



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Thursday 12 December 2013

Session 4

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.scottish.parliament.uk or by contacting Public Information on 0131 348 5000

Thursday 12 December 2013

CONTENTS

	Col.
BUSINESS MOTIONS	25657
<i>Motions moved—[Joe FitzPatrick]—and agreed to.</i>	
GENERAL QUESTION TIME	25658
Women Prisoners (Mental Health Services)	25658
Prison Visiting Arrangements	25660
Right of Access Obstructions (Records)	25660
Programme for International Student Assessments (Science Scores)	25662
Housing Land Supply (Local Authorities)	25663
Small Rural Communities (Marketing Support)	25663
Community Councils (Participation)	25664
Digital Connectivity (Cities).....	25665
FIRST MINISTER'S QUESTION TIME	25667
Engagements.....	25667
Prime Minister (Meetings).....	25671
Cabinet (Meetings)	25674
Autumn Statement (Implications)	25676
Junior Doctors' Hours	25677
Independence (Food Bills).....	25678
PAYDAY LOAN INDUSTRY (REGULATION)	25681
<i>Motion debated—[Kezia Dugdale].</i>	
Kezia Dugdale (Lothian) (Lab).....	25681
Jamie Hepburn (Cumbernauld and Kilsyth) (SNP).....	25684
Margaret McDougall (West Scotland) (Lab)	25685
Kenneth Gibson (Cunninghame North) (SNP)	25687
Gavin Brown (Lothian) (Con).....	25688
Graeme Pearson (South Scotland) (Lab)	25689
Mike MacKenzie (Highlands and Islands) (SNP)	25690
Alison Johnstone (Lothian) (Green).....	25692
Duncan McNeil (Greenock and Inverclyde) (Lab)	25693
The Minister for Energy, Enterprise and Tourism (Fergus Ewing)	25694
VICTIMS AND WITNESSES (SCOTLAND) BILL: STAGE 3	25698
VICTIMS AND WITNESSES (SCOTLAND) BILL	25778
<i>Motion moved—[Kenny MacAskill].</i>	
The Cabinet Secretary for Justice (Kenny MacAskill)	25778
Graeme Pearson (South Scotland) (Lab)	25781
Margaret Mitchell (Central Scotland) (Con).....	25782
Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)	25784
John Pentland (Motherwell and Wishaw) (Lab).....	25785
Roderick Campbell (North East Fife) (SNP)	25786
Alison McInnes (North East Scotland) (LD).....	25787
Duncan McNeil (Greenock and Inverclyde) (Lab)	25788
Margaret Mitchell	25790
Elaine Murray (Dumfriesshire) (Lab)	25791
Kenny MacAskill	25793
DECISION TIME	25797

Scottish Parliament

Thursday 12 December 2013

[The Presiding Officer *opened the meeting at 11:40*]

Business Motions

The Presiding Officer (Tricia Marwick): The first item of business is consideration of business motion S4M-08587, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Thursday 12 December 2013—

delete

2.30 pm Parliamentary Bureau Motions

2.30 pm Stage 3 Proceedings: Victims and Witnesses (Scotland) Bill

and insert

2.00 pm Parliamentary Bureau Motions

2.00 pm Stage 3 Proceedings: Victims and Witnesses (Scotland) Bill—[*Joe FitzPatrick*].

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S4M-08586, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 of the Victims and Witnesses (Scotland) Bill.

Motion moved,

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

Groups 1, 2, 3 and 4: 45 minutes,

Groups 5, 6, 7 and 8: 1 hour and 25 minutes,

Groups 9, 10, 11 and 12: 2 hours.—[*Joe FitzPatrick*].

Motion agreed to.

General Question Time

11:41

Women Prisoners (Mental Health Services)

1. Alison McInnes (North East Scotland) (LD): To ask the Scottish Government what actions it has taken in response to the recommendation of the commission on women offenders that an urgent review of the provision and resourcing of services for women in prison with borderline personality disorder and post-traumatic stress disorder should be carried out. (S4O-02707)

The Cabinet Secretary for Justice (Kenny MacAskill): The Scottish Government's response to the commission's report in June 2012 advised that we would keep the recommendation for a review under consideration while we prioritised work to respond to the commission's recommendations regarding the actual provision of mental health support for women offenders. That has included funding NHS Lothian to improve responses to women offenders with borderline personality disorders and post-traumatic stress disorders, development by the Scottish Prison Service of mental health training within its staff induction programme, and ensuring that the new women's prison at Inverclyde and the rest of the female prison estate meet the mental health needs of women offenders.

Alison McInnes: From June 2012 until November 2013, 37 women were held for various times in Cornton Vale's separation unit. The majority were reintegrated into the main prison quickly, and I acknowledge the use of the unit as safety valve. However, four of those women were held for extended periods and three of those four were under the age of 21. In the worst example, one woman was placed in solitary confinement in one of the special bare cells on six separate occasions, for a total of 387 days. The cabinet secretary will know those figures because it is against the Prisons & Young Offenders Institutions (Scotland) Rules 2011 to isolate someone for more than 72 hours unless authorisation is sought from Scottish ministers. Although I understand the difficulties in managing the complex behaviour of those young women, I am appalled that that type of containment should be used for so long and believe that such lengthy isolation can only compound their ill health.

Does the cabinet secretary believe that using rule 95 of the prisons rules is the most appropriate mechanism? Why is rule 97 not invoked? That at least would ensure that a medical practitioner was advised of the course of action. Will the cabinet secretary consider amending the prison rules to

trigger a review by an independent panel when a series of back-to-back extensions have been applied?

Can the cabinet secretary tell me at what point he will stop signing the orders and demand a different more humane and less degrading approach that tackles the health needs of those young women?

Kenny MacAskill: These are complex and difficult matters. Borderline personality disorders are difficult to diagnose and are even harder to treat. They are matters that I have discussed not only with the chief executive of the SPS but with Her Majesty's chief inspector of prisons, and I would be willing to discuss them with Alison McInnes.

Alison McInnes will be aware that such issues are operational matters for the SPS. As Colin McConnell remarked when he discussed it with the Justice Committee on 5 November, there are occasions when an individual has to be kept under close supervision for her own safety and wellbeing, and for that of other prisoners. Not only can they be violent towards other prisoners and staff but, frequently, that behaviour is conjoined with self harming. The steps that we are discussing are taken reluctantly, but often involve an element of trying to ensure the safety of the individual concerned.

There is a small number of women whose consistently aggressive or disruptive behaviour has required that they spend longer periods in the separation and reintegration unit. Management of those women focuses on addressing their behavioural problems and on developing strategies to help them to cope in the usual prison environment. The Scottish Prison Service takes professional advice from the national health service's clinical psychology and psychiatric services in considering its procedures. I have also discussed the matter with health officials.

However, when the women are clearly sane and fit to plead, it is not possible to send them to any mental health institution; under the order that has been imposed by the court, it is required that they be dealt with by the Scottish Prison Service. The service does that as best it can, taking into account the requirement to protect its staff and other prisoners as well as its responsibility to maintain the wellbeing of the individuals in question. I am happy to discuss the matter with Alison McInnes, but I give her an assurance that such measures are taken extremely reluctantly by the SPS and usually because there is no alternative.

Prison Visiting Arrangements

2. Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): To ask the Scottish Government when it will publish its final proposals concerning prison visiting arrangements. (S4O-02708)

The Cabinet Secretary for Justice (Kenny MacAskill): The Public Services Reform (Prison Visiting Committees) (Scotland) Order 2014 was laid in Parliament on 4 October 2013. The order abolishes prison visiting committees and creates a new independent prison monitoring service under the auspices of Her Majesty's chief inspector of prisons for Scotland. The order requires a statutory consultation period, which is under way and will end on 31 January 2014. Following that, it is anticipated that the final report on the findings from the consultation will be published by the end of April 2014.

Malcolm Chisholm: Why, having appointed Professor Coyle, did the cabinet secretary then reject Professor Coyle's recommendation for an independent volunteer-led model with a single tier of independent monitors for each prison? Why, instead, has he reverted to proposals that were widely criticised 18 months ago?

Kenny MacAskill: We have not repudiated Professor Coyle's recommendations; the Government has accepted the vast majority of Professor Coyle's recommendations, including his recommendation to abolish visiting committees and replace them with a new system of voluntary independent prison monitors.

The issue on which Professor Coyle disagrees is the proposed introduction of salaried prison monitors. He has stated that he believes that that could produce "unnecessary and expensive duplication". However, the Government, supported by Her Majesty's chief inspector of prisons for Scotland, whom I met just last week, believes that the introduction of paid monitors to oversee the work of lay monitors will be an essential part of the new system. The paid monitors will perform a secretariat function, which will ensure that the system of independent monitoring is robust, accountable and consistent throughout Scotland.

I am grateful to Professor Coyle for his work. However, I believe that our proposals will add to, not detract from, his work, and will ensure that lay monitors will be enhanced by a professional secretariat under the auspices of HM inspector of prisons.

Right of Access Obstructions (Records)

3. Rob Gibson (Caithness, Sutherland and Ross) (SNP): To ask the Scottish Government what records are kept of obstruction by landowners to right of access by walkers,

wheelchair users, cyclists and horse riders. (S4O-02709)

The Minister for Environment and Climate Change (Paul Wheelhouse): The Scottish Government does not keep records of obstructions by landowners to rights of access. Dealing with such obstructions is the responsibility of local authorities and national park authorities, and any records will be kept locally.

The Scottish Government does, however, collect information on the use of formal statutory notices that are served on landowners who deter access. There have been five or fewer such notices in each of the past five years to 2012-13. In 2012-13 itself, just one such notice has been served.

Rob Gibson: Does the minister agree that it is unreasonable for a landowner to take more than five weeks to respond to an access officer's inquiry into their obstruction of walkers, as was the case in October at the Ledgowan estate in my constituency? Does he agree that the access law would be better served by all landowners appointing a responsible person to speak on their behalf within 14 days in responding to such lawful inquiries under the provisions of the Land Reform (Scotland) Act 2003?

Paul Wheelhouse: Scotland's 32 local authorities and our two national park authorities are access authorities and take a lead role in managing access at local level. Access authorities have a duty under the Land Reform (Scotland) Act 2003 to uphold access rights and are best placed to decide on matters such as the timing of responses to their inquiries about obstructions.

The Scottish Government does not see any case for changing the law in relation to matters of timing in handling local access disputes. However, when problems arise I encourage local access officers to involve the local access forum. One of the forums' statutory functions is to offer assistance—and, when the offer is accepted, to give assistance—to parties to a dispute about exercise of access rights, towards resolution of the dispute. As a last resort, the access authority has the power to serve statutory notices, to which I referred in my first answer.

The Presiding Officer (Tricia Marwick): Question 4, in the name of Bruce Crawford, has been withdrawn. The member has provided a satisfactory explanation.

Kenny Gibson has the next question. I am sorry, I meant to say Ken Macintosh.

Ken Macintosh (Eastwood) (Lab): Presiding Officer, are you apologising to me or to Kenny Gibson? [*Laughter.*]

The Presiding Officer: Both.

Programme for International Student Assessments (Science Scores)

5. Ken Macintosh (Eastwood) (Lab): To ask the Scottish Government what its position is on the scores for science in the 2012 Organisation for Economic Co-operation and Development programme for international student assessment results. (S4O-02711)

The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan): The 2012 PISA results show that Scotland has continued to perform above the OECD average in science and at least as well as other United Kingdom countries. For the first time, there has been a welcome reduction in the performance gap between disadvantaged and less disadvantaged pupils in reading, maths and science.

The on-going implementation of curriculum for excellence will ensure that the learning our young people experience continues to improve, including in science, with a sustained focus on raising the attainment of learners.

Ken Macintosh: I am slightly concerned about some of the claims that the minister makes for our performance. I would not wish to overreact to a survey of this nature, but it reveals that, for example, deprivation and poverty are still huge factors affecting attainment across our country, and that some countries are more successful at reducing the impact of poverty on education outcomes.

The survey also reveals that in this country girls are being outperformed by boys by some 13 points in science, while the OECD average gender gap is just one point. We seem to have been tackling that issue about science and maths for more than a decade. How does the minister monitor the success of the programmes in order to improve performance, particularly in science? Are those programmes a success?

Dr Allan: I am glad that Ken Macintosh referred to the attainment gap. It is right to say that some European countries are performing exceptionally well in closing that gap, including a number of small independent countries around us. However, it is particularly relevant that this is the first time that PISA has pointed to a measurable closing in the attainment gap; the 2012 results show that happening in a very positive way compared with 2009. However, we are not complacent about that. I have said on a number of occasions that we must close not only the gender gap but the attainment gap and we must make it clear that the opportunities that education provides are for everyone in Scotland.

Housing Land Supply (Local Authorities)

6. Alison Johnstone (Lothian) (Green): To ask the Scottish Government what role local authorities have in determining appropriate housing land supply. (S4O-02712)

The Minister for Local Government and Planning (Derek Mackay): Planning authorities are required to identify a generous supply of land for housing by allocating a range of appropriate and effective sites in their development plans. That is informed by housing need and demand assessments conducted by the planning authorities.

Alison Johnstone: The minister will be well aware that, in Lothian, the Scottish Government has forced local authorities to release more land than they believe is needed or could even be realistically built on. Green belt land, which fulfils many important functions and defines many people's sense of place and community, is being eroded in Lothian. When it comes to local development planning, do ministers prefer a desk-top study that guesstimates the future, or the local knowledge and decisions of the elected council?

Derek Mackay: I do not think that it is the case that we are requiring local authorities to release more land than is needed; indeed, I have just explained that we are compelling councils to meet the numbers that they themselves have identified for housing supply. That is the right thing to do.

We leave local authorities, at their discretion, to help with and lead on site selection. It would be better for planning authorities if they had identified appropriate sites in the first place. Ministers were presented with recommendations from reporters acknowledging the fact that there was not an adequate supply. We therefore brought forward the numbers—we did not add to them—so that local authorities can determine the right sites in good time. Those modifications are necessary and will help to deliver the housing that we need not just in the Lothians, but across Scotland. The system is working well, but planning authorities would do well to engage earlier to find the right sites and not leave it to reporters to find amendments.

Small Rural Communities (Marketing Support)

7. Stewart Stevenson (Banffshire and Buchan Coast) (SNP): To ask the Scottish Government what support is available for small rural communities to market themselves. (S4O-02713)

The Minister for Local Government and Planning (Derek Mackay): This Government attaches great importance to the wellbeing of communities across Scotland, including rural Scotland. We provide a range of services and

funding through a number of key partners that give communities the means to make a positive difference to their area and to market themselves more effectively. Notable successes include the LEADER programme under the Scottish rural development programme, the community account management initiative that is run by Highlands and Islands Enterprise, and the VisitScotland growth fund.

Stewart Stevenson: The LEADER fund has been a significant player in helping communities in the north-east of Scotland to develop initiatives, and in the Moray part of my constituency, Highlands and Islands Enterprise is excellent at supporting communities that wish to market themselves.

Will the minister advise us what help is available for small rural communities that are not currently eligible for help under the town centre action plan? In many of those communities, we are now down to very small numbers of shops and we need to ensure that they are able to remain sustainable for the foreseeable future.

Derek Mackay: I am sure that Mr Stevenson welcomes the fact that the town centre action plan has produced a range of actions and methods, as well as a toolkit from which any community can draw to support itself so that it is more dynamic and vibrant and can be sustained in difficult times.

As we deliver continued recovery, every part of Scotland can benefit from the funding packages that we have made available. I also draw more attention to community ownership, social enterprises in communities, the sense of place campaign, business improvement districts and the people and communities fund.

Mr Stevenson will also welcome—as will most members of the Parliament—the announcement on business rates, which will continue to ensure that Scotland has the best package of business rates reliefs in these islands.

The Presiding Officer: Question 8, in the name of Patricia Ferguson, has not been lodged. The member has provided a satisfactory explanation.

Community Councils (Participation)

9. Cameron Buchanan (Lothian) (Con): To ask the Scottish Government whether it considers the Improvement Service's project on enhancing the role of community councils to be sufficient in tackling the issue of participation. (S4O-02715)

The Minister for Local Government and Planning (Derek Mackay): Throughout Scotland, thousands of community councillors are active in their communities, and that effort is very much welcomed. I am confident that the Improvement Service's work, in addition to the contribution of

other organisations such as local authorities and community councils themselves, will make a positive difference.

Cameron Buchanan: The minister is aware that, in my region, the City of Edinburgh Council and West Lothian Council held elections in October, following which one community council in Edinburgh and five in West Lothian were disbanded due to lack of interest—albeit that West Lothian Council now states that it is confident that at least two will reform. Will he advise precisely what the Improvement Service is doing to address the matter and to prevent further loss of our important community councils?

Derek Mackay: A range of actions will derive from the funding that we have committed to the Improvement Service, including training, mapping out the community councils' relationship with other organisations, greater use of electronic communication and a number of new pilot projects to try to enhance participation in community councils.

Mr Buchanan is absolutely right that levels of participation and turnout are not adequate. That is why we want to do more. More opportunities will also exist through the proposed community empowerment (Scotland) bill further to enhance the role of community councils. I look forward to the Conservatives' proposals—in particular, to Mr Buchanan's contribution—on how to determine what further action we can take to generate a great deal of interest in community councils so that they can more helpfully contribute to Scotland's democratic life.

Sarah Boyack (Lothian) (Lab): Will the minister agree to consider planning in his pilot work with community councils? I know from anecdotal evidence from Edinburgh that the volume of work that is associated with planning issues, whether repeated consultations or the sheer complexity of planning applications, places a huge burden on community councils, which want to exercise their obligations properly. Will he consider that as an area in which there is room for improvement?

Derek Mackay: Yes—I am happy to look into that. The statutory function that community councils have is important. They are supported by Planning Aid Scotland. There is a role in that for community planning, as well as the land-use planning system.

I will take Ms Boyack's comment on board in the revitalisation of community councils throughout Scotland.

Digital Connectivity (Cities)

10. Colin Keir (Edinburgh Western) (SNP): To ask the Scottish Government what it has done to

mitigate the impact of the cancellation of the fixed broadband capital infill programme of the United Kingdom Government's superconnected cities broadband initiative. (S4O-02716)

The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon): The Government recognises that smart cities are dependent upon their digital infrastructure. We are working closely with Scotland's seven cities, through the Scottish cities alliance, on shared objectives to deliver world-class digital connectivity. That includes supporting city local authorities and their partners in redesigning their superconnected cities plans.

Colin Keir: Can the cabinet secretary provide an update on when we can expect superfast broadband to be rolled out in rural west Edinburgh?

Nicola Sturgeon: The high level roll-out plans for the step change programme were published on the Government's website in October. We will not be in a position to confirm which areas in rural west Edinburgh will be connected until technical survey work has been completed. We intend to announce in January the exchanges that will be the first to be upgraded under the superfast broadband project, and more information on the rest of the roll-out will become available during the course of next year.

First Minister's Question Time

12:00

Engagements

1. Johann Lamont (Glasgow Pollok) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S4F-01754)

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

Johann Lamont: In 2007, the Scottish National Party pledged to ensure that children in primaries 1 to 3 would be in classes of 18 pupils or fewer. When he was asked in 2007 whether he could guarantee that that would be achieved in one parliamentary session, the First Minister told the chamber, "Yes, I can."

Nearly seven years on, is the First Minister closer to or further away from reaching that goal than he was when he took office?

The First Minister: I remind Johann Lamont that this Government was re-elected in 2011. As she probably knows, there has been not just a financial crisis, which the Labour Party had a substantial hand in, but—pertinently—a reduction of more than £3 billion in the Scottish revenue budget. That has meant that public authorities have had to deal with that position. Although local authorities have been sheltered from that reduction by central Government, they face extreme financial pressure nonetheless.

In order to protect pupil teacher ratios—as Johann Lamont is well aware—in 2010 we negotiated with the Convention of Scottish Local Authorities an agreement that that ratio should go to no more than 13.5 pupils per teacher. That has been held to by COSLA. We would like to see substantial improvements in pupil teacher ratios, but I think that we should recognise—in fairness to local authorities the length and breadth of Scotland—that the agreement that was reached in 2010 has been upheld in difficult financial circumstances.

Johann Lamont: So, in summary, "It wisnae me." Talk about being in government and doing what you are supposed to do. Pupil teacher ratios are now worse than they were when Labour was in power, so even that defence does not help the First Minister.

The answer is of course that, seven years on, the number and proportion of classes of 18 pupils or fewer have gone down not up. Pupils in primaries 1 to 3 are now less likely to be in classes of 18 or fewer than they were when Alex Salmond

became First Minister. I thought that Scotland was on pause; now we find that it is on rewind.

The number of primary school pupils on the school roll has gone up since 2007. That would suggest that—just to keep pace, let alone meet his own targets—for the First Minister to be serious about his pledges the number of primary school teachers ought to have increased, so can he tell us how many more primary school teachers have been hired since he came to office?

The First Minister: I correct Johann Lamont. This Government came to power in 2007, so let us compare the situation with the one that existed when Labour was in power in 2006. The number of pupils in primaries 1 to 3 in classes of 18 or fewer is better than the 2006 figure. Johann Lamont should at least accept that the Labour Party was in power in 2006 and that the SNP was in power in 2007. That is rather pertinent, because one of the first acts of the SNP Government when it came into power—I remember Fiona Hyslop making the announcement—was to increase the teacher training numbers by 300.

Let us look at the figures in detail across primary schools. In 2006, the average class size in primary 1 was 23.1; it is now 21.2. In primaries 1 to 3, it was 23.6; it is now 23.2. I accept and agree that those are not the improvements that we would have looked for if we had had different financial circumstances over the past few years, but given that I have given Johann Lamont the figures, she ought to accept that there have been improvements in those primary categorisations since 2006. I think that we can reach agreement on the fact that, in 2006, Johann Lamont was a minister in a Labour Government and that, in 2007, I was the First Minister in an SNP Government.

Johann Lamont: Our figures in primary school education were better before the First Minister came to power than they are now.

What the First Minister said sounds like one of those answers that prove that the world is not round in order to get him through the next half hour. At some point, he needs to come back to the real world, where parents, teachers and children are. The reality is that he does not appear to have believed even in his own education policy; it was simply grist to the mill to change people's votes and not to change the lives of our children and their educational opportunities.

The number that I referred to is down, too. We have almost 1,000 fewer primary school teachers now than we had when the First Minister came to office. This is a First Minister whose promises on education are bogus, and the only things that are more bogus than his pledges are his attempts to keep them.

The First Minister put class sizes at the heart of his education policy. In recent years, secondary school rolls have reduced, which should make it easier to have smaller class sizes. Has the number of teachers fallen faster or more slowly than the rate at which the number of pupils that they have to teach has dropped?

The First Minister: The agreement with COSLA in 2010 has been adhered to. The figure was 13.5 in 2011, 13.5 in 2012 and 13.5 in 2013.

Perhaps Johann Lamont and I can agree on the comparison of primaries 1 to 3 between 2006 and now. The figure was 23.6 in 2006 and it is now 23.2. Over primary as a whole, the figure was 23.2 in 2006 and it is still 23.2. I accept that that is not the improvement that we were looking for, but it is simply incorrect of her to say that the position has worsened since the Labour Party was in power in 2006. Perhaps she could acknowledge that.

I was struck that Larry Flanagan, the Educational Institute of Scotland's general secretary, said on "Newsnight Scotland" last night that one local authority is responsible for the drop in teacher numbers. I thought that that could not possibly be true—how could one local authority in the whole country be responsible for the drop of 175 in teacher numbers?—so I checked the figures, and I found that a single local authority had a decline of 181 teachers between 2012 and 2013. In that sense, it is—as Larry Flanagan said—responsible for the entire Scottish reduction of 175.

Which is that single local authority? It is Glasgow City Council. Perhaps Johann Lamont should not come along here to challenge the SNP Government on teacher numbers; why does she not take a trip to Glasgow city chambers and speak to her colleagues?

Johann Lamont: I hope that the First Minister was watching "Newsnight Scotland" last night, because his education secretary made the astonishing defence that up was down, that good was bad and that better was worse. The education secretary lives in a fantasy world; I suggest that the First Minister should stop listening to his education secretary and look at what is happening on the ground.

If the First Minister wants to look at what councils are doing, let us look at Dundee City Council—the last time that I looked, it was an SNP administration. In its area, the number of pupils in primaries 1 to 3 who are in classes of fewer than 18 has gone down in one year by two thirds. That tells us that the problem is not for individual councils but for his Government.

Instead of getting civil servants to find some bizarre defence from the figures, it is about time that the First Minister got his Government to

confront what is happening in the real world to real families. There are now almost 3,000 fewer secondary school teachers than there were when he came to office and almost 4,000 fewer teachers overall. Class sizes are going up, not down.

There is a pattern here, which we have seen in great form today. The First Minister makes a pledge based not on its merits but on how good a soundbite it is. He then hands the onus to someone else—usually councils. He starves them of cash and blames them when they fail to meet the bogus pledge that he tried to con the public with in the first place. That is cynicism on stilts, and it is not worthy of this Parliament at all.

Here is the question—[*Interruption.*]

The Presiding Officer (Tricia Marwick): Order.

Johann Lamont: The children are obviously not away to their pantomime today. [*Interruption.*]

The Presiding Officer: Order.

Johann Lamont: If we cannot trust the First Minister on his key pledge in his 2007 manifesto, and if somehow Scotland does vote yes next year, who will he blame when we find out that his white paper is not worth the mouse pad that it was googled on?

The First Minister: Johann Lamont should look behind her for that particular punchline, which was pretty bad.

Johann Lamont referred to being starved of cash. Yes, of course—there has been a starvation of cash as a result of Westminster austerity bearing down on the Scottish people. She suggested that it is local authorities that are being starved of cash. Unfortunately for her, during 2006-07, when she was a minister, local government's share of Scottish Government expenditure plus non-domestic rates income was 34.7 per cent, whereas it is now 36.8 per cent. Of course there is a squeeze on spending, but local government is doing better than general public expenditure.

Yes, there has been a starvation of cash—that has been the case under Johann Lamont's Government and the Government with which she is now aligned in the bitter together campaign in terms of what has been allowed for the Scottish people.

Johann Lamont mentioned Dundee City Council, which actually has the second-best teacher ratio in Scotland. That is not the situation that we find in Glasgow, which has now moved above the agreed ratio of teachers to pupils that was decided with the Convention of Scottish Local Authorities. She says that that is a complex point, but it is not complex at all.

There has been a decline—which I regret—of 175 in overall teacher numbers in the year to September 2013, but there has been a decline of 181 in the city of Glasgow. That means that, as Larry Flanagan indicated last night, the city of Glasgow is responsible—it is a single local authority, but a big one—for that whole decline that we have seen in Scotland over the past year. I think that Johann Lamont should go along and speak to her colleagues on Glasgow City Council. It would be refreshing, given that they employ teachers in Scotland, if she would do so and accept her party's burden of responsibility in these matters.

We have had success with the legislation that members may remember was brought in to stop class sizes in primary 1 containing more than 25 pupils. In 2006 there were 16,845 primary 1 pupils in classes of more than 25. The figure is now 580, which I think would, in anybody's terms, be seen as a reasonable improvement. That is a joint success for the Government and for the local authorities that have responded to the legislation.

Let us talk for a moment about the success of pupils and teachers in Scottish schools. We have had record examination results, which is a substantial achievement by teachers and pupils. We have record numbers of school leavers in positive destinations in Scotland—the figure is 89.5 per cent, which is a substantial achievement by teachers and the education system in Scotland.

We now know, from the programme for international student assessment—or PISA—survey, that the attainment gap in maths, reading and science between the most disadvantaged and the most advantaged areas of this country has closed and narrowed for the first time. Again, there is far more distance to travel, but that is nonetheless a substantial achievement.

Instead of taking the view that Glasgow is not responsible for its own decline in teacher numbers—despite the fact that it is responsible for the entire decline in Scotland this year—and even though Johann Lamont refuses to go along to the city chambers, can we at least agree that, in these difficult economic circumstances, the teachers and pupils of Scotland have turned in a substantial and first-class performance?

Prime Minister (Meetings)

2. Ruth Davidson (Glasgow) (Con): To ask the First Minister when he will next meet the Prime Minister. (S4F-01756)

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

Ruth Davidson: Two weeks ago, the Prime Minister of Spain stated that an independent Scotland—[*Interruption.*]

The Presiding Officer: Order.

Ruth Davidson: —would join the same queue as everybody else to get into the European Union, echoing the words of the European Commission President and the foreign ministers of Spain, Ireland, Latvia and the Czech Republic. The First Minister told the Parliament that every one of those people was wrong and then selectively quoted a letter that he found on the internet to back up his case. However, the Commission's official position had already been given to the Parliament when the First Minister stood up, in a letter dated 5 November and held by the Scottish Parliament information centre. Will the First Minister tell the Parliament why he chose to google a pro-independence website rather than read from the official letter that was given to Parliament, and will he read from that letter now?

The First Minister: The letter that I quoted was absolutely genuine and was from the Commission—there was no difficulty about that. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: Ruth Davidson cites the foreign minister of Ireland, who is on record as saying that she supports Nicola Sturgeon's position. To repeat, that position is that, in the 18-month period between the referendum of next year and Scotland becoming an independent nation in 2016, we will negotiate our position from within the European Union. Is that 18-month period a satisfactory time in which to negotiate that position? I think that it is perfectly reasonable. That quote is not from me or the European Commission but from Professor James Crawford, the legal expert who was employed by the United Kingdom Government to put forward the case. When James Crawford looked at the period and said in response that it was a reasonable timescale, that particular argument was removed from the unionist parties' scaremongering menu.

Ruth Davidson: I think that the First Minister has inadvertently misquoted the Irish foreign minister there, so let me quote her directly. She said:

"If Scotland were to become independent, Scotland would have to apply for membership and that can be a lengthy process".

The First Minister used a diversionary tactic, because he did not want to quote from the letter in SPICe, but I will. It states:

"The EU is founded on the Treaties which apply only to the Member States who have agreed and ratified them ... a new independent state would, by the fact of its independence, become a third country with respect to the EU and the Treaties would no longer apply on its territory."

It goes on, and it is unambiguous that an independent Scotland would have to negotiate

entry into the European Union from the outside. The opt-outs that we currently have from the euro and the Schengen agreement would be voided and our budget rebate would no longer apply.

So we have a First Minister who misled the people of Scotland once, telling them that he had specific legal advice on Europe when none existed. He misled them a second time by trying to pretend that a letter that he had googled was the final word on EU entry, and it turns out that he has misled them a third time, because an official position on EU entry had been given to the Parliament but, rather than detail its contents, he used the internet letter instead. He is the Pinocchio of Scottish politics. Every time he speaks on Europe—

The Presiding Officer: I am sorry, Ms Davidson—

Ruth Davidson: —his nose grows another inch.

The Presiding Officer: Ms Davidson, sit down. I do not consider that language appropriate. You can continue.

Ruth Davidson: My apologies to you, Presiding Officer, if I have caused offence in the chamber.

I have outlined three occasions on which, on a single issue, the First Minister has misled the people of this country. If the people cannot trust him on this issue, why should they trust him on any issue?

The First Minister: The letter that I read out from the Commission official has been confirmed as genuine. It was read out in good faith—*[Interruption.]*

The Presiding Officer: Order.

The First Minister: Well, the letter has been confirmed as genuine, not on the internet but in the hard copy that we now have. The letter from the Irish foreign minister will be put in SPICe and, when Ruth Davidson looks at it, she will find, if I recall correctly, that it actually says that the Irish foreign minister supports Nicola Sturgeon's position. If we go back to the debate of only two weeks ago, I remember pointing out explicitly to Ruth Davidson that the European Commission had said that it would comment on a precise legal scenario, and it has repeated that many times. Why do we not have a precise legal scenario? It is because the United Kingdom Government refused to go to the Commission with the precise legal scenario. *[Interruption.]*

The Presiding Officer: Order.

The First Minister: I know that Ruth Davidson is getting exercised by this, but that is the case. The United Kingdom Government has refused repeatedly to go to the European Commission with the precise legal scenario, despite the Scottish

Government's offer to do so. Why might that be? It is for the same reason as the Spanish Prime Minister says that the cases of Catalonia and Scotland are totally different and refuses to say that he would veto an independent Scotland's membership, despite Johann Lamont's confident assertion of that only two weeks ago—it is because it is known and recognised that, when Professor James Crawford said that 18 months was a reasonable timescale to negotiate Scotland's position from within the EU, by definition, he knew what he was talking about.

Why is it a reasonable timescale? It is because we are part of the *acquis communautaire* and will be negotiating our position having conformed to European regulations. That is why, having been a part of the European Union for 40 years, we are not placed in the same circumstances in negotiations as an accession state. In the time that it would take Ruth Davidson to go to her Prime Minister and ask him to agree to the Scottish Government's suggestion to go to the European Commission with the precise legal scenario, perhaps she can revise her view and stop putting forward the incredible suggestion that resource-rich, people-rich, fish-rich Scotland would not be welcome in the European Union. *[Applause.]*

One further point about that timescale—*[Interruption.]*

The Presiding Officer: First Minister, if I could—

The First Minister: Which set of negotiations is likely to be more successful? Is it the UK Government negotiating its way out or the—

The Presiding Officer: First Minister—

The First Minister: Or the Scottish—

The Presiding Officer: First Minister, when I address you directly, I would appreciate it if you could resume your seat. I was trying to say that I wanted you to come to a conclusion.

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-01753)

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

Willie Rennie: I can tell the First Minister that I was genuinely pleased that nursery education has secured such a prominent place in his white paper. It is good that we can agree that nursery education is a priority, even though he and I will disagree about the best constitutional arrangement to deliver it. However, he says that his new plan can be delivered only with

independence, whereas I want to take the first steps now for two-year-olds. Cannot we put aside our differences on the constitution to do it? The commitment in the white paper is now combined with extra funds from Westminster. It means that he can act in next year's budget. Will he consider putting extra support for two-year-olds in that budget?

The First Minister: Let me try to reach the point of consensus that Willie Rennie asks for. I agree that childcare is a fundamental priority, and Willie Rennie has pursued this issue many times in the chamber. There are two points on which I do not agree. First, I do not agree with his interpretation of what is happening south of the border at present, and I can give substantive evidence for that. Secondly, the funding of the transformation in childcare that is pointed to in the white paper requires access to the revenues that will be generated by the substantial expansion of women coming into the workforce—revenues that flow to the Westminster Exchequer under the current constitutional arrangements. Even if his colleague Danny Alexander wanted to give those revenues to the Scottish Government, it is highly unlikely that the Chancellor of the Exchequer would follow that example.

If we can agree that a transformation in childcare is the way forward both in addressing inequality in female access to the workforce and for the future of children in Scotland, surely we can also agree that the benefits from that policy should flow into a Scottish Exchequer so that the policy can be comprehensively funded.

Willie Rennie: No one expects the First Minister to deliver full-time places from the age of one from next August. No one is saying that. Even his plan will take until 2024. Parents across Scotland will be mystified as to why he will not act now on childcare for two-year-olds. He has the power and he has the support across the chamber, his party policy backs it, and now he has the extra money. There is nothing on earth that should stop him delivering for two-year-olds from next August. I am sorry to say that he has given a good impression of a man imprisoned by his obsession with independence. The children should not lose out because we cannot agree on the constitution. Can he at least confirm that new provision for two-year-olds will be put on the table for talks between our parties in the budget?

The First Minister: I will deal with those issues in turn. It is true, as I have said, that I do not think that Willie Rennie's interpretation of what is happening in England is borne out by the facts. The United Kingdom Government press release of 12 November admitted that around 30 per cent, or 38,000, of eligible two-year-olds were not receiving their entitlement to 15 hours of free

childcare per week, and that is pertinent to this debate, given that when we previously argued about standards in childcare, it turned out to be my argument, along with that of Willie Rennie's party leader, that prevailed over their Tory partners in government.

On the consequentials in the autumn statement, it is true that I have a quote of what Danny Alexander said on 6 December. He thinks that we should spend the consequentials on increasing childcare but, in the same briefing, he also said that we should spend them on free school meals, helping business, and dualling the A9. I know that the Liberal Democrats have long believed in the single transferable vote, but we cannot have a single transferable consequential when it comes to allocating Government expenditure.

I want to say what the difference is between the expansion that Willie Rennie is suggesting, which I would like to see and which we describe in the white paper for the first year of an independent Scotland, and our further proposals. That substantial expansion would cost £100 million. We go on to explain how a real transformation in childcare and an expenditure of £700 million would require us to have access to the revenues that will be generated by women being released and freed to go back into the workforce. When Willie Rennie agrees with me that we need both sides of the balance sheet—the revenues that are generated by Scotland—to afford our joint interest in transforming childcare, then we will have reached a real agreement.

The people of Scotland, knowing what independence can deliver, and knowing that Johann Lamont last week described childcare as an independence issue, know that it will be one of the defining issues of the independence referendum.

Autumn Statement (Implications)

4. John Mason (Glasgow Shettleston) (SNP):

To ask the First Minister what the implications are of the autumn statement for Scotland's budget. (S4F-01767)

The First Minister (Alex Salmond): It is quite clear that the UK Government's austerity approach has let Scotland miss out on opportunities for growth. Let us remember that, even under the better figures being released during the autumn statement, the UK economy remains smaller than it was prior to the recession. Despite the fact that Scotland has paid more per person in taxes every year for the past 30 years than the rest of the UK, our spending power has been cut over the five-year spending period in real terms by over £3 billion. It is therefore quite ludicrous for the Westminster Government and those in this chamber who support it to suggest that the

consequential of perhaps £100 million in revenue terms can compensate for the withdrawal of £3,000 million-plus from real Scottish spending as part of the austerity programme.

The Presiding Officer: Make this brief, Mr Mason.

John Mason: The First Minister will be aware of the hammer blow from the Conservative-Lib Dem statement that the retirement age is to rise yet again, meaning that Scottish youngsters who are leaving school this year will have to work for more than 50 years—

The Presiding Officer: Question.

John Mason: —to get the state pension. It takes no account of Scotland's lower life expectancy. What will Scotland's pension policy be following a yes vote?

The Presiding Officer: Briefly, First Minister.

The First Minister: That is indicated in the white paper. Of course, it is pertinent to look at life expectancy in Scotland and the rest of the UK when deciding what the right retirement age is. That is one of the examples of where Scotland's priorities can be met when Scotland controls all areas of revenue and spending.

Junior Doctors' Hours

5. Neil Findlay (Lothian) (Lab): To ask the First Minister what the Scottish Government's position is on whether the number of hours worked by junior doctors is acceptable. (S4F-01757)

The First Minister (Alex Salmond): The Government has monitoring in place to ensure that junior doctor rotas comply fully with the working time regulations. Junior doctors work no more than 48 hours per week on average. We continue our work with national health service boards and professional bodies to review best practice and how it can be used to improve the working lives of junior doctors.

The Presiding Officer: Briefly, Mr Findlay.

Neil Findlay: Two years ago, junior doctor Lauren Connelly tragically died in a car crash on her way home from hospital. Lauren had just finished four days of straight day shifts and the first night of a seven-day run of night shifts. In the weeks prior to the accident, Lauren had been rostered to work up to 107 hours. She, like many other junior doctors, routinely worked in excess of those hours. Lauren's father is not looking for someone to blame or scapegoat; he just wants to ensure that no other junior doctor has the same experience as Lauren, and that no one else suffers the grief and misery that his family has suffered.

Will the First Minister agree to meet Brian Connelly and me to look at ways in which we can bring about the change that is needed to avoid a repeat of this very sad situation?

The First Minister: Obviously, I express my condolences to Dr Connelly's friends and family. I cannot comment specifically on this case because it could still be subject to a fatal accident inquiry, as I understand the position. On that basis, I cannot comment on the individual case. However, I want to stress the condolences that I know everybody in the chamber offers to Dr Connelly's family.

I would be happy to arrange a meeting such as Mr Findlay requested. It has to be that we cannot comment on the exact circumstances of the crash—that is the rule—but nonetheless I would be happy to arrange the meeting.

I think, however, that we need to recognise that although, of course, constant monitoring and discussions with the British Medical Association should take place to see whether further improvements can be made, the average number of hours per week that junior doctors work has reduced from 58 hours in 2004 to up to 48 hours today. It is also the case that we have twice-yearly monitoring to make certain that the rules are being applied. Yes, of course, as we do with the BMA, we are perfectly happy to have meetings to discuss how further improvements can be made, but let us recognise that over the piece there has been progress and let us hope that further progress can be made.

Independence (Food Bills)

6. Stuart McMillan (West Scotland) (SNP): To ask the First Minister what the Scottish Government's position is on recent reports that shoppers in an independent Scotland could face higher food bills. (S4F-01758)

The First Minister (Alex Salmond): There is absolutely no reason whatever to expect the retail prices in Scotland to be higher than they are at the present moment. Far from food prices rising because of independence, the truth of the matter is that they are rising within the United Kingdom at the present moment. The latest Organisation for Economic Co-operation and Development statistics on food price rises for the year to October showed that food prices within the UK are the fourth highest in the OECD, with our small independent European neighbours experiencing lower price rises and, in some cases, falling prices.

I also welcome, of course, that the supermarkets have clarified their position and that another fairly obvious and ridiculous

scaremongering attempt by the better together campaign has fallen apart in the past few days.

The Presiding Officer: Briefly, please, Mr McMillan

Stuart McMillan: Does the First Minister agree that the no campaign's reaction to the story is just a lot of nonsense and that it falls apart when it is subject to scrutiny from any politician or the public of Scotland? [*Interruption.*]

The Presiding Officer: Order.

The First Minister: I hear the deputy leader of the Conservative Party saying that the no campaign has said nothing on the issue. However, the no campaign did react on the first day of the story when they saw the opportunity to have another scaremongering campaign. I agree that they have been pretty quiet since the story has totally fallen apart in terms of the reaction of the supermarkets.

I recall the leaflets about the UK's triple A credit rating, which was never withdrawn. I recall, of course, the claim that "Doctor Who" could not be broadcast in Scotland, despite the fact that 90 countries worldwide were enjoying it. My personal favourite from the Labour Party was that we would have to drive on the other side of the road in an independent Scotland; and of course there was the corker, which I admit the deputy leader of the Conservatives distanced himself from, that roaming charges would go up in an independent Scotland, which was said on the very day that the European Commission was putting forward their total abolition.

The Presiding Officer: Before we end First Minister's question time, I have—

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

The Presiding Officer: Sit down, Mr Findlay—I am speaking.

Before we end First Minister's question time I want to say that I consider that 27 minutes to get through the three Opposition party leaders' questions and exchanges is far too long. When I became Presiding Officer I said that I wanted to be fair to back benchers. It is hardly fair to them that they have got precisely three minutes to ask their questions.

I have spoken privately to the business managers on many occasions, asking that this be brought to the attention of their party leaders. I will look at this very carefully next week because, quite frankly, I consider the position unacceptable and I am not putting up with it in the future.

Mr Findlay, you have a point of order.

Neil Findlay: I am absolutely sure that in replying to my questions the First Minister did not seek to deliberately mislead Parliament. However, on the case that I mentioned, it is my understanding, having spoken to the family, that no fatal accident inquiry will occur. Perhaps I can invite the First Minister—through you, Presiding Officer—to return to the chamber at some point to correct the record.

The Presiding Officer: That is not a point of order.

The First Minister: I do not think that I should have to return to the chamber and the matter should not be a political issue. I was quoting from the notes that I have here, which say that the accident is still under investigation, which may result in a fatal accident inquiry.

This absolutely should not be a political issue, so I will have that point clarified for Neil Findlay and I will make sure that that information is relayed to the family. If there is any misunderstanding, it can be properly cleared up in that fashion.

Payday Loan Industry (Regulation)

The Deputy Presiding Officer (Elaine Smith):

The next item of business is a members' business debate on motion S4M-08036, in the name of Kezia Dugdale, on the Financial Conduct Authority's plans to regulate the payday loan industry. The debate will be concluded without any question being put.

The debate is somewhat oversubscribed. We have a two o'clock start this afternoon for consideration of legislation, so if I am going to be able to call everyone who would like to speak, members must try to keep their speeches to three minutes. Kezia Dugdale, who will open the debate, has seven minutes.

Motion debated,

That the Parliament supports the Financial Conduct Authority's latest plans to regulate the payday loans industry as set out in its initial report on consumer credit; welcomes stricter requirements for payday lenders, which include a mandatory affordability check on borrowers, limiting the number of loan roll-overs to two and tighter restrictions on what payday lenders can say in adverts; considers that the payday lending sector represents an increasingly problematic issue in the Lothians and throughout the rest of Scotland; is concerned that advisors at Scotland's Citizens Advice Bureaux (CAB) are seeing over a hundred people a week with payday loan related issues; notes that CAB provide advice to anyone who believes that they have been unfairly treated by a lender or who has problems with debt; considers it important that the lending industry is open and transparent and offers consumers a fair deal but also protects them from financial ruin, and believes that these proposals go some way toward beginning to address these issues.

12:37

Kezia Dugdale (Lothian) (Lab): I thank members for staying and draw their attention to my entry in the register of interests, in which I am listed as being a member of the Capital Credit Union and the Co-operative Party.

There is a roll call of shocking statistics about the degree to which payday lending is a problem in the UK today. One in three people in Scotland cannot afford to save and one in five has no savings at all. The payday loan industry was worth £2.2 billion to the UK in 2012; 8 million loans were made in that year alone. We know that the most common use of payday loans is to pay for food, closely followed by fuel—gas and electricity bills.

The roll call of statistics is endless, but I specifically want to tell Parliament about one of my constituents, called James. James took out a £200 loan to buy some extra Christmas presents in the run up to Christmas a few years ago. When January came and the pay cheque was late, he could not keep up with that loan, so he took out a

bigger loan to pay the first one off. When the payments for the second loan got too difficult, he went to another payday loan company and took out another loan. Before he knew it, he was £5,000 in debt to five different companies. Members might think that £5,000 is not a great deal of money—plenty of people have £5,000 car loans or carry that amount of credit on their credit cards—but the problem was that by the time James got to £5,000, every single penny of his wages was going on payday loan debt.

That is because payday loan companies use something called a continuous payment authority, which is basically a computer programme that can check a person's bank account every five minutes to see whether there is money in it. That is what people sign up to when they take money from Wonga. Every five minutes, it can test their account to see whether they have money there, and if they have been paid it will take their wages. It will take their money before their rent goes out, before electricity bills or council tax bills go out—it might even take it before they even know that they have been paid. That is how people get into tremendous amounts of trouble.

James is in a better position now, because he went to a citizens advice bureau and got the help that he needed, but there are countless people like him. We need to be very careful about using the language of vulnerability to suggest that people who go to payday loan companies are somehow vulnerable because that is not strictly true. We know that 75 per cent of people who take out payday loans are in full-time work, that 50 per cent of them are men, that 50 per cent of them are under the age of 35 and that 30 per cent of them own their homes. We are talking about working Scotland: people like James.

What can we do about the situation? First and foremost, we need to cap the cost of credit and limit the interest rates that the companies can charge. My friend and colleague Stella Creasy has been campaigning for years on that issue. I am pleased that her campaign has been successful and that the UK Government has committed itself to a cap. After all, we need to remember that these companies are in the UK only because they have been legislated out of America state by state. The maximum interest rate that can be charged in Germany is 40 per cent, but we let Wonga charge 5,284 per cent and let families get into tremendous amounts of trouble.

The UK Government is acting only because it has been forced to do so by the efforts of thousands of anti-payday-loan campaigners across the country. However, James's story makes it clear that capping the cost of credit alone is not enough. We need to tackle the rollovers and stop companies upselling products by telling

people, "If you can't pay that loan, we'll give you a bigger one and you can just pay it back over a longer period."

We also need to address the prolific and relentless advertising of payday loans that has taken over our radio and television stations, that arrives in people's inboxes and which comes through their letterboxes. In an interesting report that it published this week, the Office of Fair Trading pointed out that in 2009 there were only 17,000 payday loan adverts on our TVs. By 2011, the figure had reached a quarter of a million and, last year, there were 400,000 adverts for payday loans on our TVs and airwaves. Given those figures, I was keen to highlight the issue in my motion.

Put bluntly, payday loan companies are profiting from the cost of living crisis that the country is facing. For too many families, there is simply too much month left at the end of the money. No one knows that better than those who work in citizens advice bureaux across the country and who see 100 people a week turning to them for help. They are in a unique position not just to quantify the problem, but to explain exactly what is going on behind the scenes, so I am pleased to be able to highlight some of the evidence from its payday loan report card.

That report card points out that only 35 per cent of the people who went to payday loan shops were asked whether they could afford the loan before they took it out and that only 20 per cent were asked to provide any sort of evidence on their income. It also points out that 16 per cent were asked whether they wanted to take out a bigger loan without being pressured to do so, and that only 7 per cent were offered free and independent debt counselling. Those truly shocking statistics show that even with capping the cost of credit we still need to address so much more about the way these companies go about their business.

Two years ago, I set up the debtbusters campaign for three reasons: first, to take on payday loan companies street by street; secondly, to promote credit unions in their place; and thirdly, to improve debt relief. Indeed, this week, Jackie Baillie and I have taken to the streets across the country, not least the high street in Shieldinch on the set of "River City" as we tried to save the character Scarlett Mullen, who is in a tremendous amount of payday loan debt. I also pay tribute to Glasgow City Council, which is doing a tremendous amount to take on payday loan companies. I think that it has the most progressive anti-payday loan policy in the UK; it is looking at advertising, pensions, planning, rates relief and the rents that credit unions could pay to give them an advantage over payday loan companies.

However, it is no use telling people, "Payday loan companies are bad" when they are desperate and need access to affordable credit. In that respect, credit unions have part of the answer. I know that we will have the opportunity to debate the issue in detail next week, but I simply point out that credit unions such as the Capital Credit Union offer a direct alternative to payday loans by providing instant access to money that is capped at an interest rate of 26.8 per cent. We need to invest in and to see more of that alternative model—I know that the Government is considering options in that respect.

The final part of the debtbusters campaign is debt relief. Given that we are about to debate the Bankruptcy and Debt Advice (Scotland) Bill, I ask the Minister for Energy, Enterprise and Tourism to think about what else he can do with that legislation to protect people from payday lenders. As I have said, even after we have capped the cost of credit, there is still so much more to do. For example, we have to examine the link with football clubs and look at financial education in schools.

I thank members for coming along and listening to the arguments, and I particularly thank Santa, who, although he is very busy at this time of year, was outside Parliament this morning warning people against payday loans. The fact that Santa has time to do that shows how important the issue is.

12:44

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I welcome the debate and congratulate Kezia Dugdale on securing it. She has put a tremendous amount of effort into her campaign. I also apologise to Ms Dugdale, the Presiding Officer and other members because I will probably have to leave before the end of the debate.

I thank Citizens Advice Scotland for its efforts to highlight the very important issue of payday loans. It is clearly important that people who struggle to secure access to credit get the opportunity to do so, but we have for too long seen a pattern of irresponsible lending practice. Credit is often given too readily and at a rate of interest that any person would struggle to keep up with, let alone our poorest citizens. Kezia Dugdale did well to make the point that a broad range of people use payday lenders.

Citizens Advice Scotland has told us that its

"recent public survey, run over the past year, found that ... Over 50% of borrowers of a payday loan were using it for essentials including food, energy, and rent",

as Kezia Dugdale pointed out in her opening remarks. It also told us that

"The average amount borrowed was between £100 and £400; however 14% of respondents had borrowed over £1,000"

and that

"The majority of respondents were in full time work meaning many Scots are struggling with finances for basic needs even when working full time".

That is the reality that Citizens Advice Scotland found.

StepChange Debt Charity Scotland has told us:

"There has been a dramatic rise in payday lending"

among the people with whom it works, and that

"Almost 20 percent of clients had at least one"

payday loan

"in June 2013—a ten-fold increase since 2010."

StepChange can break the figures down to constituency level. In my area—Cumbernauld and Kilsyth—it advised 60 clients in 2012. The average payday loan debt was £843, which was up from £624 in 2010. It is therefore clear that we need the industry to tighten its practices.

Citizens Advice Scotland asked borrowers to complete its survey and to let it know whether their payday lender had stuck to the voluntary code of conduct pledges that it had asked the industry to sign up to. I think that Kezia Dugdale gave a little information from that. There was some good news. Some 76 per cent of people reported that the lender had made it clear how much it would cost in total to repay the loan, and 77 per cent were told how the repayment would work.

However, some of the other statistics are particularly depressing. Only 35 per cent of the lenders checked a person's personal finances before giving them a loan, only 20 per cent asked for documentation to help to ensure that the person could afford to repay the loan, and only 2 per cent checked personal finances to see whether the person would be able to pay back an extended loan.

It is therefore clear that we need to take more action to change the sharp practices of the industry. I would welcome any proposals in that regard—Ms Dugdale set out some. We need to ensure a better outcome for the people whom we represent.

I thank Kezia Dugdale for securing the debate.

The Deputy Presiding Officer: I remind members that speeches should be three minutes long, if possible.

12:47

Margaret McDougall (West Scotland) (Lab): I am sure that many of us in the chamber will have

been involved in campaigning against payday loans in our areas. I, too, thank Kezia Dugdale and congratulate her on securing the debate.

I welcome the Financial Conduct Authority's latest plans to regulate the payday loans industry, which would mean the introduction of stricter requirements, such as affordability checks on the borrower, a crackdown on advertisements, and limiting loan rollovers to two. Although those stricter requirements will go some way towards addressing the issues with the payday loans industry, they are—as the motion says—just the "beginning"; more needs to be done.

Payday loans cause financial misery for many people. The industry is a predatory one that preys on those who are already struggling financially. That can be seen in the influx of people who are going to citizens advice bureaux throughout Scotland to get advice on their increasing debt resulting from payday loans. Those debts get worse at this time of year as people struggle to juggle the financial pressures of Christmas with the rest of their bills.

In Scotland, we do not have to wait for the Westminster Government to take action on the industry; we could and should do more right now. Regulation of the industry is a reserved matter, but we could look at other options, such as working with councils and credit unions to offer alternatives, and establishing a loan guarantee fund in Scotland.

Labour councillor Joe Cullinane is leading the way in North Ayrshire Council. He recently lodged a motion that urged the Scottish National Party council to look into how the council can best support credit unions and promote financial literacy and affordable lending. It is also hoped that the council will consider measures to limit the number of payday lenders, bookmakers and pawnbrokers on our high streets.

The Scottish Parliament and councils across Scotland have the opportunity to work with credit unions. An example of that is the excellent financial inclusion project that is run by First Alliance in Kilwinning, which is funded by the local council and the Scottish Government to offer people an alternative to payday lenders. We could offer extra support to credit unions through a loan guarantee fund, which would allow them to lend to riskier clients on the basis that the risk of default would be borne by the Scottish Government instead of by the credit union. That would allow credit unions to offer same-day credit and reduce risk from defaulters. Perhaps the minister will tell us today what the Scottish Government's position is on establishing a loan guarantee fund.

I am pleased that the Scottish Government has adopted the wealth warnings that the debtbusters

campaign was pushing for, which highlight the dangers of payday loans this Christmas throughout the “12 days of Debtmas”.

However, of course, payday loan companies constantly bombard people with texts and phone-calls to offer them loans. Many people already understand the dangers of payday loans, but they do not know of alternatives for a quick loan. We can and should be offering viable alternatives.

Although we have started to address the problem, we need to accelerate the work with councils and credit unions in order to make sure that affordable alternatives exist, and we need to establish a loan guarantee fund.

12:51

Kenneth Gibson (Cunninghame North) (SNP): I pay tribute to Kezia Dugdale for her continued pursuit of this matter and for securing today's debate.

With the winter afoot, many Scots find themselves turning to payday loans, but unfortunately many are still unaware of the dangers that these seemingly helpful loans pose. Some observers contend that the short-term loans offered by payday lenders are important because they provide a lending option for those who otherwise would not qualify. The problem is that any benefits that payday loans offer are far outweighed by their risks. Borrowers commonly face interest rate percentages in the thousands, which makes it difficult for them to pay off their loans and forces them to roll their debt over for later payment, incurring further interest and fees in the process and causing arrears to impede their lives heavily. Many become trapped in a vicious circle where they borrow continuously to pay their arrears.

StepChange found that the average Scots payday loan debt was £1,529 and that a staggering 65 per cent of clients with a payday loan had contractual obligations worth more than 100 per cent of their income, making the loans impossible to pay off. Given that perspective, it is important to acknowledge the FCA's new regulatory measures. However, many of them will not be implemented soon, and we have seen payday lenders bolster advertising just in time for Christmas, as Kezia Dugdale highlighted.

To address that, the Scottish Government created the 12 days of debtmas campaign to encourage people to borrow from credit unions, which have far lower interest rates, making borrowing much cheaper and repayment much easier.

As my colleague Jamie Hepburn highlighted, borrowers overwhelmingly reported to Citizens

Advice Scotland that payday lenders are not adhering to the voluntary code of conduct. Thousands of Scots have felt heavy pressure from debt due to payday obligations. The industry's reckless business practices are abhorrent and must be curbed.

Currently, payday loan regulation falls within the OFT's jurisdiction. Last May, a report detailed the OFT's failure to regulate lenders. The report found that when lenders were in violation, punitive measures were rarely, if ever, taken against them, and that when such measures were taken, they were mild. The investigation concluded that the OFT was too “passive” in its role as regulator.

The UK Government has proved that it cannot effectively manage the payday loan industry. More stringent measures need to be taken. When regulatory responsibilities are transferred from the OFT to the FCA in April, the FCA plans to introduce mandatory affordability checks, two-time roll-over and continuous payment limits, advertising restrictions and consumer education requirements, all of which are important and welcome. However, more must be done to control such lending.

The Scottish Government is concerned that those measures are not enough to curb the payday loan industry—a point that has been put plainly to the UK Government on several occasions. In September, Fergus Ewing met OFT officials to encourage tougher regulatory action.

Citizens Advice Scotland recommends an independent study to determine the point at which borrowing becomes too expensive. Similar measures have been successful in the United States, Australia and Canada. Of course, capping interest rates is one of the most crucial steps in reining in debt.

The Scottish Government is also taking action. This year's alterations to the debt arrangement scheme are meant to assist those struggling with high-interest obligations. The DAS has expanded by 40 per cent. Under the scheme, a debt payment programme can be set up, which can result in interest and charges being frozen and can stop creditor harassment.

Of course, we are limited in what we can do. Independence would give us the freedom to ensure the accuracy of affordability checks and introduce our own rate caps. With such control, Scotland would be in a better position to protect consumers who have been failed by successive Westminster Governments.

12:55

Gavin Brown (Lothian) (Con): I congratulate Kezia Dugdale on securing the debate, on the

work that she has done on the issue and on the way in which she put forward her arguments today.

It is beyond doubt that action is required on the issue due to the size of the industry and its rate of growth, and, probably most important of all, the level of concerns raised by constituents directly with MSPs, MPs and councillors and with citizens advice bureaux and other organisations.

It is, therefore, right that we support the FCA's proposals, which were outlined on 3 October, as the motion suggests we do. Other members have outlined what those proposals are, but I mention the proposals on clear and fair advertising, on including information about where people can find free debt advice, and on setting a limit of two on the number of times that a loan may be rolled over and the number of times that a lender may take payments from a customer without the customer authorising that. All those measures are to be welcomed.

Subsequent to the lodging of the motion, and to the FCA's proposals, the Chancellor of the Exchequer stated that controls will be introduced on charges, including arrangement and penalty fees, as well as on interest rates. The important thing is that we get that right.

Kezia Dugdale and others have stated that credit unions are part of the answer. That is beyond dispute—I think that everyone in this chamber would agree with that. However, as we have heard, in 2012, the payday loan industry was thought to be worth more than £2 billion, incorporating a potential 8 million new loans in that single year. As well as dealing with the penalty fees and interest rates, we must discuss the extent to which credit unions can fill that gap. I would be interested to hear the minister's thoughts on that. Even though good progress has been made, I do not think that using credit unions to fill the gap in the short and the medium term will be easy.

12:57

Graeme Pearson (South Scotland) (Lab): I commend Kezia Dugdale for securing the debate and the members of the debtbusters campaign, who have continued to keep the country focused on the issue. I also commend the citizens advice bureaux, which are at the forefront of supporting and advising those who are affected.

As has been mentioned, earlier this month, Ofcom reported on the rise of the adverts that promote payday loans. It indicated that our children watch 70 payday loan adverts on television each year, and stated that research has revealed that in the past four years there has been a 2,235 per cent increase in the number of payday loan adverts on television. Each adult saw an

average of 152 payday loan adverts in 2012. Martin Lewis, the consumer champion who founded moneysavingexpert.com, indicated that the statistics proved that payday lenders are grooming the next generation of customers to see as normal an extremely abnormal form of lending.

It has been said that the industry charges interest of up to 5,000 per cent annual percentage rate. We are talking about an industry that creates a millstone to put around the necks of many families who find it difficult, and sometimes impossible, to escape.

In 2013, the OFT focused on 50 leading lenders and gave them 60 days to rectify shortcomings, including the failure to properly assess risk and the ability of customers to pay, aggressive debt recovery plans and the lack of proper explanation of the customer's responsibility for repayments.

From April next year, the FCA will provide a form of oversight, and I hope that we will see a more aggressive reflection of how the industry should be viewed. The whole environment reflects a Gordon Gekko approach to financial provision in which greed is good. For some in our communities, a payday loan might be a short-term solution to consumer need, but for many it is a burden, a yoke or a slippery slope leading to fear, stress and family disharmony.

What can we ask the Scottish Government to do? It could mount an education campaign, promoting the downside to involvement in the industry. It could also encourage the FCA on licensing criteria and promote support for credit unions and ethical banks that seek to provide appropriate credit for people who need it.

13:01

Mike MacKenzie (Highlands and Islands) (SNP): In addressing payday loans, it is useful to consider how we got into this unacceptable position. I am old enough to remember when employees got a weekly pay packet with real cash inside. In those prudent days, bills were paid weekly and the surplus was carefully nurtured. Most important, incomes at the lower end of the spectrum were much higher in real terms than they are today. Wealth and income inequality have increased markedly over the past 30 years, and the movement towards paying employees monthly in arrears helped to fuel the credit industry, which deregulation aided and abetted.

Thatcher's economic plan depended on a credit boom that created a false sense of wellbeing. The buy now, pay tomorrow approach was heavily promoted as consumerism really kicked off, and banks expanded dramatically as they were progressively deregulated, until the inevitable credit crunch struck. The same economic plan that

shut down our industries and terminally impoverished communities relied on making us addicted to credit and creating a huge expansion of financial services to fill the black hole in our economy. All our economic eggs were put into one basket.

Sadly, in such an unequal society, the recent recessionary pain is visited most on those who are least able to bear it. The Scottish Government, on a reducing budget, simply cannot mitigate all the pain in Scotland, just as it cannot regulate the banks or legislate to curb the wicked excesses of payday lenders. All that we can do is lobby the UK Government and advise consumers. I know that the minister has been actively engaging with the UK Government in an attempt to persuade it to regulate the industry.

Against that background of 30 years of increasing inequality, the Scottish Parliament does not have sufficient levers to create a fairer and more equal society in a meaningful timescale. That is the real cure for these ailments, as there will always be those who seek to prey on the poor and the vulnerable. I am glad, therefore, that the UK Government has at last indicated a commitment to regulate payday loans, although I fear that it will not go far enough. As matters stand, it appears that it will be too little, too late, as we have come to expect from Westminster.

I can only contrast that with the Scottish Government's rapid action, earlier this year, to replace stamp duty with the land and buildings transaction tax, quickly moving to deal with long-standing concerns that Westminster had failed to deal with for many years. In a world that moves at an ever-faster pace, it is necessary for Governments to move quickly to deal with obvious problems such as payday loans. I am also glad that the Scottish Government set up and moved quickly to improve the debt arrangement scheme that Kenneth Gibson described. It has recently taken steps to allow the earlier freezing of interest on payday loans and other debts, which is providing a means for financially distressed people to get back on their feet while avoiding bankruptcy.

The evidence for robust regulation of payday loans is overwhelming. I hope that all members of this Parliament unite and send a very clear message to Westminster that that is the case. Beyond that, we need a game changer if we are to tackle inequality properly.

The Deputy Presiding Officer: Mr MacKenzie, please close now.

Mike MacKenzie: I suggest that the opportunity for such a game changer will come on 18 September next year.

The Deputy Presiding Officer: Thank you very much. I would be grateful if members could stick to three-minute speeches

13:05

Alison Johnstone (Lothian) (Green): I thank Kezia Dugdale for securing the debate on this important subject, and for her on-going work on the issue.

I, too, welcome the opportunity to raise awareness of the impact of payday lending on individuals and families who felt that they had no option but to apply for a short-term loan when that next pay day was too far away, or when there was not enough food in the cupboard or money for the electricity meter or bus fares to get to work or college.

It is not surprising that people turn to that form of credit, because the ubiquity of advertising for payday loans in our newspapers and on our televisions and radios is remarkable. Last year, that accounted for 1.2 per cent of all advertising on TV in the UK. Kezia Dugdale highlighted that, in 2008, payday lenders bought 17,000 ad spots; last year, that number had risen to 397,000. More than one in 100 ads was a payday loan ad. The non-stop barrage normalises payday lending in our culture. As Graeme Pearson noted, according to Ofcom research, children aged four to 15 saw millions of ads from payday lenders. We have heard that very young children are pestering their parents to apply for a payday loan.

We know, too, that people turn to such loans as a last resort. In the past three years, 6 million Britons have been declined credit by their bank. Affordable alternative credit is part of the solution.

The number of clients with arrears in priority areas such as gas, electricity and rent has increased significantly. Credit is being sought not for luxuries but for everyday living costs. In the face of inflation-busting price hikes by the big six energy companies, it is not surprising that energy arrears affect more than one in 10 people. Organisations such as Citizens Advice Scotland and StepChange are working incredibly hard, hearing from and seeing a notable increase in the number of people seeking their expert help in the face of rising personal and household debt.

When a person does not have £10, £10 of debt is a problem. However, a growing number of high-income clients are approaching those invaluable charities, too. In addition, although average unsecured debt has been falling in the UK for the past five years, more than 10 per cent of StepChange client debt in Scotland last year was due to payday loans; that was the largest share among the home nations.

Many clients with payday loans have contractual payments that are worth more than 100 per cent of their income. Citizens Advice Scotland has reported cases in which payday loans were received by clients who were unable to repay that loan, so the vetting was inadequate. I was horrified to learn of the case of a client in a citizens advice bureau in the east of Scotland whose payday lender contacted his workplace and spoke to his colleagues about his outstanding debt and, even though he had set up an affordable repayment schedule, the agent was demanding full payment.

When I first saw an advert for payday lending on television, I thought that there was a typo in it, because I simply could not accept that it could be possible or legal to advertise interest rates of almost 3,000 per cent or higher. Those of us on the Economy, Energy and Tourism Committee know that people do not purposely lead themselves into debt; they enter a credit agreement with the best of intentions, but sometimes employment and family circumstances change with little notice.

Along with other members in the chamber, I am absolutely committed to do all that I can to mitigate the impacts of payday lending.

13:08

Duncan McNeil (Greenock and Inverclyde) (Lab): I am conscious of time, so I will be very quick.

First, I thank Kezia Dugdale not only for giving us the opportunity to have the debate but for all her good work in bringing forward the debtbusters campaign and the general debate on the issue. As has been mentioned, that has brought some success, but it has been limited because although we have set out a plan to prevent more people from becoming involved with payday lending companies, too many are already caught in the trap.

The information that was provided by StepChange Debt Charity shows a dramatic rise in the number of people in my constituency who are seeking help with payday loans. In 2012, 16 per cent of the charity's clients in the Inverclyde Council area had payday loans. That figure jumped to 31 per cent in the first three months of 2013. Between 2011 and 2012, the average amount owed by my constituents who were involved with payday loan companies increased by £728 to £1,957.

Mike MacKenzie mentioned some of the issues about getting into debt, but this is a different type of debt. It affects people who suffer financial exclusion. People in this country happily live with £60,000 or £100,000 of debt, but those who use payday loans do not have a credit rating. They are

excluded, which is why they have to go to payday loan companies to get the help and credit that we all take for granted to get us through our lives. The clue is in the name: payday loans. It is not a coincidence that, this week, the Joseph Rowntree Foundation told us that those people were the group with the biggest increase among those who are in poverty.

The wider issues must be recognised. Although we can control and regulate the industry, we cannot control and regulate the need for people to get access to credit. What we can do with credit unions, for instance, is good, but the fundamental problem is that even people in work cannot escape the poverty of benefits or create job security for themselves. They cannot even create security for a single shift because of the inappropriate use of zero-hours contracts.

Is it any wonder that, because of the situation that such people face, they are powerless to get from a Monday to a Friday? Some of them walk home on a Thursday night because they do not have the bus fare.

Mike MacKenzie: Will Duncan McNeil give way?

Duncan McNeil: No; I will not take an intervention because I am running out of time.

The Deputy Presiding Officer: You must conclude.

Duncan McNeil: Payday loans will be an issue irrespective of the constitution. It is not good enough to say to the poor that they should wait until we get independence, as has crept into the debate. That is not acceptable.

How do we address the issue? How do we use the powers of local government and the Scottish Government with the procurement pound and the public pound? How do we engage with employers? It used to be that someone could go to their employer and get a loan for a week or an advance on their wage.

The Deputy Presiding Officer: Mr McNeil, you must conclude.

Duncan McNeil: How do we engage those people to deal with the problem that we have here and now?

The Deputy Presiding Officer: I thank those members who curtailed their speeches, thus allowing me to call everyone. I ask the minister to respond to the debate in a maximum of seven minutes.

13:13

The Minister for Energy, Enterprise and Tourism (Fergus Ewing): I am very pleased

indeed to have the opportunity to debate this important topic, especially at this time of year. I thank Kezia Dugdale for giving us that opportunity and praise all the members who contributed to the debate and made substantial speeches on a variety of points.

I do not propose to rehearse all the statistics, some of which I was planning to use, but I underscore the Scottish Government's view that the uncontrolled growth of payday lending in Scotland and the UK has been one of the causes of extreme social misery and hardship in our times. It is a relatively new social malaise and disease. It did not really exist about a decade ago, and there are not many other social scourges about which we could say that.

John Wilson (Central Scotland) (SNP): Will the minister give way?

Fergus Ewing: I will in a minute, if John Wilson will bear with me.

It is beholden on us all, irrespective of party politics, to do our best with the powers that we have and to urge those in Westminster who have other powers to address the matter.

It is clear that we have argued consistently since Margaret Burgess first raised the matter in a members' business debate—the first one to which I responded in this session of the Parliament—that the lack of a cap on interest for payday loans in the UK is a serious omission, which allows companies to charge interest rates of more than 5,000 per cent, which seems quite extraordinary. We felt that that was wrong simply because many countries in the world have a cap on interest rates. I think that 37 states in America have controls on lending. In countries such as Germany, France, Finland and Australia, there are caps on the amount of interest that can be charged. To have a cap on interest is the norm, but in the UK it is the exception.

Therefore, as the minister, I raised the issue a number of times with the UK minister, Norman Lamb, in April 2012. At that point, the response was that there was a lack of evidence and that a cap would lead to more consumer detriment. I respectfully disagreed with that and persisted in seeking to get the UK Government to introduce a cap. In March of this year, I raised the issue with the current minister, Jo Swinson, and with the chairman of the OFT, and I met Jo Swinson again just a month or so ago to urge her to introduce a cap.

I am very pleased that, as a result of all the pressure that has been exerted by parties and many others, a cap is to be introduced, but the decision not to introduce it until 2015, which I understand is the UK Government's position—I hope that I am not misrepresenting it—is the

wrong decision. I think that a cap can be introduced in April of next year, so yesterday I wrote to Jo Swinson to urge her so to do and to hold an immediate consultation on the issue. There needs to be a consultation on what level the cap should be set at, whether it should apply to monthly interest and whether—as happens in Australia—it should include a limit on the amount of charges.

This is not a matter of party politics; it is about something that we can all see is necessary. The control of a cap, among many others, is needed and it must be implemented as quickly as possible. We need to get it right, but I say, with respect, that I think that we can get it right sooner than 2015. That is why the Scottish Government has said that the cap should be introduced in April next year, so that we can join the many other countries in the world that regard this form of venal usury as socially unacceptable.

It is ironic that, just this morning, I received on my mobile phone—from a company that I will not name for fear of inadvertently advertising or recommending it—an unsolicited text message that stated, "Need a loan for Christmas? Get cash in your account today with up to three months to pay back." I have had no dealings whatever with that company; indeed, I have never heard of it. Members can rest assured that I will write to the FCA to complain about it.

As we have heard from members such as Alison Johnstone, the behaviour of some such companies is absolutely unacceptable. In addition to the cap on interest rates, mandatory affordability checks need to be carried out, as Kez Dugdale mentioned. There also needs to be a curb on advertising, which NUS Scotland has rightly called for. Councils throughout the land do good work on that. Further thought needs to be given to restrictions on continuous payment authorities, which, as Kez Dugdale rightly said, give companies the right to plunder people's bank accounts. Frankly, that is absolutely wrong. On some occasions, hundreds of attempts have been made to go into people's accounts. Every attempt leads to more bank charges. That is quite simply scandalous, yet it is happening because it has not been properly regulated.

The Scottish Government has done many things to address the issue by using the powers that we have to best effect. To be fair to all the parties that are represented in the chamber—and the Liberal party, which is not represented in the debate—we have done so with cross-party support. Through the Bankruptcy and Debt Advice (Scotland) Bill, we will make the provision of advice mandatory. We want there to be a financial national health service in this country, and we want to ensure that young people who are at school—many

schoolchildren are listening to the debate in the gallery—learn about such matters. Why do we learn about physics, maths and history, yet we do not learn—or at least, we do not learn sufficiently well—about how to manage money? As a country, we need to do that. Much is done by the debt advice sector, banks and others, but we need to do more.

As Mike MacKenzie indicated, we have made changes to the debt arrangement scheme, which freezes interest and charges earlier, thereby saving people who have payday loan debt significant sums in interest.

We have undertaken major marketing campaigns with the excellent partnership of the *Daily Record*, which has led the charge, as it often does on the social issues of the day. In November, I launched in Grampian the 12 days of debtmas campaign, which has had an extraordinary response.

Presiding Officer, my time is nearly up.

Duncan McNeil: Will the minister take an intervention?

Fergus Ewing: I think that I am restricted to seven minutes; otherwise, I would give way.

The Deputy Presiding Officer: It would be better if Fergus Ewing concluded.

Fergus Ewing: I apologise to Mr McNeil, but I am under a time order, which I must comply with.

The Scottish Parliament has spoken clearly today, as we will next week in John Wilson's credit union debate. I thank members for participating in the debate. I will continue to do everything that is in my power to address the extreme social misery that payday loans cause in Scotland today.

13:20

Meeting suspended.

14:00

On resuming—

Victims and Witnesses (Scotland) Bill: Stage 3

The Presiding Officer (Tricia Marwick): Good afternoon. The first item of business this afternoon is stage 3 proceedings on the Victims and Witnesses (Scotland) Bill. Members should have the bill as amended at stage 2, which is SP bill 23A; the marshalled list of amendments, which is SP bill 23A-ML; and the groupings list, which is SP bill 23A-G.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who want to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after I call the group.

Members should now refer to the marshalled list of amendments.

Before section 1

The Presiding Officer: Group 1 is on the definition of "victim". Amendment 25, in the name of Margaret Mitchell, is the only amendment in the group.

Margaret Mitchell (Central Scotland) (Con): The bill confers a range of rights on victims but fails to provide a definition of "victim". Amendment 25 reflects the Justice Committee's recommendation in its stage 1 report that

"the Scottish Government gives full consideration to including a definition of 'victim' on the face of the Bill."

At stage 2, I lodged an amendment that was similar to amendment 25. The Cabinet Secretary for Justice said that he was open to including a definition in the bill, but he identified areas of my amendment that might benefit from clarification. That was helpful.

In response to the cabinet secretary's comments, I redrafted the amendment to make a number of changes. Amendment 25 makes it clear that when referring to an alleged crime—that is, one that has not yet been proved in court—the use of the term "victim" would not prejudice the presumption of innocence. The use of the word "alleged" in the proposed definition avoids the risk that referring to a "victim" before a trial or a conviction could prejudice the justice process.

The proposed definition refers to damage to "tangible or intangible property" and extends the

definition of “victim” to a prescribed relative, but only in cases in which a person has died as a result of a crime.

The cabinet secretary expressed concern that the amendment that I lodged at stage 2 was not future proofed, because the nature of crime and victims might change. In reality, no legislation can be drafted to cover every eventuality. As is the case with any piece of legislation, if changes are necessary further amendment can be made. The important point is that by linking the definition to offences we would ensure that it automatically applied to victims as the nature of crime changed and when new offences were legislated for.

Amendment 25 is intended to cover natural persons and legal entities in three sets of circumstances: when a crime is directly committed against the person; when a relative or dependant of a person suffers harm as a result of a crime that was committed against the person; and when a person suffers as a result of intervening to help another person, against whom a crime is being committed.

“Harm” is defined in such a way as to cover physical or emotional harm, economic loss and damage to property.

It seems strange that a bill that confers a range of rights on victims of crime does not include a definition of “victim”. The inclusion of a clear definition would help to provide clarity for individuals in what might be traumatic circumstances, thereby helping them to avoid further distress and anxiety. There is little point in making things easier for victims if we are unclear about who victims are.

A definition would assist the police, the Crown and the Scottish Court Service in determining and complying with their duties and obligations under the bill. The Law Society of Scotland deemed such an amendment necessary and said, as far back as stage 1, that a clear definition would be crucial if the bill is to deliver on its promise to

“put victims’ interests at the heart of on-going improvements to the justice system”.

I hope that that, coupled with the fact that the cabinet secretary’s helpful comments at stage 2 have been incorporated into the new definition, will enable the Scottish Government to support amendment 25.

I move amendment 25.

Roderick Campbell (North East Fife) (SNP): While it is true that the Justice Committee drew attention to the fact that the Criminal Procedure (Scotland) Act 1995 does not use the term “victim” in relation to matters that apply pre-conviction, using instead the term “complainer”, nevertheless,

for the purposes of the bill, it is appropriate not to be too prescriptive.

Moreover, although subsection (1) of the amendment has the victim as a person

“who has suffered harm—”

including, in subsection (2) of the amendment,

“loss or damage to ... property”—

the rest of the amendment talks about offences against the “person”, implying, at least to me, that where someone has suffered damage to property alone, he would not be a victim. In my view, therefore, the amendment is defectively drafted and should be rejected.

Elaine Murray (Dumfriesshire) (Lab): I, too, would have difficulty in supporting the amendment as it stands. I said at stage 2 that I thought that in order to give it more flexibility, any definition would be better made by regulation than in the bill.

I am also concerned that the definition in amendment 25 is rather tight. For example, a victim can be

“a prescribed relative ... of a person who has died”.

However, it could be argued that the partner of someone who has been raped is also, in some senses, a victim. The definition in amendment 25 is too tight and we are unable to support it.

The Cabinet Secretary for Justice (Kenny MacAskill): Amendment 25 would insert an overarching definition of “victim” into the bill. The amendment is a revised version of an amendment lodged at stage 2. I welcome the consideration that Margaret Mitchell has evidently given to the points raised last month.

That said, I remain of the view that by attempting to insert into the bill an overarching definition of such a clearly understood term, we significantly complicate matters and risk inadvertently excluding individuals who should benefit from the proposals in the bill or including those who would not fall into any reasonable interpretation of “victim”. After all, as I have argued throughout the passage of the bill, the word “victim” is used and understood without definition by justice organisations and victim support organisations throughout Scotland.

In relation to concerns that the word “victim” would negatively impact on the presumption of innocence, I am still of the view that by providing clarity in the context of individual sections, no assumption could be made that the accused is guilty. The relevant sections in the bill refer for example to

“a person who is or appears to be the victim of an offence”

or to circumstances in which an offence

“is alleged to have been committed against the person”,
with the reference tailored to the context.

Furthermore, the presumption of innocence is a right of the accused in every criminal case. That is enshrined in article 6(2) of the European convention on human rights and there are no circumstances in which that right can be departed from.

I note that amendment 25 has no consequential amendments. That means that, should it be agreed, it will sit alongside the section-specific definitions of “victim” in the bill, including the power for the Scottish ministers to prescribe relatives of victims in certain sections. To my mind, that will cause uncertainty and confusion.

While there has clearly been an attempt to deal with some of the concerns raised about the amendment lodged at stage 2, there remain similar concerns with amendment 25. There is still an implication that offences against property are not covered by the term “victim”, despite the inclusion of damage to property as a form of harm in subsection (2) of the amendment.

In subsection (1)(a) of the amendment, a person can be considered a victim only where the person has suffered harm

“because an offence has, or is alleged to have, been committed against the person”.

There is no mention of offences against property.

For those reasons, I consider it better to qualify and explain the use of the term “victim” only where necessary and to make it applicable to the circumstances, as in the bill as at present. I invite Margaret Mitchell to withdraw amendment 25.

Margaret Mitchell: I have listened carefully to the points that have been made but there is a point of principle here. It seems to me that including the definition of “victim” in the bill would be helpful to the very people that the bill serves to help, which is the victims themselves. A number of areas of concern have been raised. If someone is intent on finding fault, they will do. Nothing that has been mentioned could not be rectified. For that reason, I will press the amendment.

The Presiding Officer: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. I suspend the proceedings for five minutes to allow the division bell to be rung and members to return to the chamber.

14:10

Meeting suspended.

14:15

On resuming—

The Presiding Officer: We now proceed with the division on amendment 25.

For

Brown, Gavin (Lothian) (Con)
Buchanan, Cameron (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

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)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
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)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (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)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
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)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hume, Jim (South Scotland) (LD)
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)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 13, Against 96, Abstentions 0.

Amendment 25 disagreed to.

Section 1—General principles

The Presiding Officer: We move to group 2, on principles, standards of service and the provision of information, taking children into consideration. Amendment 1, in the name of Elaine Murray, is grouped with amendments 2, 26, 3, 27 and 7.

Elaine Murray: Amendments 1 and 2 aim to ensure that the specific needs, wishes and

interests of children are taken into account by those persons who are required to fulfil the functions that are set out in section 1. Although much has improved in the experience of children as victims and witnesses in the criminal justice system, and despite there being significant good practice, cases still arise in which children and young people and their families say that their experience of the court case has traumatised them all over again. That could be avoided simply by asking children and young people how best to communicate with them and where they would like to meet.

A lack of active involvement by children and young people in selecting the most appropriate special measures for them is commonplace. Even when that does happen, it is often the case that not enough time is given to enable a child victim or witness to give an informed view of what might work best for them.

One key area of concern is the provision of information. Evidence shows that more than 60 per cent of people in the youth justice estate have difficulties with speech, language or communication. That makes it even more important for information to be made accessible. There is currently no requirement on anyone involved in criminal proceedings to communicate with children and young people in formats and ways that best suit their needs. That might include sending text messages about the date of a trial, sending out leaflets or emailing them links to videos about going to court, rather than just sending the person a lot of written material.

The purpose of amendment 3 is to require that, when

“setting and publishing standards”

in respect of victims and witnesses who are children, that must be done

“in such a way that the welfare of a child is of paramount consideration.”

Many child victims and witnesses complain about the long waits for trial, which are often upwards of 12 months. In some cases, they can even be as long as two years or more. That means a large part of a child's life characterised by waiting in uncertainty. Children do not know whether their case will be in a few weeks or a few months. Court dates are often set and then cancelled at the last minute, which causes disruption and a protracted wait.

The test of a child's welfare as being of “paramount consideration” already exists in Scots law, under section 16 of the Children (Scotland) Act 1995. In any case, the welfare of a child needs to be balanced with other tests and, in particular, with the interests of the accused and those of justice generally. Guidance on the matter already

exists, to be applied in criminal proceedings in which children are involved. Amendment 3 is proportionate and necessary to ensure that the welfare test, which already applies to social work and other agencies working with vulnerable children, also applies to the justice authorities.

Amendments 26 and 27 define the meaning of “child” in the relevant sections.

During stage 2, the cabinet secretary expressed the view that specific reference to the needs of child witnesses should not be contained either in the general principles or indeed in the standards of service. I have therefore also lodged an alternative amendment, amendment 7, which introduces similar provisions in a separate section, After section 2A. I have lodged amendments covering both sets of provisions for Parliament’s consideration this afternoon.

In the week when the Parliament has paid tribute to Nelson Mandela, I provide a further quote from him:

“There can be no keener revelation of a society’s soul than the way in which it treats its children.”

Throughout the bill’s passage, we have heard about some shocking experiences of children in our criminal justice system. The Vulnerable Witnesses (Scotland) Act 2004 has made a significant difference, and the enactment of the bill before us, and its principles, will make a further difference. We also seek to improve practice.

Amendment 7, like the previous amendments that I have spoken to, seeks to provide for the needs, interests and wishes of child victims and witnesses through the provision of guidance on how to fulfil duties under sections 1 and 2 in particular. At stage 2, the Cabinet Secretary for Justice argued that the aim is for the bill to have universal application and that it would be inappropriate to single out any specific group, but children are special and they require to be treated specially in our criminal justice system. Had the cabinet secretary’s argument held sway, we would not even have had the 2004 act, never mind many of the excellent measures that are being brought into law today.

Amendment 7 seeks to ensure that the legal duties in the bill will be given effect through guidance that tries to take a more child-centred approach. That fits with Scottish ministerial priorities in other policy areas, and we should introduce such an approach in the criminal justice system as well.

I move amendment 1.

Kenny MacAskill: Section 1 sets out a number of general principles that are deliberately both high level and aspirational and are intended to inform the creation of standards of service under section

2. The intention behind the inclusion of a section on general principles was to set out the underlying aim of the bill for the justice system as a whole and to ensure that there is a level of consistency when justice agencies consider how they interact with victims and witnesses.

Elaine Murray’s amendments 1, 2 and 26 are identical to amendments that were lodged at stage 2. As I said then, I would expect the bodies that are listed to consider the needs, rights and wishes of children in the same way that we expect them to consider the needs, rights and wishes of all other victims and witnesses who are involved in criminal proceedings. My views on that have not changed.

At stage 2, I also asked whether, if we were to single out child victims and witnesses, as Elaine Murray’s amendments propose, we should not also include persons with mental or physical disabilities, older persons—and the list goes on. I think that the point remains valid. I simply reiterate that, while I absolutely agree that organisations should consider children’s requirements, I remain of the view that the general principles should be precisely that: general, and equally applicable to all groups of victims and witnesses who come into contact with the criminal justice system.

Section 2 requires various criminal justice organisations to set and publish standards of service for victims and witnesses. Elaine Murray’s amendment 3 places a duty on a person who sets and publishes standards under section 2, in so far as they could relate to a child, to do so in such a way that the child’s welfare is a paramount consideration. It is identical to an amendment that the member lodged at stage 2. Amendment 27 is consequential to amendment 3.

As I said previously, I welcome Elaine Murray’s commitment to child victims and witnesses. However, as with the amendments on the general principles, amendment 3 is simply unnecessary. I expect the bodies that set standards to give due consideration to children, as they would to any other group. Again, if we were to single out child victims and witnesses, should we not also single out other groups of victims and witnesses? The list could be considerable.

On amendment 7, I do not see that there would be any additional benefit from placing an obligation on the organisations that are listed in section 2(2) to prepare and publish guidance as to how they will consider the needs, rights and wishes of children when having regard to the general principles, setting standards of service and providing information. Surely it is better to let those organisations get on and set their standards, which will, no doubt, reference those matters with respect to all victims and witnesses. To put a duty on the organisations to prepare such guidance and lay it before the Parliament, which would

require to be done before any standards of service were prepared and published, would inevitably slow down the setting of standards and remove organisations' flexibility to change them quickly in the light of experience.

In summary, although I appreciate the intention behind the amendments in the group, they are unnecessary. I therefore invite Elaine Murray to withdraw amendment 1 and not move amendments 2, 26, 3, 27 and 7.

Elaine Murray: In order to see justice done, children against whom horrific offences have been committed are required to engage with a system that was designed by and for adults. They are among the most vulnerable children in our society and they deserve to be given the support that they need to give evidence and participate in the process effectively and in a way that minimises the impact of that engagement.

The court process can be confusing and intimidating to adults, never mind to children. It is essential that consideration is given to the most appropriate way in which to provide information to a child victim, whether that be orally, in writing or through other forms of communication. Child victims and witnesses must be empowered to participate as fully as possible and to understand the process and procedures that they will be exposed to during investigation and trial. Our courts are adversarial and the process is combative. Where children who may well already be traumatised by the crime that they witnessed or that was perpetrated against them are involved in the court process, their welfare must be made the highest priority.

Amendments 1 to 3, with the definitions in amendments 26 and 27, remain my preference. I believe that they would enshrine the rights of child witnesses and victims in the most appropriate parts of the bill. However, the cabinet secretary continues to believe that they would not, so if amendments 1 to 3, 26 and 27 are defeated, I will press amendment 7.

The Presiding Officer: The question is, that amendment 1 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McLeod, Aileen (South Scotland) (SNP)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 Martin, Paul (Glasgow Provan) (Lab)
 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, 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)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 49, Against 62, Abstentions 0.

Amendment 1 disagreed to.

Amendment 2 moved—[Elaine Murray].

The Presiding Officer: The question is, that amendment 2 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)

Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 49, Against 62, Abstentions 0.

Amendment 2 disagreed to.

Amendment 26 not moved.

Section 2—Standards of service

Amendment 3 moved—[Elaine Murray].

The Presiding Officer: The question is, that amendment 3 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 49, Against 62, Abstentions 0.

Amendment 3 disagreed to.

Amendment 27 not moved.

Section 2A—Reports

The Presiding Officer: Amendment 4, in the name of Elaine Murray, is grouped with amendments 5 and 6.

14:30

Elaine Murray: At stage 2, the cabinet secretary lodged an amendment introducing section 2A, which requires the annual publication of a report assessing whether standards have been met and containing a forward look on how they might be met in the year ahead and sets out the ability of ministers to prescribe information by way of a negative instrument. At the same time, I lodged a similar amendment. In our view, Mr MacAskill's amendment contained a serious omission, not contained in my own, in not requiring consultation as far as is practicable with victims and witnesses in the preparation of that report. Amendments 4, 5 and 6 seek to rectify that omission.

Amendment 4 seeks to require those persons mentioned in section 2 to consult as far as is reasonably practicable victims and witnesses in making a report on the meeting of standards. That was the principal difference between the cabinet secretary's successful amendment and mine at stage 2.

Amendment 5 seeks to require Scottish ministers to consult the persons required to set and publish standards when making regulations that prescribe the information that must be contained in reports, while amendment 6 seeks to enable standards to be revised to meet the needs of victims and witnesses and to require publication of those revised standards.

These amendments seek to ensure that victims and witnesses are and continue to be involved at all stages of the development of standards and in the reporting on how those standards are met.

After all, victims and witnesses are supposed to be the legislation's central concern and omitting them from that process seems to fly in the face of its intentions.

I move amendment 4.

Kenny MacAskill: Section 2 requires various criminal justice organisations to set and publish standards of service for victims and witnesses. As a result of a Government amendment that was agreed unanimously by the Justice Committee at stage 2, each of the named organisations in section 2 will be required to consult all the others and those with a significant interest before publishing their standards of service. That will ensure a level of consistency in approach to the standards while still allowing organisations to develop specific standards for the type of service that they provide.

The Justice Committee also agreed at stage 2 to a Government amendment that placed a duty on the named organisations to publish a report assessing how their standards have been met, setting out how they intend to continue to meet them and highlighting any modification that might have been made to the standards during the reporting period or which they propose to make in the following year. That reporting will ensure that the criminal justice organisations not only reflect on how they have met the standards during the period covered in the report but think ahead about how they intend to meet the standards in future.

Amendments 4, 5 and 6, in the name of Elaine Murray, are very similar to elements of the member's alternative proposal at stage 2 for a reporting mechanism and, although I appreciate the intention behind them, I consider them to be unnecessary. With regard to amendment 4, I find it difficult to imagine how the named organisations could prepare reports on how they have met their standards of service in relation to victims and witnesses without taking into consideration the views of victims and witnesses who have come into contact with the organisation. That does not need to be provided for in legislation.

Amendment 5 seeks to require Scottish ministers to consult the named persons in section 2(2) before adding to the list of information to be covered in reports on standards of service. Although it is clearly sensible to discuss any such changes with those who will be affected by any regulations, I am not persuaded that a statutory duty to consult is necessary. Such consultation would take place as a matter of course. Furthermore, the drafting of the amendment is such that the Scottish ministers would be required to consult themselves as they, too, are among the persons named in section 2(2).

Amendment 6 seeks to provide that the persons named in section 2 can review their standards of service to meet the needs of victims and witnesses following a report and to oblige them to publish any revised standards. That is simply unnecessary. The organisations in question are free to revise their standards at any time under section 2, as section 7(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 provides that

“A duty imposed by an Act of the Scottish Parliament ... may be performed from time to time.”

Indeed, sections 2A(3)(c) and (d) of the bill specifically require the organisations in question to list any modifications made to their standards during the reporting year and any modification that they propose to make in the following year. In any event, I expect those organisations to review their standards regularly to ensure that they remain fit for purpose. In addition, the named organisations are required to publish their standards of service under section 2(1) and the same would apply to any modifications made to the standards.

No explicit provision is necessary to achieve those aims. As they are already provided for, I invite Elaine Murray to withdraw amendment 4 and not to move amendments 5 and 6.

The Presiding Officer: The question is, that amendment 4 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)
 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)

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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 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)
 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)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 46, Against 63, Abstentions 0.

Amendment 4 disagreed to.

Amendment 5 moved—[Elaine Murray].

The Presiding Officer: The question is, that amendment 5 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 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)
 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)

Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 47, Against 63, Abstentions 0.

Amendment 5 disagreed to.

Amendment 6 moved—[Elaine Murray].

The Presiding Officer: The question is, that amendment 6 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 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)
 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)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 47, Against 63, Abstentions 0.

Amendment 6 disagreed to.

After section 2A

Amendment 7 moved—[Elaine Murray].

The Presiding Officer: The question is, that amendment 7 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 48, Against 62, Abstentions 0.

Amendment 7 disagreed to.

The Presiding Officer: Group 4 is on the provision of information and support for victims and witnesses. Amendment 28, in the name of Margaret Mitchell, is grouped with amendments 21 and 24.

Margaret Mitchell: When scrutinising the bill, the Justice Committee heard that communication between justice organisations is not as good as it could be.

During stage 2, I lodged a similar amendment and the cabinet secretary agreed that there is room for improvement in how justice organisations work together. The committee heard from the Scottish Police Federation that

“all partners in the criminal justice system would accept that we have been poor at keeping victims and witnesses informed as to the progress of cases in which they are involved.”—[*Official Report, Justice Committee*, 30 April 2013; c 2708-09.]

Victims said that correspondence is often complex and difficult to understand, particularly given that they might already be confused and distressed in the aftermath of a crime. Worryingly, and astonishingly, David McKenna of Victim Support Scotland told the committee that victims have to tell their story “around 16 times” to various agencies, which clearly should not be necessary and can only add to victims’ distress.

Amendment 28 seeks to tackle this problem for the first time in legislation, through a requirement that the Lord Advocate, Police Scotland and the Scottish Court Service work together on the provision of information to victims. Crucially, it would require all victims and witnesses to be offered a single point of contact to help them through the justice process. The amendment would provide for properly trained individuals to give much-needed support to victims, who are currently not treated with compassion or given the time that they deserve in all cases. To provide someone who can answer questions and offer support in what can be a very daunting process for witnesses does not seem to me to be a particularly arduous requirement—it should be a bare minimum.

If the cabinet secretary is really serious that things should be made easier for victims, amendment 28 is necessary. Justice organisations might be considering or discussing how they can work together, but legislating to require them to do so will certainly focus their minds and make sure that it is a priority.

Furthermore, despite the cabinet secretary having talked consistently about improvements for victims over many years now, little has been achieved. The bill provides us with the opportunity to make sure that the criminal justice system takes meaningful steps to co-ordinate how information is provided to victims now.

On the single point of contact, the cabinet secretary told the committee at stage 2 that the Scottish Government is working

“on an online information hub, to provide easier access for victims and witnesses to case-specific information”.—[*Official Report, Justice Committee*, 13 November 2013; c 3603.]

However, as yet no details of that online hub are available. Furthermore, the fact that it is an online hub means that it already excludes a large chunk of individuals who do not have access to or knowledge of the internet and it puts the onus on victims to find out information.

Amendments 21 and 24, in the name of Graeme Pearson, appear to be sensible measures, which would similarly improve the provision of information to victims. I believe that they complement amendment 28.

I move amendment 28.

Graeme Pearson (South Scotland) (Lab): I acknowledge and support amendment 28, in the name of Margaret Mitchell.

Throughout the evidence that we heard in the Justice Committee, it became apparent that there were two worlds out there. One of those was the world of victims, who came to speak to the committee in a deeply moving fashion about how they perceived the services that were provided to them as they made their journey through the justice system. I do not think there will be a member here in the chamber who has not spoken to a witness or victim who has echoed the opinions that were given during the evidence that we heard in the committee. That situation demands that we offer a response. Amendment 28 would push services in that direction by requiring the co-ordination of support and the provision of a single point of contact.

The Labour Party had at one stage suggested that a commissioner would be one way to deliver on that, but it soon became apparent that there was no appetite for such a post. However, having a single point of contact or a case companion—whatever nomenclature one would want to use—would be a significant improvement on current arrangements.

14:45

Victims indicated to us that they felt like a parcel being passed through the system. Without taking up too much time in this debate, I will tell members about a lady who travelled from the north-east of Scotland to meet me yesterday, because she knew of this debate. She gave me a letter that she had sent to the authorities. It said:

“I was disappointed with the response as it did not address the issues I raised in my letter ... The vagaries of the criminal justice system are unbelievably difficult to understand for victims whose loved one has died as a result of a criminal act ... I also found it particularly galling to read about the prisoner’s rehabilitation and the support available to her”.

She wanted the needs of victims to be addressed.

Amendment 28 goes a long way towards dealing with those issues.

Amendment 21 would ensure that those who receive the information in respect of a release have intimated that they want that information passed to them, and that they receive that intimation in a reasonable form. Often, they receive an official letter that is written in language that is difficult to understand.

Amendment 24 concerns guidance and provision of information to victims in court proceedings in solemn cases. Victims and witnesses are still going to our courts and being led into a situation with no guidance or support. That leads to them not understanding what is happening and, often, confronting the very accused who they are there to deal with.

I commend the amendments.

The Presiding Officer: Members will note that we have passed the agreed time limit for the debate on this group. I am exercising my power under rule 9.8.4A to allow the debate on the group to continue beyond the limit, in order to avoid the debate being unreasonably curtailed.

Kenny MacAskill: As with a similar amendment lodged by Margaret Mitchell at stage 2, I welcome the underlying principles behind amendment 28. I think that members would agree that encouraging justice organisations to work more closely together to improve the experience of victims and witnesses is a laudable aim. However, I can only reiterate that I do not consider that that requires primary legislation. For the benefit of those who did not follow proceedings at stage 2, I note again that we are already participating in discussions between all justice organisations to explore how they can work more effectively together and deliver a more joined-up experience for victims. I would see the improvement of communications as being part of that wider work and, in particular, I would expect it to be something that is considered when justice organisations are developing their standards of service under section 2, during which process they will be required to consult each other and relevant stakeholders.

In relation to the proposal for a single point of contact, I am still of the view that that does not require a statutory basis. We are currently considering the feasibility of establishing an online information hub to provide easier access for victims and witnesses to case-specific information. Although the establishment of such a system will not happen overnight, given the complexities of sharing potentially sensitive information between various organisations, I think that it will bring great benefits. In the meantime, victims and witnesses will have new rights to access certain information

directly from the Crown Office, Police Scotland and the Scottish Court Service, under section 3.

Although amendment 21, in the name of Graeme Pearson, is clearly well intentioned, I fear that it could cause significant practical issues. In certain criminal cases, victims have the right, under section 16 of the Criminal Justice (Scotland) Act 2003, to receive information about the release of an offender, and other relevant details. In practice, that is provided by the Scottish Prison Service through the victim notification scheme.

Section 23 of the bill removes a list of prescribed offences in relation to the VNS so that victims of all offences will potentially be eligible. Further, I have already expressed my intention to lower the sentence threshold for the VNS. Those changes are likely to increase the numbers of victims who are registered with the VNS, and the administrative burden on the SPS. Although a phone call might be viewed as a reasonable method of communication, it would be a significant burden on any organisation if a high volume of correspondence suddenly had to be dealt with by phone or, potentially, through face-to-face meetings, if requested. Moreover, the obligation to seek the views of all victims registered with the VNS before communicating with them would have significant resource implications for the SPS in delivering the scheme. I believe that a more appropriate way of improving communication with victims is not through an impractical statutory obligation but through better training and guidance for those involved.

Amendment 24, also in the name of Graeme Pearson, is completely unnecessary. The bill already establishes in statute essential rights and obligations that will ensure that victims and witnesses have access to important information about criminal proceedings, including in relation to the most serious cases. I therefore cannot see what is to be gained from the Scottish ministers issuing guidance on the matter to the Scottish Court Service specifically in relation to solemn proceedings.

Furthermore, in the unlikely event that any guidance is necessary, no specific provision is required. Under section 69 of the Judiciary and Courts (Scotland) Act 2008, the Scottish ministers can already issue guidance to the Scottish Court Service to which it must have regard in carrying out its functions. Amendment 24 therefore replicates a provision that is already laid out in statute. Although I cannot support amendment 24, I restate the commitment that I made to Graeme Pearson at stage 2. The Scottish Government will continue to work with our justice partners in this area to ensure that any information that is provided to victims is clear and easy to understand.

Although I support the broad principles behind amendment 28, I consider it unnecessary and invite Margaret Mitchell to withdraw it. I also urge Graeme Pearson not to move amendments 21 and 24.

The Presiding Officer: I call Margaret Mitchell to press or withdraw amendment 28. I would be grateful if you could be brief.

Margaret Mitchell: It seems that the much-vaunted but, to date, phantom online hub that the cabinet secretary keeps telling us about is no further forward. The fact of the matter is that the guidance to which he refers is not working. Without primary legislation, victims will have to continue to give their story 16 times over, which is, frankly, unacceptable. The amendment would require it to be a priority that a single point of contact be established to avoid that happening. On that basis, I press amendment 28.

The Presiding Officer: The question is, that amendment 28 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)

Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 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)
 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)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)

Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 46, Against 63, Abstentions 0.

Amendment 28 disagreed to.

Section 2C—Restorative justice

The Presiding Officer: We move to group 5, on restorative justice. Amendment 8, in the name of the cabinet secretary, is the only amendment in the group. I call the cabinet secretary to speak to and move the amendment.

Kenny MacAskill: At stage 2, the Justice Committee accepted an amendment on restorative justice that was lodged by Alison McInnes. That amendment, which is now section 2C, places a duty on the Scottish ministers to make provision, by regulations, for the referral of victims and offenders or alleged offenders to restorative justice processes.

In principle, I welcome that. I appreciate why Alison McInnes lodged the amendment and agree that more consideration should be given to the potential benefits of restorative justice to victims. We already know that it can be useful in relation to youth justice, in particular.

However, I have some concerns that section 2C, as it stands, could be interpreted as giving individuals a statutory right to access such services, which would be premature. Detailed consideration would need to be given to the nature and effectiveness of the services that were to be offered and to the potential cost, which cannot be ignored in the current financial situation.

Alison McInnes (North East Scotland) (LD): I thank the cabinet secretary for meeting me to explore the best way forward on the issue. Can he reassure me that the first set of guidance that he will produce, perhaps relating to youth justice, will be issued in the near future? Will he commit to establishing a short-life working group comprised of relevant stakeholders to help him to develop the guidance?

Kenny MacAskill: I am happy to work with all stakeholders and to meet the member to discuss the matter further.

We are keen to build on what we already know—that is why Alison McInnes moved her amendment—which is that restorative justice services can have outstanding success at youth level. We must ensure that we build on that and have a solid base. Rather than commit to a short-life working group, I am happy to meet her. I am sure that all the other stakeholders would equally commit to that.

Given the voluntary and case-specific nature of any restorative justice services, there are compelling reasons for adopting a more flexible approach than would be possible through a statutory scheme. In particular, it would be difficult to establish definitive circumstances in which referral would be appropriate, reflecting the very personal and specific circumstances of each case and giving due consideration to issues such as the potential risk to and safety of victims. Similar points were raised with me by victim support groups such as Victim Support Scotland and Scottish Women's Aid, which agree that further consideration and a more flexible victim-focused approach is required.

My amendment 8, which is supported by both Victim Support Scotland and Scottish Women's Aid, seeks to allow for a more measured approach to be taken. It would replace the duty in section 2C to make regulations with an ability for the Scottish ministers to issue guidance relating to the referral of individuals to and the provision of restorative justice services. That would allow clear guidelines to be established, taking into consideration any obligations in the recent European Union directive on victims' rights while retaining more flexibility than would be possible if such detail were set out by statutory instrument. A duty may also be placed on persons who will be specified by order to have regard to the guidance. The order-making power could be used to place such a duty on those persons referring individuals to or providing restorative justice services.

If the bill is passed, I intend to issue guidance with a particular focus on the appropriate use of that measure and on the safeguards that would be in place to ensure that victims are protected if they choose to participate in any available restorative justice services—an issue that Alison McInnes rightly highlighted at stage 2. However, before issuing guidance, we will need to discuss what specific matters should be covered with those who have detailed knowledge and experience. I have signalled to Sacro, Victim Support Scotland, Scottish Women's Aid and others that we will be seeking their input, and I look forward to constructive discussions on the matter next year.

I assure Alison McInnes that amendment 8 is not intended to negate or weaken section 2C; rather, it is intended to adapt it into a more practical form. I am happy to continue discussions with her at a later date.

I move amendment 8.

Alison McInnes: I welcome the fact that the cabinet secretary has sought to respect the will of the committee and that he has chosen to revise rather than remove the provisions referring to restorative justice. I know that organisations such as Sacro are appreciative of its retention.

Amendment 8, as the cabinet secretary says, softens the provisions significantly. I understand that the cabinet secretary believes that the changes will give the system greater flexibility. I came to the chamber seeking reassurances that, should Parliament agree to amendment 8, the cabinet secretary will proceed to establish guidance. I have heard those assurances. I welcome that and the opportunity to meet him again in due course.

Kenny MacAskill: I am happy to accept Alison McInnes's points and to meet her to discuss the matter. I think that we share a common view that restorative justice has worked and does good service, but we must ensure that it works for all because there are some for whom it would be counterproductive.

Amendment 8 agreed to.

Section 3—Disclosure of information about criminal proceedings

The Presiding Officer: Group 6 is minor and technical amendments. Amendment 9, in the name of the cabinet secretary, is grouped with amendments 10 to 11, 13 to 16 and 20.

Kenny MacAskill: Section 3 gives victims and witnesses the right to access certain information about their case from various bodies and reflects the requirements of article 6 of the EU victims' rights directive. Following the introduction of the bill, however, the Office of the Advocate General for Scotland raised concerns that the obligation in section 3 could, in rare cases, lead to disclosure of confidential information supplied by the United Kingdom Government.

An exception to the duty to provide information in section 3 already exists, whereby information does not have to be disclosed if the qualifying person considers that that disclosure would be inappropriate. I consider the level of discretion that the wording of that exemption provides to be essential as it allows the police, the Crown Office and the Scottish Court Service to exercise their professional judgment in response to the individual circumstances of the case. However, I also recognise that that gives the qualifying person discretion about whether to disclose confidential information supplied by the UK Government as there is no obligation to withhold that confidential information.

My amendment 9 therefore obliges qualifying persons to refuse a request relating to a decision not to investigate, a decision to end an investigation or a decision not to prosecute the alleged offender in so far as complying with the request would involve the disclosure of information supplied by the UK Government or a minister of the Crown and held in confidence. It is intended to

ensure that, for example, the bodies that are named in section 3(5) of the bill are obliged not to disclose information received from the UK Government in relation to national security and held in confidence.

15:00

I do not expect the exception to be widely applicable, but I hope that members will agree that we should do all that we can to avoid inadvertently revealing confidential information that could prejudice serious investigations.

Amendments 10, 13 and 14 are minor technical amendments to correct a reference to certain offences in the Sexual Offences Act 2003.

Amendments 11 and 15 are also minor technical amendments and substitute references to

"an offence consisting of domestic abuse"

in sections 5(5)(d) and 6(a) respectively with

"an offence the commission of which involves domestic abuse".

The purpose of those amendments is simply to make it clear that, although domestic abuse is not, in itself, a statutory offence, any offence that contains an element of domestic abuse is covered by the provisions in sections 5 and 6 of the bill.

Amendment 16 relates to the process for submitting vulnerable witness notices to the court containing details of specific measures that are required for vulnerable witnesses. The Crown Office and Procurator Fiscal Service has been examining ways of streamlining the process to increase efficiency and lower costs. Amendment 16 will assist in that process. Where a vulnerable witness notice specifies only standard special measures, the amendment will remove the requirement for a summary of the witness's views and, where the victim is a child, those of the witness's parent in relation to the special measures to be contained in, or attached to, the notice.

The party submitting the vulnerable witness notice will still be required to take account of the witness's views, but as the court has no discretion as to whether to authorise any standard special measures requested—it must grant them—it follows that there is little point in providing it with a summary of views expressed. In all other cases in which the court has discretion to authorise the use of special measures, the requirement for it to be informed of any views expressed by the witness or the witness's parents will remain.

Amendment 20 is a minor drafting amendment to section 21 of the bill to insert the word "or" to make it clear that the paragraphs in proposed new

section 253B(4) of the Criminal Procedure (Scotland) Act 1995 are intended as alternatives.

I move amendment 9.

Amendment 9 agreed to.

Section 5—Certain offences: victim's right to specify gender of interviewer

Amendments 10 and 11 moved—[Kenny MacAskill]—and agreed to.

Section 5A—Certain medical examinations: gender of medical examiner

Amendment 13 moved—[Kenny MacAskill]—and agreed to.

After section 5A

The Presiding Officer: Group 7 is on evidence in relation to sexual offences: disclosure of information. Amendment 12, in the name of Graeme Pearson, is grouped with amendments 29, 30 and 31.

Graeme Pearson: The group of amendments arises from significant concerns that were expressed by Rape Crisis Scotland, Scottish Women's Aid, domestic abuse groups and other associated women's groups about the application of existing legislation that was designed to ensure that sensitive personal information is disclosed as part of court procedures only in relevant cases, and that it is handled sensitively. The experience of victims as recorded in evidence to the Justice Committee and the lobbying from those groups indicate that the legislation is not being applied effectively.

Subsection (1) of the new section that amendment 12 would insert says that

"The Lord Advocate must prepare and publish guidance on the circumstances in which sensitive personal information"

about a victim can be used in the public court process. The other subsections in the proposed new section refer to the means by which such guidance could be prepared, produced and disseminated.

In the event that amendment 12 fails, I will support Margaret Mitchell's amendment 29, which takes a different approach to a similar problem. It seeks the provision of legal advice to victims so that necessary processes can be put in place to protect the interests of the victim in the system. Margaret Mitchell's accompanying amendments set out the means by which that could be delivered, and I have no comment to offer on them.

I move amendment 12.

Margaret Mitchell: Amendments 29, 30 and 31 seek to tackle the long-standing and vexing problem of use of sexual history and character evidence in sexual offence trials.

An evaluation that was commissioned by the Scottish Government and published in 2007 found that, far from tightening up use of sexual history and character evidence, the legislation that the Government introduced in 2002 had led to an increase in use of such evidence. The key findings of the research make for concerning reading: 72 per cent of trials involved an application to introduce sexual history or character evidence, and only 7 per cent of those applications were refused. Despite the cabinet secretary's assurance that the Crown Office has comprehensive guidance in place to ensure that victims are given a full explanation of exactly why any sensitive information is sought, the fact of the matter is that, in practice, that guidance is not effective and is failing to protect complainers.

Rape Crisis Scotland's on-going research on the information that is sought makes compelling reading, too. Nearly 60 per cent of those who have responded said that they felt that they had had no choice but to provide sensitive information, and 35 per cent said that no one had explained to them why the information was being looked at. Less than 15 per cent said that they were clear about why the information had been requested. The concerns about inappropriate use of such evidence, which is designed to play to a jury's prejudices, are well documented.

Amendments 29, 30 and 31 reflect some of the points that were raised at stage 2. Amendment 29 would allow independent legal advice to be offered to victims of sexual offences as soon as the police, the Crown or the defence sought to access health or other sensitive records. More often than not, that is when the complainer is at their most vulnerable, which is why independent legal representation at that point is so important, especially as complainers and victims feel that they have no choice but to consent.

Therefore, it is the intention that such legal advice will be offered to victims and that some form of financial support will be available for that. Amendment 29 leaves it open for the Scottish Government to set up a dedicated fund, if appropriate. It would, of course, be open for legal aid to be extended to include provision of such independent legal advice, although further amendments would be required to allow that to happen.

Importantly, amendment 30 would allow the Scottish Government to run a pilot to assess how provision of independent legal advice would work in practice and to collect much-needed data. Rape Crisis Scotland has been in touch with Scotland's

largest law centre, the Legal Services Agency, which tackles the unmet legal needs of disadvantaged people. One of the areas in which the LSA undertakes work is in protecting the rights of refugee and migrant women and children, which it does through its women and young persons department. The proposed pilot would be affiliated to that department and would allocate one specialist solicitor one day a week for six months to provide initial advice regarding access to medical and other sensitive records. The advice could be provided at the premises of the LSA or of Rape Crisis.

During the pilot phase, the specialist solicitor would undertake collation of case outcomes, identify the costs of providing legal support, evaluate the pilot from the point of view of its clients and external parties, including the Crown Office and Procurator Fiscal Service—

The Presiding Officer: I need to ask you to wind up, because you have been speaking for five minutes.

Margaret Mitchell: Amendment 31 would require that a report be published, and the arrangements would satisfy the requirements for that.

I accept that the use of independent legal advice would be uncharted territory, which is why I have provided for a pilot. By limiting the pilot to the most serious sexual offences—to rape—and by providing that it would apply to only one High Court location, we would incur minimal costs. I hope that the Scottish Government will support that commonsense proposal.

The Presiding Officer: I am anxious to fit in more members, so I ask the next three members to keep their comments brief.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I support Graeme Pearson's amendment 12 and Margaret Mitchell's amendments. As her amendments may prove to be more controversial, I will speak briefly to them. The amendments might appear to be unusual, but they deal with unusual circumstances.

What complainer or victim, apart from a rape victim, has all her or his personal and medical details revealed in court, as happens in such cases? In the past few days, Rape Crisis Scotland has produced a report that details the information that is routinely and regularly given in Scottish courts in rape cases. For example, one woman said:

"my mental health was all I felt was talked about, not being raped".

Someone else said that they were put off having therapy and counselling because they knew that that would be used against them in court. Others

might not come forward to complain of what has happened to them because they know what might happen in court.

The matter is problematic in relation to the right to privacy, but be that as it may, women have no real choice in such situations. Whatever the guidelines say, such information can routinely be used in court. The least that we can do to protect such women and their rights is to ensure that they have independent legal advice and representation, so that their case can be put in such situations.

Roderick Campbell: On Graeme Pearson's amendment 12, I have difficulty in considering that any guidance that the Lord Advocate produced could be anything other than general. I am also concerned about whether the amendment would place too much emphasis on the Lord Advocate alone and would not take account of the accused's interests in the process. Would the amendment provide the right balance? I think not.

I have some sympathy with Margaret Mitchell's amendments, particularly in relation to sexual history applications under sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995. A common occurrence is that a complainer or victim is confused and takes the view that she should have her lawyer, because she does not understand that the Crown represents the public interest and not her.

A pilot is entirely the wrong approach and we should not put a pilot in legislation. I have some sympathy with Margaret Mitchell and I think that the Government would be wise to update the research and information on sexual history applications, but the amendments are not the right way forward.

Alison McInnes: I support all the amendments in the group. It is important that those who are asked to provide sensitive information, whether it is health, social work or education records, should have the opportunity to have legal advice and representation before doing so. There is no doubt that being required to reveal such information can leave victims feeling exposed and further violated, and feeling that their right to confidentiality has been denied. Some can feel further victimised. I am also concerned that such evidence can prove to be prejudicial in some cases.

During the passage of the bill, I have met many victims, whose stories haunt me. One woman told me that giving evidence was a harrowing and psychologically damaging experience. She was so distressed that the judge halted the court proceedings a number of times. No one had explained to her the amount of detail that she would have to give about the appalling acts of sexual violence against her. She was particularly disturbed that she had not been told that her

medical records, which detailed her injuries, would be read out in full to the court and the jury.

We must strive to ensure that such information is revealed only when it is appropriate. I would therefore welcome additional safeguards and the increased protection for victims of sexual offences that the amendments would provide.

Kenny MacAskill: We all accept that there is an issue, and there is a great deal of sympathy. Work is on-going. However, I am not persuaded that putting a pilot in primary legislation is the best approach, as Rod Campbell said.

I agree that the Crown Office and Procurator Fiscal Service should take an appropriate and consistent approach in seeking access to such information, but amendment 12, in Graeme Pearson's name, is unnecessary.

15:15

The Lord Advocate has already issued guidance—post publication of the statistics that Margaret Mitchell mentioned—on seeking sensitive information in such cases, which is set out in the publicly available document, "Policy on obtaining and disclosing sensitive personal records in the investigation and prosecution of sexual crime cases".

Given the range of matters on which the Lord Advocate issues guidance, I would be reluctant to impose a statutory duty in relation to one particular topic, especially one for which guidance already exists. If specific matters are felt to be missing from existing guidance, I know that the Crown Office would be happy to receive and consider any feedback.

Amendment 12 is also unnecessary in relation to disclosure of information about the victim. Disclosure of information that is held by a prosecutor is already provided for in part 6 of the Criminal Justice and Licensing (Scotland) Act 2010, and those statutory provisions will take precedence.

Amendments 29, 30 and 31, in the name of Margaret Mitchell, would result—as I indicated at stage 2—in a major innovation in the law. There are currently no rights for victims to have independent legal representation in criminal proceedings; as Rod Campbell mentioned, the Crown acts not as a prosecutor but in the public interest.

We are being invited to make a major change in a fashion that has not been fully thought through, and which has not been properly explored. The case for such a change has not yet been made. That does not mean that it cannot be, but it certainly has not been to date.

Rape Crisis Scotland acknowledges that since publication of the Crown Office guidance that I mentioned, no additional data have been collected on use of medical histories and other sensitive information. The Crown Office has offered to work with Rape Crisis Scotland in that regard.

In the meantime, it would be irresponsible were we to act despite having no data. In addition, it is entirely unclear how the provisions would operate in practice. Margaret Mitchell's amendments would enable victims to appoint a legal representative wherever health or other sensitive information was sought. However, that covers a very broad range of information, much of which is not currently subject to any restrictions on its being introduced as evidence. The amendments would not create an application process for the admission of health or other sensitive information, so it is unclear how the process of appointing a legal representative for the victim would commence.

The amendments do not provide for the admissibility of the evidence to be debated at an oral hearing, so it is unclear how submissions on the evidence would be made. If additional hearings were to be arranged, further amendment of the legislation would be required. That is to say nothing of the attendant delays to the court process, which would have an impact on victims and witnesses, and the significant cost that would be involved in arranging those hearings.

The amendments do not provide any guidance for the court or the victim about when health or other sensitive information would be admissible. For example, there is no requirement that the court must carry out a balancing exercise between the interests of the victim and the proper administration of justice.

It is clear that Margaret Mitchell recognises the scale of the innovation that her amendments propose, given the provisions for carrying out a pilot. However, without a great deal more clarity on how the amendments would work in practice, I fail to see the benefit of them.

Moreover, the provisions for terminating a pilot are defectively drafted, with no provision having been made for reversing commencement; regardless of the outcome of the pilot, the provisions would remain in force.

If information is being sought, the reasons should be clearly explained to the victims, but that should be dealt with practically rather than requiring advice from a solicitor. As I have mentioned, the Crown Office has in place comprehensive guidance to ensure that victims are given a full explanation of exactly why any sensitive information is being asked for.

Furthermore, in the event that legal advice is required, current legal aid legislation already

makes that available to victims and witnesses through the advice and assistance scheme, subject to the usual statutory test. On the subject of legal aid, I note that Margaret Mitchell's amendment 29 proposes that an entirely new fund be established to pay for advice to or representation for alleged victims. Given the complexities that would be involved in setting up a new fund—not to mention the cost, in the current financial situation—I am not convinced that that would be a particularly sensible approach.

I and my officials have already met Rape Crisis Scotland to discuss its concerns, and we recently arranged a meeting between Rape Crisis and the Scottish Legal Aid Board to explore the additional support that might be available under current legal arrangements, beyond what is already available through the advice and assistance scheme. Similarly, colleagues in the Crown Office have discussed those matters in detail and have indicated a willingness to assist Rape Crisis in exploring how such evidence is used.

In summary, I do not believe that a pilot's being included in the text of primary legislation is the best way to go. There are on-going discussions between Rape Crisis Scotland and the Scottish Legal Aid Board, and I am happy to commit to their working together constructively.

Equally, I am more than happy to engage further with Rape Crisis Scotland regarding other matters that it has raised with me and other members. However, if we are to have a pilot, we should work out the practical details and have the pilot before we embark on primary legislation. I have a great deal of sympathy with where members are coming from, but we have to ensure that we get the approach right; we do not want to make things worse for vulnerable victims. I therefore invite Graeme Pearson to seek to withdraw amendment 12, and I ask Margaret Mitchell not to move amendments 29 to 31.

The Presiding Officer: I call Graeme Pearson to wind up and to indicate whether he wishes to press or withdraw amendment 12. I would be grateful if you could be as brief as possible, Mr Pearson.

Graeme Pearson: I take the hint, Presiding Officer.

I am sorry to disappoint the cabinet secretary, but I will not seek agreement to withdraw amendment 12. In summation, all the words that he has just given us mean no change for women who go through our courts. The bill is largely driven by European legislation, which demands different approaches in member countries. Hence we have the proposals in the bill, but the issue has not been looked at from the point of view of victims. I hope that members will consider the

issue, which has been at the centre of a problem in our courts for 10 years. We need to move now.

The Presiding Officer: The question is, that amendment 12 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)
 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)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 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)
 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)
 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 49, Against 61, Abstentions 0.

Amendment 12 disagreed to.

Amendment 29 moved—[Margaret Mitchell].

The Presiding Officer: The question is, that amendment 29 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)
 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)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 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)
 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)
 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 49, Against 61, Abstentions 0.

Amendment 29 disagreed to.

Amendment 30 moved—[Margaret Mitchell].

The Presiding Officer: The question is, that amendment 30 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)
 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)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 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)
 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)
 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 48, Against 61, Abstentions 0.

Amendment 30 disagreed to.

Amendment 31 moved—[Margaret Mitchell].

The Presiding Officer: The question is, that amendment 31 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)
 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)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 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)
 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)
 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 49, Against 61, Abstentions 0.

Amendment 31 disagreed to.

Section 6—Vulnerable witnesses: main definitions

The Presiding Officer: Amendments 14 to 16, in the name of the cabinet secretary, have already been debated.

Amendments 14 to 16 moved—[Kenny MacAskill].

The Presiding Officer: Does any member object to a single question being put on amendments 14 to 16?

Members indicated disagreement.

Amendments 14 and 15 agreed to.

Section 7—Child and deemed vulnerable witnesses

Amendment 16 agreed to.

Section 19—Victim statements

The Presiding Officer: As we are nearing the agreed time limit, I am prepared to exercise my power under rule 9.8.4A(a) to allow those with the right to speak in the next group to do so.

We now move to group 8, on victim statements and the right to make statements other than written statements. Amendment 17 is the only amendment in the group.

Graeme Pearson: The current arrangements for making a victim's feelings known to a hearing is that they can supply a written statement, or they can be interviewed and can give an oral statement to a third party, who will then pass on that information for consideration. Amendment 17 seeks to offer a victim or a nominated person the right to make an oral representation—to be heard first hand. There is no doubt that victims who offered evidence to the committee and elsewhere have indicated that they wish to be able to make an oral representation on behalf of themselves and their family.

I see no reason why the amendment cannot be agreed to. It would be good to allow victims to be heard and the amendment would have an impact on the processes that are being considered. I hope that members will feel able to support it.

I move amendment 17.

Kenny MacAskill: As I have said before, victims of crime should clearly have the opportunity to communicate to the court the physical, emotional and economic impact of crime. That is why I introduced the victim statement scheme, which allows victims to give a written statement describing how the offence has affected them. However, as I explained to the Justice Committee last month, I have heard first hand from victims of crime who have struggled to fully convey in writing the impact that a crime has had on them, and who have asked why they cannot submit statements in other formats, such as a pre-recorded video.

That is why at stage 2 I lodged an amendment introducing an order-making power into section 14 of the Criminal Justice (Scotland) Act 2003, to allow Scottish ministers to specify the format in which victim statements can be made. The Justice Committee agreed to that amendment. Crucially, that will allow alternative formats to be piloted for specific periods of time and in specific areas. Taking a power to pilot new formats will allow for a full evaluation of any new approach to be carried out, taking into consideration the views of victims, the courts, the Crown and the defence. If successful, any new statement formats could then be extended more widely.

In making that amendment at stage 2, my intention was to enable Scottish ministers and criminal justice organisations to take a balanced and considered approach to extending the formats in which victim statements can be delivered, while allowing for the development of new formats in response to advances in technology.

Amendment 17, in the name of Graeme Pearson, is similar to an amendment that he lodged at stage 2. As I said then, I have concerns regarding the extent of the amendment, in that victims would be able to read their victim statement live in court. I am still doubtful about how well that would work in practice and of the benefits of such a measure. I also have concerns about the potential impact on the victim. I note that England and Wales have recently introduced a new victims code, which allows victims to read their own statements in court, but I am told that that system has not yet commenced. As I said at stage 2, I am keen to monitor the progress of that code before I give further consideration to such a measure in Scotland.

15:30

Mr Pearson also suggested an additional provision enabling the Lord President to issue guidance as to how such representations may be made. It is unclear why he proposed conferring that power on the Lord President when, under section 305 of the Criminal Procedure (Scotland) Act 1995, the High Court already has the power to regulate practice and procedure in criminal proceedings. Indeed, procedures have been established by act of adjournment to regulate the submission of child witness notices. It would seem strange for the Lord President to issue guidance on something for which the High Court could produce rules and regulations.

Furthermore, the proposed power of the Lord President to issue guidance on how representations under proposed new section 19(5A)(b) might be made does not sit easily with the proposal to confer delegated power on the Scottish ministers under proposed new section 19(5A)(c) to prescribe other means of making a victim statement by order.

In light of the existing provisions in the bill that confer powers to pilot new forms of victim statement, and the specific concerns regarding any guidance on how those statements are to be made, I cannot support amendment 17.

That said, I would not want to rule out the proposal relating to oral victim statements altogether, and I reiterate the commitment that I gave Graeme Pearson at stage 2, which was that I would be happy to revisit the issue once greater consideration has been given to how such a measure would operate in practice, and once the benefits and risks to the victim have been explored in more detail. On that basis, I invite Graeme Pearson to withdraw amendment 17.

Graeme Pearson: In good faith, and given the cabinet secretary's assurances, I seek leave to withdraw the amendment.

Amendment 17, by agreement, withdrawn.

The Deputy Presiding Officer (Elaine Smith): We move to group 9, on the rights of children to make victim statements and receive information on offender release. Amendment 32, in the name of Elaine Murray, is grouped with amendments 33, 18, 18A, and 18B.

Elaine Murray: Amendments 32 and 33 are similar to amendments that were rejected by the cabinet secretary and the committee at stage 2. I lodged them at the request of Children 1st, which has issued a briefing supporting the amendments; they are also supported by Barnardo's, Scotland's Commissioner for Children and Young People, Scottish Women's Aid, YouthLink and several

other organisations that were also unconvinced by the cabinet secretary's arguments.

The amendments would give a child under the age of 12 the opportunity to make a victim statement should they wish to do so, and should they have sufficient age and maturity. If a child was not able to make a statement, one may be made on their behalf by a parent or other qualifying individual. A child who made a statement under section 19 would have to be provided with whatever support they required to be able to do so.

There is considerable support from a range of organisations for amendment 32, and I thank those organisations for circulating a separate briefing.

The justice secretary suggested that we had set the appropriate age for children making a victim statement in their own right at 12. However, criminal investigations and proceedings might involve children as young as three giving evidence in their own right as victims and witnesses—often with not nearly enough support, I am sorry to say. Surely it is contradictory to allow only children over the age of 12 to give a statement about the impact of crime on them. We could have a situation whereby a child of six gives eloquent and compelling evidence as the victim of sexual abuse that helps to convict an accused, and is then denied the opportunity to tell the sheriff or judge about the impact of that offence on them.

Previous legislation acknowledges both the importance of children making their views known when decisions are being made that affect them and their rights to do so. Examples include the Education (Additional Support for Learning) (Scotland) Act 2004 and the Education (Additional Support for Learning) (Scotland) Act 2009. There is also precedent that provides for children to be supported in doing so: section 122 of the Children's Hearings (Scotland) Act 2011 provides for advocacy for all children and young people who enter the hearings system.

My amendments also seek to define more clearly who should make a victim statement on a child's behalf. They would ensure that, first, those who have parental rights and responsibilities would do so or, if the parent or carer was unable to do so—or if it would be inappropriate for them to do so—the qualifying person list whose purpose is to determine who would make a victim statement on behalf of an adult who lacks mental capacity would be used.

The definition in the bill of a carer updates that which first featured in the Criminal Justice (Scotland) Act 2003. However, that definition is designed for the specific purpose of distinguishing between those who provide unpaid care as family

members for a person with support needs, and paid carers. To use that definition in this context would be inappropriate.

Children can be affected by horrific crimes both directly and indirectly. They deserve to be allowed to make the court aware of that in their own words and in their own way. Where they need support to do so, whatever their age, it should be provided. My amendments would enable a relatively small number of children who have been impacted—often by a terrible experience—to ensure that what they say about the impact of crime on them is heard and listened to by the justice system.

I move amendment 32.

Kenny MacAskill: Amendments 32 and 33, in the name of Elaine Murray, are very similar to amendments that she lodged at stage 2. I appreciate where she is coming from. Clearly, there may be very mature young people who want to make a victim statement but cannot do so. Indeed, at stage 2 I lodged amendments, which the committee supported, to lower the age at which children can give victim statements from 14 to 12.

However, we tend to take a general view on matters such as the age of consent and the voting age, and I think that a similar approach is appropriate with regard to the age at which victim statements can be made. In addition, if it is felt in the future that children under the age of 12 should be allowed to make victim statements, existing order-making powers would enable Scottish ministers to reduce the age limit accordingly. We are more than willing to give further consideration to that in due course.

I also have some concerns about the detail of amendment 33, in that it does not indicate who is to make a decision as to whether a child is of sufficient age and maturity to make a statement, and who is to provide the support mentioned in proposed new subsection 11C. Those are clearly matters of some importance, and a lack of clarity on who those provisions apply to would be confusing.

Amendment 18, in my name, proposes making a number of amendments to section 16 of the Criminal Justice (Scotland) Act 2003. That section established a system—known as the victim notification scheme—whereby victims can, on request, receive information about the relevant offender. Most of the changes proposed by amendment 18 are required as a consequence of amendments that will be made by section 19 of the bill, which will repeal certain parts of section 14 of the 2003 act that are, in turn, referred to in section 16. Those changes will simply ensure that the victim notification scheme will continue to operate as it does at present.

In proposing amendment 18, however, I have also taken the opportunity to seek to lower from 14 to 12 the age at which children can receive information from the victim notification scheme in their own right. At stage 2, the Justice Committee supported my amendments to make a similar change with regard to the making of victim statements. I think that it is only right that that age limit be consistent both with arrangements for making victim statements and with other legislation relating to children, primarily the Age of Legal Capacity (Scotland) Act 1991, which provides that children over the age of 12 have testamentary capacity and are able to make decisions themselves about many issues.

Amendment 18 also provides an order-making power whereby Scottish ministers may in future modify the age limits in section 16 of the 2003 act independently of the age limits in section 14 of that act.

Amendment 18A, in the name of John Finnie, seeks to amend my amendment 18 to introduce an order-making power for Scottish ministers to be able to change the persons eligible to receive information under section 16 of the 2003 act through the victim notification scheme. I appreciate the intention behind the amendment, which is to give Scottish ministers the flexibility to make any further changes if necessary in the future. In light of that, I am happy to support amendment 18A.

Amendment 18B, also in the name of John Finnie, would allow Scottish ministers to issue guidance on the support that should be available to children if they receive information under section 16 of the 2003 act. Again, I appreciate the intention behind the amendment. However, I am not persuaded that there is a need for statutory guidance in relation to such support, and it is not clear who the guidance would be aimed at. I think that a better approach would be to work with our justice partners and with victim support groups to identify what support is available currently and how to improve that if necessary.

I therefore invite Elaine Murray to withdraw amendment 32 and not to move amendment 33. I invite members to support amendments 18 and 18A, and I ask John Finnie not to move amendment 18B.

The Deputy Presiding Officer: I call John Finnie to speak to amendment 18A and other amendments in the group—around two minutes, please, Mr Finnie.

John Finnie (Highlands and Islands) (Ind): I am grateful for the cabinet secretary's support for amendment 18A. However, I have been advised of instances in which child victims of very serious offences, such as sexual and domestic abuse,

have found out by accident about the release of an offender. One of the partner agencies that the cabinet secretary is working with is Children 1st, which works with children to help them recover from the traumatic experience of abuse. It knows of situations in which an offender returned to live in the same community on release and the first that the child victim knew of their release was when they literally bumped into them in the street.

Amendment 18 does not make it clear whether, if a child victim does not have the right to be notified, their parent or guardian has that right. A child who is older than 12 might not want to know or might not realise the consequences of not wishing to be notified, but in order to consider how to protect the child from encountering a released offender, the parent or guardian might wish to be notified. How does the amendment provide for such an occurrence?

Moreover, a child might not realise the importance of knowing about the release and they might find the release traumatic. It is important to provide support for a child victim so that they can address the impact of such information and process it as positively as possible. Guidance would help the justice authorities to work out what might be required in different circumstances.

My amendments 18A and 18B would allow for such eventualities. They would allow Scottish ministers, once proper consideration has been given to the effects of amendment 18, to issue appropriate guidance and to continue to finesse the operation and implementation of amendment 18.

The justice secretary has accepted that amendment 18A is within the overall aims of the bill. Amendment 18B is supported by Children 1st and I encourage everyone else to support it too.

Elaine Murray: Amendments 32 and 33 are supported by Aberlour Child Care Trust, Barnardo's, Children 1st, Clan Childlaw centre, Professor Fiona Raitt, Includem, Janys Scott QC, LGBT Youth Scotland, the National Society for the Prevention of Cruelty to Children, Parenting across Scotland, Scotland's Commissioner for Children and Young People, Scottish Women's Aid, Together Scottish Alliance for Children's Rights, the WAVE Trust and YouthLink Scotland. If members do not listen to me, I ask them to please listen to them. They support amendments 32 and 33.

The Deputy Presiding Officer: The question is, that amendment 32 be agreed to. Are we agreed?

Members: No.

The Deputy 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)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (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, Gavin (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)

Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 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)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 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)
 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 Deputy Presiding Officer: The result of the division is: For 35, Against 73, Abstentions 0.

Amendment 32 disagreed to.

Amendment 33 moved—[Elaine Murray].

The Deputy Presiding Officer: The question is, that amendment 33 be agreed to. Are we agreed?

Members: No.

The Deputy 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)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)

Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (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, Gavin (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 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)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 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)
 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 Deputy Presiding Officer: The result of the division is: For 35, Against 72, Abstentions 0.

Amendment 33 disagreed to.

Amendment 18 moved—[Kenny MacAskill].

Amendment 18A moved—[John Finnie]—and agreed to.

Amendment 18B moved—[John Finnie.]

The Deputy Presiding Officer: The question is, that amendment 18B be agreed to. Are we all agreed?

Members: No.

The Deputy 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)
 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)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)

Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 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)
 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)
 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)
 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 Deputy Presiding Officer: The result of the division is: For 48, Against 60, Abstentions 0.

Amendment 18B disagreed to.

Amendment 18, as amended, agreed to.

Section 20—Duty to consider making compensation order

The Deputy Presiding Officer: Group 10 is on compensation orders. Amendment 19, in the name of Elaine Murray, is the only amendment in the group. I ask Elaine Murray to speak to and move amendment 19 as briefly as possible.

15:45

Elaine Murray: Amendment 19 seeks to require the court to ascertain the victim's views prior to making a compensation order and prohibits the making of such an order when the victim has notified the court that they do not wish to receive compensation from the offender. Victims of sexual offences, for example, might find payment in compensation for the offence perpetrated against them abhorrent. When I lodged a similar amendment at stage 2, the cabinet secretary felt that it might imply that all victims would have to be consulted even if a compensation order was not being considered. In light of that comment, I have reworded that amendment.

MSPs will have received a briefing from Scottish Women's Aid and Rape Crisis yesterday evening supporting this amendment and stating their belief that, as the bill stands, section 20 has the potential to cause further harm to victims and that compensation orders are not a helpful disposal in domestic and sexual abuse cases. Neither the bill nor the Criminal Procedure (Scotland) Act 1995 contains any provision for the victim's views to be the deciding factor in whether a court makes or does not make a compensation order against the offender. If the intention is that compensation orders should be considered in every case, the

victim must have the right to have their views heard.

An offender in a domestic or sexual abuse case could use such an order to continue to exert a degree of control over the victim by manipulating or delaying the payment. In many cases, the victim might want no contact with her abuser and certainly will not want money from him. Moreover, a compensation order might be made as an alternative to another disposal, which again might cause the victim great distress.

I move amendment 19.

The Deputy Presiding Officer: I call Sandra White for a brief contribution.

Sandra White (Glasgow Kelvin) (SNP): I will be very brief, Presiding Officer. I support amendment 19 and concur with everything that Elaine Murray has said. Indeed, women who have suffered sexual abuse have told us that the idea of getting a compensation order is abhorrent to them.

The Deputy Presiding Officer: I call Margaret Mitchell. Briefly, please.

Margaret Mitchell: Very briefly, the Scottish Conservatives are minded to support amendment 19. Seeking the victim's views before a compensation order is made seems an eminently sensible and appropriate measure.

Kenny MacAskill: As I explained at stage 2, courts may currently consider imposing a compensation order on an offender but are under no obligation to do so. Section 20 is intended to ensure that the court considers imposing compensation orders in relevant cases but it does not remove its discretion to decide whether such a move is appropriate. In making such a decision, the court considers all the circumstances of the case and would rightly take into account any views expressed by the victim.

At stages 1 and 2, the Justice Committee discussed concerns that had been raised by Rape Crisis Scotland and Scottish Women's Aid about compensation orders being imposed in domestic abuse or sexual assault cases in which, as Sandra White has suggested, victims do not wish such an order to be made. As I have said before by way of reassurance, the bill will do nothing to preclude the court from using its discretion and will impose compensation orders only where the court considers it appropriate to do so.

Amendment 19, in the name of Elaine Murray, is similar to an amendment that she lodged at stage 2. In light of comments that were made about the practicality of the previous amendment and the potential burden on the court, I welcome the changes that she has made to narrow the circumstances in which views must be sought to

those situations in which the court actually intends to impose a compensation order.

As I said at stage 2, I have some doubts about whether the amendment is absolutely necessary. The court already considers all the circumstances in making a compensation order. I understand that it is very rare for compensation orders to be awarded in relation to sexual offence or domestic abuse cases, and it is those cases that are at the heart of the concerns raised by Rape Crisis and Scottish Women's Aid.

That said, I appreciate the concerns that have been raised and, given the changes that have been made to the proposal since stage 2, I am happy to support Elaine Murray's amendment. It is clear that no one wants to cause further distress to victims and, in the small number of cases in which compensation is not wanted, the proposal will ensure that it is not granted.

We will continue to work with the Crown Office and the Judicial Office for Scotland to ensure that the provision works well in practice and to ensure that no delays are caused in the majority of cases in which victims are happy to receive compensation.

I therefore encourage members to support amendment 19.

Elaine Murray: I thank the cabinet secretary for accepting the amendment and other members for their support.

Amendment 19 agreed to.

Section 21—Restitution order

The Deputy Presiding Officer: Group 11 is on restitution orders: application of the fund. Amendment 34, in the name of Alison McInnes, is grouped with amendment 35.

Alison McInnes: Amendments 34 and 35 would extend restitution orders and the associated fund to fire and ambulance service personnel. It would mean that an assault on those workers—not only on the police—could lead to the offender making a payment to the fund and would, in turn, enable those employees to access the specialist support services that it will provide.

Attacks on emergency services personnel are not limited to attacks on the police. During stage 2, all parties, including the cabinet secretary, were sympathetic to the argument that there ought not to be a distinction, but concerns were expressed that the proposal could prove to be impracticable—that it could be too difficult to identify suitable beneficiaries or that the proposal could be too expensive to administer. However, even the cabinet secretary acknowledged during stage 2 that benevolent funds exist for the distinct groups of emergency workers to whom I wish to

extend restitution orders—the Fire Fighters Charity and the Ambulance Services Benevolent Fund. It would be for the administrator of the new fund to decide whether they would be appropriate beneficiaries, and the Scottish ministers would have the power to make further provision for the administration of the restitution fund. Therefore, I maintain that it would be within its gift to ensure that the operator divides and distributes the money in a manner that supports victims of the relevant offence for which it was collected, as would be appropriate in the circumstances.

The Law Society of Scotland supports extending restitution orders to a broader group of workers, and it has been suggested to me that, if the number of assaults under section 1(1) of the Emergency Workers (Scotland) Act 2005 is comparatively low, as the cabinet secretary argued at stage 2, the additional administration costs would be minimal and more readily absorbed into the resources that are necessary for the restitution fund in general.

I move amendment 34.

Margaret Mitchell: There seems to be no good reason why restitution orders should not apply to other emergency workers, and not just the police alone. Given Alison McInnes's comments, I and the Conservatives are minded to support the amendments in her name.

Kenny MacAskill: As I have said before, I am sympathetic to the idea of extending restitution orders to workers other than the police, provided that the system would actually work. I acknowledge that Alison McInnes has attempted to extend the scope of restitution orders in such a way as to ensure that, for each emergency worker who is the victim of an assault, there could be appropriate beneficiaries who could receive payment from the restitution fund.

The amendments would certainly make the operation of the restitution fund more complex. Payments to the fund would require to be ring fenced according to the type of offence for which the restitution order was imposed. It would be inappropriate to use moneys that were recovered in respect of an assault on one type of emergency worker to make payments to organisations that provide support to different emergency workers. The Scottish Court Service would therefore be left with the burden of splitting the charges in the 2005 act into their component categories of worker to ensure that the money may be appropriately ring fenced when it goes into the restitution fund. The operator of the fund would also require to ensure that moneys that were received for certain offences were disbursed to organisations that support victims of those offences.

Moreover, the amendments do not address the very obvious practical difficulty that I described at stage 2. In 2012-13, the figures for which are now available, there were 3,137 persons with a charge proved under section 41(1)(a) of the Police (Scotland) Act 1967, and only 139 persons with a charge proved in respect of all emergency workers under section 1 of the Emergency Workers (Scotland) Act 2005.

The scale is thus completely different. Crucially, that is reflected in the sums that might be available. While fines for assaults on the police raise six-figure sums every year, as I said at stage 2, the Scottish Court Service advises that there was no fines income at all in 2011-12 and 2012-13 from any of the charges under the 2005 act. Instead, those were dealt with by community payback orders or imprisonment. It is not clear, therefore, that there is any potential income at all for restitution orders for any category of emergency workers.

Amendments 34 and 35 are therefore likely to result in a burden on the operators of the restitution fund. The income received in respect of assaults on emergency workers under the 2005 act may well be insufficient to cover the operating expenses incurred by extending the scope of the restitution fund to include them. Rather than providing benefits for the intended recipients, it is quite possible that the amendments would result only in a burden on the operators of the restitution fund.

Restitution orders would work in respect of assaults on police officers where there is clear evidence that the volume of potential income is there. The use of financial penalties will result in real benefits from the provision of support services. The same, unfortunately, cannot be said in respect of other emergency workers—certainly not at the present moment.

In those circumstances, I urge Alison McInnes to reflect on what I have said and to withdraw amendment 34 and not move amendment 35. These matters can be reviewed and revisited in due course, but at present if we agreed to the amendments we would harm those whom she seeks to benefit.

Alison McInnes: I have listened to what the cabinet secretary said, but it seems perverse and inequitable that only an assault on a police officer, and not on a firefighter or a paramedic responding to an emergency, should merit a restitution order. It is unfair that only one segment of our emergency services personnel should have the benefit of the support services that the funds will provide. I will therefore press amendment 34.

The Deputy Presiding Officer: The question is, that amendment 34 be agreed to. Are we agreed?

Members: No.

The Deputy 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)
 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)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)

Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 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)
 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)
 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 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 Deputy Presiding Officer: The result of the division is: For 48, Against 57, Abstentions 0.

Amendment 34 disagreed to.

Amendment 35 moved—[Alison McInnes].

The Deputy Presiding Officer: The question is, that amendment 35 be agreed to. Are we agreed?

Members: No.

The Deputy 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)
 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)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 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 Deputy Presiding Officer: The result of the division is: For 47, Against 59, Abstentions 0.

Amendment 35 disagreed to.

Amendment 20 moved—[Kenny MacAskill]—and agreed to.

Section 23—Victim's right to receive information about release of offender etc

Amendment 21 moved—[Graeme Pearson].

16:00

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

Members: No.

The Deputy 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 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)
 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 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 Deputy Presiding Officer: The result of the division is: For 46, Against 61, Abstentions 0.

Amendment 21 disagreed to.

The Deputy Presiding Officer: I inform Parliament that, as we are nearing the agreed time limit, I am prepared to exercise my power under rule 9.8.4A(a) to allow those with a right to speak in the next group to do so.

Section 24—Life prisoners: victim's right to make oral representations before release on licence

The Deputy Presiding Officer: Group 12 is on life prisoners—victim's rights to make oral representations to the convicted person. Amendment 22, in the name of Graeme Pearson, is grouped with amendment 23.

Graeme Pearson: Amendments 22 and 23 are similar to an approach that I suggested in an amendment that related to oral representations in court.

The evidence that was presented during the processes in the Justice Committee indicated that victims and victims' relatives felt disenfranchised by the process of criminal justice and that their voices were not heard at key moments in that process.

Amendment 22 would give victims the opportunity to make an oral representation to a board considering the release of someone who had previously been sentenced to life imprisonment. The amendment would have an impact on a discrete number of prisoners.

It was suggested that allowing victims or their relatives to make such representations would cause difficulties in terms of security in the prison and that the person who was trying to make on

oral presentation in such circumstances would be under pressure. A range of technical challenges were also mentioned. However, I believe that offering an opportunity to make that representation orally but by closed-circuit television would overcome many of the problems that have been raised.

Issues were raised about whether the prisoner would be able to hear everything that was being said. I suggest that the amendment covers that eventuality and should provide for the right kind of presentation.

Amendment 23 is consequential and concerns the videolink.

Amendment 24 relates to the Scottish ministers issuing guidance to the Scottish Court Service on the minimum standards to apply to the provision of information in relation to solemn procedure. The amendment seeks to ensure that the witnesses and victims who go to court under solemn procedure and wish access to information are guaranteed access to a series of pieces of information.

We have not gone into the detail of what the information might be—I think that that would be subject to discussion—but victims have told us that they appear in court without necessarily ever having been in a court before and without having had the opportunity to visit when it is empty, that they have ended up in situations in which they feel oppressed by being placed too close to an accused person, and that they have had no understanding of procedures before they enter. The amendment would enable advice to be offered, guidelines to be issued and a benchmark to be set.

I move amendment 22.

The Deputy Presiding Officer: As I indicated, under the rules I am able to call only those who have a right to speak on the group. I call the cabinet secretary.

Kenny MacAskill: Amendments 22 and 23 would allow victims to make representations about release and licence conditions directly to the prisoner via videolink. As I said at stage 2, I consider the proposal to be seriously flawed.

The prisoner has no involvement in decisions about his release or any licence conditions that may be attached, so there appears to be little purpose in the victim's speaking directly to the offender about those matters. Decisions on release and licence conditions are rightly made by the Parole Board for Scotland, which takes into consideration all the reports on the conduct and progress of the prisoner.

For the benefit of those members who were not present at stage 2, I reiterate that victims in

relevant cases are invited to make representations to the Parole Board about possible release and licence conditions. The bill extends that to include oral representations for life sentence prisoners. The prisoner already sees and will continue to see the representations that are made by the victim unless there is good reason to withhold them from him or her, and there is nothing to be added to the effectiveness of the parole process by including the amendments.

The primary concern of the Parole Board is the risk attached to releasing a prisoner, and that risk is best assessed by considering relevant representations by the victim to the Parole Board alongside all the other reports that have been prepared on the prisoner.

In summary, I do not think that there would be any benefit to either victims or the parole process in allowing such representations to be made to prisoners. As I have said before, that may even be counterproductive in giving the victim unreal expectations of what can be achieved through such a process. I also have concerns about the effect on the victim of such direct contact, which could be extremely traumatic. I therefore urge Graeme Pearson to withdraw amendment 22 and not to move amendment 23.

The Deputy Presiding Officer: I call Mr Pearson to wind up as briefly as possible and to indicate whether he wishes to press or withdraw amendment 22.

Graeme Pearson: I am disappointed that the cabinet secretary has responded as he has. I am not surprised that he sees little value, as the value would be from the point of view of the victim, who would have the opportunity to express an impact assessment personally and know that they had been heard by the person whom they knew to be the perpetrator. We spoke earlier about restorative justice, and there is no doubt in my mind that, if the victim sees value in it and wants to make an oral representation, the system should be capable of enabling that to happen.

I press amendment 22.

The Deputy Presiding Officer: The question is, that amendment 22 be agreed to. Are we agreed?

Members: No.

The Deputy 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (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)
 Eadie, Jim (Edinburgh Southern) (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)
 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)
 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 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 Deputy Presiding Officer: The result of the division is: For 46, Against 60, Abstentions 0.

Amendment 22 disagreed to.

Amendment 23 moved—[Graeme Pearson].

The Deputy Presiding Officer: The question is, that amendment 23 be agreed to. Are we agreed?

Members: No.

The Deputy 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)
 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)
 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)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (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)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 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)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 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 Deputy Presiding Officer: The result of the division is: For 44, Against 63, Abstentions 0.

Amendment 23 disagreed to.

After section 25

Amendment 24 moved—[Graeme Pearson].

The Deputy Presiding Officer: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Deputy 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)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (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)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (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)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

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)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (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)
 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)
 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)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 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 Deputy Presiding Officer: The result of the division is: For 44, Against 61, Abstentions 0.

Amendment 24 disagreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Victims and Witnesses (Scotland) Bill

The Deputy Presiding Officer (Elaine Smith): The next item of business is a debate on motion S4M-08562, in the name of Kenny MacAskill, on the Victims and Witnesses (Scotland) Bill.

I advise the chamber that we are incredibly tight for time. The cabinet secretary has a maximum of 10 minutes.

16:11

The Cabinet Secretary for Justice (Kenny MacAskill): I am pleased to open the debate. Much time is spent talking about how our criminal justice system works and rightly so. However, in doing so, we must not leave out the discussion of the needs of those arguably most affected by it—the victims and witnesses of crime.

I thank the members and clerks of both the Justice Committee and the Health and Sport Committee for their work over the past year. Their scrutiny and discussion of the bill have been detailed and considered and resulted in the clarification and enhancement of aspects of the bill. I also thank those who have been involved in the bill's development. In particular, I thank those organisations and individuals who responded to the consultation, including the victim support organisations, such as Victim Support Scotland and Scottish Women's Aid, that gave evidence to the committees and provided robust and constructive feedback throughout the bill process, as well as to our justice partners. Most important, I express my gratitude and that of the Minister for Public Health to the victims of crimes and survivors of institutional child abuse. They have shown great strength in sharing their views, knowledge and experiences with us all.

The bill contains provisions to improve support for victims and witnesses and to establish a national confidential forum to receive and listen in confidence to the experiences of adults who were placed in institutional care as children, including experiences of abuse.

I turn first to the elements of the bill focused on our criminal justice system. The central aim of our proposals is to put victims and witnesses at the heart of our justice system and to improve the information and support available to them. The bill will ensure that offenders pay towards the support needed by victims through the introduction of a victims surcharge, to be used to help meet the immediate needs of victims of crime.

The bill will make important improvements to the support available for vulnerable witnesses giving evidence. It will require justice agencies to set and

publish standards of service to ensure that victims and witnesses know exactly what to expect when they come into contact with the justice system. Those and other proposals will help ensure that Scotland is compliant with the European Union's victims rights directive. Earlier this year, the victim support Europe conference was hosted in Edinburgh. That acknowledged the positive progress made in Scotland in meeting the needs of victims and witnesses.

A number of important improvements were made to the bill at stage 2, many of which responded to suggestions raised during the Justice Committee's stage 1 scrutiny. In response to concerns raised at stage 1, Alison McInnes proposed an amendment providing that an objection should not be possible with regard to those standard special measures that are automatically available to certain categories of vulnerable witness. I gave my support to that. I believe that the provisions and special measures now strike the appropriate balance between the rights of victims and the accused.

The Justice Committee suggested that a reporting mechanism be introduced to ensure accountability with regard to justice organisations meeting the standards of service that will be required to be set out under section 2. We have introduced such a mechanism, requiring organisations not only to reflect on how they have met the standards during the reporting period but to think ahead about how they intend to meet them in the future. We also introduced a requirement for organisations to consult each other in developing their standards to encourage a consistent and joined-up approach.

We introduced a power to pilot alternative formats of victim statements, such as pre-recorded videos, in direct response to calls from victims to consider allowing flexibility in how such statements may be given. I reiterated that commitment today.

Furthermore, we introduced an obligation on the Lord Advocate to make and publish rules about the process for reviewing decisions not to prosecute. That will increase transparency in the justice system and reflects the requirements of article 11 of the EU directive on victims rights.

I turn to those elements of the bill that relate to the establishment of the national confidential forum.

In 2009, the Scottish ministers committed to a pilot forum to test out a model for enabling adults who were placed in institutional care as children to describe their experiences, including, sadly, abuse and neglect. The outcome of that was the time to be heard pilot forum. Provisions in the bill that relate to the NCF are based on that successful pilot.

The NCF will give people who were placed in institutional care as children the opportunity to share their experiences through a confidential, supportive and non-judgmental process. It will help to improve the health and wellbeing of such individuals by offering acknowledgement of their experiences, including experiences of abuse and neglect. Lessons may also be learned from those past experiences to help us to inform current and future childcare policies.

We listened to the views of survivors and stakeholders and welcomed the Health and Sport Committee's recommendations. At stage 2, the Minister for Public Health proposed amendments that will enhance the scope of the NCF and give more people an opportunity to participate, all of which received cross-party support.

We have extended the eligibility criteria to include 16 and 17-year-olds. We have clarified the definition of institutional care to ensure that a range of care or health services can be included in the eligibility criteria.

We have ensured a balance between the ability of the Mental Welfare Commission and the NCF to produce reports and the retention of confidentiality.

We also recognised the importance of allowing the NCF to operate as soon as possible, and the bill now provides for the appointments process to begin without delay, so that former residents—in particular, ill and older survivors—will be given the opportunity to participate in the NCF from 2014.

Of course, the bill is not, and will not be, the end of the process of reform and improvement. The proposals relevant to the criminal justice system will be implemented in the wider context of the Scottish Government's making justice work programme, a central objective of which is to improve the experience of victims and witnesses. We will work closely with our partners in the criminal justice system and the third sector to ensure that the provisions are implemented effectively. We will also continue to work to identify non-legislative improvements that can be made.

For too long, victims have been treated and made to feel like bystanders in the criminal justice system. The passage of the bill will mean that more consideration is given to the rights and needs of victims and witnesses of crime and will improve their experience of the system to which they turn to see justice served.

I look forward to hearing members' views on the bill. I confirm that it is not the end of the journey but the end of a stage on the journey.

I move,

That the Parliament agrees that the Victims and Witnesses (Scotland) Bill be passed.

The Deputy Presiding Officer: Before I call the next speaker, I advise Parliament that we are very tight for time. I apologise to the two members who will not be able to be called in the debate and advise other members that speeches will be of three minutes. I also thank the next two opening speakers for cutting their time.

16:19

Graeme Pearson (South Scotland) (Lab): I thank the clerks of, and the colleagues who remain on, the Justice Committee for the work that they have done and the commitment that they have shown over the past few months in dealing with the bill.

Despite the fact that many of the amendments that we proposed this afternoon were unsuccessful, it is appropriate to thank those who, on behalf of the Parliament, prepared those amendments for the high-quality work that they turned round.

Most of all, I record my thanks to the victims who came forward and shared their experience of the current situation and the system that operates to deliver justice throughout Scotland. There is no doubt that that experience has been a very mixed bag.

As I indicated earlier, the approach that has been taken in the bill was driven largely by a desire to ensure that Scotland fell into step with European directives on victims and witnesses, which is a laudable outcome in itself. However, I think that that approach has meant that there has not been quite enough focus on the needs of victims and witnesses in the light of the reality of their experience in our system. To that extent, I am disappointed at the lack of ambition to deliver on some of the needs that victims and witnesses have been so willing to share with us.

The cabinet secretary has indicated that the ability of services to deliver a uniformity of provision is extremely important for the future, and I agree. However, in evidence to the Justice Committee, it was made very clear by witnesses from the police and other services that, at the moment, they do not have the facilities to deliver the kind of information that is required in a format that witnesses and victims would find acceptable. That is a real worry and concern for the years ahead, as we look to see how we can improve the experience of witnesses. I hope that the cabinet secretary will remember that evidence and take particular account of the need to ensure that systems operate effectively and collaboratively within each service and across services.

We have rehearsed the impact on witnesses and victims of their experience in court. I found it moving to discover that their experience of the

court process had an impact that almost matched their experience of the crime and to hear that they did not understand what was happening or the layout of the court, because no one had explained to them the processes that they were to enter into. Despite my experience of nearly four decades, something that had passed me by was the fact that many victims and families find it extremely galling and painful to constantly have to iterate the name of the accused to find out information about the case. There must be a way in which our system can adapt so that it can deal with such details, given the impact that they have on victims, which can remain with them for years.

On victims' involvement in the victim notification scheme, it became apparent that to receive through the post, out of the blue, an official letter that is written in bureaucratic language and which is necessarily devoid of emotion takes the victim or their family right back to the crime and leaves them at home—often alone—to consider their next steps. In one case, the widow of the deceased in a murder trial was left to make contact with the authorities in the way that was indicated in the letter. She eventually received six letters that identified five named contacts, yet there was still an absence of information. Although we have considered how we can move forward into a brave new world, the cabinet secretary needs to understand that the world in which we exist is far removed from the guidance and the decisions that the Parliament has taken to protect our victims and witnesses.

We have spoken a great deal about the issue and the impact that it has on victims but, from a selfish point of view, the Parliament should be concerned about the range of victims and witnesses who have suffered as a result of the system. The system cannot work if the public do not have the confidence to engage with it. When people who have been victimised are witnesses in court, they are often left denuded of any confidence as citizens. They are left damaged and less able to rejoin the community as fully fledged citizens, and they are certainly less willing to engage with the system or to become involved in it again the future.

All the amendments were lodged with a view to improving the situation—to balancing the rights of the accused with the needs of the victims and witnesses in our system. I hope that the cabinet secretary has taken account of some of the evidence that we have offered through the afternoon and that he will take steps to improve the bill's contents.

16:25

Margaret Mitchell (Central Scotland) (Con): I welcome the opportunity to speak in the stage 3

debate on the bill, which the Scottish Government introduced as far back as February. The bill provides for certain rights and support for victims and witnesses. To date, the Scottish Parliament has passed no victim-specific legislation, although a number of legislative and non-legislative changes in relation to victims have been made since 1999.

The bill aims to put victims' interests at the heart of on-going improvements to the justice system and to ensure that witnesses can fulfil their public duty effectively. The bill is welcome as a major step towards achieving those aims.

During scrutiny of the bill, I lodged amendments that were intended to strengthen and improve it. For example, the bill confers a range of rights on victims, yet it fails to define victims. An amendment to define victims was consequently lodged for clarification, but the cabinet secretary was not minded to accept it, although the Law Society of Scotland's view was that

"A clear definition will be crucial if the Bill is to deliver on its promise—to place victims' interests at the heart of on-going improvements to the Scottish justice system."

All parties accept that more could be done to encourage justice organisations to work collaboratively, but the amendment to create a statutory requirement for the police, the Crown and the Scottish Court Service to work together and, crucially, to offer a single point of contact for victims, which was eminently sensible, was also rejected by the cabinet secretary.

The amendment to introduce independent legal advice for victims of serious sexual assault sought to tackle a long-standing concern about the inappropriate use of complainers' and victims' health information and other sensitive information in sexual offence trials. We had the opportunity today to address a terrible injustice that only the cabinet secretary and his Government deny exists—the use of such information for the sole purpose of seeking to discredit the victims of rape, attempted rape and other serious offences.

My amendments could have tackled the inappropriate use of such information and put in place a much-needed pilot, which would have cost a mere £20,000. Having a few less adverts and billboards for the white paper could have paid for that.

The bill will have the Scottish Conservatives' support this evening, but it has glaring omissions, which we can only hope will be rectified in the future.

The Deputy Presiding Officer: We move to the open debate. Speeches are to be of three minutes, as previously indicated.

16:28

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I am pleased to recognise that section 1 of the bill refers to a victim as someone

"who is or appears to be a victim".

We must always remember that, until court proceedings are concluded and the case is proven, the prime witness is an alleged victim. They might be a victim to the police and to everybody else but, in court, they are the alleged victim. That is important. We are maintaining the principle of being innocent until proven guilty—the presumption of innocence. The burden of proof is on the Crown and the standard of proof is beyond reasonable doubt.

I welcome the bill, because it goes without saying that victims, alleged victims and witnesses often find what goes on in court mystifying. Although a culture change has occurred and there have been moves to make courts more user friendly, if I can use that expression, that has not been good enough.

I recall, when I was a civil practitioner, being in the criminal court and not knowing what was going on. I saw the procurator fiscal and the defence having a wee chat in the well of the court. The mumbblings went on and I presume that plea bargaining was being done in the middle of things. Goodness knows what the public made of that.

It is equally important not only that information is given to someone from the start, when they go to the police station to make a complaint about an alleged offence, right through to the release of the convicted person, but that it is provided in plain English. We in the chamber are also guilty of getting into technospeak, and it is very important that people can understand the information and feel that they can ask for an explanation of what is going on.

I do not think that the notion of having a single point of contact—worthy though it seems to be—is practical. What happens if that single point of contact is ill or on holiday and not available? The idea of developing a hub is good, but the personal touch is always important.

The Deputy Presiding Officer: The member is in her final minute.

Christine Grahame: I accept that there is as much variation among witnesses as there is in the features on our faces, so I find the part of the bill that deals with vulnerable witnesses interesting. Some witnesses can be tough cookies—they will know the inside of court like the back of their hand, possibly better than the judge or the sheriff—so we must not think that all alleged victims or witnesses are sweet little people. However, it is

important that we protect those who are by far the majority: the people who never thought that they would be in court but find themselves there giving evidence and find out that it is not like it is on the telly.

I am finished, Presiding Officer—I have done it with time to spare. Thank you.

The Deputy Presiding Officer: Many thanks for that.

16:31

John Pentland (Motherwell and Wishaw) (Lab): People can find court proceedings stressful at the best of times without having to recount in intensive detail not only the crimes that they may have been the victim of or a witness to but other information about their lives past and present, which is sometimes of questionable relevance as evidence.

Of course, the courts need to establish the truth, and not all witnesses and victims tell the whole truth and nothing but the truth. However, for the many who do, questioning can seem like an unwarranted intrusion on their private lives and an unjustified attack on their character. Yet, while defendants have lawyers to advise them and give them significant support and the prosecution has extensive resources at its disposal, victims and witnesses are too often left out in the cold. Limited advice and support is available to them, but they lack someone to speak up specifically and solely for their interests in the court proceedings.

As amendments 1 and 2, in the name of Elaine Murray, highlighted, we ought to ensure that our legislation is sensitive to the needs, rights and wishes of child victims and witnesses. The welfare of the child should be paramount in setting standards of service for child victims and witnesses.

There should be guidance on the circumstances in which sensitive personal information of victims of sexual offences can be disclosed in court, and legal advice should be made available to victims in such circumstances. Victims and witnesses should be consulted before regulations that may affect them are changed. Victims should be able to choose how they are told about the prisoner's eligibility for release and the outcome, and they should get support to help them to cope with the news rather than having to experience the shock that can result from a letter landing on the doormat. We should give victims and witnesses the chance, if they wish, to speak directly to the offender via videolink ahead of release, at least in cases of life imprisonment.

We on the Labour side of the chamber welcome the bill, but we regret that it has become a missed

opportunity. Even though the cabinet secretary has accepted one of Labour's amendments today, the bill could have been so much better if he, and his colleagues on the committee at stage 2, had been more willing to accept suggestions from other parties, which were often based on the wishes and suggested improvements that were expressed by victims and organisations representing children and young people.

That said, after six and a half years we finally have legislation on the issue from the Government that, while not as ambitious as it could have been, is still an improvement. On that basis, despite my reservations, I will support the bill.

16:34

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

It seems a long while ago since we embarked on scrutiny of the bill, which responds to a very real need to improve the lot of victims and witnesses in the criminal justice system. We need to recognise that the impact of crime is deeply stressful in itself without the justice system compounding that experience. The bill serves a useful purpose, as it not only takes account of the EU directive but goes beyond it.

In the short time available, I will make a few points. More information for victims is a must. They cannot understand the process if they do not have information. The bill is certainly a step forward in that respect, although with the caveat that any online hub should not replace the human touch and that vital face-to-face support that victims need at what is a stressful time.

On decisions not to prosecute, since stage 1 we have had a Crown Office review, which was perhaps encouraged by the European directive and which has given rise to the amendment that was made at stage 2 to enable victims to request a review, with an obligation on the Lord Advocate to set and publish procedural rules for conducting such reviews. That is a step forward, but it would be helpful if the Government could advise on the timetable for the publication of those rules.

On automatic special measures, at stage 1 there were concerns that extending the right to special measures was in conflict with allowing a right to object to their use. At stage 2, we sought to differentiate between standard and non-standard special measures, preserving a right to object to the latter, which strikes me as the right balance.

The cabinet secretary has outlined an approach to the victim surcharge that might be described as

testing the waters, as it will apply first only to cases that result in a fine. It seems sensible to me to give the Government flexibility to respond to changing circumstances and to learn from experience. One issue that needs time for consideration is the interaction between victim surcharge orders and compensation and restitution orders.

Earlier, we debated the proposal on legal advice for victims in relation to sexual offences. At stage 2, the Government's view was that such a measure would result in a major innovation in the law with wide implications. I accept that, and Parliament rejected the amendments on that today, but I cannot but think that the issue will certainly re-emerge in future, and that might benefit from up-to-date research and inquiry.

The bill is an important addition to the changing framework of justice in Scotland and will, I hope, provide support for victims and witnesses while balancing the rights of the accused to a fair trial. The aim must be to improve the experience of those who, through no fault of their own, are involved in a system that might seem overwhelming. David McKenna of Victim Support Scotland said in evidence:

"There is a widespread sense that the justice system does not provide recognition of the individual's experience and does not demonstrate respect or treat the individual with dignity."—[*Official Report, Justice Committee*, 16 April 2013; c 2589.]

That needs to be a thing of the past.

16:37

Alison McInnes (North East Scotland) (LD): It is important to remember that crimes are not simply statistics and that, behind every one, there is a victim whom we have a responsibility to protect. Although in Scotland we are fortunate to have a system of support for victims and witnesses, it became crystal clear during the bill process that there is much more to be done to ensure that victims are treated with dignity and respect and given proper support and protection. The passing of the bill will enhance the rights of victims of crime and of those who witness such harm. In addition, the national confidential forum will address the needs of those who have suffered historical abuse.

Rightly, much of the focus throughout the bill process has been on delivering improvements for the most vulnerable in our society. At stage 1, there was dismay among victims and those who speak for them about the proposal to allow objections to the use of standard special measures, which are existing safeguards that allow children and vulnerable witnesses to give evidence without appearing in the courtroom. Victims organisations argued that the proposal

would undermine all the other provisions and rights in the bill, which was a pretty damning verdict. I was therefore pleased to secure an amendment at stage 2 that means that those individuals' rights will not be eroded, and I am grateful to the cabinet secretary for his support on that.

Given that the bill seeks to ensure that the system works better for victims and that Scotland complies with the relevant EU directive, I considered the initial omission of restorative justice to be significant. Again, I lodged an amendment at stage 2 to that effect, and I am grateful to the cabinet secretary for his support on that and for his amendment on the issue at stage 3. Over the years, Parliament has increasingly recognised that restorative justice services can in the right circumstances assist victims to overcome their experience, achieve a greater understanding of why they were a victim and have an opportunity to receive a genuine apology. In turn, it can inspire those who have caused harm to reflect on their actions and take personal responsibility. Some excellent restorative justice services already operate, but I believe that they have too often developed in a piecemeal fashion. I hope that the inclusion of the section on restorative justice will highlight their value and instil greater consistency in the system.

On restitution orders, I believe that, had the Government set its mind to the issue, it could have extended the system to include fire and ambulance service personnel, and I am disappointed that it did not endeavour to do so. It is a greater disappointment to me and to many other members that the Government did not take the opportunity to give added protection to victims of sexual offences by supporting Graeme Pearson's or Margaret Mitchell's amendments on that. That remains unfinished business.

No one chooses to be a victim or a witness of crime, and it is therefore incumbent upon us to ensure that victims and witnesses are heard and to seek to make the whole process, from the moment a crime is first reported to the point where an offender completes their sentence, less intimidating and less distressing. The bill represents a welcome step in the right direction and the Liberal Democrats will support it.

16:40

Duncan McNeil (Greenock and Inverclyde) (Lab): "Trust us." That is the plea to adult survivors of sexual and physical abuse. "Trust us." That is what we ask of them, in asking them to participate in the national confidential forum. However, trust is the most fragile of emotions; it is hard earned, easily lost and difficult to win back. Survivors have heard it all before, of course. Trust

was taken from them as children in the most traumatic of circumstances, and they have heard the same thing since, with promises of psychological support and judicial action—promises that are not always kept.

That is not a political point—far from it—as we learn if we listen to petitioners Helen Holland and Chris Daly. Helen Holland spoke of fellow survivors who had passed away in recent years, saying:

“The people who died were denied the right to have their voices heard. Please do not deny people that right any longer.”

Chris Daly talked about retraumatisation, saying:

“Survivors have been making this point for years ... We have been telling the Parliament and the Government that survivors need psychological help now.”—[*Official Report, Health and Sport Committee*, 26 March 2013; c 3554-6.]

The Health and Sport Committee welcomes the aims of the national confidential forum. It was that aspect of the bill that we were asked to consider and we supported the Scottish Government's stage 2 amendments, including lowering the age criteria, but some points from our stage 1 report are still to be addressed. We would welcome an update on the progress of the national confidential forum guidance for care providers, we would appreciate a sense of when the findings of the foster care research will be implemented, and we seek protection of training needs for those who will support participation at the forum.

As one witness said, survivors will judge the success of the forum on the basis of its outcomes for them. They will also want their testimony to help children who are in care today, and we should remember the 300 children who are reported to the children's panel every year who are directly or indirectly affected by sexual abuse.

We need to remember that, nine years ago this month, Jack McConnell said sorry to adult survivors on behalf of the people of Scotland. He delivered that apology, in this chamber,

“to those who were subject to such abuse and neglect and who did not receive the level of love, care and support that they deserved, and who have coped with that burden all their lives.”

It is a moral imperative. We must lighten that burden and allow those troubles to be heard. We must regain that trust via justice measures as well as through healing, and we must support all survivors, whether they choose the forum or other remedies. In the words of the former First Minister, we must

“do more to support them in the future than we have ever done in the past.”—[*Official Report*, 1 December 2004; c 12389.]

The Deputy Presiding Officer: I thank members for curtailing their speeches, and I

apologise to Sandra White and John Finnie for being unable to call them. We come to closing speeches.

16:43

Margaret Mitchell: As I said in my opening speech, the bill contains some important measures that will help people who are affected by crime. Consequently, the Scottish Conservatives will vote in favour of the bill this evening.

However, it is important to point out that the bill has not met with complete support from victims' organisations. The Scottish Government should therefore reflect on the words of Peter Morris, a campaigner for victims' rights, who stated in his written evidence to the Justice Committee:

“To say that this legislation is radical is not true and to say that this now puts victims at the heart of the justice system is also not true.”

In other words, more can be done, so I hope that the bill is not the end of the process.

There are areas of the bill that could and should have gone further. The real travesty is the lack of political will from the Scottish Government to stop medical records and sensitive information being used to discredit witnesses and to play to the prejudices and myths that are known to persist in sexual offence trials. My amendments could have tackled the inappropriate and deeply damaging use of that information. We now have a situation where Scottish Women's Aid, Engender, Action Scotland Against Stalking, Children 1st and other organisations support the proposal on the pilot and have offered help to try to make it work. Only the cabinet secretary and the Scottish Government have set their faces against it.

Despite the Scottish Government's efforts to improve the lot of victims through the bill, there is an elephant in the room. Even if a victim is much better and more swiftly informed about the process, gives evidence in a safer and more protected environment, and a conviction is secured and they are able to make a statement before sentencing, all that will be cold comfort to the victim if the prison sentence that is imposed is nothing like the prison sentence that is served. Automatic early release for prisoners does a disservice to victims. It discredits the system and destroys public confidence, and the Scottish Government's plans to tackle that disgrace will, in effect, continue to allow 98 per cent of offenders to be released early with no questions asked.

The bill is welcome, but my closing remarks put the limits of its effectiveness well and truly in context.

16:46

Elaine Murray (Dumfriesshire) (Lab): Scottish Labour will support the bill at decision time. We believe that the bill will make a positive difference to the experience of victims and witnesses during criminal investigations and proceedings. However, as others do, we believe that the bill could have gone further.

I am pleased that my amendment 19, which will enable victims to object to the awarding of compensation orders, was accepted. The justice secretary said that it was not absolutely necessary, but others including Scottish Women's Aid and Rape Crisis Scotland felt that the bill, as it stood, could make matters worse for victims. I am therefore pleased that Parliament unanimously accepted their view and agreed to the amendment.

I also welcome the cabinet secretary's reassurances to my colleague, Graeme Pearson, on amendment 17 on the rights of victims to make statements in forms other than the written form. I am sure that attention will be paid to how that reassurance is reflected in practice and the experience of victims in that regard. The reassurance is now on the record and is therefore available to victims and their representatives, which is always helpful.

However, I am disappointed that other amendments that received support from and, indeed, were proposed by organisations that represent victims and witnesses were not accepted by the cabinet secretary or by Parliament. The bill as it will be passed does not recognise the rights, needs, and wishes of child victims and witnesses, in particular. As I said earlier, the justice system has been constructed by adults for adults. Investigations and court processes can be confusing and frightening for adults, so how much more frightening are they for children? Assurances have again been put on the record that might assist people who work with children in those circumstances, but can they guarantee that some of the practices that children have endured will no longer persist?

For example, Children 1st has advised us of failures to keep children informed about progress and of failures to ensure that they understand the process and procedures that they are going to go through. They need to be communicated with in forms and using methods that they understand. We have heard an example in which police called at a school to talk to a young man about the court process that he was going to have to go through, so what had happened to him was made public to his schoolmates. The police visit did not take place at a time or place that he wanted, and he did not necessarily want everyone else to know about the ordeal that he was going through. Children's rights

and wishes need to be respected, but that does not happen often enough. We do not come up to scratch on that.

We are also disappointed that amendments that would have improved provision of information and support for victims and witnesses were not accepted, as Graeme Pearson and Margaret Mitchell have said. Graeme Pearson described a number of personal issues and real experiences of victims who have been let down by the system, and who have had to continue to repeat their experiences to a variety of people when there have been failures to pass information back to them about what is happening in court. We have all heard about such things. I am sure that no MSP who has served for any length of time has not heard first hand about such victim experiences.

Amendments to protect the victims of sexual crimes from having their medical and sexual histories revealed to the public in court were also, unfortunately, rejected. I am sorry that that happened. In particular, even if there was a problem with detailing a pilot in the bill, surely the justice secretary could have offered to run a pilot without its being in regulations. Surely that could have been the Government's response to the suggestions, but it was not. As Margaret Mitchell pointed out, a pilot would have cost very little in comparison with the amounts of public money that are currently being used to argue one side of the independence referendum debate.

The stage 2 amendments on access to restorative justice seem to me to have been watered down. However, I understand that concerns on the issue were expressed by organisations that represent victims of domestic and sexual abuse. I hope that the watering down in amendment 8 today does not signal a retraction from the purpose of the amendment, which I strongly supported at stage 2.

I am sorry that the amendments that sought to enable children below the age of 12 to be allowed to make a victim statement were rejected, even though a long list of well-respected individuals and organisations have supported that. As my colleague John Pentland said, the Government seems to be reluctant to accept amendments that are offered by members of Opposition parties, even when they have attracted widespread support from representative organisations. It feels a little bit like either our faces or our politics do not fit when it comes to some amendments.

Duncan McNeil made an important point about the experiences of adult survivors of sexual abuse and the disappointments that they have encountered over the years. That really must not continue, so I echo his request for updates on progress.

The justice secretary said in his opening remarks that this was

“the end of a stage on the journey”

and not the end of the journey. I agree with that, because in our opinion the bill is unfinished business. Labour members hope—indeed, they intend—to return to the issues that were rejected today. We also intend to monitor how the bill’s provisions work in practice. We hope in the future to have the opportunity to make subsequent improvements.

The Presiding Officer (Tricia Marwick): I now call on Kenny MacAskill to wind up the debate. Cabinet secretary—you have until five o’clock.

16:51

Kenny MacAskill: First, I thank Duncan McNeil for his contribution. Understandably, the amendments and, indeed, the debate throughout have concentrated on the victims and witnesses part of the bill, but I think that we would do the nation a disservice if we did not record the important part that the national confidential forum plays in the bill. In putting it in a historical context, it was important to go back to the apology that many of us who were around at that time will know was made by the then First Minister, Jack McConnell. There was a historic wrong and the forum will be unable to resolve what happened to the individuals concerned, but it is the start of a process that we hope will help them.

My colleague the Minister for Public Health has been dealing with that matter. I am extremely grateful for the work that was done on it by Duncan McNeil and his colleagues. As I have said, putting on the record the background to the forum does all of us a great service.

I can clarify two points that Duncan McNeil raised. First, on good practice, the guidance is in preparation and it will be available by summer 2014. Secondly, on foster care, the results of the survey of those who were in foster care and their interest in the national confidential forum were communicated only yesterday, so perhaps that is in the post for Duncan McNeil. As I said, I am grateful for what Duncan McNeil has done in putting on the record the progress on on-going work with regard to the national confidential forum. In addition, on comments that Elaine Murray made just a few minutes ago, it is fair to say that it is unfinished business, too, with regard to those who have been victims of institutional abuse. There is welcome progress in that regard, and I am grateful to all those involved in it.

I am also grateful for the involvement in the bill of all those outside the chamber, although colleagues in other parties have expressed some

disappointment in that regard. I will comment on that, but I think that in the main it has been recognised and welcomed that we are making progress. However, I accept that, as Elaine Murray said earlier, it is work in progress. We should remember that this is the first-ever victims and witnesses bill in the Scottish Parliament; it is the first time that dealing with victims and witnesses in Scotland has been enshrined in legislation. That should be put on the record and we should recognise the progress that has been made.

There are particular aspects that we still have to consider, but we will address them. I have made it clear that I do not think that putting a pilot on the face of primary legislation is the correct way to go. In that regard, I met Rape Crisis Scotland and encouraged it to meet the Scottish Legal Aid Board, and it has done so. There are options to consider, such as having a women’s law centre or a change in how we address certain matters, and I am open to doing that. I have seen the Legal Services Agency letter that was referred to. I know that agency well and was a director of it for several years. I am happy to consider its proposals. I think that we must look at matters in the cold light of day in order to work out what is best, but I am happy to give that commitment.

Margaret Mitchell: Is a pilot outside the provisions of the bill?

Kenny MacAskill: We have to look at what will provide best for victims and witnesses, especially those whom Rape Crisis Scotland is dealing with. That may be a pilot, a scheme that is discussed between Rape Crisis Scotland and the Scottish Legal Aid board, or something that none of us has yet thought of. I am committed to recognising that more has to be done. More will be done and how it will be done should be worked out with those organisations; I am happy to give that commitment.

Graeme Pearson correctly raised oral statements. Let us see how they operate down south. They have not commenced down there yet. I am happy to indicate that we will keep under review how they are progressing and whether they are working well.

The same applies to ages of children. We have gone for the age of 12 because that is when there is testamentary capacity and other aspects that relate to how children are viewed. If that should change, we can address it in years to come.

As I said to Elaine Murray, we should recognise that this is work in progress. We have reached the end of a stage of a journey, but it is a significant stage. For the first time ever, we are enshrining in law the rights of victims, ensuring that we also cover those who are witnesses, which can be deeply distressing for many individuals, ensuring

that offenders should contribute and pay to alleviate suffering and distress, and ensuring that we address the issue of those who have suffered institutional abuse.

I would like to record my thanks to someone who is not in the chamber: the former Lord Advocate, Dame Elish Angiolini, to whom a great deal, if not all, of the credit for the bill's genesis goes. Her jurisdiction predated the Administration in which I have served—it was a previous Labour and Liberal Democrat Administration. She correctly recognised that insufficient progress had been made and that a wrong had to be addressed. I pay tribute and great credit to her.

Equally, I give credit to the currently serving Lord Advocate, Frank Mulholland, who recognised that the issue was about not just victims but witnesses. I said that in many instances it can be deeply traumatic to be a witness. There can be instances, sadly, in which people can be subject to abuse, harassment or even threats, and we have to recognise that.

We have come a long way and I can assure Opposition members that we will keep particular aspects under review. When I first entered into law, more than 30-odd years ago, there was a hierarchy. The judiciary were looked after first of all. They dictated how matters would be dealt with in the court. Thereafter in the pecking order was the prosecution, then the defence, then expert witnesses. Nobody considered victims. At best, there might have been consideration of provision of a Women's Royal Voluntary Service canteen, so that witnesses could get a cup of coffee. Sometimes that was provided; in many courts it was not. As for those who were witnesses, they were expected to just like it or lump it. They were expected to turn up whether they were civilians or police, and whether they were threatened or intimidated. To be fair, good work was done by the police, the prosecution and, indeed, sheriff clerks to alleviate such matters, but there was no consideration, planning or foresight to address them.

There have been some begrudging comments from some on the Opposition benches, but I put on record that now we have that historic first. We have enshrined in statute the rights of victims and witnesses. That is long overdue and we should pay tribute to those responsible for the bill's genesis, in particular, the current and past Lord Advocates.

There is work to be done and I am happy to work to address matters with Opposition parties and the organisations and agencies that they mentioned. However, I would say to Margaret Mitchell that if she wants to address some of the difficulties of those who have suffered rape and sexual abuse, maybe she should reconsider

where she is heading on the removal of the requirement for corroboration. Post-Cadder, the difficulty is significant, which is why she should read what Scottish Women's Aid, Rape Crisis Scotland and Victim Support Scotland are saying. They are all united in the desire that action should be taken.

We have reached a historic juncture: we have enshrined in statute the rights of victims. We know the standards that they are entitled to expect and the standards that agencies are expected to achieve, and we know that the offender will pay. I am delighted to have moved the motion to pass the Victims and Witnesses (Scotland) Bill. It is work in progress, but work that we can be proud of.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There is one question to be put as a result of today's business. The question is, that motion S4M-08562, in the name of Kenny MacAskill, on the Victims and Witnesses (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Victims and Witnesses (Scotland) Bill be passed.

The Presiding Officer: That concludes decision time.

Meeting closed at 17:00.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by APS Group Scotland.

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

For details of documents available to
order in hard copy format, please contact:
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

e-format first available
ISBN 978-1-78392-325-0

Revised e-format available
ISBN 978-1-78392-341-0

Printed in Scotland by APS Group Scotland
