MSP for Cumberland, sought assurances and was given them by Gerard Bonnar of the Scottish Government criminal justice directorate that the Scottish Court Service had no proposals to reconsider the establishment of a JP court in Cumberland in the near future. That seems to have gone.

I remain opposed to the closure of Annan JP court and to the centralisation of justice services in a rural area. I understand the pressures that budget cuts place on the Scottish Court Service and I know that there are issues about the accommodation of the Annan justice of the peace court, which is in the town hall. However, the way in which some things are done is capable of being changed.

I believe that the proposals will disadvantage witnesses and victims as well as perpetrators. As Iain Gray said, the proposals will be to the detriment of the important principle of justice being seen to be done. Moreover, I object to the way in which the proposals have been sneaked out through a leaked document. Doubtless, the Scottish Government could get its way, although the fact that Christine Grahame is the convener of the current Justice Committee gives me a bit of encouragement.

Christine Grahame rose—

Elaine Murray: Sorry, but I am winding up.

The Government has the ability to get its way this time because it has a majority on the Justice Committee. However, the method by which the ideas have been put out is a pretty shabby way of treating the communities that are involved.

The Deputy Presiding Officer: I advise members that, because of the number of members who still want to speak in the debate, I am minded to accept a motion from Iain Gray, under rule 8.14.3, to extend the debate by up to 30 minutes.

Motion moved,

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[Iain Gray.]

Motion agreed to.

17:58

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): I, too, thank Iain Gray for securing this important debate and giving us the opportunity to raise our concerns about the proposals. I give my apologies for having to leave the chamber slightly early.

The recent news that many courts are under threat of closure is worrying for the future of justice in Scotland. It is particularly threatening for the delivery of justice in rural communities such as those in the Borders for which I have the privilege of being the MSP. The potential impact of such closures would have significant implications for ensuring that victims are treated fairly and that justice is delivered in an efficient manner. The effective operation of the court system in Scotland is essential to ensure a fair judicial process for all those who are involved.

I suggest to Joan McAlpine that the current backlog of more than 14,000 cases surely shows that our justice system cannot accommodate any further reduction in the number of courts.

We have heard that the Scottish Court Service report proposes closing up to 15 of Scotland's 49 sheriff courts. We should remember that rural residents often travel long distances to attend court already. The court closures would affect travel time for witnesses and victims alike, but the change would disproportionately affect people in rural areas. I believe that further serious consideration of the proposals is necessary.

Another important point is that the Scottish Court Service document has also revealed that the number of sheriff courts hosting jury trials could be reduced from 47 to 14. If fewer than a third of the courts remain in operation, court schedules could be further delayed and there could be little chance of a fair and swift trial. Cases involving jury trials, which often deal with the more serious matters, cannot be taken lightly, and jury trial

postponements are already a concern for many under the current system.

In my constituency, Duns and Selkirk are two of the sheriff courts facing the possibility of closure. As they cover a vast geographical area, they consider a large number of cases. The courts in Scotland that remain open could easily face further backlogs, lessening our citizens' chances of seeing justice quickly and efficiently.

As Christine Grahame said, the Lord President gave evidence to the Justice Committee last November. Lord Hamilton gave a number of examples of how the court structure could be reformed. In particular, he noted that sheriff courts and JP courts could be combined in a single building. He also noted, as we have heard, that maintenance costs are rising in court buildings. However, I would say to the Lord President, and indeed to Christine Grahame and others, that that in itself is not sufficient reason to close nearly a third of the sheriff courts in Scotland, particularly given the disproportionate impact of closures on rural areas, such as mine.

Christine Grahame: I am not for a moment suggesting that it is sufficient reason, but we must look at the balance between providing local justice and having proper facilities. I am sure that John Lamont does not want money to go into heating ancient buildings instead of providing people with legal aid.

John Lamont: The key principle—I was moving on to this—in our considerations is ensuring that access to justice is made as easy as possible. Iain Gray made that point in his speech. We need to ensure that, wherever residents live in Scotland, they are able to obtain easy access.

The Lord President stated in his submission to the committee that the next step in the process is to get

“judicial members to consider what principles”

ought to be applied in the provision of court services. Fundamental to that is our ability as a nation to deliver justice in rural areas. Transportation links and the means of travel in rural areas must be considered closely before a closure plan can be approved. Given that the burden of the court closures falls on rural communities, the factors that affect those communities must be a key principle to be considered by the Lord President and by the Scottish Government when it finally has to ratify the approvals.

Clearly, the Scottish Court Service must conduct full consultation with local communities before taking any decisions. The opinions of the people using the court system must be considered, to ensure that justice is delivered quickly for those

accused of crimes, for the victims of crime and for other people using the system. The rural communities of Scotland, such as those covered by the Selkirk and Duns courts, are very concerned about the possibility of closures. It is just as important to provide an efficient and accessible justice system to such communities as it is to people living in Glasgow or Edinburgh.

The Deputy Presiding Officer: Mr Lamont, you will have to finish.

John Lamont: In conclusion, I again congratulate Iain Gray on securing the debate, and I hope that the Scottish Government will reflect on the important points that have been made in Parliament today.

The Deputy Presiding Officer: I call Jenny Marra, to be followed by John Finnie. We are very tight for time.

18:04

Jenny Marra (North East Scotland) (Lab): I thank my colleague Iain Gray for bringing this important debate to the chamber. I would like to make a brief representation of some of the problems that constituents have highlighted to me in the wake of the proposal for court closures in North East Scotland.

First, there is the impact on the victims of crime. A longer journey to the court, for example from Forfar, where the sheriff court is under threat, to Dundee, presents problems for the victims. The risk is that the victim will end up on the same bus as the accused, causing them extreme upset and distress, and potentially affecting the quality of their evidence. The concern is not to be taken lightly, because reduced frequencies of bus services will result in that happening. It is a reality. The court hearing is a particularly anxious time for victims of crime, and the last thing that a victim wants is to be on the same bus as the accused when they travel to court. Victim Support in Dundee knows that that will happen. It already occurs, sometimes, as people travel to the High Court. Victims have many different methods of getting to the court if it is in their community, including walking, a shorter and more affordable taxi journey, or more frequent short-distance buses. As the victims of crime must be the focus of any changes to our court system, I ask the minister to take Victim Support's testimony seriously in her deliberations.

Secondly, I ask the Government to scrutinise carefully the data that is available to it on jury trials that are held in a different sheriffdom from the locus of the crime. Anecdotal evidence that is available to me shows that trials for crimes committed in Dundee that are heard by juries in Perth are failing every time to secure

prosecutions. It might be because the juries were not persuaded of the guilt of the accused—I say to the minister that this is a serious point—but there is also a logical possibility that juries in Perth are not so concerned about summary crimes that take place in Dundee, outwith their own community.

John Finnie (Highlands and Islands) (SNP): The member brings into doubt the entire High Court circuit, as cases are frequently held outwith the immediate area in which the crime took place.

Jenny Marra: John Finnie raises an important point. There are reasons for the High Court being held in different places, but in the sheriffdoms, with more summary cases, people are telling me that they are failing every time to secure prosecutions. I just want the minister to look carefully at the evidence that is available to her. Communities are perhaps not taking as seriously the crimes that are committed in different sheriffdoms. That is a serious point and it is worth considering. I urge the minister to ask her officials for data on jury trials that have been held outwith the sheriffdom and to draw appropriate conclusions.

Those are two issues that affect Dundee and the north-east at this early stage of the proposals. I urge the minister to take those representations seriously before she decides to close any courts.

18:07

John Finnie (Highlands and Islands) (SNP): I congratulate Iain Gray on securing this evening's debate.

There has been a reduced settlement, which is not of the Scottish Government's making, and it would seem peculiar if the Scottish Court Service was not subject to some of the implications of that. Forward planning is important.

I hear what Iain Gray says about the sustaining of communities and the historic connections, and it is important that justice is administered as locally as possible. Mr Gray used the term "next door" a couple of times, and the word "local" has been used many times. Many of my constituents would be bemused by the phrase "next door". For instance, due to the historic connections that a number of members have mentioned, someone in Durness in north-west Sutherland would travel to the sheriff court in Dornoch. Much of the 79-mile journey is on single-track roads and it will take two hours and 32 minutes. If they go to Wick, the journey will be 90 miles and it will take three hours, or 20 per cent longer. I have to say that they would be bemused by the suggestion of a bus journey.

Iain Gray: The member makes a fair point. My reference to "next door" was a literary and rhetorical allusion, but the point is a good one. In

East Lothian, Haddington might be 20 miles from Edinburgh, but Dunbar is twice that distance, so people would be required to travel an even greater distance.

John Finnie: Point taken. This is not a geography test although, having said that, I am about to give another example. John Lamont alluded to the significant deficiency of public transport in these areas, and Jenny Marra alluded to the separation of witnesses. That is important. It has always been challenging in relation to cases from Barra, where the witnesses and the accused will travel to Lochmaddy sheriff court on the same boat.

We need some realism. This is an important debate, but it is not about altering structures, many of which have existed for a long time. Victims and Victim Support are right to highlight some of the concerns that they have expressed. However, they have highlighted to me long-standing concerns about, for example, court structures that see vulnerable witnesses—albeit that they are escorted, due to the support that is now in place—going upstairs to the court with a queue standing at the top of the stairs. Some of the buildings are simply not suitable. There are opportunities for shared facilities and for videoconferencing, which is much used in rural areas.

The motion is about access to justice. The reality is that no one wants to go to court. Access to justice in its broadest sense has been brought about by the reduced likelihood of the requirement to go to court, as a result of the 35-year low in the crime rate. The use of fixed-penalty notices, which has been alluded to, has also reduced the likelihood of people going to court.

A number of options relate to opening hours and the frequency of court sittings, which can relate to workloads and locations. Members have referred to the district court set-up. Mr Gray will know some of the implications of that in the Highlands.

The court estate is old and is not fit for purpose. It was me who questioned the Lord President of the Court of Session. I gave the example of busloads of witnesses travelling from the Highlands and Islands to the central belt for lengthy sittings of the High Court as against a few carloads of advocates—I say that with all respect to my colleague Roderick Campbell—travelling north, which has implications for the carbon footprint. In a letter, the Lord President said:

“I can confirm that the impact on carbon emissions for the court estate and for those attending court will be considered as part of the process in determining future court locations”.

The choice might be between poor local facilities and travelling some distance to better facilities. It is a question of quality versus quantity.

What is important is having an informed consultation process and Parliament's approval for anything that is decided.

18:11

Lewis Macdonald (North East Scotland) (Lab): Justice seen is justice done. As Iain Gray and, indeed, Charles Dickens have recognised, it is seen best when it is done locally. The wholesale closure of local courts would be bad news for people who are affected by crime. As has been said, some victims and witnesses already face considerable journeys to have their voices heard, but that is no argument for saying that making that happen to others would be an improvement.

Often, witnesses and victims already face considerable difficulties. Fewer than half the respondents to the Scottish crime and justice survey in 2010-11 felt confident that the system provided good services for witnesses, and fewer still were confident that the services for victims were of a good standard. Simply closing court buildings does not, although one or two members have implied that it does, solve those problems.

Answers are particularly needed about travel provisions for vulnerable witnesses and for those for whom travel can be challenging. Evidence can be given by video or television link. Currently, that happens between one court building and another. If some court buildings cease to operate, the facilities in them will cease to be available. It would be socially unjust if access to justice were denied to those in our communities who are unable to travel or find that difficult.

John Finnie: Does the member accept that the opportunity exists for more shared services, which are what the public sector should be about? Evidence need not be given from some building that was historically a court building.

Lewis Macdonald: I agree with the principle of shared services; we also need to maintain and recognise the principle of local access to justice. We must recognise that, for some of the reasons that a number of members have given, separating people who are attending a court from others who are doing other duties or business is often necessary and good.

The effects of crime are felt more widely than simply by the victim; the communities in which the victims live feel the effects, too. That is another argument for why communities should in principle be at the heart of our justice system.

Like the court in Haddington, the court in Stonehaven, in my area, appears to be at risk because it is not far enough away from the nearest major city. My constituents in Stonehaven know that having access to local justice is in itself a

good thing—it is part of what they expect from living in that town. That is why they opposed closure when it was mooted not so long ago and why I am certain that they will oppose it again. They value the sense of local justice that would be lost if the local court closed. My constituents in Aberdeen also know that the closure of Stonehaven's court would simply add to the courtroom congestion and the delays that they experience in Aberdeen's major busy city court, in the same way as Haddington's court and Edinburgh's court relate to each other.

Courts are important to the people who work in them. I would be interested to hear how the minister will address the number of people who might lose their jobs as a consequence of court closures and to hear what adjustments will be made for the people who work in courts.

The issue of justices of the peace was raised by Iain Gray. JPs have to sit at least 12 times a year in order to continue to sit as justices. They do that on a voluntary basis. The issue of how many of those justices will be able to continue to do that if their local court closes must be borne in mind.

There are wider implications that need to be addressed. The report suggests a course of action that I believe is bad for victims, witnesses and communities. I hope that ministers will tell us today that they will think carefully before acting on any of the closure proposals that might come forward.

18:15

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): I congratulate Iain Gray on securing the debate.

Obviously, proposals for major changes to court structures merit full and robust consultation. Consideration of changes must include access-to-justice issues, which should be at the forefront of everyone's minds. That is precisely what will happen.

Of course, since 2010, the Scottish Court Service has been an independent body under the leadership of the Lord President. It is currently considering a range of proposals centred around the efficient use of its estate. Some of the ideas are operational matters for the Lord President, but proposals by the Court Service to close courts will need the approval of ministers—as Iain Gray correctly identified and in relation to which Claire Baker requested reassurance—and will come before the Parliament.

I am one of the many members who have rural constituencies and I understand the challenges that rural communities face, as well as the challenge that is faced when any local institution appears on a list of options for closure. I

understand perfectly what is happening here. However, as indicated by my colleague John Finnie, people in many communities in Scotland—including people in my constituency—travel far greater distances than were alluded to by Iain Gray.

We have received assurances, as has Iain Gray, about the work that will be done by the Scottish Court Service in relation to future court structures. It intends to discuss relevant issues with staff. That is one of the issues that Lewis Macdonald rightly identifies. It will also have discussions with the judiciary and other justice bodies and will hold dialogue events—that is what it calls them; I think that we would call them consultations—with the legal profession, local authorities and groups representing the needs of users, such as Victim Support Scotland and Consumer Focus Scotland. It is doing so in order to ensure that any proposals are informed by a wide range of perspectives.

This is not a secret process. I expect that members will wish to contribute to it as much as possible in relation to their local areas. On 1 November, the Lord President confirmed to the Justice Committee that consideration was being given to the issue of future court structures. The Court Service wrote to inform stakeholders about that work in September and again in December 2011, making it clear that further dialogue was planned during 2012. There is therefore nothing particularly secret going on.

Iain Gray: It may be the case that, for the stakeholders and practitioners in the courts, this was not a secret process but, as far as the public are concerned, the Scottish Court Service document was a confidential document that came to the notice of the public only through its being leaked to a newspaper. In that sense, it has not been an open and transparent process.

Roseanna Cunningham: As I understand it—I was not there; I was not involved in the meeting—the Justice Committee took evidence from the Lord President on 1 November about some of the issues that are being discussed.

Christine Grahame: If the minister will take an intervention, I think that I can assist.

The Justice Committee took evidence from the Lord President on 1 November, and he announced that he would start a consultation process in January 2012. We knew all about it. We could not get it on to the front page of the newspaper, but it certainly was not a big secret. There are members of Mr Gray's party on the committee.

Roseanna Cunningham: As ever, when the options list appears, the communities that see a local institution on that list are those that

immediately become exercised. That is understandable and I accept that.

Any specific proposals for court closures that emerge from the discussions will be the subject of wider public consultation that involves local communities. As I have already said, I would expect local members to be very much involved in that consultation. That local consultation is a statutory requirement before any proposals are brought before the Parliament for approval. No decisions to close courts have been made and no courts can be closed without consultation and an order in the Parliament. I hope that that is of some comfort to members.

Lewis Macdonald: Will the minister give way?

Roseanna Cunningham: I need to press on, as my time is rather restricted. If I think that I am making some progress, I will let the member back in.

As may have been expected, many members have passionately made the case for courts in their own constituencies. That is understandable—I would do exactly the same if I were in their position—but there is a wider context that we need to look at. There is no point in simply sweeping aside the issue of the funding cuts that the Scottish Government has to deal with. Indeed, in its report on the budget, the Justice Committee accepted that the rationalisation of court premises could make significant savings, although it was recognised that, at times, that may involve making difficult choices. In November, the Lord President said:

“We face a number of challenges, including the fact that we are only part of the justice system. Other bodies such as the police, the Procurator Fiscal Service and the community service organisations all have their respective parts to play. On our own, we cannot secure the best and most efficient arrangement for the processing of court cases.”—[*Official Report, Justice Committee*, 1 November 2011; c 389.]

Everybody must understand that more money being spent in one area means less money being spent in other areas.

We can secure access to justice only by working right across the system, and the Government is trying to do that through the making justice work programme. We have had a number of reviews. Sheriff Principal Bowen’s sheriff and jury review and Lord Gill’s civil courts review set out the basis for a fundamental change in the way that business is conducted. They emphasised greater specialisation and a move away from a model in which all types of business are conducted at all court locations. In the previous session of Parliament, members from all parties welcomed the findings of those reviews, but there are implications. Perhaps we now have to think about what those implications might be.

We cannot deliver better access to justice by avoiding the need for change. It has already been mentioned that the towns that we live in, the places in which we work, the way that we do business, the availability of transport and the way that we travel have all changed radically since the times in which the court buildings were built. Justice should be about not only the physical building of a court, but delivery in a range of ways that are best suited to users of the system.

There are many issues. We can use new technology to cut back the numbers of people who require to travel to pay fines. The use of videolinks could be extended. Mr Gray raised the concern that victims and witnesses may find it harder to travel if court locations are closed, but the issue is not always straightforward. In some areas, it will be easier to travel to a major centre than to another small town. Indeed, I understand that in Mr Gray’s constituency, residents of Prestonpans have far better transport links to Edinburgh than to Haddington. It is not always a simple question of mileage. It is about access.

Members have already mentioned the difficulty of segregating or the failure to segregate victims from the accused, or witnesses on opposite sides of major civil actions. It is important that we take that on board.

In conclusion, I have noted the Scottish Court Service’s paper on future court structures and agree that any proposals for major changes to the court structure merit full and robust consultation. However, the Court Service is right to examine options, and we should broaden our understanding of what access to justice means and think creatively about how the system should best serve the needs of users in the 21st century, not the 17th, 18th or 19th centuries, when the buildings in question were created.

Meeting closed at 18:24.

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