



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 21 May 2014

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Scottish Parliament

Wednesday 21 May 2014

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

Business Motion

The Deputy Presiding Officer (John Scott): Good afternoon. The first item of business is consideration of business motion S4M-10095, in the name of Joe FitzPatrick, 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 21 May 2014—

delete

3.30 pm Stage 1 Debate: Courts Reform
(Scotland) Bill

and insert

3.30 pm Debate on a Motion of No Confidence

followed by Stage 1 Debate: Courts Reform
(Scotland) Bill

delete

5.30 pm Decision Time

and insert

5.45 pm Decision Time—[Joe FitzPatrick.]

Motion agreed to.

Portfolio Question Time

Commonwealth Games, Sport, Equalities and Pensioners' Rights

14:00

Pensioners Parliament

1. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Government on what basis it considers a Scottish pensioners parliament could be established. (S4O-03236)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): The Scottish Government does not have any current proposals to establish a pensioners parliament.

Instead, we are supporting the Scottish older people's assembly with funding of more than £100,000 for the period 2012-15. The Scottish older people's assembly enables older people to have their voices heard and to influence policy and practice on the wide range of issues that affect them.

Kenneth Gibson: I thank the cabinet secretary for that reply. Does the cabinet secretary believe that a pensioners parliament—or, indeed, assembly—would be an excellent forum in which to discuss many issues that are of importance to older people, such as the retirement age, the level of the state pension and perhaps even an independent Scotland?

Shona Robison: The Scottish older people's assembly has discussed the retirement age, the state pension and many other issues since its establishment. This year's assembly is due to be held on 31 October, within this Parliament. The assembly will consider a number of issues and I am sure that pensions will be one of them, in addition to—in particular—the community empowerment (Scotland) bill.

It is important to note that the older people's assembly has done a lot to reach out to older people throughout Scotland. It is made up from older people's groups across the country and it also has representation from across the various equality communities. It is a good organisation, which represents older people and gives them a voice. I was happy to meet it last month, on 24 April, when we had a constructive discussion on a number of issues.

Pensioners' Rights (Proposals)

2. Margaret McCulloch (Central Scotland) (Lab): To ask the Scottish Government what further information it plans to publish on proposals

for pensioners' rights in an independent Scotland before the referendum. (S4O-03237)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): The Scottish Government paper "Pensions in an Independent Scotland" has already set out detailed proposals on pensions. Following a vote for independence, the best of the existing state pensions system would be retained, with genuine improvements being introduced where necessary; private pension saving would be supported; the legislative and regulatory framework would provide strong protection for individuals' private pension savings; and a public service pensions system would be delivered that is affordable, sustainable and fair.

The paper also shows how successive United Kingdom Governments have failed to protect the pensions system and pensioners over recent decades. That has led to a crisis with, according to the latest Department for Work and Pensions statistics, 13.2 million people in the UK undersaving for their retirement.

This Government believes that an independent Scotland can do better, and we will continue to make those arguments in the coming months.

Margaret McCulloch: The Institute of Chartered Accountants of Scotland report "Scotland's Pensions Future: Have our questions been answered?" concludes that, without changes to European Union rules on the funding of defined benefit pension schemes, employers would need to make good any deficits held by new cross-border schemes. Given that we now know that EU rules are not going to change, what evidence can the minister produce to demonstrate that the most basic right of pensioners—the right to their pension—will be any safer with independence than with the pooling and sharing of resources across the United Kingdom?

Shona Robison: "Scotland's Future: Your Guide to an Independent Scotland" sets out our proposals for an affordable, fair and efficient pensions system in an independent Scotland. We considered in detail the impact of EU rules on defined benefit pension schemes that currently operate in Scotland and, of course, in the rest of the UK and set out our view, informed by practice in Ireland under the current regime, that if they continue to operate, on independence, on a cross-border basis, they should be allowed to implement their existing recovery plan in accordance with the period originally set rather than having to achieve full funding over a much shorter timescale.

That remains the case regardless of the commission's decision to defer plans to encourage the growth of cross-border schemes by relaxing the funding regime. It is yet another issue,

however, that we are keen to talk to the UK Government about in advance of the yes vote in September. It is a pity that the UK Government is not willing to do so.

Bob Doris (Glasgow) (SNP): Pensioners should know what their rights are, so does the cabinet secretary agree that Labour must now come clean, publish its cuts commission report and tell pensioners whether, under Labour, they will still have the right to free prescriptions, concessionary travel and free personal and nursing care? It certainly looks as if Labour will axe the lot.

Shona Robison: I agree that we should hear from Labour what is in store with its cuts commission. Many important policies that protect pensioners and other vulnerable people within our society are held dear, and Parliament should be proud of having passed them into law. I just hope that we see what the cuts commission has in store soon so that people can consider it as they make up their mind about how to vote on 18 September.

The Deputy Presiding Officer (John Scott): Many thanks. I should have reminded members that short questions and answers would be appreciated.

Education for Children and Young People with Dyslexia (Equalities)

3. Claudia Beamish (South Scotland) (Lab): To ask the Scottish Government what the position is of the cabinet secretary with responsibility for equalities on the implications for equalities of the findings of the Education Scotland report, "Making Sense: Education for Children and Young People with Dyslexia in Scotland". (S4O-03238)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): The Scottish Government's equality outcomes report stated that we will identify areas for improvement when children and young people with protected characteristics are not gaining awards in school education, and identify when children and young people with protected characteristics have high levels of success in gaining awards in school education.

A number of the findings of the report have implications for equality, such as the inequity in qualifications attained by young people with dyslexia compared with their peers. The report was carried out with the engagement of parents and children and young people with dyslexia. The Scottish Government will make a formal response to the report within four to six weeks, outlining the steps that will be taken to address its recommendations.

Claudia Beamish: I thank the cabinet secretary for highlighting the relationship with protected characteristics, which is obviously important. Taking into account the geographical discrepancies highlighted in the new report on dyslexia, will the Scottish Government consider publishing guidelines to ensure more consistency across local authorities—some do not even have a definition of dyslexia—and encourage support for the toolkit in schools?

Shona Robison: I am glad that the member mentioned the toolkit because I understand that it has been well received. It helps teachers to address the needs of pupils with dyslexia. The Minister for Learning, Science and Scotland's Languages launched that toolkit in September 2012. The member makes a good point about guidance and geography and I will be happy to suggest to the Minister for Learning, Science and Scotland's Languages that he takes that point forward. I am sure that he will be in touch with the member with more detail about that.

Pensioners' Rights (Protection)

4. Gil Paterson (Clydebank and Milngavie) (SNP): To ask the Scottish Government how pensioners' rights would be protected in an independent Scotland. (S4O-03239)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): "Pensions in an Independent Scotland" sets out that, if elected as the first Government of an independent Scotland, this Government would retain the best of the existing pensions system while introducing a range of key improvements to protect and enhance pensioners' interests. Those improvements include uprating the state pension by the triple lock for at least the period of the first session of the independent Parliament, thus providing protection for the value of pensions over time; introducing in 2016 the single-tier pension at a starting level of £160 per week—the United Kingdom parties have currently failed to say what the level will be; and retaining the savings credit element of pension credit, thereby benefiting approximately 9,000 pensioners on low incomes. It is worth adding that we already have a strong record in protecting older citizens through, for example, the provision of concessionary travel and the freezing of council tax for pensioners. With the full powers of independence, we would be able to develop that support still further.

Gil Paterson: Does the cabinet secretary agree that the proposal put forward by the UK Government to raise the age of retirement is leading to concerns that a number of people in Scotland will not live long enough to receive a pension due to their lower life expectancy?

Furthermore, does she also agree that it is only with independence that a pension system that is suited to the interests and lives of the people of this country can be created?

Shona Robison: We have set out that an independent expert commission will look at the appropriate state pension age in Scotland, taking into account the issues of fairness, equality and affordability. It is worth noting that the Scottish public believe very clearly that it ought to be the Scottish Parliament that makes the decisions for Scotland about the state pension. It speaks volumes that, in the most recent Scottish social attitudes survey, 65 per cent of respondents said that this Parliament should make those decisions and only 33 per cent said that Westminster should do so.

Commonwealth Games (Tickets)

5. Liz Smith (Mid Scotland and Fife) (Con): To ask the Scottish Government what its position is on the number of tickets made available for the Glasgow 2014 Commonwealth games to people who live in Scotland. (S4O-03240)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): With the Presiding Officer's indulgence, I will briefly comment on the fact that tickets have gone back on sale this morning. I am pleased to say that enthusiasm for the games remains as great as ever. The performance of the ticketing website and hotline has been steady and thousands of individuals and families have today secured tickets for what I believe will be the greatest games ever.

To answer the member's question, the Commonwealth Games Federation's co-ordination commission's final inspection in March concluded that the Glasgow 2014 Commonwealth games are shaping up to be the best ever. I am delighted with the fantastic response from the public for tickets. Over 94 per cent of available tickets were sold in the initial phases. Fifty-seven per cent of those were bought in Scotland, which ensures that there will be fantastic home support as team Scotland goes for gold this summer.

Liz Smith: It is certainly good news that today went without any hitches. At what stage will the Scottish Government be able to provide a full breakdown of ticket sales that shows how many have been purchased by people living in Scotland, by those in the rest of the UK and by those from abroad?

Shona Robison: I can tell Liz Smith now that 57 per cent of the tickets that have been sold so far were bought in Scotland. Obviously, when the final tickets have been sold we will be able to look at whether that percentage has changed. The

short answer to the member is that, once all the tickets have been sold and we are in a position to reflect on the analysis of who bought tickets from where, I will ensure that Parliament is furnished with that information at the appropriate stage.

State Pension (Life Expectancy)

6. Gavin Brown (Lothian) (Con): To ask the Scottish Government what further research it plans to carry out on the relationship between the state pension and life expectancy. (S4O-03241)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): "Pensions in an Independent Scotland" sets out that, following a vote for independence, this Government would reserve judgment on the rapid increase in the state pension age to 67. The analysis that was published last week provided new evidence as to why our position makes sense. On average, over a lifetime, men in Scotland receive £10,000 less in state pension, and women in Scotland £11,000 less, than the United Kingdom average. For men and women in Glasgow, compared with people in the areas of the UK with the highest life expectancy, the pension gap is £50,000 and £46,000 respectively. Increasing the state pension age to 67 so quickly, based on UK rather than Scottish levels of life expectancy, compounds that unfairness.

As the pensions paper set out, detailed considerations of whether the state pension age should increase to 67 for Scotland would fall to an independent commission. It is that body that would be responsible for conducting further research on life expectancy and pensions, taking affordability and fairness into account in drafting its recommendations. The commission would report to an independent Scottish Parliament within its first two years, enabling Parliament to make a fully informed decision on what is fair and affordable for Scotland.

Gavin Brown: Given what the cabinet secretary said about the current gap, why does she support the increase to 66 by 2020?

Shona Robison: We have looked at the affordability of the current position. Obviously, we have to ensure that our pensions position in an independent Scotland is affordable, which is why we have accepted the increase of the state pension age to 66. However, given the lead-in time, we believe that there is an opportunity to look closely at whether the state pension age should rise to 67. That rise would compound an already unfair position in Scotland. We must take seriously the position not least of women, who will be particularly affected, and people who live in our poorest communities, whose life expectancy is lower. Life expectancy in Scotland is improving,

but it is improving less quickly than in the rest of the UK.

We are cautious about compounding the position by raising the state pension age to 67. That is why the expert commission will look at fairness and affordability in reaching its conclusions. I hope that members across the chamber can support that.

Pride House (Glasgow)

7. Marco Biagi (Edinburgh Central) (SNP): To ask the Scottish Government what impact the opening of pride house in Glasgow will have on lesbian, gay, bisexual and transgender people. (S4O-03242)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): The Scottish Government hopes that pride house will have a significant impact on LGBT people in Scotland and beyond, by recognising and celebrating the advances that have been made towards equality for lesbian, gay, bisexual and transgender people and the contribution that that diverse community makes to society. Pride house will promote the visibility, inclusion and participation of LGBT people in sport and in society more generally.

Marco Biagi: As one of the recently announced patrons of pride house, I commend the cabinet secretary—who is another of the recently announced patrons—for her answer. My constituency has a great number of LGBT-oriented sports clubs, such as the Caledonian Thebans, the wonderfully named HotScots and the Edinburgh Frontrunners but, broadly, homophobia in sport is still a major obstacle that has been identified. There is a concern that it would be easy to say, "Job done," now that equal marriage has been legislated for. What action does the cabinet secretary expect to be taken to tackle homophobia in sport in the coming months and years? More broadly, what will the Scottish Government do on that?

Shona Robison: I say to Marco Biagi that I am pleased to be a patron of pride house. Pride house will be a fantastic element of the Commonwealth games, providing a great atmosphere and important messages about equality.

I refer the member to the recommendations in "Out for Sport" from the Equality Network. We very much welcome that report, which we are using as a basis to explore the effectiveness of our current approach. I am aware of the work that has been done to develop a Scottish LGBT sports charter, which will contribute positively to increased inclusion, participation and involvement of LGBT people in sport.

SportScotland has worked closely with governing bodies and clubs to ensure that barriers are removed for everyone who wants to take part in sport. I hope that that will be yet another legacy of this summer's Commonwealth games.

Pensions (Retirement Age)

8. Hugh Henry (Renfrewshire South) (Lab):

To ask the Scottish Government, in light of recent comments by the cabinet secretary with responsibility for pensioners' rights, what the retirement age for pension eligibility would be if Scotland separates from the rest of the United Kingdom. (S4O-03243)

The Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners' Rights (Shona Robison): As I said, the Government reserves judgment on the rapid increase in the state pension age to 67 as planned by the UK Government. That is why we will establish an independent commission to consider the matter and in particular what is affordable and fair for Scotland.

We believe that Scotland should have the full powers to develop a system that is in line with Scottish needs and circumstances. As the recent analysis on life expectancy showed, those circumstances differ from those in the UK as a whole, on which current UK pension age plans are based.

We are not alone in our belief that the varying levels of life expectancy demand a rethink of the plans. For example, a Trades Union Congress report that was published in August last year said:

"Increasing state pension age is unjust because of the persistence of inequalities in life expectancy between different groups."

Hugh Henry: In the light of that response and her earlier response to Gil Paterson, will the cabinet secretary guarantee that, if Scotland separates from the UK, the pension age will not increase beyond 66? If she cannot guarantee that, will she tell us that that means that the pension age might well rise beyond 66?

Shona Robison: That is a curious question from the member given that, in its 2010 election manifesto, Labour proposed an increase to 67 in 2036. I am surprised that Hugh Henry is now toeing the Tory line by accelerating that change to 2026.

I made it clear in my original answer that we will set up an independent commission to consider what is affordable and fair for Scotland. That commission will report to the Parliament—*[Interruption.]*

The Deputy Presiding Officer: We will hear the questions and the answers.

Shona Robison: All members will be able to make a decision on what is best, affordable and fair for Scotland. I cannot see any reasonable person disagreeing with that.

Training, Youth and Women's Employment

Women's Employment

1. Neil Bibby (West Scotland) (Lab): To ask the Scottish Government how many women with children under the age of five are seeking employment. (S4O-03246)

The Cabinet Secretary for Training, Youth and Women's Employment (Angela Constance): The monthly unemployment figures do not break down to that level of detail. However, we know from a range of international evidence, including the Organisation for Economic Co-operation and Development's 2011 report "Doing Better for Families", that childcare is a key factor in helping women into work.

We also know that the number of women in work has risen by 38,000 over the past year—a 1.7 percentage point increase. That is real progress and, with the massive expansion of childcare that will commence this August, we hope that even more progress will be made as a result of the Government's commitment to getting more women the jobs that they need.

Neil Bibby: The Scottish National Party's white paper childcare policies have been completely discredited by the Scottish Parliament information centre's analysis, which shows that tens of thousands of missing mums with young children would be needed for the policies to be self-funding.

If the cabinet secretary disputes that, will she confirm that economic modelling has been done specifically on the childcare policies, and that the Government has refused to publish it under freedom of information legislation? In the interests of an informed debate, will she publish that economic modelling?

Angela Constance: The real issue is that Mr Bibby either does not understand, or deliberately misunderstands, the transformational nature of the childcare policies that the Government proposes because—as has been acknowledged even in the SPICe paper—we are talking not only about parents who currently have children under the age of five. We all know that there are 55,000 births a year in Scotland—another fact that has been agreed by SPICe—so our policies will not impact only on those who currently have very small children, but will have a year-on-year impact.

It is also important to acknowledge that the gender gap in employment continues even for those with children at school; even for parents with children between the ages of 12 and 18, there is an 8 per cent employment gap. We want to address that. Women are lost to the labour market—[*Interruption.*]

The Deputy Presiding Officer: Mr Bibby!

Angela Constance: We want those women to be given real opportunity and real choice.

As members are well aware, the Government is well within its rights to commission all sorts of advice when it pursues and develops policies.

Sandra White (Glasgow Kelvin) (SNP): I welcome the fact that 38,000 more women are in employment than were in employment a year ago. Despite what Neil Bibby says, does the cabinet secretary agree that the childcare proposals that are outlined in “Scotland’s Future: Your Guide to an Independent Scotland” will help many more women back into work?

Angela Constance: Yes—indeed, I do. The labour market statistics for women are encouraging: women in Scotland outperform women elsewhere in the United Kingdom—we have lower female unemployment, higher female employment and lower female inactivity.

However, the Government acknowledges that there is much more to do and that we must always search beneath the headline statistics to get the real story because, although the headline employment indicators for women are improving, there are many real issues for women the length and breadth of Scotland in terms of the type of work that they obtain, which is reflected in pay levels.

Jenny Marra (North East Scotland) (Lab): If the cabinet secretary is so committed to that very important issue, will she publish the economic analysis for which Mr Bibby asked and on which her policy is predicated?

Angela Constance: With respect, I answered Mr Bibby’s question straightly and fairly and said that Governments—all Governments: this one and previous Administrations—are well within their rights in gathering information in the course of developing policies and future plans. I believe that a freedom of information request has been submitted. The appropriate people will consider that request in the appropriate manner.

Long-term Unemployment (Women)

2. Linda Fabiani (East Kilbride) (SNP): To ask the Scottish Government what role early intervention has in tackling the long-term unemployment of women. (S4O-03247)

The Cabinet Secretary for Training, Youth and Women’s Employment (Angela Constance): Scottish ministers believe that early intervention is key to preventing long-term unemployment, which is why we have detailed in “Scotland’s Future” our plan for employment services in an independent Scotland to be built on the principle of early intervention, in order to seek to prevent individuals from becoming long-term unemployed. An early assessment of need can provide support when it is required, rather than after nine or 10 months, as happens under the current system.

Linda Fabiani: We all know that there is a skills gap in science and engineering, particularly among women. Bearing that in mind, does the cabinet secretary agree that the East Kilbride & District Engineering Group Training Association’s initiative to have a girls into engineering open day, which it held yesterday, provides a way of offering early intervention, because it can help schoolgirls to choose the subjects that will enable them to move into modern apprenticeships and careers in engineering? Would the Government consider adopting such an initiative?

Angela Constance: Yes. I am open to hearing about a range of initiatives and proposals—in particular with a view to increasing the proportion of girls who pursue training or careers in science, technology, engineering and maths.

It is very good to hear of the specific initiative of having a targeted open day to encourage young girls to pursue engineering careers. It reminds me of the point that we should never fail to make: addressing inequality in the labour market is not just the right thing to do, but is actually the smart thing to do, because it helps us tap into all the talents of the entire population and helps business to address issues such as the skills gap.

It is also important to acknowledge that this week is Scottish apprenticeship week.

Mary Scanlon (Highlands and Islands) (Con): Since 2011, the number of males not in education, employment or training has fallen by 4,000, which is very welcome. However, the number of females in the same category, between the ages of 16 and 19, has risen by 1,000. Can the cabinet secretary explain why?

Angela Constance: The figures on people not in education, employment or training are always very interesting. It is important to recognise that over the past year those figures have decreased by 4,000 or 5,000 overall. For the first time in quite a few years, the number of people who are not in education, employment or training is below 30,000.

It is not unusual to see a fluctuation by about 1,000 in either gender. What is interesting is that

for the first time we are seeing a levelling of the statistics between the sexes; the norm is usually that young men outnumber young women. We have to have a proper look at that. We may be having some success with boys in that age group, but we do not want that to result in the number of girls in exclusion creeping up.

The Deputy Presiding Officer: I remind members that brief questions and answers would be welcome.

Company Boards (Female Participation)

3. Chic Brodie (South Scotland) (SNP): To ask the Scottish Government for what reason it has set a target of 40 per cent of women on the boards of companies in the event of independence. (S4O-03248)

The Cabinet Secretary for Training, Youth and Women's Employment (Angela Constance): Women's representation in all areas of Scottish life is a priority for the Government and we are leading by example, with 40 per cent of the Cabinet now being women. A consultation on 40 per cent minimum targets for gender quotas on public boards is under way. The Government also believes that increased diversity is good for business, and will give due consideration to the position in respect of company boards by working with businesses, once we have control of all the required powers, post-independence.

Chic Brodie: Does the cabinet secretary agree that the 40 per cent target should not be adopted or accepted as a norm, and does she accept that we should provide appropriate support facilities and create a level playing field for women and, indeed, minorities, so that all appointments to boards are based only on ability and merit?

Angela Constance: I do not see increasing the proportion of women on boards and making appointments on merit as being mutually exclusive. The Government's position is that women's board representation should be at least 40 per cent. That is very important.

There are very good business reasons for wanting more women on boards. We are concerned that, at United Kingdom level, we may not meet the 2015 target of 25 per cent of boards' being women; progress seems to have stalled. There is important research that shows that boards with women outperform boards that do not have a gender balance, which means that addressing issues of inequality and promoting quality is not only right, but is good for business.

Massive Open Online Courses

4. Patrick Harvie (Glasgow) (Green): To ask the Scottish Government what its position is on the role of massive open online courses in improving

the employment prospects of women and young people. (S4O-03249)

The Cabinet Secretary for Training, Youth and Women's Employment (Angela Constance): The Scottish Government recognises the contribution that massive open online courses—or MOOCs—can make to the development of knowledge and skills, and to improving the employability of a wide range of people. MOOCs may benefit women and young people in particular—for example, where working patterns, caring responsibilities or financial constraints make travel to a college or university campus a barrier to learning.

Patrick Harvie: I agree that it can be a real benefit for an individual to be able access free or nearly free educational content at a time of their choosing. However, there is clear and growing evidence that MOOCs have the greatest benefit, in terms of throughput to formal education or greater employment prospects, when actual course credit is available and when there is some degree of real-world connection between students. That could be provided at a community level; it does not have to come through educational institutions.

Perhaps the Government could look further at that and talk to the various agencies that could provide that support to women, young people and others who could gain greater benefit from the ability to access online educational content.

The Deputy Presiding Officer: I think that we get the point, Mr Harvie—thank you.

Angela Constance: I agree with Mr Harvie's comments. MOOCs are an important part of the overall journey, but it is important to recognise opportunities to accredit learning where they exist. MOOCs do not necessarily replace more formalised learning, but they can enhance it.

Mr Harvie may be interested to note that the Scottish Further and Higher Education Funding Council will invest £1.3 million over three years to look at best practice in that area, and in particular to develop better peer support and raise awareness. I am sure that we can feed in his comments about accreditation as part of that work.

Engineering (Modern Apprenticeships)

5. Graeme Dey (Angus South) (SNP): To ask the Scottish Government what importance it places on modern apprenticeships in engineering. (S4O-03250)

The Cabinet Secretary for Training, Youth and Women's Employment (Angela Constance): Engineering is an important sector for Scotland and has the potential to make a significant contribution to economic growth. The latest Office for National Statistics survey shows

that more than 56,000 people are working directly in Scotland's engineering and allied industries sector.

As such, it is critical that we develop the necessary skills for our future engineering workforce. One way in which we can achieve that is through the modern apprenticeship programme. Between April and December 2013, there were 1,665 modern apprenticeship starts, with 5,522 modern apprentices currently in training on engineering-related frameworks.

Graeme Dey: The Angus Training Group in my constituency has just confirmed that it will have a full complement of 75 engineering apprentices for the year commencing August 2014. Indeed, if space at the Arbroath premises allowed, it could have taken on another 15 young people.

Does the cabinet secretary agree that that demonstrates not only that youngsters are keen to get into the field, but that, given that 54 of the trainees are involved with oil and gas companies, the doom and gloom that is spread by the better together campaign about the future of Scotland's offshore energy industry could not be more wide of the mark?

Angela Constance: There are jobs in oil and gas, of course—that is a very important message for young people, by which I mean young women and young men the length and breadth of Scotland, not just in Angus. There are 24 billion barrels of recoverable oil and gas in our sea.

Given that this is Scottish apprenticeship week, I am particularly glad to hear of the success of the Angus Training Group. I hope that it can resolve its accommodation issues and get up to 90 apprenticeship starts, which would be particularly welcome.

Employment (Gender Segregation)

6. Dr Richard Simpson (Mid Scotland and Fife) (Lab): To ask the Scottish Government what steps it is taking to reduce the level of gender segregation in certain industries. (S4O-03251)

The Cabinet Secretary for Training, Youth and Women's Employment (Angela Constance): The Scottish Government is working to address gender segregation through its strategic approach and through allocation of funding of £1.5 million for 2012 to 2015 to Equate Scotland, the close the gap project and the Careerwise initiative. The occupational segregation cross-directorate working group is driving the work forward and reports to the strategic group on women and work, which I chair. Reducing gender segregation requires a life-stage approach that breaks down barriers throughout education and training. For example, the group recently discussed work to improve the gender

balance in modern apprenticeships and in other programmes that feed into the most segregated industries.

Dr Simpson: Does the cabinet secretary share my concern at the figures that have been received through a freedom of information request by my colleague Jackie Baillie, which show that, of 1,209 hairdressing students in training places in 2013, only 7 per cent were men, despite the fact that some of the most famous hairdressers in the world are men?

Is the cabinet secretary as alarmed as I am that the engineering industry training programme is dominated by one gender, with only 3 per cent of the 3,671 training places taken up by females and that, furthermore, in plumbing, which is one of the worst industries for female participation, the female participation rate was less than 2 per cent in 2013?

Angela Constance: Yes, I share Mr Simpson's concerns, although with one small caveat, which is that it is important that, as well as encouraging more women into science, technology, engineering and mathematics, we are careful to ensure that we continue to value the work that women are traditionally attracted to. The Government is on record—and I certainly am—as wanting to do more to get women into STEM and to get more men into childcare, which is important in relation to our children's development needs.

There is no easy or quick answer. Occupational segregation is reflected in the wider labour market, but nonetheless we wish to challenge it and change it. That needs to start from the work that we do with children in the early years and in our schools and continue all the way through our education and training system and, crucially, the work that we do with employers. I anticipate that the forthcoming final report of the Wood commission, which will be published in the next few weeks, will have important recommendations.

Modern Apprenticeships (Assessment of Benefits)

7. Jackson Carlaw (West Scotland) (Con): To ask the Scottish Government whether it will develop appropriate outcome-based measures to assess the long-term benefits of modern apprenticeships, as recommended by Audit Scotland. (S4O-03252)

The Cabinet Secretary for Training, Youth and Women's Employment (Angela Constance): A key achievement of our modern apprenticeship programme in Scotland is that 100 per cent of apprentices are, and always have been, employed. While undertaking an apprenticeship, the individual obtains training and qualifications that will not only support them in

their current role but benefit them in their future career. Research from Skills Development Scotland shows that, of those who complete apprenticeships, 92 per cent are in work six months later and 79 per cent are in full-time employment.

We appreciate, however, that we can improve how we monitor the programme's long-term outcomes. We will consider how best to do that, as we implement the recommendations from the recent Audit Scotland report on the programme and the forthcoming Wood commission report, and through Skills Development Scotland's on-going evaluation activity.

Jackson Carlaw: As the cabinet secretary said, this is Scottish apprenticeship week. I know that she has welcomed the Audit Scotland report on the programme. According to that report, the last time that the Scottish Government published an explicit statement of its overall aim for modern apprenticeships was back in 2007. Since then, the economy has been through the recession and a rebalancing of its structure. To reflect that and to better understand the long-term benefits of modern apprenticeships, as the cabinet secretary discussed, does she believe that the time is right to go beyond the annual ministerial guidance letter to Skills Development Scotland and develop a revised strategy that puts the qualitative before the quantitative?

Angela Constance: The objectives of the 2007 skills strategy still stand in relation to the apprenticeship programme, which is about developing skills in work, particularly for young people. It is important to recognise that the Government is about continuous improvement and that the Audit Scotland report acknowledged the tremendous successes of the apprenticeship programme during a difficult time.

However, as we have learned from other European countries that have developed long-term outcomes-based research in this area, it is important that we get a better grasp of the improved career opportunities for young people who take on apprenticeships, the improved impact on businesses and the impact on young people's individual earnings. We can certainly learn a lot from our nearest friends and neighbours in Europe about how we get a more holistic understanding of the long-term impacts of our very successful Scottish apprenticeship programme.

Finally, according to recent statistics, people with a modern apprenticeship qualification have an employment rate of 91.4 per cent.

General Question Time

14:40

Royal Infirmary of Edinburgh (Private Finance Initiative Contract)

1. Jim Eadie (Edinburgh Southern) (SNP): To ask the Scottish Government what updates it receives from NHS Lothian regarding the operation of the key terms of the Royal infirmary of Edinburgh's private finance initiative contract. (S4O-03256)

The Cabinet Secretary for Health and Wellbeing (Alex Neil): The management and monitoring of the Royal infirmary of Edinburgh PFI contract are NHS Lothian's responsibility. Scottish Government officials regularly meet NHS Lothian representatives to discuss capital planning, property and asset management issues, and any significant issues relating to the contract are raised through that route.

Jim Eadie: The performance review committee established under the PFI contract with Consort Healthcare is responsible for the oversight of the assessment of key performance indicators and service delivery. Given the catalogue of serious performance errors at the hospital that have been highlighted by the *Edinburgh Evening News* and which include repeated power cuts and serious breaches of hygiene standards, how can the people of Edinburgh and Lothian have any confidence in the performance review committee's ability to hold Consort Healthcare to account?

Alex Neil: The management and monitoring of the Edinburgh Royal infirmary contract is the responsibility of NHS Lothian, and I am sure that the board plays a very active role in managing it. It has employed its own management team complete with auditors who carry out random checks on the facilities, with approximately 80 audits carried out every month. It has also instigated two further forums to discuss performance and to ensure that the providers meet the specification, and those meetings are facilitated at a senior level board to board and through scorecard review.

The Scottish Government is making every effort to improve contract management of existing PFI contracts. An NHS Scotland group that includes all boards with PFI contracts, the Scottish Government and the Scottish Futures Trust has been working to improve management and deliver savings on the contracts, and a new national team will be established to support NHS boards in finding other improvements. The work has already achieved £1.3 million of annual savings, which will save £20 million over the remaining life of the

contracts. By the end of 2014-15, savings over the remaining life of the contracts will rise to £26 million, and those savings will be reinvested in services provided by the national health service.

The Presiding Officer (Tricia Marwick): Question 2 in the name of Tavish Scott has not been lodged. The member has provided an explanation.

Electricity Grid Failure (Wind Turbines)

3. Alex Johnstone (North East Scotland) (Con): To ask the Scottish Government whether it has undertaken any further investigation into whether an overreliance on wind turbines as a source of electricity played a role in the grid failure on 16 April 2014. (S4O-03258)

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): On 22 April, I set out the reasons for the power outage of 16 April and submitted to the Scottish Parliament information centre a comprehensive note outlining the contributing factors.

Alex Johnstone: On 22 April, the cabinet secretary told me that Scottish and Southern Energy Power Distribution had identified a faulty electronic relay as the cause of the problem. However, engineering opinion that in many cases has been volunteered to me has suggested that, far from failing, the relay did exactly what it was supposed to do and that the cause of the trip has yet to be identified. Will the cabinet secretary undertake to make SSE's engineering incident report available to allow independent opinion to be sought?

John Swinney: On 22 April, I relayed to the Parliament the information supplied to me by SSE that a fault in the electronic relay at the Knocknagael substation near Inverness was the root cause of the outage. In addition, SSE has advised me that it is engaging closely with technical experts at Siemens, which is the manufacturer of the relay, to ensure that that fault will not occur on SSE's network in the future.

SSE's position that the reason for the power outage was the reason that I gave to Parliament back in April could not be clearer. I hope that that gives Mr Johnstone the reassurance that he is looking for that the examination by those who are responsible for operating the grid identified that as the particular problem that led to the circumstances in April this year.

Inward Investment (Jobs)

4. Annabelle Ewing (Mid Scotland and Fife) (SNP): To ask the Scottish Government how many jobs have been created in Scotland in the last 10

years as a result of inward investment. (S4O-03259)

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): Between April 2003 and March 2013, Scottish Development International recorded 39,527 planned new jobs as a direct result of inward investment. In addition to those new jobs, we have been able to safeguard 24,639 jobs for Scotland through Scottish Development International's efforts.

The 2013 Ernst & Young international attractiveness survey shows that, outside London, Scotland is the most attractive place in the United Kingdom for inward investment. That reflects the strength of the Scottish economic proposition in terms of the quality of our people, the excellence of our built and natural assets, and our world-class universities and research base.

Annabelle Ewing: I thank the cabinet secretary for his comprehensive answer. Is it not the case that many of those jobs would be threatened if the anti-European Union parties, such as the UK Independence Party, got their way and took us out of the EU single market?

John Swinney: Undoubtedly being a participant in the European Union assists in the economic proposition that we put forward on Scotland's behalf, and it is clear that the Scottish Government takes a number of other measures to ensure that we have skills, investment and capability in the economy and an economic development network that is focused on boosting the Scottish economy and working at all times on Scotland's behalf. If parties such as UKIP were to get their way and we were to be withdrawn from the European Union, that would undoubtedly have negative economic consequences for Scotland. The Scottish Government is determined to sustain Scotland's active membership of the European Union.

Ken Macintosh (Eastwood) (Lab): Given the revelation that Amazon paid only £4.2 million-worth of tax on a £4.3 billion turnover last year and the Scottish Government's welcome decision not to recognise for procurement purposes in the Procurement Reform (Scotland) Bill companies that do not recognise trade unions, will the cabinet secretary revisit the Government's decision to give grants to that supposed inward investor?

John Swinney: The Government takes a series of decisions that are based on a range of factors, one of which is the identification of economic opportunities that can lead to increased employment in Scotland. Those judgments are made carefully from looking at the investment proposals that particular companies offer. Obviously, we secure from those particular commitments—this is an essential part of regional

selective assistance—commitments to levels of employment in the Scottish economy. The Government will continue to apply those approaches and implement those rules in an effective and comprehensive fashion to encourage employment in Scotland.

Care of Older Patients (Lothian)

5. Alison Johnstone (Lothian) (Green): To ask the Scottish Government what action it will take to improve the care of older patients in the Lothian region. (S4O-03260)

The Cabinet Secretary for Health and Wellbeing (Alex Neil): I am aware of the recent media coverage about the care of older people in NHS Lothian, and I welcome its commitment to address the issues that the Mental Welfare Commission for Scotland raised in relation to care at the Royal Edinburgh hospital. It is recognised that the Royal Edinburgh hospital would benefit from development, and the Scottish Government has approved the business case for a £48.9 million upgrade to the facility.

We will also work with health boards, the Convention of Scottish Local Authorities and service providers to develop a strategy for the long-term transformation of residential care, supported housing and intermediate care across Scotland to help to ensure that people are cared for at home or in a homely setting for as long as possible.

Alison Johnstone: Patients' families have raised concerns about the resources that are available to deliver dementia care in the Royal Edinburgh hospital. They had to submit a freedom of information request in relation to an inspection report from the Mental Welfare Commission for Scotland. The report detailed concerns over delays in discharging patients because of the severe lack of nursing home places in Edinburgh and a related lack of activities for patients who end up in hospital for a prolonged period.

I do not want to criticise staff—clearly, there are issues around the lack of staff.

The Presiding Officer: Can we get a question, Ms Johnstone?

Alison Johnstone: Yes.

There are reports of excellent care, too. Clearly we will have to wait for the upgrade, so I would appreciate information on what will happen in the meantime. Can the minister also explain why families have to use FOI legislation to obtain the reports? Will he make them readily available? What steps will he take to ensure that recommendations are implemented?

Alex Neil: We are monitoring the situation very closely, and we will make absolutely sure that the

recommendations of the Mental Welfare Commission for Scotland are implemented in that particular hospital, because clearly the findings were totally unacceptable.

NHS Lothian is currently consulting on its 2014 to 2024 strategic plan for future care, called "Our Health, Our Care, Our Future", which describes what NHS Lothian proposes to do over the coming decade to address the challenges and to provide a high-quality and sustainable healthcare system for the people of Lothian.

NHS Lothian also has an Alzheimer Scotland nurse consultant and 38 trained dementia champions across its acute hospitals. I would hope that we will see short-term improvements while the long-term strategy is being developed.

Flooding (Support for Householders and Businesses)

6. Alex Fergusson (Galloway and West Dumfries) (Con): To ask the Scottish Government what steps it has taken to support householders and businesses whose properties were damaged by flooding in January 2014. (S4O-03261)

The Minister for Environment and Climate Change (Paul Wheelhouse): In response to the December and January floods, the Cabinet Secretary for Finance, Employment and Sustainable Growth triggered the Bellwin scheme on 31 December. As a result, Scottish Borders, Orkney Islands and South Lanarkshire councils all notified the Scottish Government of potential claims for revenue funding under the scheme. Having considered the additional costs resulting from the flooding incident, all three councils confirmed that their costs did not breach their Bellwin threshold, which otherwise would have allowed them to submit a claim.

However, Dumfries and Galloway Council requested additional financial support outwith the Bellwin scheme to make repairs to river banks, sea walls and coastal paths damaged as a direct result of the severe flooding. The Cabinet Secretary for Finance, Employment and Sustainable Growth reviewed the request and, reflecting the exceptional circumstances, agreed to make available an offer of match funding of £500,000 of capital grant to allow the council to carry out the necessary repairs.

Alex Fergusson: I thank the minister for that response, and he is indeed correct that the Scottish Government has made funding available to the council. However, the fact that the council had to appeal to the Scottish Government for help underlines the fact that it has no available finance to help local businesses and householders repair the very extensive damage that they have suffered.

Will the minister encourage the Cabinet Secretary for Finance, Employment and Sustainable Growth to meet NFU Scotland representatives to discuss what can be done to help meet the crippling cost of coastal defence repairs, particularly on the west bank of the Nith, as was requested in a recent letter from NFUS into which the minister was copied? Will he undertake to attend any such meetings to explore what his Government can do to help mitigate the worst effects of what was a truly extreme weather event?

Paul Wheelhouse: I have already met NFUS to discuss the impacts on Dumfries and Galloway—the region which Mr Fergusson represents—and to look at what assistance we can provide. That meeting was attended by the Scottish Government sponsor team and the Scottish Environment Protection Agency. We gave some practical advice about what action could be taken to repair the damage to the defences in the region.

I am sure that the cabinet secretary has heard Mr Fergusson's points, which I will discuss with him later. Mr Fergusson can be assured that we are serious about trying to help farmers, businesses and householders who have been affected. We invest significant amounts of money annually—£42 million a year through the general capital grant—to support environmental protection of communities across Scotland. However, I take the points that Mr Fergusson has made, and I will look at what else we can do.

Independence (Overseas Students)

7. Roderick Campbell (North East Fife) (SNP): To ask the Scottish Government how it would attract overseas students to study in an independent Scotland. (S4O-03262)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): Scotland is already a highly attractive destination for students, with international students accounting for 22 per cent of enrolments at Scottish higher education institutions in 2012-13 but just 18 per cent at HEIs in the United Kingdom as a whole. The numbers have grown significantly in recent years, with international student enrolments in Scotland increasing by 107 per cent in the past decade.

Students come to Scotland because of the reputation of our world-class institutions—their research, breadth of learning and focus on graduate employability—and the overall learning experience for international students, which is better than that of the rest of the UK and, indeed, the rest of the world.

Independence will provide us with the levers that we need to further enhance Scotland's attractiveness to international students and allow

us to move away from the negative rhetoric of the UK Government and its restrictive immigration policies. We will ensure that the immigration policies that we introduce, including the post-study work visa, will allow Scotland to attract and retain world-class talent, contributing to our education system and the Scottish economy.

Roderick Campbell: Professor Anton Muscatelli has said of Scottish higher education that the UK Government is

“trying its best to destroy a global brand”

by reducing net migration, and Professor Robert Wright has described the way that the UK treats international students as a “disaster”. That contrasts with the recent *ChinaGirlsAbroad* survey, which concludes that independence will make Scotland less attractive to Chinese students. Can the cabinet secretary comment on those potentially contrasting views?

Michael Russell: The evidence that comes from the principal and the vice-chancellor of the University of Glasgow is particularly telling and was strongly expressed in the *Sunday Post* this weekend.

According to Robert Wright, if the continuing immigration policy of the UK Government were to bear down even more on students coming to Scottish universities, it would be a disaster. As a result, the global brand of Scottish higher education, which is already well respected worldwide, could only be enhanced by independence. In these circumstances, it is extremely important to listen to the academics who are saying that.

Motorway Network (Central Scotland)

8. Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): To ask the Scottish Government whether it will provide an update on improvements to the motorway network in Central Scotland. (S4O-03263)

The Minister for Transport and Veterans (Keith Brown): The non-profit-distributing contract for the M8, M73 and M74 motorway improvements was awarded in February 2014, and construction work is already well under way.

Together with the M74 and M80 improvements that have been successfully delivered in the last three years, those improvements, when completed in spring 2017, will close the last remaining gaps in central Scotland's motorway network.

Jamie Hepburn: Transport Scotland has also confirmed that it will reopen the junction on the M80 at Castlecary, in my constituency. Residents of Castlecary have long had concerns about traffic through their village. Does the minister join me in welcoming not only the reopening of the junction

but the fact that Transport Scotland has committed to a range of traffic-calming measures through Castlecary?

Keith Brown: I confirm to the member that officials from Transport Scotland have had a number of successful public consultation events to discuss the reopening of the northbound Castlecary slip road. We are now taking forward the publication of the orders to allow the reopening of the slip road to all traffic. The publication of those orders will enable the public to make any comment or representations prior to implementation. As the member says, as part of that work, we are discussing traffic management measures in Castlecary village with North Lanarkshire Council.

Creative Scotland Funding (Kilmarnock and Irvine Valley)

9. Willie Coffey (Kilmarnock and Irvine Valley) (SNP): To ask the Scottish Government what funding support Creative Scotland has provided to organisations in Kilmarnock and Irvine Valley in the last year. (S4O-03264)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): Creative Scotland, the public body that supports Scotland's arts, screen and creative industries, provided more than £215,000 to organisations in Kilmarnock and Irvine Valley in 2013-14.

That supported young people to engage in music in schools through the Scottish Government's youth music initiative and to engage at the Dick Institute with the generation 2014 project, which is a landmark series of exhibitions that traces the development of contemporary art in Scotland over the last 25 years and is part of the Glasgow 2014 cultural programme. It also provided support for a debut album from a band of young local musicians and for an e-book in the Scots language for young people, which is published by Giglets, a digital publishing company.

Willie Coffey: I thank the cabinet secretary for the level of detail in the answer. However, despite that answer, there appears to be a dearth of successful applications coming from the constituency, especially when we consider that the total amount of grant in aid that is disbursed by the agency comes to £46 million. Will the cabinet secretary agree to meet me to discuss the matter further and to see how best we can help more local organisations to improve their chances of making successful applications to the agency?

Fiona Hyslop: I do not think that it would be appropriate for me to meet to discuss individual applications, but it would be appropriate for Creative Scotland to meet the member to discuss the wealth of talent that exists in Kilmarnock,

which, of course, won the creative place award for 2013.

I have been impressed with a number of activities in the area, particularly those of Centrestage Music Theatre, and I know that Creative Scotland has already engaged with that company with regard to one of its unsuccessful applications, to see what it can do for the young people of Scotland. I will encourage Creative Scotland to engage with the member.

First Minister's Question Time

14:59

Engagements

1. Johann Lamont (Glasgow Pollok) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S4F-02110)

The First Minister (Alex Salmond): Engagements to take forward the Government's programme for Scotland.

Johann Lamont: Last week, when he sprang to the defence of his health secretary, the First Minister revealed something that a lot of us had suspected for some time. He said:

"I am in on everything".—[*Official Report*, 15 May 2014; c 31065.]

If he really is in on everything, will the First Minister tell us why Alex Neil reversed the decision that had been taken by Nicola Sturgeon on mental health services in Lanarkshire? If Alex Neil was acting in the best interests of patients in Lanarkshire, can the First Minister explain what Nicola Sturgeon was doing?

The First Minister: Every health secretary has the right, when taking office, to review a whole range of decisions. Johann Lamont is right, in that this is about health provision in Lanarkshire, which affects 500,000 people. The health secretary was well within his rights to look at health provision in Lanarkshire and the proposals that were coming forward and to make his views known.

He made his view known that there should be provision in Monklands district general hospital, Wishaw general hospital and Hairmyres hospital, the three hospitals concerned. That is what he said in the memo on 26 September. I think that a health secretary is well within his rights to do that. He discharged his responsibilities and he was acting in the best interests of the health service of Scotland.

Johann Lamont: We are in the unusual situation in which both Alex Neil and Alex Salmond agree that Nicola Sturgeon got it wrong. Who else does the First Minister think got it wrong? Ian Ross, the chief executive of NHS Lanarkshire, on the very morning when he was instructed by Alex Neil's office to reverse his plan, was still insisting that the original proposals would mean

"improved quality of service to patients".

Ian Ross said:

"There is no alternative option which can deliver the same benefits".

Catriona Borland, a senior official in the Government's health team, said that retaining beds at Monklands would result in a "less than optimal service".

Can the First Minister explain why health professionals wasted two years trying to redesign a service, if it was not in the interests of patients?

The First Minister: I am not sure whether Johann Lamont is aware that in the proposals of 2006, which were approved by the health team when she was a member of the Government, it was proposed that there be an acute ward in Monklands hospital. I could equally ask her why the Government of which she was a member approved that formulation, if she is now criticising the health secretary for agreeing with her. I find it quite extraordinary that that lapse of memory has crept into Johann Lamont's articulation.

Other considerations have to be borne in mind—[*Interruption*.]

The Presiding Officer (Tricia Marwick): Order. Mr McNeil.

The First Minister: Johann Lamont is quite right. There is a letter—which I know is known to Johann Lamont because it was released under freedom of information. For understandable reasons, it is a confidential letter. The letter was written to me by a patient. I found it then, and I find it now, a very moving account of why that patient did not agree that the ward should be closed. The patient said:

"These nurses in the wards know us personally over many years, as long as 20; that's a very long time. We as patients have bonded with our nurses in such a way that we trust them with our lives. ... Many mentally ill patients can't read or write, but we do know we need these wards to stay open. Families are much concerned at the best of times; they visit us when they finish work and work long hours, too. Ask yourself this, if one of your own family was ill, after working 12-hour shifts then to have to travel at least 15 miles or so at hours without public transport being available, could you do it? ... You should keep it open for the mentally ill." [Interruption.]

The Presiding Officer: Order.

The First Minister: I think that that is a moving letter, which should be listened to with respect by members in this chamber—[Interruption.]

The Presiding Officer: Order.

The First Minister: The letter was written in September 2012 by one of the patients who was particularly concerned by rumours about the ward closing—[Interruption.]

The Presiding Officer: Ms McMahon!

The First Minister: I think that it is entirely reasonable for the Government to take those opinions into account and entirely reasonable for a

health secretary to discharge his responsibility in the way that Alex Neil did.

Johann Lamont: For the absence of doubt, the First Minister believes that Nicola Sturgeon got it wrong. He believes that Scotland's most senior health officials got it wrong.

Of course we should listen to patients and users. What does the First Minister say about Francis Fallon? Mr Fallon is the chair of Lanarkshire Links, which advocates on behalf of 800 mental health service users and carers. Mr Fallon has said:

"The members of Lanarkshire Links were totally shocked, bewildered and very upset about this decision, taken in a spur of the moment, knee jerk reaction by Mr Neil, without any discussion or consideration of those hundreds of service users and their carers."

Mr Fallon was a mental health nurse for 30 years. He was given an MBE for his work on mental health. He and his colleagues spent two years working on the proposal, only to be ignored. What does the First Minister have to say to him and the members of Lanarkshire Links who have been let down by Alex Neil?

The First Minister: I have read out a moving letter from a patient who was frightened about being affected by the proposals as they were. That was one of the interests that were taken into account—quite rightly—by the health secretary. What the health secretary sent back, through his officials, to the board was a proposal to look at the provision across Lanarkshire and three of the hospitals.

Many of us believe that matters of local provision are really important, both in mental health services and across the range of health services. The board is confident that the configuration that NHS Lanarkshire has now will offer excellent provision for the people of Lanarkshire. That involves acute facilities at Hairmyres, Wishaw and Monklands hospitals. It also involves an expansion of services in the community. That seems to me to be a good position for the people of Lanarkshire.

Those things are, quite properly, taken into account, as they were taken into account in other hospital situations in Lanarkshire. That is what health secretaries are elected to do. A health secretary discharges responsibilities for all the patients of Lanarkshire. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: There is a great deal of opinion that the formulation and the circumstance that we have come out with is an excellent provision as far as mental health services are concerned. It is really important—the point was made in the letter—that when these patients, who

are not always the patients with the strongest voices, make their opinions heard, their voices are listened to with respect. That is what the health secretary did, and he should be proud of his actions in that respect.

Johann Lamont: I do not know what is more depressing—that the First Minister makes that case or that he thinks that it is a credible case to make. It is desperate stuff. For two years, his cabinet secretary Nicola Sturgeon, the board, the patients, the staff, people who cared for folk with mental health issues and people who used the service themselves came to one conclusion and Alex Neil came to a different one.

One week into this, we have still to hear a credible explanation for Alex Neil's behaviour. Let us look at what I believe is his charge sheet. Putting his political interests before patients—guilty; undermining the integrity of health professionals—guilty; misleading the Parliament and the people of Scotland—

The Presiding Officer: Ms Lamont.

Johann Lamont: In my view—

The Presiding Officer: Ms Lamont.

Johann Lamont: As I said, in my view—

The Presiding Officer: Ms Lamont, "misleading" is not acceptable at First Minister's question time.

Johann Lamont: I ask other people to judge an email in the morning that directs the health board to do one thing and, in the afternoon, the health secretary's claim that he has stepped back. Is the First Minister really prepared to debase his own office and the Parliament even further to save the skin of the health secretary?

The First Minister: It is, of course, perfectly reasonable for Johann Lamont to disagree with the decision—the evaluation—that the health secretary made. It is perfectly reasonable for her to point out that different people have different opinions, although I have heard nothing about why the Government of which she was a member in 2006 considered that there should be acute facilities in Monklands hospital. I presume that all the expertise and advice was available in 2006, when a different proposal and conclusion came forward. When we get to the debate in a few minutes time I will read extensively from a document that demonstrates beyond any doubt whatsoever that that fact and all other facts were volunteered by the Government—[*Interruption.*]

The Presiding Officer: Order.

The First Minister: Perhaps I should read from the document now. The document, which is dated 1 December 2012, was released to John Pentland on 5 March 2013. Every iota of that information

was available to Johann Lamont's MSPs last March. *[Interruption.]* I just heard Richard Simpson say, "Oh no, it was not." I hope that he stays for the debate because yes, it was.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Oh, I will be.

The Presiding Officer: Dr Simpson!

The First Minister: I say this to the Labour leader. This is a time when people are rightly concerned that the Labour Party may be planning to remove free prescriptions from the national health service, a time when people are concerned about the Labour Party's open questioning of free personal care, and a time when people are concerned that the Labour Party will reintroduce tuition fees. The Labour Party chooses to have a spurious motion of no confidence at a time when people are debating and looking at the great issues that face the country. *[Interruption.]*

The Presiding Officer: Order.

The First Minister: There will not be judgment on Alex Neil; there will be a judgment on this pathetic Opposition.

Prime Minister (Meetings)

2. Ruth Davidson (Glasgow) (Con): To ask the First Minister when he will next meet the Prime Minister. (S4F-02109)

The First Minister (Alex Salmond): No plans, near future.

Ruth Davidson: The Scottish National Party's case for independence as contained in its white paper relies heavily on oil income, but the figures that are quoted in it are massively out of date and need to be refreshed. John Swinney promised 14 months ago, in the Government's oil analysis, regular updates on oil projections. He has not delivered. He promised my colleague Gavin Brown in the chamber, eight weeks ago, today a fresh analysis of Scotland's oil production and income "within weeks". Nearly two months on, we still have silence from the Government.

Last year, the difference between the SNP's projected oil income and what was collected was nearly £3 billion. The SNP has a duty to tell people how it would balance the books in an independent Scotland. Instead, all that we have had is promises of updates month after month, week after week. If the Government has not done a fresh analysis, why not? If it has done that analysis, why will it not publish it?

The First Minister: The analysis will be released, as Mr Swinney committed himself to doing. Ruth Davidson should be very careful what she wishes for in such matters. When that analysis is released, it will examine the United Kingdom

Government's track record on forecasting oil revenues—not just over the past few years, but over the past 30 to 40 years. If we believed the Conservative Party on the subject of Scotland's oil, it would all have been finished more than 10 years ago. That was the forecast of the Conservative spokesperson.

When the forecast comes out, it will look at the credibility of an Office for Budgetary Responsibility that suggests that oil prices will be less than \$100 a barrel, when the price is currently \$110 a barrel. It will look at the credibility of an oil-price forecast from the OBR that says that prices will be under \$100 a barrel, when the Department of Energy and Climate Change says that the price is pushing towards \$130 a barrel. It will look at the huge surge of investment of £13 billion sterling in the North Sea, which is, of course, taken off current oil revenues because of the allowance against capital investment, but is there to increase future oil production and, therefore, revenues. It will recognise that, over the next 40 to 50 years, there are massive quantities of oil and gas to come from the Scottish sector of the North Sea. However, there is a fundamental question: will it go where it has gone for the last 40 years, and disappear into the maw of the London Treasury or will it be invested in the economy and future life chances of the people of Scotland?

Ruth Davidson: We hear more blithe assurances after eight weeks of similar. It is not just me who is asking. The Scottish Parliament's information centre asked the Government for answers two weeks ago and was told, "Soon." Then it asked last week, and was told, "Soon." In better times, when the SNP was keen to shine a light on oil figures, it pulled in civil servants over the weekend to publish a report. Now that the news is not so good, it seems to be dragging its feet.

The OBR has changed its figures and the oil and gas industry has revised its production estimates downwards, but the Scottish Government continues to deny reality. People want clarity, but the First Minister has stalled on giving it, because if he did it would blow yet another hole in his independence white paper.

Is not the reason why John Swinney is refusing to honour his months-long commitment to give promised updates on those oil figures that they wreck the SNP's key case for independence?

The First Minister: No, it is not. Of course, it would be extremely difficult to keep up with the changes in the OBR figures, since they change more often than the weather, where oil forecasts are concerned. In my first answer, I pointed out some of the substantial difficulties with the OBR figures and how they are incompatible with other

figures that have been produced by the UK Government on forecasts of oil prices.

However, the most important underlying point is the massive investment that is currently taking place in the waters around Scotland. Of course, it could be that all those huge international and domestic oil companies are investing because they do not believe that there is any more oil and gas left in the North Sea and they believe the OBR, which says that production will be absolutely flat and will not increase at all, thanks to that investment. They could be investing all those funds for no return whatsoever—or, we could conclude that if oil companies are investing £13 billion in the waters around Scotland, it is probably in the expectation that oil production is going to rise. As oil production rises, guess what: the revenues rise.

Of course, we then come back to the question: where are those revenues going to go? Are they going to disappear into George Osborne's coffers for election campaigns, or are they going to be used to benefit the people of Scotland? I say that the people of Scotland should have our turn after 40 years of the London Treasury having its turn.

Lewis Macdonald (North East Scotland) (Lab): The First Minister will be aware of today's announcement that the all-energy conference—the biggest renewable energy conference on these islands—is set to leave Aberdeen after 13 years of success and 13 years of year-on-year growth, which will bring £4 million to the local economy this year. Can the First Minister tell us when he first became aware of the plan and what he did to prevent it?

The First Minister: Our officials have discussions all the time. I have had the great honour of participating in the all-energy conference on many occasions. It is really important that we do everything possible to foster renewables conferences wherever and whenever, but of course that means carrying through on the commitment that this Government has made—with, I hope, support from Lewis Macdonald—on the importance of investment in offshore renewables. That is because—interestingly enough—as this Government's commitment to renewables has been declared and applauded time and again, we have not always had the same consistency of approach from his party, and there has been even less from the Conservative Party.

We will work to retain conferences in Aberdeen, which I believe should be seen not just as the oil capital of Europe but as the energy capital of Europe. Of course, as Lewis Macdonald well knows, in an independent Scotland administration and regulation of the energy industry would be committed from Aberdeen.

Cabinet (Meetings)

3. Willie Rennie (Mid Scotland and Fife) (LD):

To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S4F-02108)

The First Minister (Alex Salmond): Issues of importance to the people of Scotland.

Willie Rennie: There has been much concern that, since this Government came to power, the use of police stop and search has increased fourfold. The response from Kenny MacAskill has been, "Don't look at me, I'm only the justice secretary." Now, there is a big increase in the number of police officers permanently carrying guns, and the Cabinet Secretary for Justice says, "Who cares? Ask someone else." The tearing apart of the long-cherished character of Scottish policing is being met by casual indifference. Does the First Minister care?

The First Minister: I do not accept the depiction of the response of the justice secretary that I read in the record this very morning. I mean the record of Parliament, not the *Daily Record*, although I am sure that the *Daily Record* reported him more accurately than the depiction by the Liberal Democrats.

I was struck by another article that appeared, and I ask Willie Rennie to consider it. It was by Hugh Reilly, who is obviously a journalist, but speaks with some authority as a former police officer. He said in *The Scotsman* of 19 May:

"A minority of Scottish officers bear firearms while on routine business, but this is hardly the scare story some are making it out to be ... Instead of sniping, politicians and others should put things into perspective. There are more than 17,000 police officers, of whom less than 3 per cent are armed, hardly the stuff of a 'police state'. Unfortunately, the operational decision made by the head of Police Scotland, Sir Stephen House, to prevent any unnecessary hold-ups in armed officers arriving at a firearms incident has been turned into a political football."

Those are not my words but those of a respected Scotsman journalist. Willie Rennie and others would do well to bear them in mind as they address this important issue.

Willie Rennie: The First Minister needs to recognise that the policy has changed. Police Scotland has admitted that more armed police officers are ready and armed at all times, even on normal duties. So we now have more police carrying guns at road traffic accidents, more police carrying guns controlling crowds outside nightclubs, and more police carrying guns when stopping and searching children. [*Interruption.*]

The Presiding Officer: Order.

Willie Rennie: SNP members do not know what is happening on their watch. They need to take this issue much more seriously than they are. The

relationship between the police and the public is at risk, but the justice secretary says that it is nothing to do with him. Police officers carrying guns was supposed to be exceptional, but now it is being normalised. If the First Minister will not act, will he at least appoint an independent reviewer to look at the use of guns by the police?

The First Minister: Willie Rennie should pay attention to the response to his question that came from around the chamber. There are 275 officers who have standing authority to carry firearms on patrol. That is out of a total number of police officers in Scotland—thanks to this Government—of more than 17,000. That sense of perspective should be placed in the realm of Willie Rennie.

The alternative to having the efficient operation that the chief constable has proposed would be delay in those officers being properly equipped to respond to serious incidents. That would not be desirable. The alternative, if any of those 275 officers were not available for other duties—let us remember that that is the total and, on any one shift, the figure would be a fraction of that 275—would be officers having, because they were armed, to drive past incidents to which they happened to be first responders. That would be impractical and undesirable.

On the question of operational response, every single police board in England bar one uses exactly the same operational response as the chief constable. I can hear Willie Rennie saying that that is not our responsibility, but it is an interesting fact. I would like to know whether, given that his party is in Government in England at the present moment, he has expressed that concern or those fears to his colleagues in Government at Westminster, or does he just reserve his hyperbole for coming along to this Parliament to express unnecessary fears and to put things in a way that is not at all reasonable?

This is a serious subject. We should be proud of how our Scottish Police Service defends the interests of our communities. We should have confidence in its operational decisions and we should regard as a triumph the huge decline in recorded crime and the massive decline in violent crime—and, indeed, in the carrying of firearms. Just for once, maybe Willie Rennie will come to the chamber and give our police their due for their success in keeping us safe from harm.

House Building

4. Chic Brodie (South Scotland) (SNP): To ask the First Minister how many houses have been built in the private and public sectors in each of the last three years. (S4F-02117)

The First Minister (Alex Salmond): The latest available figures for the completion of private

sector homes are 10,150 in 2011, 9,990 in 2012, and 9,938 in 2013. The affordable homes figures include all homes that counted towards the Government target of 30,000 affordable homes by March 2016; the latest figures are 6,296 in 2011, 6,385 in 2012, and 7,189 in 2013. Those figures show that we are well on our way to meeting the 30,000 affordable homes target, which will be welcomed across the chamber, although I should point out that the 2013 figure is higher than anything achieved in any year by the Labour-Liberal Administration.

Chic Brodie: The governor of the Bank of England, Mark Carney, said at the weekend that not enough houses are being built in the United Kingdom. Can the First Minister indicate how the record on house building in Scotland compares with that in the rest of the UK and what action is being taken to boost house building in the private sector?

The First Minister: The governor of the Bank of England was absolutely right to focus attention on supply in the housing market. In direct answer to the question, the rate of home completions per 100,000 population for the year to end September 2013 was much higher in Scotland, at 268, than it was in England, at 202, and in Wales, at 180. That has been the case throughout the period from 2007-08 to 2012-13. The difference is particularly marked in social housing, as the new-build completion rate in that sector was 80.9 per 100,000 population in Scotland compared with 41 in England, 25 in Wales and 70 in Northern Ireland.

One of the reasons why we are experiencing less pressure on housing and less of a housing bubble in Scotland in general is that our housing supply statistics are better, but they are not good enough. I therefore think that, given the initiative from the Bank of England and its governor, it would be particularly instructive to have a joint look at what we can do with the finances of housing associations, in particular, to allow them to increase the excellent work that they are already doing.

Mary Fee (West Scotland) (Lab): Will any further reviews of housing association grants be carried out to increase the number of new developments by registered social landlords?

The First Minister: Yes, we are having on-going discussions with the housing associations. As Mary Fee has just heard, that is one of the keys to avoiding some of the great difficulties that we currently see in some parts of England. I think that she would acknowledge, as a fair-minded colleague in the chamber, that the figures for affordable homes are impressive in the circumstances that we have experienced over the past few years. Given that those circumstances—

the straitened economic times and the cutbacks from Westminster—are far more severe than anything experienced by the Labour-Liberal Administration, it seems particularly impressive that the figures are higher than anything that the Labour Party achieved when in office.

Racial Intolerance and Hate Crime

5. Graeme Pearson (South Scotland) (Lab):

To ask the First Minister what the Scottish Government is doing to tackle racial intolerance and hate crime. (S4F-02120)

The First Minister (Alex Salmond): Racist incidents are decreasing. In 2012-13, 4,628 such incidents were recorded, which is 13 per cent fewer than there were in 2006-07. The clear-up rate, which is crucial, is also improving—it is up 3 per cent.

However, there is much more to be done. In February, we launched the speak up against hate crime awareness campaign to help victims of and witnesses to hate crime report all incidents to Police Scotland. We have provided £60 million of funding for a range of equality projects between 2012 and 2015, which is more than double the £28 million that the Labour-Liberal Democrat coalition provided between 2004 and 2007. The funding includes more than £8 million that we are using to support 40 local and national organisations in their work to break down barriers to racial equality.

Graeme Pearson: In that context, can the First Minister explain why the Scottish Government is cutting by more than two thirds the funding to the only national charity focused on anti-racism? The Show Racism the Red Card charity received funding of £70,000 in 2012-13, but the figure fell to £40,000 last year and the intention is that it will be £20,000 this year.

The First Minister: Perhaps that is not what Graeme Pearson meant to say, because I have a list here of 40 local and national organisations across Scotland that benefit from the budgets that I have just outlined, which are substantially more than the budgets that were allocated when his party was in office.

If the member would like, I will start reading them out. They include Access Apna Ghar, Amina, Article 12 in Scotland, BEMIS, the Bridges Programmes, Bridging the Gap, the Red Cross and the Coalition for Racial Equality and Rights. I could go on right through the alphabet—*[Interruption.]* Graeme Pearson suggested, and it may have been a mistake, that only one national organisation was active in this field. Many, many organisations are being supported by the Scottish Government.

A funding package was signed up to and agreed with the particular organisation that Graeme

Pearson mentioned. The other 40 all do valuable work across Scotland. Nothing should be said—even if it was a mistake or a misapprehension—that diminishes the work that is being done by those vital organisations.

It is vital that we acknowledge that work because, although we have made progress on the issues, a huge amount has still to be done. As Graeme Pearson and I both know, there are people in society who seek to take advantage of racial divisions. They must be combated in every possible sense in the chamber and at the ballot box.

Modern Apprenticeships

6. Jim Eadie (Edinburgh Southern) (SNP): To ask the First Minister what steps the Scottish Government is taking to promote the value of modern apprenticeships to employers and young people. (S4F-02116)

The First Minister (Alex Salmond): I was delighted to announce on Sunday that, in the past year, we have again surpassed the target of delivering 25,000 new modern apprenticeships. We intend to build on the programme's success by guaranteeing 30,000 opportunities every year by 2020. Through the make young people your business campaign, we will continue to encourage employers and, in particular, small businesses to realise the benefits that a modern apprenticeship can bring.

Jim Eadie: In setting out the Scottish Government's vision for apprenticeships in Scotland, does the First Minister agree that all young people deserve the best possible start in life and that a modern apprenticeship provides the ideal opportunity for a young person to gain valuable skills, hands-on work experience and—crucially—a job on completion?

The First Minister: Yes—I do. There are some key figures to get across. We know that 92 per cent of modern apprentices are in employment six months after completing their apprenticeship. That is a highly important figure to get across in recruiting young people to the modern apprenticeship programme.

We should articulate the fact that modern apprenticeships are for both genders. In 2013-14, 10,445 women started a modern apprenticeship, which represents 41 per cent of all modern apprenticeship starts. That compares with 2,857 women a few years ago, which represented only 27 per cent of starts.

The message that modern apprenticeships are for men and women is vital, as is the message that getting a modern apprenticeship is a passport to a lifetime's employment.

Motion of No Confidence

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-10088, in the name of Neil Findlay, on a motion of no confidence.

15:32

Neil Findlay (Lothian) (Lab): As the Scottish Government's mental health strategy states, mental illness is one of the greatest health challenges that we face. However, with appropriate and good-quality treatment and support, people can cope, learn to manage their condition and make a full recovery. Government policy is—rightly—geared towards shifting the balance of care from institutional settings to more community-based provision, where treatment is delivered at home or in the community. All the major stakeholders are signed up to that policy—or at least we thought that they were.

In the past week, following a freedom of information request that my colleague John Pentland submitted 18 months ago and a ruling by the Scottish Information Commissioner that ordered the release of the papers involved, we have established that one of the key players who is supposed to be driving the policy is not signed up to it at all—or at least he was not signed up to it when he thought that it would have an impact on his constituency. That player is the Cabinet Secretary for Health and Wellbeing—the man in charge of the policy.

As far back as 2006, NHS Lanarkshire identified a need to change how it delivers mental health services. Years of consultation, planning and work with clinicians, staff, patients and voluntary organisations followed, and a consensus emerged that a two-site plan—with acute beds located at Hairmyres hospital and a much-needed intensive psychiatric care unit at Wishaw general hospital, complemented by community-based provision—was the best way forward to deliver much-improved services.

That plan was to help waiting time targets to be achieved, reduce admissions of young people to non-age-specific in-patient beds, extend child and adolescent mental health services provision beyond the age of 16, address the Mental Welfare Commission for Scotland's critique of NHS Lanarkshire being the only mainland board without a dedicated intensive psychiatric care unit and provide a safer and more sustainable medical rota to deliver care. That was approved by the then cabinet secretary, Nicola Sturgeon, and by Lanarkshire Links—the leading mental health organisation in the area—and its members.

Following the Cabinet reshuffle on 5 September 2012, Alex Neil replaced Nicola Sturgeon as the cabinet secretary. He acted immediately and, on 15 September, he advised civil servants that he was reviewing the NHS Lanarkshire proposals and that a final decision would be taken soon.

On 18 September, the then head of NHS Scotland, Derek Feeley, advised Catriona Borland, director for health and workforce planning, that Alex Neil was

“minded to review the decision on Lanarkshire's mental health proposal.”

On 26 September at 9.43 am, Alex Neil's private secretary advised civil servants:

“Mr Neil is clear in his view that acute mental health facilities should be retained in both Wishaw and Monklands. The Cabinet Secretary has asked that you seek agreement from NHS Lanarkshire to reconfigure their plans accordingly.”

In other words, he scrapped the proposals that had been endorsed by the stakeholders and his predecessor Nicola Sturgeon.

Later that day, in a reply to Richard Lyle MSP in the chamber, the cabinet secretary said:

“I believe that”

NHS Lanarkshire

“is revising its original proposal for the mental health unit at Monklands with a view to retaining an acute mental health facility at the hospital.”—[*Official Report*, 26 September 2012; c 11895.]

Of course he believed that the board was reviewing its proposal, because he had instructed it to do so.

However, the plot thickens. It has now been revealed that, at 9.44 that day, several hours before the cabinet secretary answered Richard Lyle's question, Ian Ross, the chief executive of NHS Lanarkshire, advised him:

“there is no alternative option which can deliver the same benefits within the funding. Any changes to this plan would need to be explained to the key stakeholders including service users and carers who are fully supportive of the proposed developments.”

Only later that day, after all that involvement, did the cabinet secretary decide to take a step back because, as he said,

“there could be a perception of a conflict of interest.”

There was not a perception of a conflict of interest: there was a conflict of interest. Alex Neil had already made a decision that ran contrary to the policy that he was in charge of promoting.

Let us review the evidence and charges against the cabinet secretary. When Nicola Sturgeon was in post, he initially asked her to delay any decision until after the council elections and then until after his holiday, thus putting the needs of mental

health patients behind his party and personal interests.

He reversed the decision that Nicola Sturgeon had endorsed to go with the consensus on how to improve services—a decision that NHS Lanarkshire's chief executive said would result in a "less than optimal service for patients who might be cared for there."

He ordered the retention of facilities known to be riddled with asbestos. He worked against the interests of the people of Lanarkshire by pretending to be their saviour when, all along, the clinical evidence was clear that the proposed changes were in the best interest of patients.

He actively opposed his own Government's policy of shifting the balance of care—the very policy that he was in charge of. He breached the ministerial code by failing to recognise the conflict of interest between his ministerial role of promoting Government policy and his constituency interest and stood back only after he had decided to reverse his predecessor's decision.

Crucially for members, he misled Parliament by stating that he "believed" that NHS Lanarkshire was reviewing a decision when, as we now know, he had already taken the decision.

I take no pleasure in moving the motion. We have been forced into this position by the cabinet secretary and the First Minister who, in the last week, have singularly failed to come up with—or even try to come up with—a credible answer to the charges that are laid before them.

I say to the other parties that this Parliament has a duty to demand integrity in our political system. The dogs in the street know what Alex Neil has been up to. He has been caught holding the smoking gun, and the First Minister and his deputy know it. We believe that he has misled his constituents and we believe that he has misled this Parliament. For those reasons, we have proposed a vote of no confidence in Alex Neil.

I move,

That the Parliament has no confidence in the Cabinet Secretary for Health and Wellbeing as a result of his failure to disclose his involvement in the decision to reverse the planned closure of mental health services at Monklands Hospital.

15:40

The Minister for Public Health (Michael Matheson): Some facts would be helpful for this debate.

Upon his appointment as health secretary on 5 September 2012, Alex Neil examined a number of key areas in his portfolio—something that is entirely reasonable. On the morning of 26

September 2012, having reviewed proposals for NHS Lanarkshire's mental health services, the cabinet secretary informed officials of his reservations about the health board's plans. That afternoon, he answered a supplementary parliamentary question, in which the future of mental health services at Monklands hospital was raised. He made clear that the health board was reconsidering its plans.

On 5 November 2012, Alex Neil replied to a letter from Labour MP Pamela Nash about the future of mental health services. He informed her that he had shared his reservations with the health board.

On 14 November 2012, Siobhan McMahon asked Alex Neil an oral question about mental health services at Monklands. She stated in her question:

"the cabinet secretary has recently intervened in provision of mental health services by NHS Lanarkshire."—[*Official Report*, 14 November 2012; c 13407.]

The *Evening Times* reported the facts on 24 January 2013, when it quoted in full a Scottish Government spokesperson, who laid out all the details. The spokesperson said:

"On September 26, Mr Neil asked officials to make his long-standing concerns about the proposed reconfiguration of mental health services across Lanarkshire known to the NHS board. His view was that acute mental health facilities would be best retained at Wishaw General and Monklands hospitals, and with a unit at Hairmyres. On September 26, after answering an oral question, Mr Neil was concerned that as Monklands was in his constituency, there could be a perception of a conflict of interest. To address this he agreed, that day that all matters related to Monklands should be dealt with by Public Health Minister Michael Matheson."

The facts were laid out yet again on 17 February 2013, when the First Minister responded to a complaint under the ministerial code, and yet again on 5 March 2013, in an extensive release of FOI material to Labour MSP John Pentland.

Throughout this process, the facts have been clear for all to see and a matter of public record. Alex Neil intervened and made his views known. The health board then had to come forward with a revised plan not just for Monklands, but for the whole of NHS Lanarkshire. In an answer to a question on 14 November 2012, Alex Neil made it clear that the plan required ministerial approval and that decisions would be made by me, in order to avoid any perception of a conflict of interests.

Neil Findlay: Mr Matheson was the deputy when Ms Sturgeon made her decision, then the deputy when Mr Neil made his decision. What was his view on each of those occasions?

Michael Matheson: If we deal with the facts Mr Findlay, we might make some progress on this matter—[*Interruption*.]

The Presiding Officer: Order.

Michael Matheson: —rather than just inventing things for the purpose of getting a few headlines. Those are the facts, and they are a matter of public record.

The reality is that in other cases Alex Neil, as health secretary, will take decisions that are about health services that affect NHS Lanarkshire and its provision. On 17 December last year, Alex Neil established the expert governance and improvement support team to help the health board to make improvements in patient safety and quality of care. That decision included Monklands hospital, in his constituency. If we follow Labour's bizarre logic, there should have been calls for a vote of no confidence when he made that decision. These decisions are about the whole of NHS Lanarkshire, and they affect half a million people—almost one in 10 of the entire Scottish population.

As you know, Presiding Officer, it is important that ministers avoid not only actual conflicts of interest but the perception of any such conflict. That is why, after Alex Neil was asked a supplementary question in the chamber on 26 September 2012 that was specifically about mental health services at Monklands general hospital, he chose to take advice from his officials. He then followed that advice and removed himself from the process to ensure that there was no suggestion of a conflict of interest. That was entirely appropriate, and he reported it to Parliament on both 14 November 2012 and 19 December 2012.

That does not change the fact at the very heart of the issue. There was no conflict of interest because the issue was about more than just Alex Neil's constituency. It was about what was best for the people and for the patients of NHS Lanarkshire.

Michael McMahon (Uddingston and Bellshill) (Lab): If the minister wants to move on to that issue, can he tell us on what basis, when Nicola Sturgeon signed off the option appraisal that showed option 1 as the best option, he and Alex Neil chose option 4—the worst option—as the best option for the people of Lanarkshire?

Michael Matheson: Michael McMahon might be interested to know the view of NHS Lanarkshire on the proposed option, which it stated would enable

“the most contemporary provision of acute inpatient care in a custom designed environment as well as freeing up resources”

to be put into the community. That is the option that the cabinet secretary chose.

As part of the mental health services plan, the ward in question—ward 24—has been undergoing

a refurbishment to improve the facilities for patients. That includes the removal of asbestos from ward 24 earlier this year. I emphasise that the issue of asbestos is not unique to Monklands; it is a legacy from decades ago.

Very strict regulations are enforced by the Health and Safety Executive to control asbestos. The HSE makes clear that:

“asbestos is only dangerous when disturbed. If it is safely managed and contained, it doesn't present a health hazard.”

That is exactly the approach that NHS Lanarkshire took.

The wellbeing of patients in Lanarkshire was at the heart of Alex Neil's actions on the matter. It is instructive to look at what the patients themselves said about the proposed closure. A letter that was written to the Scottish Government in September 2012 when the closure proposals were being considered, from a patient who was treated for mental issues at Monklands, stated:

“We felt our voice should be recognised. The closure of these wards could cause many mentally ill patients to take our own lives”.

That heartfelt plea sat alongside the views of doctors, NHS management and others. It was by balancing all those opinions that Alex Neil made his intervention.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Will the minister give way?

Michael Matheson: I need to make progress.

Members can disagree with what I have said and argue that they would have come to a different conclusion, and it is their right to do so.

Indeed, we know that Labour came to a different conclusion on previous NHS Lanarkshire closure proposals. If Labour had won the 2007 election, it would have closed the accident and emergency department at Monklands. Labour told us that there was no alternative. Since July 2007, when this Government saved Monklands A and E, there have been 437,000 attendees, and 67,000 in 2013 alone. Attendance has reached almost 500,000, which proves that there was an alternative to Labour's NHS closure plan.

The facts are straightforward. Alex Neil made his views known, and weighed up all the options and opinions—[*Interruption.*]

The Presiding Officer: Order.

Michael Matheson: He did so without fear or favour. If Labour members wish to argue against that decision, that is their right, but that is not what they are doing. They are throwing everything they can at the man. Their objective is not about the

quality of services that are being provided, but about getting at the health secretary.

This might be the third motion of no confidence in the Parliament's short history, but it is the first time that I can think of when a health secretary has been attacked for not closing a hospital ward and for saving part of our NHS—but, then, no scare story is too silly and no smear is too low for the Labour Party, and no accusation is too base for it to use against the Scottish National Party Government. That is what we have seen today, so I urge members to reject the motion. *[Applause.]*

The Presiding Officer: Order.

15:50

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): A motion of no confidence is a very serious matter and not one that the Scottish Conservatives take lightly. After careful consideration, we will be supporting calls for Alex Neil to resign, for the simple reason that we believe that it cannot be acceptable for a minister to come to the chamber and allow Parliament to be misled.

We have all seen the evidence, but it is worth going over once again. On 26 September 2012, Alex Neil told Parliament that he believed that NHS Lanarkshire was revising its plans on mental health services at Monklands. A few hours later, he announced that he would be removing himself from the formal decision-making process surrounding the plan, because of his constituency interests.

That was all accepted in good faith but, thanks to a freedom of information request, we now know that, five hours before addressing Parliament, Alex Neil's private secretary had emailed a civil servant in the health department. That email could not have been clearer. Sent to health officials in the Scottish Government, it declared that Mr Neil was clear that the mental health facilities should be retained. It concluded:

"The Cabinet Secretary has asked that you seek agreement from NHS Lanarkshire to reconfigure their plans accordingly."

Astonishingly, even Michael Matheson was copied into the email. So, in the morning, he was made aware that the decision to retain Monklands had already been made by his superior yet, that very afternoon, he was told that the decision over Monklands was being delegated to him.

It is of course the right of every member of the Parliament, be they a minister or not, to oppose decisions that affect their constituents, and we do not disagree that, as a newly appointed minister, Mr Neil was within his rights to reconsider decisions that his predecessor had taken.

However, the issue here is not about the rights and wrongs of closing medical facilities at Monklands, and nor is it about Mr Neil's competence in his job. The issue at hand is a cabinet secretary who ordered his officials to do one thing in the morning and then decided consciously not to reveal that fact to Parliament in the afternoon.

I suggest that this is a sad instance of a minister deliberately allowing an untruth to gain credence in order to avoid difficult questions about his position. Mr Neil should have told Parliament that afternoon that he had just told NHS Lanarkshire to "reconfigure their plans". That he did not do so was not just a dereliction of duty; it now looks suspiciously like a tacit admission that he knew that he was doing something underhand and wrong—it is as simple as that.

The fact is that the investigation that the First Minister carried out into the case failed utterly to address that point. The First Minister said that the health secretary acted "perfectly properly". His defence of Mr Neil goes on to note that Mr Neil was concerned over a conflict of interest, but nowhere in the First Minister's letter exonerating Mr Neil is the key point raised—that, by the time that Mr Neil raised his concerns about a conflict of interest, his wishes had already been made clear to NHS Lanarkshire. Nowhere is there acknowledgement of the fact that Mr Neil made the decision and then tried to wash his hands of it. Now, by refusing to sack his health secretary, the First Minister is putting politics above the Parliament.

The whole episode is symptomatic of the SNP's disregard for the Parliament, particularly in the run-up to the independence referendum. It gives us in the Conservatives no pleasure to conclude that, in this instance, the cabinet secretary deliberately ensured that Parliament was misled. As he clearly did so, we can no longer have confidence in him in carrying out his duties, so we support the motion of no confidence.

The Presiding Officer: We move to a very short open debate. I call Bob Doris, to be followed by John Pentland. I can give both of you no more than four minutes.

15:54

Bob Doris (Glasgow) (SNP): Integrity applies to every member in this chamber, including our Opposition members. I feel that they have not passed that test this afternoon.

We are being asked to make a judgment on the appropriateness of Alex Neil staying as Cabinet Secretary for Health and Wellbeing. Let me tell the chamber about the Alex Neil I know as Cabinet Secretary for Health and Wellbeing—*[Interruption.]*

The Presiding Officer: Order!

Bob Doris: He is the man who has worked in partnership with the Parliament's Health and Sport Committee to develop a vastly improved system of access to new medicines in Scotland for end-of-life and orphan and ultra-orphan conditions. He values people and has meaningfully changed the lives of constituents right across Scotland.

Let me tell the chamber more about the Alex Neil I know. He has introduced a workforce planning tool that is leading to an increase in nursing numbers right across Scotland and which ensures that they are in the right place and the right job—[*Interruption.*] I hear heckling, but I have to say that the constituents whom I represent prefer a quality NHS to the bluff and bluster of the Labour benches.

Let me tell the chamber why I think that this is just bluff, bluster and political opportunism. On 24 January 2013, an article in the *Evening Times* reported:

"On September 26, Mr Neil asked officials to make his long-standing concerns about the proposed reconfiguration of mental health services across Lanarkshire known to the NHS board. His view was that acute mental health facilities would be best retained at Wishaw General and Monklands hospitals, and with a unit at Hairmyres."

The exact same content that was in the email is now apparently a smoking gun. There is nothing new in any of this.

With this information available, I have to say that Alex Neil was perfectly fit for purpose 15 months ago. He was fit for purpose as a health secretary 10 months ago, and he was fit for purpose as a good-quality health secretary five months ago. The only thing that has happened in the past week is the Labour Party grandstanding for cheap party-political points.

Dr Simpson: Will the member give way?

Bob Doris: No, thanks. Let me tell the chamber something I know about health boards—[*Interruption.*]

The Presiding Officer: The member is not taking the intervention. Order!

Bob Doris: Just the other day, as deputy convener of the Health and Sport Committee, I took part in a robust evidence session with health boards about their budgets. Health boards are not shrinking violets; they say what they think, and they make what they think clear. No decision was taken by Mr Neil. His position was well known; it was publicly known 15 months ago that he sought agreement with NHS Lanarkshire. However, if there was no agreement to be sought, the decision would have been taken by Michael Matheson, our Minister for Public Health. There was no conflict of interest.

I want to tell the chamber one final thing. Labour members might have a view of Government that it simply goes into robotic mode and rubberstamps things; they do not take the view that they can think for themselves. I expect—[*Interruption.*]

The Presiding Officer: Order!

Bob Doris: Someone must have held up a sign saying, "Clap!" there. Labour members were certainly not thinking for themselves.

I expect a cabinet secretary for health to take a strategic view of mental health services across Lanarkshire, for the 500,000 patients in Lanarkshire. Alex Neil did so, and he made his views known. [*Interruption.*]

The Presiding Officer: Will members please stop barracking the member and let us hear what he has to say?

Bob Doris: As I said to Lewis Macdonald in a previous debate, the louder the Labour Party speaks, the more it realises that it is on shaky ground and that there is nothing true in what it says.

Because time is short, I will simply say that the people of Scotland value Alex Neil as health secretary. Week in, week out, he is improving Scotland's national health service. However, the party opposite, in conjunction with its better together friends in the Conservative Party, would rather make patients across Scotland suffer for a cheap party-political stunt. Make no mistake—that is precisely what this motion of no confidence is.

15:59

John Pentland (Motherwell and Wishaw) (Lab): Lanarkshire's mental health plan was about far more than the two wards at Monklands, but they were Alex Neil's main focus, even as cabinet secretary. The plan was years in the making and was for the whole of Lanarkshire. It was backed by service users, carers, clinicians, NHS managers, council partners, voluntary organisations and on several occasions by the health secretary at the time, Nicola Sturgeon, who saw the improvements that that robust plan would bring across the board, including to Monklands. They saw the bigger picture.

The plan would have funded a new intensive psychiatric care unit for NHS Lanarkshire, which was the only mainland board without one. It would also have supported the development of intensive home treatment and young people's services, greatly expanded community mental health, and provided a safer and more sustainable medical rota. There was

"no alternative option"

that could

“deliver the same benefits”.

Those are not my words—that is what the chief executive of NHS Lanarkshire, Ian Ross, wrote in an email at 9.45 on 26 September 2012.

Alex Neil chose to ignore that advice and vetoed the plan, with no reason given. When he was asked a question that afternoon on mental health services at Monklands, he did not even tell Parliament that he had rejected it. He said that NHS Lanarkshire was reconsidering. It was not; it was reconfiguring its plans on Alex Neil's instruction. We know that because, in an email that morning, Alex Neil told it to pick the worst of four options. It took us 18 months to extract that email from the Scottish Government. Now we know why it fought so hard to keep it a secret.

However, there is much more. The pretence and manipulation was not an isolated incident. We have an email that says that Alex Neil was signing off lines in October, and we have a letter that he wrote in November. More important, his diktat of 26 September was not rescinded. One email even stated that the strategy was ready to go

“but due to concerns raised by Alex Neil ... Derek Feeley asked Tim to defer taking it to the Board till after the local authority elections at which point it would be approved.”

We could have had the best plan before May 2012, but over a year later we got a poor substitute.

Since the original plan was kicked into touch by the cabinet secretary, I have heard that problems include a patchwork community service, staffing problems, difficulties with junior doctors' training and unused capacity at Wishaw. What about the recurrent costs instead of money being freed up to address those issues? Most important, that worst option does not provide the service that the people of Lanarkshire have a right to expect.

We have strong evidence and we believe that Alex Neil has misled Parliament. He has also betrayed the public and health professionals with a scandalous political fix. He should resign, or else the First Minister, rather than trying to defend him, should sack him.

16:03

The First Minister (Alex Salmond): I want to take us into three areas of the debate.

The first is the question of transparency, on which I will spend some time, because I want to be able to establish to the chamber that what Richard Simpson disagreed with me about at First Minister question time was, in fact, erroneous on his part.

We can remove the question of transparency and then get to the issue of principle as to when a Government minister is able and is not able to

intervene and take action on a matter that affects their constituency.

Thirdly, let us look at the rights and wrongs of the issue. Let us look at the patients in Lanarkshire.

Finally, let us also look at the competence of the health secretary.

The reason why I disagreed with Richard Simpson was because I can establish beyond any doubt that the whole detail of this area of decision making was in the public domain. I have here the press lines issued to the *Sunday Herald* on the weekend of 1 December 2012, which were reported in the *Evening Times* of 24 January 2013. I will have them put into the record so that every member in this chamber can see them. They go into great detail about what happened on the day of 26 September 2012:

“The Cabinet Secretary for Health and Wellbeing, Alex Neil, is not currently looking at proposals from NHS Lanarkshire on the provision of Mental Health Services.

Previously, on 26 September, Alex Neil, as Cabinet Secretary for Health, had made his concerns about the proposed reconfiguration of mental health services across Lanarkshire known to the NHS board through Scottish Government officials.

With over 500,000”—

Johann Lamont (Glasgow Pollok) (Lab): Will the First Minister take an intervention?

The First Minister: I will read the quotation, and then of course I will give way to Johann Lamont.

“With over 500,000 people resident in NHS Lanarkshire's area, Mr Neil addressed his concerns on the service change to the region as a whole. He was clear in his view that acute mental health facilities would be best retained at Wishaw General Hospital, Monklands Hospital, and with a unit at Hairmyres Hospital.

On the 26 September Mr Neil also answered an oral question ... where in the supplementary he was asked specifically about mental health services in Monklands Hospital. After answering the question Mr Neil was concerned that despite Monklands Hospital serving people across Lanarkshire, as it was located in his constituency, there could be a perception of a conflict of interest. To address this he arranged, that day, with the Director General of the Health portfolio, Derek Feeley, that all matters related to Monklands Hospital should be dealt with by the Minister for Public Health Michael Matheson.”

Before Johann Lamont intervenes, let me say that that totally disproves the Labour Party assertion that all of those details were not in the public domain. Just in case Johann Lamont did not happen to buy a copy of the *Evening Times* on 24 January, all of what I quoted is contained in the FOI response to John Pentland of 5 March 2013—all of it. Therefore, all of that information was available in the public domain, which puts a very severe question mark over Labour allegations of a lack of transparency and the fact that, in this week

in particular, this issue is suddenly presented as if it was a contemporary issue.

Johann Lamont: Of course, we have been waiting for 18 months to get the freedom of information response that the First Minister's Government has resisted giving. This is not about Alex Neil expressing a view. When the First Minister cleared his minister of any wrongdoing, was he aware of Alex Neil's email of the morning of 26 September directing the Lanarkshire health board to reconfigure its plans?

The First Minister: Of course I was, and Johann Lamont—[*Interruption.*]

The Presiding Officer: Order.

The First Minister: Johann Lamont has just told us that the Labour Party waited for this information, but I repeat that the information was in the public domain and in the FOI response not of the past couple of weeks but of 5 March 2013—all of the information was contained in that. If John Pentland did not reveal to Johann Lamont the detail of that, perhaps she should address communications within the Labour Party as opposed to making spurious attacks on the health secretary.

I point out that the Scottish Information Commissioner himself conceded that the Scottish Government information and documents go

“a substantial way towards fulfilling the public interest in understanding issues relating to”

the ministerial code;

“it goes a long way in detailing the chain of events following Mr Neil's appointment”.

The information commissioner obviously looked at the documents that were revealed, even if the Labour Party did not manage to do so.

John Pentland: Is the First Minister aware that, after the information that was given in February and March 2013, further information came from the commissioner identifying quite clearly that Mr Neil had instructed Lanarkshire health board to reconfigure the plans for mental health services in Lanarkshire?

The First Minister: I will give the member the benefit of the doubt because his colleagues prevented him from hearing what I said. What I have just read out contains the paragraph:

“With over 500,000 people resident in NHS Lanarkshire's area, Mr Neil addressed his concerns on the service change to the region as a whole. He was clear in his view that acute mental health facilities would be best retained at Wishaw General Hospital, Monklands Hospital, and with a unit at Hairmyres Hospital.”

You had the information; you just did not have the confidence to bring it to the chamber.

Given that John Lamont actually tried to address those questions of process, I hope that hearing that information now will have satisfied at least some of his reservations. I could also go through the other instances that make it quite clear that the information has been in the public domain for some time.

I will now address the issue of principle in terms of the ministerial code, because that is what I have to look at—not the issues of policy, which are hugely important to the people, but the issue in the ministerial code of when a constituency interest is valid.

It is not the case that a minister cannot take decisions that affect his constituents. I raise the point because I have here a transcript of words spoken by Neil Findlay on the radio this morning. He said:

“Any minister who is in the position where they have a constituency interest and are acting as a minister has to make that position known as early as possible and withdraw from it.”

That is not the case, Mr Findlay. I am First Minister of Scotland. If I withdrew from every decision that affected my constituents, I would not be making many decisions as First Minister of Scotland. For example, the Aberdeen western peripheral route is an issue that has a massive effect on my constituency. As an MSP and as a First Minister, I have campaigned in favour of that route. It is a huge public investment, and I rejoice in the fact that it is going forward. I cannot withdraw or resile from making a decision about it because it happens to go across my constituency. It affects people throughout the whole of the north-east of Scotland, just as the mental health facilities in Lanarkshire affect the people throughout the whole of Lanarkshire.

The Presiding Officer: First Minister, you need to start drawing your remarks to a close.

The First Minister: I will gladly do so. I have been perhaps too generous with the Labour Party. That is one of my weaknesses, Presiding Officer.

The information was transparent and was in the public domain. Unfortunately, through a communications failure, Labour Party members did not manage to tell each other that they had the information. That is the best possible reflection that we can put on the situation.

It is not the case that ministers cannot make decisions that affect their constituents. Mr Neil went through the correct processes. When a specific question was raised about Monklands hospital, he asked the advice of his officials.

Finally, I repeat the point that was made by Michael Matheson. When was the last time that a minister was attacked and had a motion of no

confidence moved against him because he had saved a hospital facility that is vital to the people of Lanarkshire? The provision of mental health services in Lanarkshire is excellent. We know the views of the patients, and we also know the views of the Labour Party, because the last thing that was in the mind of the Labour Party when bringing this issue to the chamber was the welfare of the people of Lanarkshire. Uppermost in the minds of Labour members was the proximity of the elections. It is not the confidence in Mr Neil but the confidence in the Scottish people that this Administration will invest in.

16:12

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I rise to sum up this debate on the motion of no confidence in Alex Neil, the Cabinet Secretary for Health and Wellbeing, with a measure of sadness, but also a measure of anger. Sadness, because I believe that, if the cabinet secretary had admitted his error in wrongly using his new position as cabinet secretary to instruct a health board, against its wishes, the wishes of its stakeholders, the wishes of the previous cabinet secretary and the wishes of the Minister for Public Health, but in the interests of his own opinion as a constituency MSP, and if he had apologised and withdrawn his instructions—I stress the word instructions—to NHS Lanarkshire, this motion would probably not be necessary.

The First Minister: Will the member give way?

Dr Simpson: I was refused by every speaker I asked to give way. No one took an intervention from me, but I will take one from the First Minister.

The First Minister: I want to make this intervention because of the spirit in which Dr Simpson has started his remarks. He disagreed with me when I said at First Minister's questions that this information was in the public domain. I have now read out that information, including the sentence in which the cabinet secretary said that he was clear in his view that it would be best if the service could be retained in the three hospitals. Now that Dr Simpson knows that that was in the public domain—he must know, and I have put it on record—will he withdraw that accusation and, therefore, go ahead on a reasonable basis?

The Presiding Officer: I will compensate you at the end of your speech for the length of that intervention, Dr Simpson.

Dr Simpson: Thank you, Presiding Officer. If that is the sort of intervention I am going to get, I do not think that I will take any more.

The First Minister and Bob Doris asked why the motion of no confidence has been lodged now, rather than at the time of the offence or when the

initial emails were available. The reason is that it took us 15 months and a Scottish Information Commissioner decision against the Government to get information released. It was the additional information that led us to take this action.

What were the actions that the Government fought so long and so hard to conceal? First, Lanarkshire NHS Board undertook a robust, inclusive, exhaustive consultation. If the Government was not satisfied with the consultation, why did it approve the results? The decision was about modernising mental health services. The board scored four options for change, and the best-scoring and highest-ranked option, which was supported by the patient groups, the clinicians and management, was approved by Nicola Sturgeon, when she was cabinet secretary.

The announcement from the board should have occurred at the August board meeting, but it was delayed until September, to enable Alex Neil, the local MSP, to return from holiday and comment on it, and so that a number of additional new services that would come to Monklands could be announced at the same time as the closure of the substandard, asbestos-ridden wards was announced.

That was not to be, because on 5 September Mr Neil was appointed cabinet secretary. He did not immediately recuse himself from the issue, which necessarily involved his constituency directly. That in itself is not an offence. Alex Neil was perfectly entitled, as the new cabinet secretary, to call anything in for review. However, at 9.43 am on 26 September, an email was sent to Lanarkshire NHS Board, which was keen to confirm the previously agreed decision on the mental health service. The email said:

"Mr Neil has seen and noted both and is clear in his view that the acute mental health facilities should be retained in both Wishaw and Monklands (with a unit also at Hairmyres to serve south Lanarkshire). The cabinet secretary has asked that you seek agreement from NHS Lanarkshire to reconfigure their plans accordingly".

That was not a request for a review or a consultation. It was not a calling-in. It was an instruction from the cabinet secretary to keep the units open. Moreover, that instruction raised the fourth and worst option. That was a disservice to the people of Lanarkshire as a whole.

We believe that the cabinet secretary misled Parliament in his response to a parliamentary question from Richard Lyle, given on the same afternoon, because having issued that instruction in the morning, he said:

"I believe that"

the board

"is revising its original proposal".—[*Official Report*, 26 September 2012; c 11895.]

What did he mean by saying, "I believe"? He knew, because he had instructed the board to do so that morning.

The cabinet secretary then recused himself, appropriately—but not when he should have done. However, he had already copied Michael Matheson into his instructions. A deputy minister tends to follow his boss's suggestions; when there is an instruction, the deputy minister certainly follows it.

If Alex Neil had apologised for issuing the instruction privately in the morning and for saying something that we believe misled Parliament in the afternoon, and if he had withdrawn his instruction, I am fairly certain that the Parliament would have been generous. However, even after recusing himself, the cabinet secretary continued to be copied into emails on the issue and to write to the local member of Parliament, Pamela Nash, on the issue. Indeed, in an email from a civil servant, he was referred to as having to sign off on the issue. Therefore, there was continued involvement of the cabinet secretary, even after he had recused himself.

I said that I was both sad and angry, and I have explained why I am sad. I share the anger of the stakeholders, who were appalled at the outcome of the cavalier decision that the cabinet secretary dictated. I quote from comments that Lanarkshire Links received from some of the 800 members of the organisation who were involved in the consultation.

"That we are not important and it doesn't matter what we say we are not listened to".

"Very Angry".

"I feel my time and effort is as valuable as Mr. Neil's. We have put a lot of input into this consultation only to be let down again."

"Angry and hurt".

"After 2 years of consultation and hard work, it has all been turned around and back to square one, so it has been all this work for nothing. Why should you change things that people have already decided on?"

This is not about the cabinet secretary's performance, as Bob Doris would have people believe that we are suggesting. We have actually worked well with the cabinet secretary since his appointment. This is about a bad decision that was badly made in what was a clear failure to separate personal interest as a constituency MSP from his role as a minister. It was, I regret to say, an abuse of power that was compounded by his misinforming the Parliament, his continued involvement and his then preventing the release of the emails—it required the information commissioner to release them. The cabinet

secretary must, therefore, see that his position is untenable. He should do the decent thing now and resign.

MSPs, irrespective of their party, have a duty and responsibility to uphold the integrity of the Parliament. I hope that, when it comes to the vote at 5.45 tonight, members will reflect on that.

Courts Reform (Scotland) Bill: Stage 1

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-10090, in the name of Roseanna Cunningham, on the Courts Reform (Scotland) Bill. I will allow a few moments for people to change their seats.

The Deputy Presiding Officer (Elaine Smith): I call Kenny MacAskill to speak to and move the motion in the name of Roseanna Cunningham. Cabinet secretary, you have a maximum of 10 minutes but less would be better, if that is possible.

16:22

The Cabinet Secretary for Justice (Kenny MacAskill): I am delighted to open this stage 1 debate on the Courts Reform (Scotland) Bill. I record my thanks to the Justice Committee for its consideration of the bill and my thanks to the many stakeholders who have contributed to the process.

It was back in 2007 when my predecessor, Cathy Jamieson, asked Lord Gill to undertake a review of civil justice. Lord Gill and his review team undertook an extremely comprehensive and thorough review over a period of two years, receiving more than 200 consultation responses. The review reported in 2009, making more than 200 recommendations to improve what it described as the “slow, inefficient and expensive” Scottish civil justice system. The bill takes on the majority of Lord Gill’s recommendations and will put in place reforms that he recently described as being “50 years overdue”.

The main principles of the bill are that the right cases should be heard in the right courts, that unnecessary delays and disproportionate costs to users should be minimised and that the efficiency of the courts should be increased. I am pleased that the committee welcomed the general principles of the bill and broadly agrees with many of the proposals, including those on the creation of summary sheriffs, simple procedure and increased specialisation, and that the exclusive competence of the sheriff court should be increased significantly in order to deliver the reforms.

The vision is that personal injury cases, for example, will be dealt with in a new national specialist personal injury court by specialist sheriffs, with procedures that facilitate swift and appropriate settlement at a more proportionate cost to litigants. Personal injury litigants will continue to be able to raise their claims in their local sheriff court if that meets their needs. There will also be a renewed focus on specialists at the

shrieval level, and the Lord President will be able to designate areas such as family law, commercial law and personal injury cases as specialisms.

I turn to the exclusive competence of the sheriff court, in relation to which there have been calls for a lower threshold than £150,000. We will consider all views, although we believe that £150,000, which was the figure set by Lord Gill in his review, is the appropriate level. That is why we consulted on that figure and included it in the bill.

It is important to ensure that any new level that is set for cases raised in the sheriff court reflects the fact that, at present, too many low-value cases are being raised unnecessarily in the Court of Session. That results in increased costs for all parties involved and deters other types of litigation from being raised there. It is also important to ensure that the exclusive competence level allows a suitable amount of business to transfer to the new specialist personal injury court. On the attempts to lower the exclusive competence, the lower the level, the less chance we have of delivering more proportionate costs to litigants.

Lord Gill’s review chose the figure of £150,000 on the basis that, on average, the sum sued for at the beginning of a case is three times higher than the settlement figure at the end of a case. Those who advocate a lower limit of £20,000 to £50,000 base those figures on the sum settled, but that would be unworkable as the sum settled is not known at the beginning of a case, when a decision needs to be taken on which court it is to be raised in. Sheriff Principal Taylor stated to the Justice Committee that a limit of £50,000 would mean that cases of a value of around £17,000, on average, would continue to be heard in the Court of Session.

There are those who say that we will see a deluge of cases descending on sheriff courts, but that will simply not be the case. The personal injury court will be up and running to coincide with the increase in exclusive competence. Lord Gill told the Justice Committee:

“I am absolutely certain that the capacity exists in the sheriff courts to absorb all of the business, even with the closure of the outlying courts.”—[*Official Report, Justice Committee*, 22 April 2014; c 4541.]

Figures provided by the Scottish Court Service suggest that approximately 2,700 cases will transfer from the Court of Session. We should compare those figures with the caseload of 72,510 civil cases in the sheriff court in 2012-13, which is a decrease of around 10 per cent since 2011-12 and a decrease of 43 per cent—or more than 50,000 cases—since 2008-09. Despite that fall in cases in the sheriff court, the Court of Session caseload has remained relatively stable, with personal injury cases making up almost 80 per cent of all cases in the general department.

The vast majority of personal injury cases settle before they come to a court hearing. On personal injury cases, Lord Gill said:

“only a tiny fraction of the cases that are in the Court of Session ever get to proof. They are settled and dealt with administratively, and that is it ... If that is the situation, they can be dealt with equally well administratively in the sheriff court at much lower cost and where the infrastructure is also in place.”—[*Official Report, Justice Committee*, 22 April 2014; c 4536.]

We have heard some concerns that litigants would no longer be guaranteed automatic sanction for counsel in cases that are to be raised in the new personal injury court. Under the bill, complex cases can be remitted to the Court of Session, where sanction for counsel is automatic. In my experience, asbestos cases are often very complex, so we would expect those cases to be remitted to the Court of Session. However, as Sheriff Principal Taylor said to the committee, even if those cases were not remitted to the Court of Session, they would almost certainly merit sanction for counsel.

Duncan McNeil (Greenock and Inverclyde) (Lab): The cabinet secretary mentioned asbestos cases. Over the years, he and others in the Parliament have done a lot of work for asbestos victims and their families. What extra measures will he take to ensure that their interests are not diminished in the face of the power of the insurance industry and the money that it will spend to defend cases?

Kenny MacAskill: That is a fair point. It is important to put on record that the whole purpose of Lord Gill's review is to ensure that we get access to justice because the system is “slow, inefficient and expensive”. I have narrated that, but it is also important to mention Sheriff Principal Taylor's additional point, because it is not simply about complex cases, such as asbestos cases, going to the Court of Session. Sheriff Principal Taylor made it quite clear—and we will respond to this point in due course—that sanction for counsel applies on the basis of not just the length of a case or its complexity, but equality of arms.

If an insurance company or another party to the action turns up with Queen's counsel or an advocate, parity will be important—indeed, in fairness, equality of arms indicates that there should be parity. That means, I think, that Sheriff Principal Taylor is looking at an extension—not simply the length and complexity of a case but equality of arms. I hope that those points reassure Mr McNeil, who makes a valuable point that is echoed by Clydeside Action on Asbestos, which, as everyone in the chamber knows, does an outstanding job.

I expect to announce the Scottish Government's response to Sheriff Principal Taylor's review

before stage 2 of the Courts Reform (Scotland) Bill. I have commented on this already, but the review recommends that the sheriff should be able to ensure that no party gains an undue advantage by virtue of the resources that are available to them. Sheriff Principal Taylor also told the Justice Committee that it is very rare for sanction for counsel to be refused in the sheriff court.

In addition, we have agreed to lodge amendments to the bill to ensure that the test for remitting cases from the sheriff court to the Court of Session—where sanction for counsel is automatic—is not too strict.

In relation to workplace injuries, under section 69 of the Enterprise and Regulatory Reform Act 2013—a reserved piece of legislation—the strict liability of employers for workplace accidents is removed. The Scottish Trades Union Congress argues that that will make it harder to bring workplace injury cases. I have had discussions with the STUC and we are considering what, if anything, we can do to mitigate the effects of that change, which has been brought about by the Government in Westminster.

We have taken stakeholders' views and we are actively considering the Justice Committee's report. I am happy to continue engaging in discussions with Clydeside Action on Asbestos, the STUC and others and to reflect on views as the bill progresses. However, we cannot undermine the fundamental principle of the bill, which is to deliver efficient and affordable civil justice, as Lord Gill intended.

Lord Gill has stated that the system is ready; that litigants will benefit from the reforms; and that the reforms are long overdue. The bill will ensure that our civil justice system becomes more accessible, affordable and efficient.

I move,

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

The Deputy Presiding Officer: Thank you. I advise members that we are very tight for time. I call Christine Grahame to speak on behalf of the Justice Committee. You have a maximum of seven minutes.

16:32

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I welcome the opportunity to speak on behalf of the Justice Committee on this significant and complex bill, which, thankfully, has been without huge controversy.

As the cabinet secretary said, the bill broadly implements recommendations from Lord Gill's Scottish civil courts review. I thank those who

provided written and oral evidence to the committee on the bill. We received 71 written responses and six supplementary submissions, and heard evidence over five meetings. I also thank the Finance Committee and the Delegated Powers and Law Reform Committee for their reports, and finally I thank team Justice Committee, because of all that we have been through together. To be frank, with the prospect of stage 2 of the Criminal Justice (Scotland) Bill and the bill that we are discussing today, we would have been on our knees. We even got out yesterday—for a change—to visit the High Court and the Court of Session, which made tangible some of the proposals in the bill. It was a very interesting day, but I do not think that we will have many more visits.

The committee welcomes the general principles of the bill. From the evidence that we heard, there is no doubt that court reform is long overdue. However, in certain areas we remain to be convinced that some of the measures will achieve what they set out to achieve. That is us doing our job, in my book. I will highlight—if I have time—four key areas of the bill about which the committee has specific comments to make.

The first area is the privative jurisdiction of the sheriff court. The bill proposes to increase the sheriff court monetary threshold from £5,000 to £150,000, following the Gill review. Much of the evidence that we heard supported the principle of raising the threshold, but many witnesses said that £150,000 is a bit too high. The committee noted that the courts in Northern Ireland hear cases with values of up to £30,000, while in England and Wales cases cannot be raised in the High Court unless they have a value of £25,000 or more. In evidence, some witnesses argued for a staged increase, with figures of £30,000 and £50,000 being suggested. However, Lord Gill made clear to the committee his view that £150,000 is an appropriate limit.

The committee supports the proposal to increase the privative jurisdiction of the sheriff court but considers that the leap to £150,000 may be too great. We do not support staged increases, but we have recommended that the Scottish Government considers introducing a lower limit.

We also heard evidence on the impact of a higher monetary threshold on access to counsel. The Faculty of Advocates expressed concern—we would expect that—about the impact that that would have on the bar. Some junior members of the faculty highlighted that the work that would be transferred out of the Court of Session would be work that has traditionally been undertaken by junior members of the bar. The concern was that they might then decide to look for other work,

thereby draining the profession of talent—they were speaking up for their profession, quite rightly.

Sheriff Principal Taylor recommended that the existing test for sanction, which the cabinet secretary referred to, should be expanded to include a general test of reasonableness and the need to have regard to the resources deployed by the other party to the case, which is the issue that Duncan McNeil raised and which is known as the equality of arms factor. The committee thought that the recommendation made sense, so we recommended that the Government lodge an amendment at stage 2 to introduce that new test.

We certainly agree with the remit of cases between courts. There was general support for the proposal in the bill to ensure that cases are heard at the appropriate level.

The bill introduces a new test—that of exceptional circumstances—for allowing the Court of Session to take into account its business and operational needs before a case is remitted. We heard concerns from witnesses about that. For example, the Faculty of Advocates suggested that the test was “far too restrictive”, and the Forum of Insurance Lawyers argued that

“discriminating between cases on the grounds of ‘operational needs’ may not achieve the stated aim of justice”

as that could lead

“to lack of consistency in the way in which similar cases are dealt with.”

Significantly, Lord Gill raised concerns about the appropriateness of a court refusing a remitted case because of

“business and other operational needs”.

He suggested that that test might breach the European convention on human rights. The minister subsequently advised that she had reflected on those concerns and would consider the level of the test, with a view to lodging an amendment at stage 2. We welcome that.

In general, the committee considered that a test for the remitting of cases is a necessary safeguard to ensure that the most complex and serious of cases can be heard in the most appropriate court with the most appropriate level of legal representation.

To reduce the pressure on sheriff courts, the Gill review recommended the creation of a specialist personal injury court that would be based at Edinburgh sheriff court. The review

“expected that personal injury claimants would still have the right to sue in any sheriff court with jurisdiction.”

The bill makes provision for the Scottish ministers to give effect to that recommendation through secondary legislation. It allows for

“the establishment of a specialist personal injury court in Edinburgh and/or other locations, and for other types of specialist court to be created”,

such as a commercial court. The policy memorandum envisages that two specialist sheriffs would be required to staff the new court, and in evidence there was widespread support for the creation of a personal injury court. However, concerns were raised about the capacity of the new court by the Educational Institute of Scotland, the Law Society and the Faculty of Advocates, among others.

Having noted the concerns of witnesses, we recommended that the court be established before the new level of privative jurisdiction is introduced so that it is fully equipped with electronic and administrative systems to ensure that it can work effectively from day 1.

I move quickly on to appeals, on which the committee made an important point. The bill provides for a nationwide sheriff appeal court to sit as a bench of one. It also allows appeals to be heard either by sheriffs principal or by sheriffs of five years' standing, who would sit as appeal sheriffs. Their judgments would be binding across Scotland.

Those provisions differ slightly from those in the Gill review, which considered that the sheriff appeal court should sit as a bench of three, with at least one being a sheriff principal. In evidence, Lord Gill accepted that the Scottish Government had reached a different view. When pressed, he confirmed that his personal view would be to have at least one sheriff principal sitting, even when the court considered procedural matters. The committee welcomed the establishment of the sheriff appeal court, with decisions that would be binding on sheriffs and justices of the peace across Scotland. However, we considered that all appeals should be heard by sheriffs principal rather than sheriffs.

Yesterday, when the committee had the opportunity to get a breath of fresh air by going to visit the Court of Session and the High Court, we visited the Judicial Institute for Scotland's learning suite, where judges go through continual training. We found the visit useful in considering whether we will have specialist sheriffs in future. Incredible as it might be for members to believe, I found that I have lost touch—in courts nowadays, a great deal is made of electronic devices, with screens showing appeals coming in from elsewhere. All that will ease pressure on the courts, which brings my point within the context of the Courts Reform (Scotland) Bill—I had to get our wee visit in. The

committee supports the general principles of the bill.

16:39

Elaine Murray (Dumfriesshire) (Lab): On behalf of the Labour members of the Justice Committee, I thank the clerks, and all the witnesses who gave evidence to the committee.

I assure the Scottish Government that Labour agrees that the Scottish court system requires reform. As the cabinet secretary said, it was Cathy Jamieson, when she was Minister for Justice, who instigated Lord Gill's review. Constituents and their solicitors tell us about their frustrations, as cases such as those concerning family law, debt, eviction or antisocial behaviour take months to come to court and then are not taken on the expected date because the courts are too busy and criminal cases take precedence over civil cases. Those pressures are exacerbated in some cases by the influx of business from nearby courts that have recently been closed. We agree that action needs to be taken.

We support the creation of the post of summary sheriff to hear civil cases of under £5,000 in value, and summary criminal cases, enabling more experienced sheriffs to deal with more complex cases and relieving some of the congestion in the system. However, it will take 10 years for the complement of 60 sheriffs to be appointed, as it is suggested that, other than stipendiary magistrates, who will probably transfer across, appointment will be made only when an existing sheriff retires.

Liam McArthur (Orkney Islands) (LD): Could the member advise whether the committee sought views on the concerns that have been raised, certainly in my constituency, about the removal of honorary sheriffs and the impact that that may have on access to justice?

Elaine Murray: That was part of the committee's report—we considered that issue.

Christine Grahame: It was in my speech but I had to cut it out because my time was cut.

Elaine Murray: Congestion in the sheriff courts is likely therefore to persist for some time. We are concerned that if the requirement for corroboration is abolished, as the Scottish Government intends, more cases are likely to come to the sheriff court and exert even more pressure on an already creaking system.

The bill replaces summary cause and small claims procedures by one simple procedure for cases under the value of £5,000. We support that. However, we do not consider simple procedure to be appropriate for certain categories of cases, even if their value is less than £5,000, such as

personal injury cases and some domestic abuse cases.

In part 2, the bill sets out provisions for a new appeal process. It establishes a new sheriff appeal court to hear summary criminal appeals and civil appeals from the sheriff court. While Scottish Labour supports the creation of the new appeal court, we share witnesses' concerns about the estimate that 95 per cent of cases will be heard by a bench of one, rather than three as proposed by Lord Gill. That would mean that in 19 out of 20 cases, a single sheriff would make nationally binding decisions that could determine case law in Scotland.

We also share witnesses' concerns about a number of other issues. First, we are concerned about the effect of section 39, which raises the exclusive competence of the sheriff courts by 3,000 per cent, from £5,000 to £150,000. Cases brought to the Court of Session automatically have the right to counsel—that is, to employ an advocate—while cases brought to the sheriff courts do not, and counsel must be applied for. The Scottish Government estimated that that limit will result in 57 per cent of cases that currently go to the Court of Session going to the sheriff courts, leaving the Court of Session with 2,000 cases.

However, three quarters of the cases going to the Court of Session are personal injury cases. The Court of Session hears around a third of all personal injury cases in Scotland. The Association of Personal Injury Lawyers estimates that, as a result of the £150,000 exclusive competence, 96 per cent of personal injury cases would go to the sheriff courts, representing a significant reduction in the business of the Court of Session and additional strain on the sheriff courts, despite the creation of a specialist court.

We believe that the £150,000 limit is too high in relation to average incomes in Scotland, where the average male full-time annual income is £29,300 and the average female income is £23,600.

Claims for loss of future income, due to an accident at work for example, are unlikely to be for five or six times the annual salary, so a case brought by an employee relating to loss of income is unlikely to go to the Court of Session and have the automatic right to counsel. Moreover, if an advocate is employed, the worker runs the risk of having to pay additional expenses out of any award that they receive.

The high figure for privative jurisdiction compounds the problems that are already caused by section 69 of the Enterprise and Regulatory Reform Act 2013, which removes employer liability for a breach of health and safety regulations. The employer, however, or their insurance company, is far more likely to be able to employ the services of

an advocate or QC. The loss of automatic right to counsel could result in inequality in representation and discrimination against the employee. Amendment to the legislation is necessary to guarantee equal access to representation. We suggest that exclusive competence in the sheriff court in Scotland should be set at a level similar to that in Northern Ireland or possibly England.

We are concerned about the resources that are to be allocated to the reforms. The bill introduces a specialist personal injury sheriff court, which we support, but only two sheriffs will be allocated to that court, which is likely to sit in Edinburgh sheriff court. We question whether that will be sufficient, given the number of cases that are likely to be transferred.

The implications for commercial cases have not been adequately considered. Currently, cases with a value of £5,000 and over can be taken in the commercial court in the Court of Session. The bill does not establish a specialist commercial sheriff court, so cases whose value is less than £150,000 will be taken in the local sheriff court. Some places might have a specialist commercial sheriff, but many will not. That is likely to disadvantage rural areas such as mine.

We have serious concerns about the financial memorandum's accuracy on the estimated fee income, the savings to the Scottish Legal Aid Board and the savings in judicial salaries. My colleague Malcolm Chisholm, who sits on the Finance Committee and has taken evidence on the financial memorandum, will give more detail on those concerns. The Government is introducing important reforms without having identified the funding to support them.

It is disappointing that the Scottish Government's response to Sheriff Principal James Taylor's "Review of Expenses and Funding of Civil Litigation in Scotland" was not published before stage 1. There are overlaps between the recommendations in that review and the bill, and it would have been helpful to know whether and how the Government intends to take some of the measures forward. I hear that the response is to be issued before stage 2 but, to be frank, that is too late—we should have had it before stage 1.

We will support the bill at stage 1, although we hope that it will be amended and we consider that the financial memorandum needs to be revisited.

16:46

Margaret Mitchell (Central Scotland) (Con):

The bill represents years of endeavour by the Scottish civil courts review, which Lord President Gill led, and will implement overdue reforms to Scotland's civil courts. Crucially, it is intended to improve access to justice and the court system's

efficiency and effectiveness. As such, the Scottish Conservatives will support the bill's general principles, but the criterion of improving access to justice is the key measure by which the bill's provisions must be assessed.

To start with the positives, the creation of the new judicial appointment of summary sheriff is good news, as are the proposals to increase sheriff specialisation and to create the new simple procedure.

In relation to judicial review, the three-month time limit and the introduction of a permission stage with the section 85 test of a real prospect of success were the subject of conflicting evidence. Those provisions could reduce access to justice, so the Government and the committee need to revisit the issue, to ensure that the bill adequately balances the importance of judicial review as a remedy for individuals and community groups with the need to ensure that it is not misused.

The bill's sheriff appeal court provisions radically depart from the Gill review's recommendation by proposing that the majority of cases before that court should be heard by a single sheriff, instead of a sheriff principal or, when appropriate, a bench of three sheriffs principal. As a consequence, appeals would merely substitute one sheriff's opinion for that of another. Worse still, the appeal sheriff—who might or might not be a senior sheriff—would in effect be writing the law for the whole of Scotland.

The financial memorandum clearly states that, if a significant number of appeal cases required a bench of three, that would have an impact on the costs associated with appeals. It would be a grave mistake for the Scottish Government to depart from the Gill recommendations merely to save money.

The proposal to raise the threshold below which most actions must be raised in the sheriff court from £5,000 to a staggering £150,000 is the most contentious. The Government has now indicated that it is open to considering a lower threshold and it is worth assessing why that change of view is welcome and necessary.

The current threshold needs to be revised to ensure that low-value cases are not routinely heard in the Court of Session, but the bill's £150,000 threshold would result in the transfer of thousands of cases to the sheriff court at a time when 10 courts are closing. That is unsustainable, especially given the evidence that some of our courts are already suffering unacceptable delays.

Only last week, it was reported that cases in Hamilton justice of the peace court, which has absorbed business from the closed Motherwell court, are suffering a nine-month delay and that fiscals are so pressured and underresourced that

they do not have time to speak to defence agents at intermediate diets. Consequently, numerous cases are unnecessarily proceeding to trial. In addition, East Lothian faculty of procurators has highlighted delays at Edinburgh JP court, where trials are being set down for as late as March 2015. Access to justice is self-evidently not being served. In those circumstances, approving the transfer of thousands of cases more to the sheriff court would be an act of absolute folly.

The threshold would also compromise access to justice, particularly for victims of complex but less costly personal injury cases, as the bill makes no provision for individuals to employ counsel regardless of the fact that their opponents can and will employ counsel. As a result of that inequality, the number of cases that settle will decrease if business is transferred to the sheriff court, and costs are likely to increase as more civil business proceeds to trial.

Astoundingly, the evidence relied upon to propose the £150,000 limit was weak, being anecdotal rather than empirical. The Scottish Government has not produced any further evidence to support the contention that such a massive increase is in the interests of justice.

Therefore, it is not surprising that the Justice Committee and Finance Committee questioned the robustness of the financial memorandum, especially as it asserts that the bill can be implemented with no new resources. That is simply not credible, which is why the Scottish Conservatives will vote against the financial memorandum.

In light of those concerns, a further evidence-taking session on the effect of court closures, the bill's proposals and resources should be held with those at the coalface, namely the Crown and Scottish Court Service staff.

Although Eric McQueen, chief executive of the Scottish Court Service, assured the committee that everything would be fine because sheriff courts were running 2,500 fewer sitting days a year compared to four years ago, he failed to mention that the court closures that are currently going through will result in the loss of nearly 2,000 sitting days. The Government has now accepted that further court closures need the approval of the Parliament, rather than only committee scrutiny so, surely, if our justice system is to be able to cope with the changes that the bill introduces, the Parliament must now be given the chance to vote on the court closures that were forced through last year.

The Deputy Presiding Officer: We turn to the open debate. We are very tight for time. Speeches will be a maximum of four minutes.

16:52

Christian Allard (North East Scotland) (SNP):

This is an important debate and I wish that we had more time for it.

Yesterday, as the convener said, the committee went up town for a breath of fresh air. Our visit to the Court of Session was a breath of fresh air and I was very impressed. I take the opportunity to thank the Lord President, Lord Gill; the chairman of the Judicial Institute for Scotland, Lord Malcolm; Sheriff Welsh and Sheriff Duff for their welcome. It was a privilege to see the high-quality training environment that now exists for our judges. The Judicial Institute is fit for the 21st century, with training that uses new technologies and facilitates collaborative learning. I was really impressed to hear and see the judicial system reforming itself and reflecting the aspirations of the Scottish people in a modern Scotland.

The Courts Reform (Scotland) Bill was introduced to respond to the same aspirations. The bill seeks to implement the recommendations of the review led by Lord Gill. The tone of the review's conclusions was strong:

"Scottish civil courts provide a service to the public that is slow, inefficient and expensive."

It also said:

"The court system has to be reformed both structurally and functionally."

Committee members agreed with most of the bill and supported its general principles. On page 30 of our report, we stated:

"On balance, we consider that the proposed increase in the privative jurisdiction of the sheriff court from £5,000 to £150,000 may be too great a leap."

Let me repeat that statement: £150,000 may be too great a leap. I was the one in the committee who was not convinced that £150,000 was too great a leap. That is why paragraph 144 starts with the words "On balance" and why we thought of qualifying the first sentence with the words "may be".

On 22 April, Sheriff Principal Taylor came to the committee and made his point very clear. He said that those who have an axe to grind would have us depart from the bill in a number of areas. One such area is that of the sheriff court having a privative jurisdiction of £150,000.

Sheriff Principal Taylor, the Lord President, Citizens Advice Scotland and the consumer champion Which? all said that £150,000 is appropriate, and I seek an assurance from the Scottish Government that all views will be considered.

Let me be clear: we heard a lot of talk of data and percentages to justify reducing the proposed

threshold when we took evidence, but Sheriff Principal Taylor answered the concerns from the outset. He told the committee:

"When we selected that figure, my approach was not to consider what percentage of cases should be moved from the Court of Session to the sheriff court; my starting point was to settle on a figure for cases that I consider to be appropriate for determination by a sheriff."

More important, the sheriff principal concluded with the following statement:

"It is a judgment call."—[*Official Report, Justice Committee, 22 April 2014; c 4516.*]

A judgment call—one that I can understand. Members might recall how I spoke in another debate about the Scottish legal system's difficulty in accepting far-reaching reforms.

I agreed with Lord Gill when he said that the present limit is utterly ridiculous, and I might add that it should have been increased a long time ago. Citizen Advice Scotland's briefing could not be clearer when it states:

"Reducing the limit from the £150,000 limit proposed could, in practice, undermine many of the proposed reforms to court structure and specialisation."

Here we are. The question remains: is £150,000 too great a leap? I do not think so, which is why I ask the Scottish Government and the minister to consider all views on the matter. Scotland's civil courts system must be replaced with one that is more effective and efficient, and I am delighted that all members of the Justice Committee support the general principles of the bill.

The Deputy Presiding Officer: Thank you very much. I am afraid that every second counts in the debate. Graeme Pearson, you have four minutes.

16:56

Graeme Pearson (South Scotland) (Lab):

Thank you for allowing me to contribute this afternoon, Presiding Officer.

I am pleased that section 69 of the Enterprise and Regulatory Reform Act 2013 has been mentioned on at least two occasions this afternoon. The onerous responsibilities placed on litigants in pursuing cases when they have been injured at work set a context for some of the concerns that have been expressed this afternoon, in terms of the changes proposed in the bill.

First and foremost, like the cabinet secretary I believe that reform of the courts is overdue. The Scottish Labour Party supports the principles that lie behind the bill.

Trade unions and many witnesses offered evidence that the bill's proposals overlook the likelihood of an inequality of arms in relation to proofs heard in civil cases and personal injury

cases at the Sheriff Court, where the bill's criteria on privative jurisdiction prevent parties from accessing an advocate's services in cases that fall short of the £150,000.

I am pleased that the cabinet secretary has indicated that he is examining that approach and seemed, in his speech, to offer confirmation that no such inequality will occur after the act comes into force. It would be useful if the minister could confirm that when she sums up.

There is a recognition that there are complexities in the bill regarding decisions on where a case may be heard. What is absent is an acknowledgement that sums of much less than £150,000 can have a life-changing impact on many working families, who rely on an outcome from the court to give them some form of confidence in the future. In many cases, they would seek an advocate to represent their views. Organisations such as Which? suggested a much lower figure than £150,000, and it is obvious that flexibility to the approach at stage 2 will be essential.

Christine Grahame: Will the member take an intervention?

Graeme Pearson: I am sorry—I am out of time.

The advocate's role in the process is important. The dean of the Faculty of Advocates raised an important issue about the forensic skills that junior advocates develop to analyse, understand and assess multifaceted and complicated facts. That cases are settled without a hearing is due to the skills that advocates demonstrate when they present facts prior to the court case. Anything that reduces advocates' opportunities to develop those skills is not a development that one would look forward to.

I must comment on the committee's consideration of issues raised in connection with this nation's responsibilities, in terms of the Aarhus convention. Its sympathetic call for the introduction of an environmental tribunal for Scotland would be welcomed by constituents throughout the south of Scotland in particular. Dr Rachel Connor, for example, has tried hard to obtain information from a range of public authorities on the environmental impacts affecting her home and the homes of many others in the community that she is representing. That is only one example of the need for such a tribunal to decide on such matters.

In conclusion, I am supportive of the work that the committee has done. As usual, I am astounded at the patience with which it has followed through on such matters.

The Deputy Presiding Officer: Thank you. I am afraid that if members go over time by a few

seconds, we will lose some members from the debate.

17:00

Roderick Campbell (North East Fife) (SNP): I refer members to my entry in the register of interests as a member of the Faculty of Advocates.

There is, as the convener of the Justice Committee suggested, no disagreement about the greater part of the bill. We need a court system that is fit for purpose, given that, as the court review concluded in 2007, the current system is "slow, inefficient and expensive". Some of the proposed changes, such as sheriff specialisms and the introduction of summary sheriffs, carry wide support. The facility to hear generally routine matters at an appropriate level, and the freeing up of sheriffs from the less serious criminal workload seems to be sensible.

It is proposed that summary sheriffs would take up to 10 years to be fully established, and we heard evidence that they would offer flexibility. I am sure that there would be variation throughout Scotland in how they would operate, particularly in more remote areas.

The use of technology provides opportunities to reduce expense and the time that is spent on the court process substantially, and must be at the forefront of any court reform, together with procedural rule changes that encourage case management.

Although more work will be passed to summary sheriffs, sheriff courts will, in turn, receive work that is currently heard in the Court of Session. I was struck, however, by the agreement that that could not be delivered by sheriff courts operating as they do at present. Across the board, from the Lord President down, we heard concerns about the expense and inefficiency that comes not only from criminal work taking precedence in sheriff courts, but from the routine frustration of civil cases being heard over many diets and not being resolved at one sitting. Some of the concerns that were expressed on a change in the privative jurisdiction seemed to be based on that experience.

With regard to the proposed specialist personal injury court, my impression is that it would be welcomed—provided that it was properly resourced. It would need to replicate the best features of the current chapter 43 procedure in the Court of Session. If it could do so more economically than it, so much the better.

The committee was right to express its reservations on the proposed change to the privative jurisdiction. In particular, on the proposed

change for non-personal injury cases, paragraph 98 of the financial memorandum suggests that the savings to the public purse will be “marginal”. We also have no information on the geographic spread of approximately 700 cases that will be transferred to the sheriff court on that basis; that matter is not specifically dealt with in the Gill review.

By common consent, the commercial procedure in the Court of Session works well. Sheriff Principal Taylor made the point in evidence that Glasgow sheriff court deals competently with commercial cases whose value exceeds £150,000. I am sure that that is true, but the proposed changes will not affect that. What they will do, in the absence of a national commercial court like the proposed specialist PI court, is prevent people in Wick or Stranraer with cases of a monetary value of less than £150,000 from having the option of having their case heard in Edinburgh, unless it is deemed to fall under the conditions of the test for remit. I am pleased by the Government’s comments on remit. In addition, as the Lord President said in oral evidence, some oversight by the court of session of decisions on remit might be not inappropriate.

With regard to the sheriff appeal court, the committee’s report says it all. On judicial review, the bill proposes quite substantial changes, and it is certainly sensible to have some time limit for bringing a petition, even if many of our witnesses thought that three months was too short. We should bear in mind that judicial review is comparatively rare, particularly outside immigration and asylum cases, so at any preliminary hearing for leave to bring a petition, the test should not be set too narrowly.

Finally, the elephant in the room is the question of sanction for counsel. I accept the need to curb disproportionate costs, and I welcome Sheriff Taylor’s proposed revised test. I heard the cabinet secretary’s comments to the committee on the history of the Faculty of Advocate’s comments on previous reforms, and I understand and largely share his view. Nevertheless I remain concerned that current proposals may well be to the detriment of the junior bar. The net result may simply be to encourage the already substantial growth of larger firms of solicitors at the expense of the bar, which may not necessarily represent best value for court users in the long term.

17:04

Alison McInnes (North East Scotland) (LD): Following Lord Gill’s review of the civil courts, he described the existing system as

“failing to deliver justice ... expeditiously, economically or efficiently.”

Scottish Liberal Democrats agree with many of his recommendations, which compel Parliament to modernise Scotland’s court structures and procedures, and to equip them to better respond to the demands that are placed on them. However, in the few minutes that are available, I will focus on just some of the issues that the substantial package of reforms has inevitably presented.

One of the most contentious issues is that of the proposed jurisdictions of the Court of Session and the sheriff court. There now appears to be a consensus that increasing the private jurisdiction of the sheriff courts to £150,000 would set the bar far too high. Although transferring some business from the Court of Session is not objectionable, that would be too significant a leap from the existing £5,000 threshold and would be considerably higher than the equivalent limits elsewhere in the United Kingdom. The evidence that informed the revised jurisdiction was scant, and the Scottish Parliament information centre said that even what evidence there is should be “treated with care”.

Furthermore, organisations from Unison to the Faculty of Advocates are worried that the proposed shift in business will remove the right of many litigants to be routinely represented by counsel, which would have implications not only for access to justice but for the possibility of attaining early and efficient settlement of cases. I am therefore grateful to the minister for indicating that she is open to considering a lower limit at stage 2.

During our stage 1 deliberations, I also queried the appropriateness of sections 88(4) to 88(6), which contain three tests to help to establish whether to remit a case to the Court of Session. I am pleased that Lord Gill subsequently agreed that the tests were “too high” and

“almost certainly ... in breach of the European Convention on Human Rights.”

Again, I appreciate the minister’s commitment to heed that advice and to lodge amendments on that at stage 2.

I suggest that we must also return to other issues, including the need to ensure that sheriff specialisation is properly developed in rural areas, and whether the limit for bringing applications for judicial review is overly restrictive, particularly in the light of the fact that the Scottish Government has confirmed its understanding that the time limit will supersede the time limits in the Scotland Act 1998 and the Human Rights Act 1998, so that judicial reviews on human rights grounds will have to be brought within three months, rather than within the current time limit of one year.

The committee, along with my colleagues Liam McArthur and Tavish Scott, is concerned about the impact that the abolition of honorary sheriffs, who

are crucial in the absence of a resident sheriff, could have on island and remote communities. We believe that robust alternatives must be established to prevent the further erosion of locally delivered justice.

It would be remiss not to note that more local courts will shortly close. Courts in 10 towns have already shut and those in Stonehaven, Arbroath and Cupar will follow next Friday. Whether the remaining courts, such as Aberdeen, which is already close to capacity, will be able to cope with the increase in business that the bill could initiate, as well as the influx of business from the closure of their neighbours, remains to be seen.

Many of the recommendations of the Gill review are sound. There is broad consensus on the need to address the disproportionate cost of litigation, to increase specialisation among courts and judges, and to improve efficiency through adopting a case management approach to the conduct and disposal of court business. However, I share the concerns that the Finance Committee expressed in its report on the bill that the financial memorandum is at best incoherent and at worst sorely deficient. The committee's observations on the need to clarify how the purported costs and savings will be achieved—for example, on the specialist personal injury court and legal aid—must be heeded.

I am therefore disappointed that the Scottish Government has not provided an update, let alone a full response, to the Finance Committee's concerns prior to the debate. In the absence of that, Scottish Liberal Democrats will support the general principles of the bill, but we cannot endorse the financial memorandum, on the basis that it has not been shown to be sufficiently robust.

17:09

Sandra White (Glasgow Kelvin) (SNP): I thank the previous speakers for their comprehensive speeches. In fact, they were so comprehensive that they have left with me with very little to add, but I will do my best.

I have a personal interest in how the personal injury court will enable access to justice, particularly for Clydeside Action on Asbestos. Concerns have been raised with regard to access to counsel. In that respect, I welcome comments that were made by the minister Roseanna Cunningham, who has said:

"I want to say very clearly that in creating the new personal injury sheriff court, we are creating a venue where such cases will be able to be raised and dealt with more quickly and effectively by specialist sheriffs, using new personal injury procedures, and be heard at a more proportionate cost to the families concerned, due to lower lawyer fees. And where families are faced with more complex cases they will still be able to raise their cases in

the Court of Session and get access to counsel where this is appropriate."

I thank the minister for making that very important point, and I thank the cabinet secretary for reiterating it in his earlier remarks. It is important that we put those views on the record to ensure that people know what the personal injury court stands for.

My colleagues Christine Grahame and Christian Allard have already mentioned yesterday's visit to the Court of Session and the High Court in Edinburgh, and I thank the committee clerks for organising the visit and the courts for facilitating it. We saw modern technology in action—the television video links were very impressive—and the excellent work that everyone from judges to clerks is carrying out. Everyone works together; I believe that that is what modernisation is about. When we visited the Judicial Institute for Scotland learning suite, Lord Gill said that it is a first and made it clear that the way we are modernising the court system is much envied throughout the world. In fact, we are so forward thinking that the system is being replicated in Islamabad. We should be very proud of the fact that the Scottish courts system is at the forefront of this work.

Aside from the fact that all the other issues that I wanted to raise have been covered, I am making so much of the visit not only because it was impressive but because it showed us how we can modernise the courts. That is what the bill is all about. It is not just about access to justice for people, but about modernising the courts, which, as previous speakers have pointed out, is badly needed. Indeed, as Lord Gill has said, the system is 50 years behind the times.

Having never visited the courts before, I was very impressed by the work that they and, in particular, the judges carry out. The way we are modernising the system leads the world; if the approach is being replicated in Islamabad as well as in other countries, it must work—and it can work for the whole of Scotland's court system. I look forward to taking the proposals in the bill and the views of the committee to the rest of the Parliament, and I am sure that everyone will welcome the modernisation of the court system.

17:12

John Pentland (Motherwell and Wishaw) (Lab): There is general support for court reform. Yes, we want to modernise Scottish courts; yes, we want to make the system more efficient; and yes, we want it to be less expensive and more accessible to users. However, it is not the stated aims but the measures that are supposed to deliver them that require scrutiny. I am concerned that some of the bill's proposals appear to erode rather than strengthen users' rights. Of course,

that issue can be addressed at stage 2, and I hope that the Scottish Government will be consensual and accept Opposition amendments.

One of the main areas of dispute in the bill is the value of cases to be moved from the Court of Session to the sheriff court—a matter that was reviewed by Sheriff Principal Taylor. With regard to the proposal for the sheriff court to have a privative jurisdiction of £150,000, Sheriff Principal Taylor admitted that the figure was not chosen on the basis of the percentage of cases that would be moved from the Court of Session to the sheriff court; instead, he referred to it as “a judgment call”. In other words, it was simply what he considered to be appropriate for determination by a sheriff, and the highest amount that would be appropriate for the sheriff court. It was not chosen after consideration of the practical consequences for the functioning of courts.

Sheriff Principal Taylor also told the committee that, although the average sum that is sued for is more than £150,000, the average sum that the pursuer receives is less than a third of that. We can see from the figures the number of cases that would transfer and the pressure that that would put on the sheriff courts.

There are significant doubts about whether funding and resources are adequate to back up the proposals. If they are not, it could result in delays for those who use the courts system, and it could have other adverse impacts. I therefore call on the Scottish Government to give assurances that it will address that issue if the figures in its financial memorandum are shown to be overly optimistic.

We must also address inequality of arms. The restriction of litigants' access to counsel is a matter of widespread concern, and many people would be happier if the bill were amended to ensure that it will not introduce obstacles to achieving equality of arms. Trade unions and solicitors have argued that, particularly in personal injury cases, victims of every workplace injury and disease must be entitled to raise their actions at the specialist personal injury court and have the automatic right to access, or a presumption in favour of accessing, representation by counsel. There were also strong arguments that asbestos cases, although 95 per cent of them are worth less than £150,000, should be dealt with by the Court of Session, given their complexity. The complexity of cases is not necessarily driven by their value.

In conclusion, we need to ensure that litigants can still access representation by counsel when they need it, in order to prevent the balance tipping in favour of defending employers and insurers.

17:16

Nigel Don (Angus North and Mearns) (SNP): I feel that I am something of an interloper in this debate, as I was not on the Justice Committee through the process, but the subject is fascinating and I would like to make a few points, particularly from the perspective of the Delegated Powers and Law Reform Committee.

As I understand it, the bill talks specifically about a personal injury court, but not about other specialist courts; it merely facilitates them. The Delegated Powers and Law Reform Committee challenged whether that should be subject to consultation. The Government came back robustly and said no, that it feels that the court service should be able to establish its own specialist courts as it sees fit, and that it would do its own consultation. In retrospect and on reflection, that seems to me to be entirely appropriate.

I take on board Rod Campbell's earlier comment about the fact that there might be a commercial court in Glasgow, but remoter regions might struggle to get that kind of service. It occurs to me that it would be entirely appropriate for the Lord President to set up a commercial court in Aberdeen or wherever, perhaps for the time being, to deal with those things. He really does not need our advice on how to do that.

It seems to me that it is a very good thing that the sheriff court appeals system should be binding nationally. There is very little sense in holding on to the idea that sheriffs principal should make appeals only for their sherrifdom. However, I wonder whether the idea of a single sheriff on the bench at appeals is the right way to proceed. I think that history tells us that appeal cases are often improved if there are three members on a bench. I recognise that there would be a cost implication to that, but I suspect that that might be where we want to go with appeals.

Finally, Citizens Advice Scotland pointed out how important in-court advice can be. A way of avoiding litigation and the lawyers is to get people talking to each other sensibly beforehand. I commend to the Government its doing all that it can to ensure that there is more of that.

17:18

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I am on the Finance Committee, which looked at the bill's financial memorandum. It seems to me that there are three major mysteries and a few minor mysteries about it.

First, there will be a loss of fee income, but we are told that it will have a negligible effect. Secondly, there will be an increase in the sheriff court workload, but again, there will be a negligible effect from that. Thirdly, there will be a big

reduction in the legal aid budget, but for no obvious reason.

On fee income, we are told in paragraph 75 of the financial memorandum that 80 per cent of personal injury cases will go to the sheriff court. The Association of Personal Injury Lawyers thinks that the figure will be higher than that, at 96 per cent. If we stick with the figure of 80 per cent, in accordance with a freedom of information request by the association it seems that £1.1 million will be lost in fee income through that change, because much less is charged in the sheriff court than is charged in the Court of Session. The Finance Committee wanted to know whether the result of that would be an overall increase in court fees. Obviously, there would be concerns about that.

The Finance Committee also felt that there is a mystery about the increase in sheriff court workload. The bill team told us that there would be no increase in sitting days at the sheriff court, but the intention behind creating the £150,000 threshold, of course, is to remove a substantial part of the Court of Session's business. Therefore, there seems to be a contradiction.

Margaret Mitchell described in great detail the pressure that the sheriff court is already under: it is overcrowded, there are closures to come and we are told that cases that are expected to last for four days are rarely heard on consecutive days. In addition, the reduction in the number of cases, which the cabinet secretary told us about today, does not correspond to the amount of judicial time spent. The Association of Personal Injury Lawyers made the point that the 36 per cent reduction in the number of cases that has been flagged up by the Government is mainly from debt or repossession cases that are usually undefended.

Many complex cases will transfer to the Court of Session. I was told very recently of two medical negligence cases in the Court of Session that have two judges and three to five weeks to be heard. That kind of case will transfer to the Court of Session. There is therefore a great mystery about the workload of the Court of Session and how that will be managed.

The other mystery, of course, is to do with the legal aid savings. We were told that a lot of that is to come from a 50 per cent reduction in use of counsel, but the cabinet secretary said today that it is very rare that sanction for counsel is refused in the sheriff court. He was very reassuring about concerns that were raised by, for example, Clydeside Action on Asbestos and by people in my constituency who have claims for asbestos harm. He said that they would get counsel, but a lot of the savings from the legal aid budget are because of cases not having counsel any more. Over and above that, of course, is the fact that most costs are recovered and are not in any case put against

the legal aid budget. There is therefore a great mystery around the savings on the legal aid budget, and the committee was very concerned about the fact that the bill team could not answer our questions about that.

I think that I have not very long left.

The Deputy Presiding Officer (John Scott): Twenty seconds.

Malcolm Chisholm: I will make three minor points. It was flagged up that there will be substantial costs in creating a new training programme for specialist sheriffs, that the whole information technology budget for the specialist personal injury court is only £10,000, and that there is no proposal to reduce the number of judges in the Court of Session. The question is, therefore, how there will be any savings from moving business out of the Court of Session.

The Deputy Presiding Officer: Many thanks.

17:22

John Finnie (Highlands and Islands) (Ind): It is a welcome focus for the Justice Committee to be looking at civil rather than criminal matters. Like my colleagues, I support the principles of the bill. I also support the specialisations that are to take place and the summary sheriffs. Some of the specialisations, particularly for domestic violence and family law, are going to require a great deal of specialism. It was unhelpful that the term "low value" was used to class specialisations. We need to be very careful about our terminology—we heard that very graphically from Scottish Women's Aid.

It was in 1587 that the Scottish Parliament gave the accused the statutory right to be represented by counsel, which was 150 years before that right was afforded in the jurisdiction immediately to our south. Even earlier than that, in 1424, the Scottish Parliament enacted legislation requiring the appointment of advocates to represent poor litigants. The Faculty of Advocates tells me in a document:

"The principle that legal representation should be available to all who need it is built into the DNA of our society."

I do not think that anyone would dispute that.

We are told that the purpose of the bill is to improve efficiency, effectiveness and proportionality. As we have heard from a number of speakers, it is certainly the view that the Court of Session operates very effectively. We have heard assurances from Lord Gill about the sheriff courts, but clearly we have also heard concerns about that. It is not simply about the technology, not least because the personal injury court is likely to occupy the same building; it is about the

procedures that are going to be adopted. We have heard that they are expected to result in cost savings.

Sanction for counsel is an issue that I place great store in. It was a key aspect of the evidence that we heard from the EIS, the Scottish Police Federation and the Scottish Trades Union Congress. The STUC talked about the imbalance inherent in the employee-employer relationship, nowhere more so than in health and safety. The STUC also acknowledged that that imbalance was in part addressed by health and safety laws, which as we know are reserved, and a court system that ensured that workers had access to the best representation and were certainly never going to be outgunned in terms of representation. What we heard from the cabinet secretary on equality of arms is therefore certainly welcome.

There has been some discussion about section 69 of the Enterprise and Regulatory Reform Act 2013. I see that as a further attack on workers' terms and conditions. We know that are no simple health and safety cases at this time. I welcome the personal injury court and the discussion, which needs to be on-going, about sanction for counsel, the complexity of cases, the length of cases and, not least, the equality of arms. We often have discussions about what should be in the bill and what should be in guidance, and I am keen that we do not have to rely on benevolent interpretation of guidance. I will therefore propose an amendment to have a statutory presumption in favour of sanction for counsel in relation to work-related incidents.

In the short time that is left to me, I commend the fact that our report talks about an environmental justice court. I encourage the Scottish Government to stick to its 2011 manifesto pledge on that issue. The issue was raised in answer to Patrick Harvie. It is important that we adhere to the Aarhus convention. The most important thing is that our civil justice system serves the people, but it is important that we do not throw out the baby with the bath water as regards the service that we have had from various people, not least the advocates.

The rural dimension has been considered. I assure Liam McArthur that it has been addressed. Justice needs to be accessible to everyone, regardless of location. I am content that we are going to address those matters on an on-going basis.

17:26

Annabel Goldie (West Scotland) (Con): I declare a historic interest: once I was a solicitor. I remember that, even then, our sheriff court model attracted widespread admiration because of the

flexibility of jurisdiction that it offered and, of course, because of the local provision of justice. That is what many of our constituents expect from the justice system. They want an accessible and workable court system.

Of course, that assumes that there are sufficient courts in Scotland to enable cases to be heard without litigants, witnesses and the accused having to rack up expense and travel many miles to get to court.

There is an important backdrop to the bill, which a number of members have alluded to. It is worth bearing in mind that Lord Gill introduced the proposals that are the basis for the bill in 2009, when we had many more courts operating in Scotland than we do now. Already, we have lost three sheriff courts and six district courts. In just over a week, we will lose a further three sheriff courts with their related district courts and, next January, we will lose a further four sheriff courts and four more district courts. That amounts to one fifth of our sheriff courts, many of which are in our more remote areas. However, the very changes that are proposed by the bill will create expanded and busier sheriff courts. There is serious disconnect in that.

I have noted the opinion of Lord Gill, whom I respect highly, but I ask the Scottish Government what survey has been made of the remaining 39 sheriff courts to assess the capacity of the infrastructure for a major expansion of cases, and what assessment has been carried out of the likely number of sheriffs that is necessary to service additional case load. Without answers to those basic questions, there can be no guarantee that the bill, if enacted, can be implemented in practice. Further, has there been any revisal of the closure proposals, given the new anticipated workload and the greater distances that will confront some members of the public when they access their nearest sheriff court?

Given the explicit reservations about the robustness of the financial memorandum which, in the interest of time, I will not repeat, and due to the possibility of further as yet unquantified costs, my party is unable to support the financial memorandum, but we will support the bill.

I will deal with a couple of specific aspects. The creation of a sheriff appeal court to hear appeals against the decisions of sheriffs in civil and summary criminal matters might sound logical, but only if it is an appeal court. The Gill review recommended that such cases should be heard by three judges, but that is not what the bill is delivering, and the financial memorandum assumes that 95 per cent of appeals will be heard by only one judge. Further, such a judge need have been a judge for only five years.

I do not like that. The current system of appeals to the sheriff principal is better than that proposition. If we are to have a sheriff appeal court, it must have a panel of three judges, who should be elected from existing sheriff principals, and another sheriff or sheriffs with expertise appropriate to the case.

In conclusion, I raise the matter of judicial review. This process might be the only means of challenge left to an individual who feels unfairly treated by the relative might of officialdom. If we are serious about achieving fairness and addressing inequality, we should be vigilant about the rights and interests of the individual. The cost of a judicial review application will weigh heavily with any litigant, and no one will undertake such a course lightly. A three-month time limit might be completely insufficient for the task of preparing a complex application and investigating whether the applicant can afford the process. I fear that such a restriction will weigh the scales against the individual in favour of the state, which is regrettable.

Given that judicial review can be the last bastion of justice for the individual, why is leave of the court required to make a judicial review application? I urge the Government seriously to consider extending the three-month time limit and removing the requirement for the court's permission to make a judicial review application.

17:30

Elaine Murray: I will concentrate on a few issues that have been pertinent to the debate.

First, on the accuracy of the financial memorandum, which Malcolm Chisholm spoke about, the calculation on fee income is dubious. The Court of Session collected £2.2 million in fees in 2012-13, from 2,801 personal injury cases; the sheriff court collected £873,492 from 3,240 cases. On the basis of Government figures, there could be a loss of £1.145 million in fee income, and the Association of Personal Injury Lawyers estimates that if 96 per cent of cases transfer, there will be a loss of £1.4 million in fee income. The financial memorandum takes no account of the loss of income to the courts and its effect on court fees.

The figures for savings to the Scottish Legal Aid Board are also suspect. According to paragraph 96, the board spent £3.1 million on counsel in 2011-12 and £2.4 million in 2012-13. It says in paragraph 97:

"there could be savings up to 50% of expenditure on counsel ... as not all cases will require the expertise of counsel in the sheriff court."

Malcolm Chisholm made pertinent points about that. Ronnie Conway of the APIL described the figures for savings to the board as "smoke and

mirrors", given that the defendant normally pays counsel if they lose the case and given that most cases are undertaken on the basis of no win, no fee. Any savings would therefore accrue to defendants' insurance companies rather than to the Scottish Legal Aid Board or the public purse.

The figures for savings from judicial salaries in the financial memorandum are also questionable. It says in paragraph 83 that there is the potential to save £57,000 as a result of using personal injury sheriffs rather than outer house judges. In paragraph 112 there is reference to

"a recurring saving in judicial salaries of between £162,000 and £166,000 per annum"

as a result of the employment of appeal sheriffs instead of inner house judges. However, the judges will still be employed, and they will continue to sit in the Court of Session and the High Court. Even if they have less work to do, they will have to be paid, so I cannot see how those savings will materialise.

Rod Campbell talked about the resourcing of the specialist personal injury court, but I question whether two sheriffs will be sufficient. The ratio of judges to cases brought in the Court of Session is 1:154, and currently in the sheriff court the ratio of sheriffs to cases brought is 1:556. The Government estimated that 2,000 personal injury cases would transfer to the sheriff courts, so a sheriff in the specialist personal injury court will potentially have 1,000 cases to deal with.

Currently, personal injury cases in the Court of Session proceed timeously. If a date is set for a hearing, the pursuer and the defendant know that the case will probably be taken on that date. I am told that that helps to concentrate minds and generally results in settlement before proof is taken. However, in the sheriff courts cases are often not taken on the date that has been set and there is not the same stimulus to settle out of court. If the specialist personal injury court is overloaded because there are not enough sheriffs, it might become the norm for cases in that court not to be taken on the date set, and assumptions about a high proportion of cases settling before proof might not be realised.

Graeme Pearson, John Finnie and John Pentland talked about the exclusive competence of the sheriff court and equal access to representation. In evidence, the STUC, several trade unions, the APIL, the Faculty of Advocates and the Law Society of Scotland all raised equal access to representation. Although the employee could apply to the sheriff for access to counsel—indeed, Sheriff Principal Taylor told the committee that he could not remember turning down an application for counsel—there will be no guarantee

of equality of arms in the new system, as the bill stands.

The limit of £150,000 refers to the amount that is pursued, not the amount that is awarded, which will usually be considerably less. Most personal injury cases settle out of court for about 48 per cent of the amount pursued. However, the award for expenses will depend on the settlement, and if that is less than £150,000 the award may be based on the sheriff court level if sanction for counsel is not awarded. Therefore, the winning party may have to pay the additional expense of counsel from the award instead of the bill being picked up by the losing party. The Association of Personal Injury Lawyers suspects that that risk will result in claimants who are pursuing sums of considerably more than £150,000 opting to go to the sheriff court rather than the Court of Session even though they are above the exclusive competence limit.

Sheriff Principal Taylor recommended that the bill be amended to expand the test for granting sanction for counsel to include a general test of reasonableness. Some witnesses, such as the STUC, called for automatic access to counsel in the new personal injury sheriff court. Others, such as Thompsons Solicitors and Clydeside Action on Asbestos, suggested that pursuers in certain types of cases should automatically be entitled to representation by an advocate. I look forward to the committee testing some of those suggestions at stage 2.

Alison McInnes referred to the remitting of cases to the Court of Session. The current test for remitting cases refers to the importance or difficulty of the case, but the bill replaces that with a test requiring the sheriff to request a remit and enables the Court of Session to take account of its "business and other operational needs".

As we have heard, Lord Gill stated in evidence that the test of "exceptional circumstances" was too high and he expressed concern that section 88(6) would allow the Court of Session to refuse a remit basically on the ground that it was too busy. He suggested that that would be in breach of the ECHR, and the minister confirmed by letter that the Scottish Government accepted that. I am pleased that that has been accepted. It is disappointing, however, that, yet again, a substantial drafting error has been made in a bill that has been introduced. That suggests a sloppy approach to the drafting of the bill.

There are issues around the judicial review period of three months. It may well be too short, as we heard in evidence from many of those who represent people's human rights. For example, in cases in which the Aarhus convention applies, it may not give communities long enough to put

together their arguments. We probably need to revisit the judicial review limit at stage 2.

17:37

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): I declare an interest as a former practising member of the Faculty of Advocates and, currently, a non-practising member of the faculty.

As the First Minister said last week, Lord Gill's aim in proposing the reform is to make justice more accessible to more people and to lower the cost of getting justice. The reforms are intended to make the administration of justice in Scotland more efficient and more accessible to ordinary people at a proportionate cost.

The fundamental principle of the bill is that the right cases will be heard in the right courts. Currently, the choice of court is almost invariably made not by the litigant but by his or her legal adviser. Some cases are routinely taken to the Court of Session, needlessly increasing the legal costs to litigants. The proposed changes will, therefore, bring benefits to litigants.

On delivering reduced costs for litigants, Labour made it plain, when it commissioned the Scottish civil courts review in 2007, that one of the four key issues to be reviewed was the cost of litigation to the parties. The raising of the exclusive competence of the sheriff court is essential if we are to deliver better access to justice. I am glad that the committee acknowledged that, although I accept that there is a variance of opinion on what the level should be.

The cabinet secretary has already discussed the position on sanction for counsel in asbestos cases and other complex personal injury cases. It will be possible to remit complex personal injury cases from the sheriff court to the Court of Session. Sanction for counsel in the sheriff court, although at the discretion of the sheriff, is very likely to be granted in complex cases, especially in cases in which the other side has employed counsel. We will lodge amendments to ensure that the test for remitting cases in which counsel is automatic is not too strict. Although the rules on sanction for counsel are for the Lord President, the Court of Session and the Scottish Civil Justice Council to consider, I make it clear that there is no intention that the test that was suggested by Sheriff Principal Taylor's review should be applied more stringently.

In relation to workplace injuries, the cabinet secretary has indicated that he is open to further discussion with the STUC on issues of concern to it including the principle that personal injury cases under simple procedure will have specific rules. John Finnie's proposal may not be competent

because health and safety is a reserved matter—we should keep that at the forefront of our minds.

On the concerns about a single appeal sheriff, the Government continues to believe that, given the procedural nature of civil appeals, an appeal sheriff will be suitably qualified to hear the appeal. However, the quorum of the court will be for court rules and the decision on which appeal sheriffs will form the judicial complement of the sheriff appeal court in individual cases will be a matter for the president and vice-president of that court.

Annabel Goldie: What will the role of the sheriff principal be in such cases?

Roseanna Cunningham: That will be a matter for the president and vice-president of the sheriff appeal court. It may be that, in an individual case, it will be considered that the sheriff principal should sit or it may be decided otherwise.

The committee has asked for further information on the capacity of the courts. Margaret Mitchell raised the spectre of thousands of cases transferring all at once. Cases will not transfer all at once: cases that have started in the Court of Session will stay in the Court of Session. It is new cases that will be raised in the sheriff court.

We have heard about the dramatically falling numbers of civil cases in the sheriff courts. Recently released statistics show a substantial reduction in the number of civil cases being heard at sheriff court level, with a drop of around 8,000 cases between 2011-12 and 2012-13 and a drop of more than 50,000 cases since 2008-09. The transfer of those cases should also be seen in the context of other improvements, such as better and more streamlined processes in court and better case management.

Margaret Mitchell also raised the issue of court closures. I simply reiterate that the closures will result in the redistribution of only 5 per cent of sheriff court business to other nearby courts, with staff and judiciary also transferring. Fluctuating demand can be managed and the Scottish Court Service has stated that the changes will result in more efficient and effective court services.

I will take a little time to respond to some of the points made in the debate. Liam McArthur and Alison McInnes raised the issue of honorary sheriffs. I have written to Liam McArthur, so he knows that we will not abolish honorary sheriffs until alternative arrangements are in place.

The financial memorandum was subject to considerable discussion. The memorandum notes that savings are expected to be generated from efficiencies released. The reforms are about a reorganisation of the existing resources of the courts, as well as doing things in the most efficient way possible.

Although we have included figures in the financial memorandum on the up-front investment required, for example in the Scottish Civil Justice Council, we do not expect significant additional investment to be necessary. The policy on court fees is to move towards full cost recovery over time regardless of the courts reform process. The last round of court fees orders in 2012 included an above-inflation rise with that portion contributing to those up-front costs. The next fees orders are expected to be laid in 2015 and they will be consulted on before being scrutinised by Parliament.

Eric McQueen stated to the Justice Committee that the Scottish Court Service does not expect to see a large overall increase in the total amount of fees recovered for the cost of civil business. Lord Gill said:

“From the work that has been done by the Scottish Court Service and the Scottish Civil Justice Council, I am absolutely satisfied that the reforms can be adequately funded. They are part of the long-term planning of the Scottish Court Service.”—[*Official Report, Justice Committee*, 22 April 2014; c 4536.]

I will deal with just a couple of the very specific issues that were raised. Malcolm Chisholm made a couple of points. He mentioned that there would be no increase in sitting days, but that is compared with the figure for 2011-12, which was used in the financial memorandum. It is possible not to increase the number of sitting days because the civil case load has decreased since then. The SCS has confirmed that that number of sitting days would be sufficient for the expected level of business. Malcolm Chisholm also wondered how the legal aid costs could fall if sanction for counsel is rarely refused. Sanction for counsel is rarely refused when needed; that position is likely to continue in the future.

John Pentland mentioned that no percentages of cases were considered in the choice of £150,000 as the limit. Lord Gill estimated that that limit would take around two thirds of cases from the general department of the Court of Session and 25 per cent from the commercial courts, so some percentages are available.

Graeme Pearson talked about the need for advocates even if only at the point of settlement rather than the point of proof. However, the Faculty of Advocates and the Association of Personal Injury Lawyers have agreed that there was no evidence that cases are settled earlier in the Court of Session than in the sheriff court. That suggests that an advocate is not essential in that regard.

The Presiding Officer (Tricia Marwick): I ask you to bring your remarks to a close.

Roseanna Cunningham: I am conscious that it is time to sum up, Presiding Officer. The reforms are about a vision for the future of the courts in Scotland. It is one in which cases will be dealt with expeditiously and money will be saved for litigants, and I hope that the profession will embrace it. I commend the motion to the Parliament.

Courts Reform (Scotland) Bill: Financial Resolution

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-09375, in the name of John Swinney, on the financial resolution for the Courts Reform (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Courts Reform (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3(a) of the Parliament's Standing Orders arising in consequence of the Act,

(b) any expenditure of a kind referred to in Rule 9.12.3(b) of the Standing Orders arising in consequence of the Act, and

(c) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.—[*John Swinney.*]

The Presiding Officer: Does anybody wish to oppose the motion?

17:45

Elaine Murray (Dumfriesshire) (Lab): Yes, Presiding Officer.

The bill that the Scottish Government has introduced is part of the process of reforming the Scottish judicial system. We agree with some but not all of its proposals, and we will support it at stage 1 in the hope of amendment. However, we are not content with the fact that it has been accompanied by a sloppy financial memorandum that contains information from third parties that does not even seem to have been checked by ministers and their civil servants.

We appreciate that these are straitened financial times, but the Scottish Government chose to introduce the bill and it should have carefully considered whether sufficient resources are available to ensure its success. If all that the bill does is place additional pressure on the already overloaded sheriff courts, it will fail its policy intention and the intention of Lord Gill's review. It is not good enough to say vaguely that court fees can be used to cover additional costs. We believe that the Scottish Government should withdraw the financial memorandum, do its homework and come back with a revised memorandum that has been properly researched and costed.

The Presiding Officer: Cabinet secretary, do you wish to respond?

17:46

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): I do, Presiding Officer.

The Government takes the preparation of financial memoranda on bills very seriously. They are subjected to extensive consultation with a range of interested parties, and we listen carefully to feedback about issues in connection with them, such as that which we had recently from the Finance Committee. That only serves to reinforce the Government's determination to ensure that financial memoranda are produced in an effective fashion.

On the Courts Reform (Scotland) Bill, the Government worked extensively with our partners on the making justice work 1 board to develop the business cases for the various reforms that are being taken forward in the bill. The business cases were used to develop the financial memorandum, which has been agreed with all those bodies including in the main the Scottish Court Service and the Scottish Legal Aid Board. The bill is expected on the whole to make the civil justice system in Scotland more efficient by ensuring that cases are heard at the appropriate level in the system and therefore at a proportionate cost, which is reflected in the financial memorandum.

Dr Murray raised the issue of court fees. It has long been Government policy that the cost to the public purse from civil cases should be paid through court fees, with the necessary exemptions being in place for those who require them to be applied. As Mr McQueen, the chief executive of the Scottish Court Service, told the Justice Committee, the Government does not foresee a large overall increase in the total amount of fees that are recovered for the cost of civil business.

The issues around the financial memorandum have been carefully considered. If I understand the Labour Party's position correctly, it supports the general principles of the bill. I find it strange that, in doing so, the Labour Party is not prepared to put in place the financial mechanisms to enable the bill to be applied. I encourage the Parliament to support the financial resolution at the appropriate time.

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

Business Motion

17:48

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-10094, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Tuesday 27 May 2014

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Local Government and Regeneration Committee Debate: Inquiry into the Delivery of Regeneration in Scotland

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 28 May 2014

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions
Finance, Employment and Sustainable Growth

followed by Scottish Labour Party Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 29 May 2014

11.40 am Parliamentary Bureau Motions

11.40 am General Questions

12.00 pm First Minister's Questions

12.30 pm Members' Business

2.30 pm Parliamentary Bureau Motions

followed by Ministerial Statement: Climate Ready Scotland, the Scottish Climate Change Adaptation Programme

followed by Scottish Government Debate: The Impact of Immigration Policy on Higher Education in Scotland

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 3 June 2014

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions
followed by Topical Questions (if selected)
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Wednesday 4 June 2014

2.00 pm Parliamentary Bureau Motions
 2.00 pm Portfolio Questions
 Rural Affairs and the Environment;
 Justice and the Law Officers
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Thursday 5 June 2014

11.40 am Parliamentary Bureau Motions
 11.40 am General Questions
 12.00 pm First Minister's Questions
 12.30 pm Members' Business
 2.30 pm Parliamentary Bureau Motions
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time—[Joe FitzPatrick].

Motion agreed to.

Parliamentary Bureau Motions

17:49

The Presiding Officer (Tricia Marwick): The next item of business is consideration of four Parliamentary Bureau motions.

Motions moved,

That the Parliament agrees that the Judicial Pensions and Retirement Act 1993 (Part-time Sheriff, Stipendiary Magistrate and Justice of the Peace) Order 2014 [draft] be approved.

That the Parliament agrees that the Valuation and Rating (Exempted Classes) (Scotland) Order 2014 [draft] be approved.

That the Parliament agrees that the Local Government and Regeneration Committee be designated as the lead committee in consideration of the Air Weapons and Licensing (Scotland) Bill at stage 1.

That the Parliament agrees that the Delegated Powers and Law Reform Committee be designated as the lead committee in consideration of the Legal Writings (Counterparts and Delivery) (Scotland) Bill at stage 1.—[Joe FitzPatrick.]

The Presiding Officer: The questions on the motions will be put at decision time.

Decision Time

17:49

The Presiding Officer (Tricia Marwick): We now come to decision time.

Neil Findlay (Lothian) (Lab): On a point of order, Presiding Officer.

The Presiding Officer: I am doing decision time. You can reserve the point of order until I am finished, thank you Mr Findlay.

There are seven questions to be put as a result of today's business. The first question is, that motion S4M-10088, in the name of Neil Findlay, on a motion of no confidence, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)

Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)

Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 57, Against 67, Abstentions 0.

Motion disagreed to.

The Presiding Officer: The next question is, that motion S4M-10090, in the name of Roseanna Cunningham, on the Courts Reform (Scotland) Bill, be agreed to.

Motion agreed to,

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

The Presiding Officer: The next question is, that motion S4M-09375, in the name of John Swinney, on the financial resolution for the Courts Reform (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)

Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)

Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

The Presiding Officer: The result of the division is: For 70, Against 55, Abstentions 0.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Courts Reform (Scotland) Bill, agrees to—

(a) any expenditure of a kind referred to in Rule 9.12.3(a) of the Parliament's Standing Orders arising in consequence of the Act,

(b) any expenditure of a kind referred to in Rule 9.12.3(b) of the Standing Orders arising in consequence of the Act, and

(c) any charge or payment in relation to which Rule 9.12.4 of the Standing Orders applies arising in consequence of the Act.

The Presiding Officer: The next question is, that motion S4M-10096, in the name of Joe FitzPatrick, on approval of a Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the Judicial Pensions and Retirement Act 1993 (Part-time Sheriff, Stipendiary Magistrate and Justice of the Peace) Order 2014 [draft] be approved.

The Presiding Officer: The next question is, that motion S4M-10097, in the name of Joe FitzPatrick, on approval of a Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the Valuation and Rating (Exempted Classes) (Scotland) Order 2014 [draft] be approved.

The Presiding Officer: The next question is, that motion S4M-10098, in the name of Joe FitzPatrick, on designation of a lead committee, be agreed to.

Motion agreed to,

That the Parliament agrees that the Local Government and Regeneration Committee be designated as the lead committee in consideration of the Air Weapons and Licensing (Scotland) Bill at stage 1.

The Presiding Officer: The next question is, that motion S4M-10099, in the name of Joe FitzPatrick, on designation of a lead committee, be agreed to.

Motion agreed to,

That the Parliament agrees that the Delegated Powers and Law Reform Committee be designated as the lead committee in consideration of the Legal Writings (Counterparts and Delivery) (Scotland) Bill at stage 1.

Point of Order

17:52

The Presiding Officer (Tricia Marwick): Mr Findlay, you may present your point of order.

Neil Findlay (Lothian) (Lab): Presiding Officer, I apologise for not giving you prior notice of this point of order, but it has just come before us.

During First Minister's questions, in relation to the motion of no confidence, the First Minister said:

"Perhaps I should read from the document now. The document, which is dated 1 December 2012, was released to John Pentland on 5 March 2013. Every iota of that information was available to Johann Lamont's MSPs last March ... I just heard Richard Simpson say, "Oh no, it was not." I hope that he stays for the debate because yes, it was."

That is not correct. New information was released more than one year later in March 2014. Will the First Minister reflect on that? Will he withdraw that claim? Will he correct the record of this Parliament? Will he apologise for making that claim?

The Presiding Officer: Mr Findlay, as I have said on numerous occasions, what is said in the chamber is not a matter for me.

We will move to members' business, but I will allow a short pause to allow members who are not participating in the debate to leave and for the public gallery to clear.

Scottish Learning Disability Awareness Week 2014

The Deputy Presiding Officer (Elaine Smith):

The final item of business is a members' business debate on motion S4M-09911, in the name of Jackie Baillie, on Scottish learning disability awareness week 2014. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes that 19 to 24 May 2014 is Scottish Learning Disability Awareness Week; understands that there are at least 120,000 people who have learning disabilities in Scotland and that, of that number, 26,000 adults and 16,000 children and young people are known to be receiving social care and educational support from local authorities; reflects on what it considers the significant progress made over the last few decades to improve access to education and employment for people who have learning disabilities and for them to live in their own communities as a result of the closure of long-stay institutions; is concerned that people with learning disabilities continue to experience significant health inequalities, have lower access to employment and education than the general population and continue to experience isolation, loneliness and bullying in their communities; acknowledges the role of family carers in supporting their loved one to live an independent life and their need in turn for access to peer support and respite opportunities; welcomes the publication in the summer of 2013 of *The keys to life: Improving Quality of Life for People with Learning Disabilities*, the Scottish Government's 10-year strategy to improve the quality of life for people who have learning disabilities; recognises the work of the many organisations across Scotland that are providing innovative support and advocacy to people with learning disabilities and their family carers to overcome these challenges and co-produce support and services that empower people with learning disabilities to live the life that they want to live; congratulates in particular ENABLE Scotland on reaching its 60th anniversary in 2014, and notes calls for the voluntary and statutory sectors to continue to work in partnership with people who have learning disabilities to develop communities, attitudes and support that will enable people with learning disabilities throughout Scotland to access their human rights.

17:55

Jackie Baillie (Dumbarton) (Lab): It gives me great pleasure to speak to the motion in my name, congratulating Enable Scotland on its 60th anniversary.

Many members may be wondering why I am wearing a tartan scarf when the sun is splitting the skies. Those among them who have kept up will know that this is Enable Scotland's 60th anniversary tartan. I see members wearing scarves and ties in the chamber today, and I congratulate them on remembering, because not all of us managed to do so.

The 60 threads in the tartan are for each of the 60 years that Enable has been around. As some members may know, the two strands of bright

orange that run through the tartan are for every boy and girl who continues to be born every day in Scotland with learning disabilities or to develop them in later life. So, job still not done.

It is also a significant year for other organisations that work with people with learning disabilities. I am pleased to give but a small mention to People First, which is celebrating its 25th anniversary this year.

We have come a long way since 1954, when five families came together to talk about forming an organisation in Scotland to support parents, like themselves, who were raising children with learning disabilities. We are indebted to those families for their vision, which has created Enable Scotland. The organisation now has 44 local branches, employs 1,700 people and has 4,000 members throughout Scotland, many of whom are sitting in the public gallery today.

Enable Scotland celebrates 60 years of campaigning for and with people with learning disabilities so that they can play a part in their communities, have an education, have a job and develop friendships. It is not just about campaigning; it is about doing, too, and providing services for some 2,000 people throughout the country.

I want to reflect briefly on what it must have been like all those years ago, so that we can truly understand the journey that we have been on together and which Enable Scotland has played such a critical role in leading and shaping. Sixty years ago, a parent of a child with a learning disability would have been made to feel ashamed. Learning disability was a real stigma, and some parents hid themselves away, never mind their child. There were very few services and parents were often left to cope on their own.

Children who had a learning disability had no entitlement to go to school. There was no option for someone who had a learning disability to live independently. The only choice was institutional care or remaining in the family home. By 1970, there were 22 long-stay hospitals in Scotland, housing more than 7,000 children and adults with learning disabilities. Employment was certainly not an option for people who had a learning disability.

There is much that we have achieved since then but much more that we have to do. I am proud that it was a Labour Government, in the first session of the Scottish Parliament, that developed “The same as you?”, which enjoyed cross-party support. Those members who were involved at the time will recall that it started life as a document owned in the main by civil servants. There is nothing wrong with that, but when the minister—who I recall was Iain Gray, when he was Deputy Minister for Health and Community Care—threw open the doors and

invited in people with learning disabilities and their representative organisations to help to shape the document, the dynamics changed completely.

This was now about a living, breathing document that offered a vision for the future. Yes, it was challenging, and rightly so. It contained 27 recommendations, covering everything that would help to end discrimination and support people to live independent lives and get educational and employment opportunities.

The most significant event for me was the end of long-stay institutions such as Lennox Castle, which I knew of because I happened to live nearby. About 1,000 people were moved out of hospitals and into homes. The overwhelming majority of people with learning disabilities now live in their communities with packages of care and support.

Yes, we have come a long way but let me share with members some statistics that show that we absolutely need to stay focused. Nine out of 10 children with a learning disability are bullied. One in four children with a learning disability is hit or punched. Nine out of 10 people with a learning disability are the victims of hate crime. Only one in three people with a learning disability has at least one close friend, and only one in four people with a learning disability has a job or is in training.

I very much welcome the Scottish Government taking “The same as you?” further by producing its own document for the next 10 years—“The keys to life”—which continues the journey that we started with “The same as you?”. It is not surprising that there is still much to do in securing opportunities for training, employment and independent living and in ending discrimination and abuse.

I do not want to sound a discordant note but, as money is ever tighter in the public sector, we need to keep an eye out for service cuts and a return to the past in the guise of service redesign, and we need to keep a clear eye on care charging, which is still a postcode lottery across the country.

Members will know that I consider it a great privilege to be the convener of the cross-party group on learning disability—I have had the role for the past 12 years. I cannot compete with Enable’s 60 years, but members would all shout at me to say that I look too young for that, anyway—*[Laughter.]* Okay—members laughed at me; thank you.

Members know that I would never waste an opportunity such as this debate to raise issues with the minister. I will raise only three issues. I ask the minister to update Parliament on progress with “The keys to life” and to indicate the priority areas for action. We have invited him to next week’s meeting of the cross-party group on learning disability, but he has not replied yet. I look

forward to him saying yes—he likes saying yes—in the context of the debate.

The minister will be aware that I have written to him about the potential misuse of the power under section 13ZA of the Social Work (Scotland) Act 1968 in order to move people who have learning disabilities into residential care settings. We look for an assurance that he will consider that carefully.

Enable Scotland is keen to hear the minister's views on concessionary travel and the impact of the loss of the lower-rate mobility element of disability living allowance on access to a bus pass through the national concessionary travel scheme for people who have learning disabilities. Will the minister commit to looking at that?

I do not want to risk your wrath, Presiding Officer, so I will conclude by congratulating Enable Scotland on its 60th anniversary. It has campaigned and fought for thousands upon thousands of people with learning disabilities, and I wish it every success for the next 60 years.

18:02

Jim Eadie (Edinburgh Southern) (SNP): I congratulate Jackie Baillie on securing this debate on Scottish learning disability awareness week. I, too, am wearing the Enable Scotland tartan, in the form of an attractive tie.

I pay tribute to organisations that work with and support people who have a learning disability, such as the Learning Disability Alliance Scotland and Enable Scotland, which has an office in Causewayside in my constituency that I have had the pleasure of visiting on a number of occasions. Both organisations work tirelessly to improve the lives of people with learning disabilities as well as those who care for them.

Because learning disabilities are not always visible, it is all too easy to forget or ignore the issues and challenges that people with a learning disability face daily. As a society, we should make more of an effort to understand what it is like to live with a learning disability. We must also acknowledge the rights of people with learning disabilities to contribute to society and to live an independent and fulfilling life.

As the motion that Jackie Baillie lodged mentions, Enable Scotland celebrates its 60th anniversary this year. I, too, congratulate it on that important milestone. In the aftermath of the second world war, attitudes to human rights and vulnerable members of society started to improve through the establishment of the Universal Declaration of Human Rights in 1948 and the European convention on human rights two years later.

As Jackie Baillie reminded us, in 1954, five Glaswegian families affected by learning disability came together to establish the Scottish Association of Parents of Handicapped Children, which is now known as Enable Scotland. Enable Scotland employs almost 1,700 charity and social care staff and delivers support to 2,400 people across Scotland, as well as helping more than 1,000 people into employment every year. That is a record to be proud of.

A great strength of Enable Scotland is that it not only offers services but encourages people with learning disabilities to take charge of their own lives and situations and be aware of the rights that they have. In 1984, it published the book "Scots Law and the Mentally Handicapped", which set out the laws relating to learning disability and made it easier for families to understand their rights.

The knowledge of being a valued and equal member of society instils a sense of self-worth that enables us all to face our daily challenges. Why should it be any different for a person with a learning disability?

Enable Scotland also acknowledged the ability and right of people with learning disabilities to contribute to society by appointing an employment development officer to support them into work in 1987. Furthermore, in 1993, it established the advisory committee of Enable—ACE—which consists of adults who have learning disabilities. Who is more capable or better qualified to advise Enable on what is important to people with learning disabilities than those who live with learning disabilities? I have been privileged to engage with the local Edinburgh advisory committee of Enable, which has helped to educate and inform me about the issues and challenges faced by people with learning disabilities.

The importance for people with learning disabilities of taking control and responsibility is echoed in the Scottish Government's new learning disability strategy "The keys to life" which was launched last June. It, of course, builds on the previous strategy "The same as you?" which was launched under a previous Administration by the then minister Iain Gray.

One of the aims of the 10-year plan is to encourage people with learning disabilities to be involved in, and take control over, received services. Through self-directed support, people with learning disabilities have had, often for the first time, the opportunity to have greater ownership of their own care, including employing personal assistants, which can transform their quality of life in many cases.

I am glad that, through its new Sainsbury's local stores in Causewayside and Marchmont and in its larger store at Cameron Toll, Sainsbury's in my

constituency is employing people who previously worked with Remploy. That is a marvellous opportunity for people with learning disabilities to gain valuable work experience and contribute fully to the society and community of which they are members.

Once again, I congratulate Jackie Baillie on securing the debate. I wish the Learning Disability Alliance Scotland, Enable Scotland and their fellow organisations every success in the future. I will continue to work with them in support of people with learning disabilities and their families.

18:07

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I congratulate Jackie Baillie on securing this members' business debate about an important subject in which Scotland has made considerable progress over the years, not least because of the work done by Enable, the 60th anniversary of which we celebrate in part with the debate.

As a medical student, I was strongly influenced in my desire to go into psychiatry by the work of Erving Goffman, which was most celebrated by the film "One Flew Over the Cuckoo's Nest". At that time, institutionalisation applied not only to those with mental health problems but to those with learning disabilities.

When I went to work in Forth valley in 1970, the Royal Scottish national hospital, which housed some 1,800 patients with learning disability, was in that area. The transformation in the lives of those with learning disability when the move into the community and, ultimately, the closure of the hospital occurred is one of the most impressive changes in our services in the past 50 years.

That change was made possible by good transitional funding. That was unique because, in most other cases in which one tries to close an institution, one has to close it and then use the money to create the community resources, which has been a major problem with mental health institutions.

I remember many examples of people whose lives were improved by that move. One particularly moving example, about which I learned about as a member of the Parliament's Health Committee, involved a nursing team at Lynebank hospital that had helped a patient achieve continence as part of his journey to independence. That one aspect of his health had taken thousands of hours of support, but its ultimate achievement had so empowered that individual that it transformed his life.

Alongside that major change on institutionalisation, when the Labour Party came to power it introduced a general approach that those

with learning disability and indeed other disabilities should be part of mainstream education wherever possible. That has not always been easy, but it was the correct move and is to be supported.

The other thing that occurred was that many community organisations began to engage much more positively with those with learning disability. Artlink Central, which is located in my constituency, celebrated its work in the Parliament recently with a very successful presentation by a group with learning disability.

Local volunteers in the Forth valley retired and senior volunteer programme support groups for those with learning difficulties, such as the walking group, which is important for improved physical health. Many of those with learning disability, like those with mental health problems, do not have particularly good physical health.

My final example is an organisation of which I am proud to be the current patron: Trellis, which is the overarching national body for therapeutic gardening. It includes 160 groups in Scotland, which help many people with learning disability to enjoy horticulture.

As Jackie Baillie said, there are many challenges still ahead, and we are on a journey. I would like to draw the minister's attention to one challenge, which relates to personal history. I grew up with a much-loved aunt who had Down's syndrome. Ultimately she had to go into a care home, but she was lucky, because she went into a specialist care home. Today, far too many people with learning disability who, perhaps because of loss of family or increasing frailty have to go into a care home, are not able to go into a specialised care home. They can be in a care home with much older people, which is quite unsuitable. That problem needs to be addressed soon.

I hope that Enable, through its campaigning, will achieve even greater equity and fairness for those who have learning disability and continue the good work that it has done over the past 60 years.

18:12

Mary Scanlon (Highlands and Islands) (Con): I, too, thank Jackie Baillie for securing this debate on Enable's 60th year, and I thank Enable for its work in Inverness and across the Highlands. I also make a special mention of Jackie Baillie's enormous continuing work, energy and commitment to supporting disabled people across Scotland. A week does not pass without a motion about disabled people or something similar. I say well done to Jackie Baillie. Everyone needs a champion, and Jackie Baillie is undoubtedly the champion here.

Last September Parliament debated “The Keys to Life”, the purpose of which is to improve the lives of people who have learning disabilities. It was an excellent debate, and I think tonight’s debate will be similar. The Government’s motion that day sums up where we are and what has been said so far:

“Scotland can be proud of some of the changes in the quality of life for people with learning disabilities but accepts that there is still much to do.”

We are all there. It is quite right that there has been progress, especially on independent living, but issues remain regarding not just health inequalities but education, and there are lingering social stigmas.

One positive development is that since the first 10-year strategy—“The same as you?”—was published there has been a move away from institutional care. I have to say, as the Opposition health spokesman from 1999 onwards, I often criticised the Labour Party for its various glossy brochures, as Michael Matheson and Nicola Sturgeon did, but the one document that no one ever criticised was “The same as you?”, with its 29 recommendations. I have been on the record about that many times, and I have gone back to that document many times to see whether the Lib-Lab Scottish Executive was delivering and to see whether the present Government has been delivering.

There has also been a drive towards individuals gaining greater control over their lives and—as Jackie Baillie said—receiving supported care that is more appropriate to their individual needs. I am hopeful that, in the coming years, self-directed support will help to push that agenda even further and give people with learning disabilities more choice in shaping their care.

Jim Eadie made a good point about human rights. Fundamentally, the issue of learning disability concerns all rights, including some of the softer rights such as the right to be heard, the right to be included and the right to have the same opportunities as everyone else. There are currently about 16,000 children and young people with learning disabilities, and we owe it not just to that generation, but to their parents and to the legions of tireless campaigners, to get our approach right.

On that note, on behalf of all members in the chamber, I thank all the people in the gallery who have come along tonight from Inverness and beyond. We like your being here to share the debate.

There are two areas in which more can be done. One is additional support needs. My colleague Liz Smith recently held a seminar in which she was told that we are not doing enough to prepare and

support young people through the transitions from primary to secondary school and from secondary school to adult life. That was not the first time I have heard that, so it is something that we should focus on for the future.

The second area is further education. Of the 25,000 modern apprenticeships in Scotland, 0.2 per cent went to people with learning disabilities. That is not good enough, and we can do much better. I note the words of Peter Scott, the chairman of the Scottish Consortium for Learning Disabilities, who said that although the trend

“towards more independent living is welcome”,

there is

“an underlying concern that whether in relation to education, employment or day services, opportunities for people may be diminishing.”

We can be justifiably proud of our record, but we still have much more to do.

18:17

Iain Gray (East Lothian) (Lab): I am sometimes asked what I am proudest of from my time in politics. I always say, “The same as you?”. That is not because it was the first policy document that I was involved in producing, but because it did something that most people considered to be impossible at that time. As Jackie Baillie outlined, it articulated the authentic voice of people with learning disabilities and expressed their hopes, dreams and aspirations. Mary Scanlon is right: for once, a Government document turned aspirations into real policies and actions.

At the time, 15 years ago, I had some idea just how far those aspirations were from the reality of the situation. Some of my family members, friends and—probably not to my credit—not one but two wives had worked and trained in Gogarburn long-stay hospital, so I knew what the reality of life was for many people with learning disabilities. So it was that, in another proud ministerial moment—the last ministerial engagement that I undertook as Deputy Minister for Health and Community Care—I formally, finally and permanently closed down Gogarburn hospital.

To this day, my wife and I sometimes meet people whom she knew when she worked there and they were patients living in wards. They have, for years, been living their own lives, and living freely. I know, too, that my own cousin, who is profoundly disabled, has lived a life that is, although not easy, far fuller than we could ever have imagined when he and I were children together.

Members should be in no doubt that this has been a real liberation struggle, and a victory not

only for justice and equality, but for freedom. It has been a struggle nonetheless, and that liberation would never have happened without the parents, activists and organisations who fought for it alongside their sons, daughters and friends. Not least among those organisations are Enable Scotland, which celebrates its 60th birthday this year, and Elcap, in my constituency of East Lothian, which celebrates its 25th birthday this year.

As Jackie Baillie made clear, the struggle will not be over as long as people with learning disabilities still face systematic unemployment, inappropriate placements in care homes and bullying on our streets. The truth is that no revolution is complete until we have changed ourselves and our attitudes, and that has still to happen.

I welcome the fact that the Scottish Government has taken up the baton with "The keys to life" report. I say to Enable and its sister organisations, "Well done," but I also say, "You know, and we know, that the struggle continues."

18:20

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I congratulate Jackie Baillie and all the other contributors to the debate not just for what they have said, but for the tone of the debate. I always think that members' business debates show the Parliament at its best. We have had quite a raucous day, but we can come together on the issues that really matter and, I hope, do them proud.

I will refer to two pieces of legislation that we have put through the Parliament and which have assisted people while ensuring that they keep their individual rights. One is the Adults with Incapacity (Scotland) Act 2000, which made it plain that people with learning disabilities, among others, have rights and that, when they need assistance, they will get it, but they still have rights and their views can still be expressed properly. We enshrined that in law. Some colleagues who are in the chamber have been members for as long as I have, but I say to Jackie Baillie that we are wearing well—the drinks are on her tonight.

The second piece of legislation is the Victims and Witnesses (Scotland) Act 2014, which has been put through while I have been convening the Justice Committee. That is important, because the issues were not recognised in the court process. Everybody gets bewildered by the process, but people with learning disabilities who are witnesses in a criminal case or even a civil case require support. That support has now been built into

legislation, so that everybody can have their say and their chance in court.

I just wanted to enter the debate briefly because, among all the policies, members had not mentioned the legislation. Sometimes we do too much of that, but those are two good pieces of legislation that I hope have enhanced the rights of people with learning disabilities. I congratulate Enable and Jackie Baillie, who is doing a grand job. I do not always agree with her, but I agree with her tonight.

18:22

Hanzala Malik (Glasgow) (Lab): I welcome Scottish learning disability awareness week and thank Jackie Baillie for the opportunity to discuss the issue in Parliament. I congratulate Enable Scotland on its 60th anniversary, and I thank all the volunteers and helpers who have supported the organisation throughout its history.

People with learning disabilities have a significant and lifelong condition that starts before adulthood and affects their development. Although those people are just like you and me and should be treated as such, they are more likely to die young and have mental health problems and to be exposed to poverty, poor housing, lack of experience and employment, social isolation, bullying and discrimination—that is a mouthful, but it is true. They have lifelong experience of a lack of choice and opportunities and of significant barriers to accessing services.

That is why it is essential to demonstrate that people with learning disabilities are valued and respected as equal members of society. Generally, more information is now available, but issues remain about how people access it. Families are unaware of the support to which they are entitled and where they can go to get information. As a consequence, they do not get all the help that they really need. Scottish learning disability awareness week is a great way to combat the issue of awareness.

I especially want to mention Thomas Fortune work centre in Glasgow, which has recently secured five-year funding from the Glasgow learning disability partnership, with the likelihood of an extension. Only 5 per cent of people with learning disabilities in Glasgow are in paid employment; the centre, which specialises in providing a route to employment and meeting the social support needs of people with learning disabilities, is one of the very few projects in Scotland that provide a bridge between social care and open employment. I should also mention the Glasgow Disability Alliance, which is led by disabled people and has a membership of more than 1,500.

People with learning difficulties in minority communities face double discrimination in accessing public services. The advice that I would offer in that respect is that local shops, faith and community leaders and centres and organisations such as Enable Scotland can be used to pass on information. Moreover, in order to promote full and equal access to public services, we must meet the language requirements of the minority ethnic individuals who need to use them.

Like my friend Jim Eadie, I commit my support to the organisations who carry out this marvellous work 24/7.

18:26

The Minister for Public Health (Michael Matheson): Like others, I congratulate Jackie Baillie on securing time for this debate and acknowledge the tremendous work that she has done in this area. I know that she has a long-standing interest in raising learning disability issues.

I also put on record my thanks to Enable Scotland for its tremendous work over many years. I recall that, when I was a young student looking at different third sector organisations, it was one of the first organisations that was held up as being effective in delivering rights and pushing forward a rights agenda. Indeed, I remember visiting its offices, which at that time were in Elmbank Street in Glasgow, in order to get information. The work that it has undertaken over the past 60 years is a tremendous credit to it, and I look forward to attending tonight's reception. At this point, I should also offer my thanks for the lovely tartan tie that all male members have been presented with.

Scottish learning disability awareness week gives us an opportunity to raise issues and raise awareness of learning disabilities. It also gives us a chance to highlight the issues that people with a learning disability often experience and the challenges that need to be addressed. As Jackie Baillie pointed out, we can take pride in the progress that has been made over several decades; for example, I note that, post-2000 and building on what had been happening since the 1990s, the same as you? strategy played an extremely important part in ensuring a significant shift in the balance of care from institutional to long-stay care.

That approach led to the historic closure of more than 1,000 long-stay beds across Scotland, beds that many individuals called home. Coming back to Richard Simpson's comments, I should say that, in my professional career, I helped to put individuals from the Royal Scottish national hospital into community placements, and I also

note that, as a student, I regularly visited Gogarburn hospital.

With regard to the new learning disability strategy, all members will recognise that the danger with strategies is that we can put too much into them and not achieve what we were seeking to get out of the process. I was very clear that I wanted the human rights of people with learning disabilities to be at the very heart of "The keys to life". I believe that everyone with a learning disability should have the same rights and freedoms as everyone else in our society, which means that all our statutory agencies must take responsibility for ensuring that people with a learning disability get the right information about their rights in the right way and that they can exercise those rights for themselves. All our public bodies in Scotland need to ensure that those aspirations in "The keys to life" translate into positive outcomes for individuals with a learning disability.

I recognise that how care has been delivered for individuals with learning disabilities has changed over the past few decades. The use of self-directed support allows individuals much greater control over and choice in how their support is provided and how they receive it.

Being truly accepted in any society means being treated equally and fairly in other ways. As a Government, we believe that there are no excuses for any form of hate crime. That is why we are working with our colleagues in the criminal justice service to influence change and provide support for people with learning disabilities when they find themselves in that situation.

If a person's health needs are not addressed in their society, it will be difficult for them to feel included in that society. The Government has made it clear that we see the need to address the stark health inequalities that people with learning disabilities face as a national priority. That is why there is so much emphasis on that issue in the new strategy. I want all people with a learning disability to be able to lead a healthier life generally. For that to happen, we need to ensure that their health needs are appropriately met and they are given the right support.

Jackie Baillie asked a number of questions about "The keys to life" and the action that has been taken. We are taking forward work with our public health directors, our national health service boards and the learning disabilities observatory to develop a process to capture data so that people with a learning disability are much more visible in our healthcare system. We do not currently have that information. That will help us to drive forward improvements in our individual health boards to improve outcomes for people with learning disabilities and bridge the gap in health. I cannot

overstate the importance of capturing that data in helping to drive forward the agenda.

We are also working with a number of organisations in health and wellbeing. Part of that work is to provide support to carers of individuals with a learning disability. As part of the keys to life strategy, we have invested an additional £250,000 in the past year in a short breaks scheme for children and adults with learning disabilities and their carers. We are also working with Enable on emergency and future planning so that carers have plans in place to support them and the people with learning disabilities for whom they care.

Members have referred to the fact that many young people with learning disabilities have additional support needs. It is important that we provide people with learning disabilities with the right support when they are in our education system so that they can take the best advantage from their education and, we hope, go on to future employment. In order to address some of the gaps in that particular pathway, the keys to life strategy is taking forward specific work with local authorities, further education services, Skills Development Scotland and the transition forum to look at how we can ensure that the getting it right for every child process and framework can better prepare young people with learning disabilities for leaving school.

Getting people into employment has to be a priority for us and getting into employment must equally be a priority for people with a learning disability. I note the point that Mary Scanlon made about the modern apprenticeship scheme. We know that people with a learning disability want to be able to work in paid employment, and we need to ensure that we unpick some of the barriers that limit the ability to access employment.

A frustration that I often had when I was still in practice was that the number of hours of work that a young person who had moved from a long-stay institution into a community environment could undertake was limited by therapeutic earnings restrictions. If they worked too many hours, their benefits were cut. That was a crazy way of trying to incentivise individuals who could be in employment to get into it. We therefore need to ensure that the system is much more joined up to help to achieve that. Some of the work that we are taking forward with the Scottish Consortium for Learning Disability in work with our colleges and Skills Development Scotland will help to make some of that happen. Our implementation group for the strategy is also doing work in that regard.

I believe that the implementation of the keys to life strategy will go a long way towards improving the lives of people with a learning disability and their carers. Members can be assured of my

commitment to doing everything that I can to make sure that that is driven forward and delivered. I believe that the progress that has been made over the past 10 years can be built on and that we can give our people with a learning disability greater freedom and opportunity within our communities in Scotland. I am determined to do that and I believe that we have a strategy in place that can ensure that that happens in the years to come.

Meeting closed at 18:35.

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