



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Thursday 2 April 2015

Session 4

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# Scottish Parliament

Thursday 2 April 2015

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

## General Question Time

### Methadone Programme

**1. Annabel Goldie (West Scotland) (Con):** To ask the Scottish Government what its response is to the criticism by Dr Neil McKeganey from the Centre for Drug Misuse Research that the Government's methadone programme is "literally a black hole into which people are disappearing". (S4O-04204)

**The Minister for Community Safety and Legal Affairs (Paul Wheelhouse):** We strongly disagree with those statements, as we regard them as ill founded and ill judged, and we wish to highlight the importance of methadone as a treatment for individuals suffering from opiate dependency.

Methadone has a strong evidence base behind it as a therapeutic treatment for those with an addiction. We acknowledge that there is a need for improved data capturing around its use and we are working with partners to address that, and specifically to identify the flows of individuals moving on to the methadone programme and those coming off methadone.

One of the overriding messages that I have taken from my early days in my new role is that many people can and do achieve recovery from a drug addiction and that it is critical that we celebrate the many drug treatment service users who achieve that.

**Annabel Goldie:** The minister will know that I have had a long-standing interest in the issue, and I can tell him that, eight years ago, my party suggested that every methadone prescriber should be required to record how long a patient has been on methadone and, in consultation with the patient, determine a future treatment plan designed to take the user off heroin and methadone for good. At that time, the cost to the public purse was estimated to be £12 million a year, and according to recent data that figure seems to have risen to £17.8 million a year.

Does the minister agree that we really can do better? We can do better for our patients in Scotland and for those who are on methadone, and we can do an awful lot better to give those patients a sense of hope if we only start recording the relevant data.

**Paul Wheelhouse:** I certainly acknowledge the point that Annabel Goldie makes about the need for improved data, hence my response to her initial question. It is important that we understand that it is a person-centred approach and we need to tailor our response to the individual and what suits them. Methadone clearly has an important role to play as one of a number of measures that are available as a package to help tackle problem drug use, and we need to understand the impact that it is having on individuals. It is therefore important to tackle the community health index data and to ensure that we have the quality of data that we need to understand what is happening to individuals, how long they are on a methadone programme and how successful it is in helping them.

It is important to stress, however, that methadone has an important place in the armoury of tools available to medical practitioners. It is obviously prescribed on the basis of medical recommendation to suit individuals' needs, and we will work closely with all those in the Parliament who have an interest in ensuring that we achieve recovery. I am happy to work with Annabel Goldie and I know of her long-standing interest in the issue, so I am happy to listen to the points that she raises.

### National Health Service (Reporting Culture)

**2. Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP):** To ask the Scottish Government what lessons the national health service in Scotland can learn from the freedom to speak up review about having an open and honest reporting culture. (S4O-04205)

**The Cabinet Secretary for Health, Wellbeing and Sport (Shona Robison):** We are clear that all staff should have the confidence to speak up and know that their whistleblowing concerns will be treated seriously and investigated properly. Work is already under way to develop a robust package of measures that complement existing policies and support staff to raise any concerns that they have.

We welcome Sir Robert Francis's freedom to speak up review, which will inform our thinking, and we have recently consulted on introducing a duty of candour across health and social care.

**Adam Ingram:** Will the cabinet secretary, as the Francis review recommends, review the law to prevent discrimination and victimisation such as has been suffered by my constituent Dr Sukhomoy Das, which forced him to take Ayrshire and Arran NHS Board to an expensive employment tribunal to prove his case?

**Shona Robison:** I will not discuss individual cases, but I can tell Mr Ingram that the Scottish Government has fully supported the United

Kingdom Government's commitment to legislate to protect whistleblowers who are applying for NHS jobs from discrimination. Officials in the Scottish Government have worked closely with their relative English legal counterparts to ensure that NHS Scotland employers are included in the UK-wide legislation, and I am happy to keep Adam Ingram updated on the progress of that work.

**Neil Findlay (Lothian) (Lab):** With regard to having an open and honest reporting culture in our national health service, can the minister state with complete confidence that the NHS in Scotland does not operate a blacklist that prevents staff who have raised serious concerns about services from gaining employment elsewhere in our NHS?

**Shona Robison:** As I have just said to Adam Ingram, we fully support a commitment to legislate to protect whistleblowers who are applying for NHS jobs from discrimination, and we are progressing that with the UK Government.

I am very clear that we need a cultural change in the NHS, which is why we have brought forward the duty of candour. That is about creating a culture in which people feel able to speak up about their concerns. We also have the whistleblowing helpline, which has been in place for quite some time and offers staff the opportunity to raise any concerns. The duty of candour will add to that by helping to create an open and transparent system in the NHS and encouraging people to speak out about any concerns that they have.

### **Alcohol (Minimum Unit Pricing)**

**3. Jackson Carlaw (West Scotland) (Con):** To ask the Scottish Government when it expects minimum unit pricing of alcohol to be implemented. (S4O-04206)

**The Cabinet Secretary for Health, Wellbeing and Sport (Shona Robison):** Minimum unit pricing of alcohol was passed unopposed by the Parliament and would have been in place now for two years if it were not for the legal challenge that has been led by the Scotch Whisky Association. Over that time, we would have seen more than 100 fewer deaths; more than 3,000 fewer hospital admissions; and around 7,000 fewer crimes. The case is currently before the Court of Justice of the European Union before returning to the Court of Session for a judgment.

We are as frustrated as many other members in the chamber about the delays that have been caused by the legal challenge. We remain fully committed to the implementation of minimum unit pricing. We firmly believe that it is legal; that it would be the most effective way to tackle alcohol misuse as part of a package of measures; and that it would bring significant health and social benefits.

**Jackson Carlaw:** It is now some two years since minimum unit pricing legislation was passed by the Scottish Parliament, but there has been no further discussion regarding alcohol in a debate in the chamber since.

Given that Scotland's relationship with alcohol was cited at that time by the former First Minister Alex Salmond as a huge moral challenge, and given that the Scottish Conservatives and Scottish Labour have made detailed proposals and submissions for further action to tackle alcohol abuse, what further plans do the Scottish Government ministers have? When might we hear what those plans are, and why has there been no policy-led discussion of alcohol in the chamber since?

**Shona Robison:** I am very surprised that Jackson Carlaw has said that, because minimum unit pricing is just one of more than 40 measures in our framework for action, which seeks to reduce consumption; supports families and communities; encourages more positive attitudes and positive choices; and improves treatment and support services.

We have seen some improvement in levels of alcohol-related harm, with deaths and hospital admissions having reduced in recent years because of those actions, but the levels are still far too high and we need to do more.

Considerable progress has been made on key aspects of the alcohol framework, including a record investment of more than £278 million since 2008 in tackling alcohol misuse; delivery of more than 477,000 alcohol brief interventions by NHS Scotland; the establishment of 30 alcohol and drug partnerships; and a ban on quantity discounts and off-sales that encourage customers to buy more than they might have done. In addition, we have placed restrictions on where material promoting alcohol may be displayed, and we have run a campaign to promote the availability of a smaller wine measure in the on-trade.

I hope that Jackson Carlaw feels that that is a comprehensive list of actions.

**Jackson Carlaw:** There is nothing new.

**Shona Robison:** This Government is taking real action to tackle alcohol misuse, and actions speak louder than words, Mr Carlaw.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I certainly welcome the brief interventions programme. However, will the cabinet secretary take a look at the Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill, which I launched today and consulted on starting in 2012?

The bill contains 12 further measures to improve Scotland's relationship with alcohol. As the cabinet secretary's predecessors said quite clearly, price

is very important but minimum unit pricing cannot be a magic bullet. I hope that the Government will support my bill as it goes through Parliament, because it will improve Scotland's relationship with alcohol.

**Shona Robison:** As has been said on many occasions, we are always happy to look at any further measures, and I am happy to meet Richard Simpson to discuss that further.

Richard Simpson has just said that minimum unit pricing and price are important. It is a pity that Labour has spent most of the years in the Parliament opposing minimum unit pricing. However, it is good to hear that Richard Simpson has had a change of heart on that.

Tackling alcohol misuse in Scotland should unite us across the chamber. As I have said to Richard Simpson—I say this to Jackson Carlaw, too—I am happy to look at and discuss any further measures that members across the chamber may bring, but I hope that others will recognise the substantial work that the Government has done to tackle alcohol misuse in our society.

#### **Glasgow Colleges (Integrated City-wide Curriculum)**

**4. Bob Doris (Glasgow) (SNP):** To ask the Scottish Government what assessment it has made of how Glasgow Colleges Regional Board's plan for an integrated city-wide curriculum could impact on students and staff. (S4O-04207)

**The Cabinet Secretary for Education and Lifelong Learning (Angela Constance):** Glasgow Colleges Regional Board is responsible for planning college provision that meets the needs of learners and employers. The Scottish Further and Higher Education Funding Council advises that the Glasgow curriculum plan is based on a comprehensive analysis of those needs. Following stakeholder consultation in the autumn, the regional board agreed that local communities and those furthest from employment should remain the focus for the colleges. Individual colleges are now discussing their plans with their staff and students. The Scottish funding council will work with the regional board and the colleges to ensure that the right learning is delivered in the right place and that the best use is made of the Glasgow estate and staff.

**Bob Doris:** Sandra White and I recently met Educational Institute of Scotland representatives who are concerned that the new curriculum plans will disadvantage students who would normally study at Glasgow colleges outwith the city centre. They also have concerns about staff being transferred to posts at the City of Glasgow College on poorer pay and conditions. Will the cabinet secretary agree to meet Sandra White and me to

discuss how those concerns can be addressed in more detail?

**Angela Constance:** Yes—I confirm that I am happy to meet the member and Sandra White. He will be aware that staffing matters are for colleges to determine, of course. Nonetheless, the Government would expect Transfer of Undertakings (Protection of Employment) Regulations arrangements to apply.

I can also confirm that the Glasgow curriculum plan proposes a 2.5 per cent increase in activity in community locations. That includes access level courses and supporting more students who live in the most deprived areas, those with low or no qualifications and those who are furthest from the labour market.

#### **Early Years Education**

**5. Cara Hilton (Dunfermline) (Lab):** To ask the Scottish Government how successful it has been in implementing the extension of 600 hours of free early education to eligible two-year-olds. (S4O-04208)

**The Minister for Children and Young People (Fiona McLeod):** The Scottish Government worked closely with local authorities to ensure that places for the estimated number of additional two-year-olds were available from autumn 2014. In the annual census in September 2014, which reported in December 2014, 5,774 two-year-olds were registered for a funded early learning and childcare place.

**Cara Hilton:** Is the minister aware that a recent freedom of information request to all local authorities in Scotland found that around 40 per cent of places for eligible two-year-olds were not taken up in term 1? Given that this is a flagship policy and given the importance of intervening early to ensure that the most vulnerable children get the best start, what further action will be taken to ensure that the policy is delivered effectively?

Furthermore, given that that comes on top of the thousands of three and four-year-olds who have missed out on their 600 hours, can the minister say whether Nicola Sturgeon has met the fair funding for our kids campaign group yet? For the thousands of parents who are missing out on free childcare, the clock is ticking and we have seen little action to sort the mess out.

**Fiona McLeod:** I am afraid that I do not quite understand where Cara Hilton gets her statistics from. *[Interruption.]*

**The Presiding Officer (Tricia Marwick):** Order.

**Fiona McLeod:** In the September census, 10 per cent of all two-year-olds had taken up the provision within the first month of eligibility. That is 10 per cent against a target of 15 per cent.

Therefore, within the first month, two thirds had taken up their eligibility.

We are not happy to stop there. We have been doing marketing and working with health visitors and the Department for Work and Pensions to ensure that the final third of our vulnerable two-year-olds take up their funded places.

The First Minister has already met the fair funding for our kids campaign group, and I know that she has offered to meet it again.

**Liz Smith (Mid Scotland and Fife) (Con):** A parliamentary answer that I received on 20 March, which I have here, tells me that the details of the funding model by which the Scottish Government predicted a cost of £881 million for the 30 hours of nursery care per week have not yet been published. When will those details be published?

**Fiona McLeod:** The eligibility relates to work and benefits. It has also been extended to those who are looked after, under a kinship care order or under guardianship. Those are the criteria that we are using.

### Physical Education (Schools)

**6. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the Scottish Government what it is doing to increase the provision of physical education in schools. (S4O-04209)

**The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan):** Ensuring that all pupils receive at least two hours of quality PE per week in primary schools and two periods in secondary 1 to secondary 4 has been a long-standing commitment of the Scottish Government. Schools have made remarkable progress: the latest statistics show that 96 per cent of schools are meeting the PE target, which is up from 2013, when 89 per cent of schools were meeting it, and from 2004-05, when fewer than 10 per cent were doing so.

The Scottish Government is investing £11.6 million in PE over 2012-13 to 2015-16 in a programme that is jointly managed by sportscotland and Education Scotland. That includes the provision of £6.8 million directly to local authorities from sportscotland to support the delivery of the PE target and to improve the quality of PE, and the provision of an additional £4.8 million to Education Scotland to deliver a programme of national initiatives and professional development opportunities for teachers.

**Murdo Fraser:** A recent report by the Youth Sport Trust showed that pupils who attend independent schools get an average of 5.4 hours of sport per week, which is 300 per cent more than state pupils get. The unsurprising outcome is that, at the most recent Olympics, 37 per cent of all

British medal winners were educated outwith the state sector. Given the clear advantages that greater physical activity offers for children at school, what more can the Scottish Government do to raise standards and ensure that all state schools at least meet the two-hour or two-period target?

**Dr Allan:** As I just said, the Government can be proud that we have moved very close to meeting the two-hour or two-period target. The figures are up from 2004-05, when only some 10 per cent of schools were meeting it. If a small minority of schools have still to meet the target, that is because of unusual circumstances, which usually relate to the building or to staff recruitment.

The member referred to physical activity. It should be said that 75 per cent of children in Scotland are now meeting the targets that have been set for the availability of physical activity in addition to PE.

### Roads (Maintenance)

**7. Alex Johnstone (North East Scotland) (Con):** To ask the Scottish Government what it will do to prevent further deterioration in the state of Scotland's roads. (S4O-04210)

**The Minister for Transport and Islands (Derek Mackay):** The Government plans to invest more than £690 million in the coming year to ensure that our strategic road network remains safe, efficient and effective. That builds on the significant investment of more than £6 billion that has been made in roads since 2007.

To continue to make best use of available resources, I have asked all 33 roads authorities in Scotland to consider new ways of collaborating to improve the delivery of maintenance services.

**Alex Johnstone:** I thank the minister for his answer; I am quite encouraged. Every year, we have a period at the end of winter when there is a great deal of work to do to bring our roads up to standard.

In relation to the minister's discussions with local authorities on their roads responsibilities, what power does he have to impose a minimum standard, so that we can begin to reverse the decline from which we appear to be suffering?

**Derek Mackay:** I am sure that local authorities and the Convention of Scottish Local Authorities are interested in improving the condition of our roads. That is why they are engaging positively on our review group.

Given the financial freedom that local authorities have, the £10.8 billion settlement and the new resources committed by the Scottish Government, I am convinced that we will continue to work in partnership to open up opportunities to improve on



the legacy that we inherited from the Labour-Liberal Executive and the previous Tory Government. The continued investment from the Scottish National Party Government will help to make a difference.

## First Minister's Question Time

12:00

### Engagements

**1. Kezia Dugdale (Lothian) (Lab):** I think that I know the answer to this one. To ask the First Minister what engagements she has planned for the rest of the day. (S4F-02718)

**The First Minister (Nicola Sturgeon):** Engagements to take forward the Government's programme for Scotland and a trip to Manchester for the general election leaders' debate.

**Kezia Dugdale:** The First Minister has claimed that electing more Scottish National Party MPs will deliver full powers for Scotland. On Monday, her deputy said that a legislative process would need to be gone through to make that a reality. Within 100 days of taking office, a Labour Government will bring forward a home rule bill to put the Smith agreement powers, and more, into law. Will the First Minister confirm whether her MPs will table amendments to that bill to legislate for full fiscal autonomy within the United Kingdom?

**The First Minister:** First, we will be happy to support any bill that transfers powers from Westminster to the Scottish Parliament. Secondly, yes, SNP MPs will seek to strengthen any Labour bill—or, indeed, any Tory bill—to bring more powers to the Scottish Parliament. I guess that the question for Kezia Dugdale is whether Labour will support the SNP's amendments to strengthen this Parliament even further.

**Kezia Dugdale:** That was not quite a straight answer to a simple and straight question. Full fiscal autonomy is the SNP's central general election demand. The First Minister said earlier this week on the radio that it is what she wants, so I will give her another chance to be straight with the people of Scotland. She supports full fiscal autonomy within the UK and there will be a legislative mechanism by which it could be delivered, so will the SNP table amendments to the home rule bill to deliver it?

**The First Minister:** First of all, let us see whether Labour, if it is in government, introduces the bill, because Scotland is very used to Labour broken promises when it comes to delivering anything for Scotland.

Secondly, the SNP stands for independence—I do not think that that is any secret—and, yes, short of independence, we stand for maximum powers for this Parliament. That is what we will argue for.

Let me throw back a challenge to Kezia Dugdale. SNP MPs in the House of Commons will

also argue and vote for a real alternative to the £30 billion of austerity cuts that Labour has signed up to. Will Labour MPs back that? We will also vote for an end to the grotesque proposal to spend £100 billion on renewing Trident on the Clyde. Will Labour back that?

**Kezia Dugdale:** The First Minister cannot bring herself to say the words “full fiscal autonomy”. It defies belief. It seems that the SNP is developing a bad habit of concealing its plans for imposing even more austerity on the people of Scotland. *[Interruption.]*

**The Presiding Officer (Tricia Marwick):** Order.

**Kezia Dugdale:** We know that the SNP’s plan for full fiscal autonomy would impose extra cuts worth £7.6 billion on Scotland. That is billions of pounds of cuts to our schools, national health service and pensions. It is also 138,000 jobs.

In this chamber on 19 March, the First Minister said of George Osborne’s budget:

“there is plenty that I would choose to reverse, starting with the austerity cuts that are going to be deeper than anything that we have seen before.”—*[Official Report, 19 March 2015; c 12.]*

Will the First Minister tell us by how much spending would increase in 2015-16 under the SNP’s plans compared with under the Tories’ plans?

**The First Minister:** The only cuts on the horizon—*[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** The only cuts on the horizon for Scotland are the £30 billion cuts that the Tories have proposed and Labour has signed up to. Scotland’s share of those £30 billion cuts would be £2.4 billion. That is the reality.

I have proposed an alternative to that. I have made a proposal for modest spending increases in the next Parliament that would deliver additional spending of more than £140 billion. That is the alternative to the £30 billion cuts that Labour has signed up to over the next two years. There is the choice that people face. It is very clear. They can vote for Labour, the Tories or the Liberals for more austerity cuts or they can vote SNP for a clear alternative to austerity.

**Kezia Dugdale:** We know from the SNP’s plans that it does not plan to spend a single extra penny—zero, nada, zilch—more than the Tories in 2015-16. I cannot work out what has forced such a radical change in the SNP’s economic thinking. It tells us that it is anti-austerity, but it does not plan to spend a single penny more than the Tories; it tells us that it stands for public services, but it cut education spending, which is something that even the Tories did not do; and it says that it is for full

fiscal autonomy within the UK, but it will not tell us when. The SNP will not come clean because it knows that full fiscal autonomy would be a disaster for our schools, our national health service, our young, our elderly, our working families, our unemployed, our sick and every citizen in this country.

At the weekend, the First Minister talked a lot about guts and backbone. Where is the backbone to push for the full fiscal autonomy within the UK that she says she believes in? Why does she not have the guts to admit that the SNP’s plan for full fiscal autonomy would be a disaster for Scotland’s public services?

**The First Minister:** Let me set out a few facts. *[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** First, we will spend, under our existing powers and resources, an extra £600 million in the next financial year.

On Monday, I listened to Gordon Brown. I must say that, even for him, he took sleight of hand to a whole new level. He was promising to spend in the next financial year the revenue from tax increases proposed by Labour that will not take effect until the following financial year. That is some nerve, even for Gordon Brown.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** Rubbish!

**The Presiding Officer:** Order.

**The First Minister:** Of course, what Gordon Brown did not say was that the so-called extra spending for Scotland will pale into insignificance compared with the £30 billion cuts that Labour has signed up to. Labour can duck and dive, but the Scottish people have Labour’s measure. They know that Labour is proposing further austerity and they know that the SNP is the only alternative to Tory, Labour and Liberal austerity.

### Secretary of State for Scotland (Meetings)

**2. Ruth Davidson (Glasgow) (Con):** To ask the First Minister when she will next meet the Secretary of State for Scotland. (S4F-02715)

**The First Minister (Nicola Sturgeon):** I have no plans to do so.

**Ruth Davidson:** This week, more than 100 job creators signed a letter saying that the Conservative-led Government has been good for business, good for jobs and good for Britain. Those companies employ more than half a million people across the United Kingdom, including thousands right here in Scotland. Apart from Jim McColl, will the First Minister tell us what

businesses have come out publicly for her alternative plan of full fiscal autonomy?

**The First Minister:** Over the next few weeks, we will see what the people of Scotland—the ordinary voters the length and breadth of this country—think about the Tory Government's record and about whether another Tory Government would be good for Scotland. The people of Scotland have taken a clear position for my entire lifetime: they have rejected the Tories, because they know that the Tories are disastrous for Scotland.

**Ruth Davidson:** That was pretty clear—no businesses have come out for full fiscal autonomy. You do not need a whole front page for that.

There is a very simple bottom line. Job creators are telling the world that Conservative policies across Britain have shown that the UK is open for business. *[Interruption.]*

**The Presiding Officer:** Order.

**Ruth Davidson:** Those policies have delivered 174,000 extra jobs in Scotland and 57,000 fewer jobseekers and have created 38,000 more businesses.

At this election, Scotland faces a choice: back to work with the Conservatives or back to economic chaos with Labour, this time with the Scottish National Party holding it to ransom. *[Interruption.]*

**The Presiding Officer:** Order. Let us hear Ruth Davidson.

**Ruth Davidson:** It is no wonder that job creators do not support the SNP's plans, because they spell double trouble for our country. Between them, the parties to my left are threatening more borrowing, no cap on benefits and tax rises across the board when what we need right now is stability and security. Does the First Minister believe that any pact with this Labour Party could possibly deliver that?

**The First Minister:** Ruth Davidson talks about more borrowing. The Chancellor of the Exchequer, who is a member of her party, has missed his own financial targets in the current Parliament to the tune of £150 billion. That is the reality of Tory stewardship of the economy.

I will let Ruth Davidson into a wee secret, which I suspect will come as a deep disappointment to her. She is wasting her time in trying to convince me to vote Tory or that the Tories are good for Scotland—it ain't going to work. I suggest that she takes her message to the people of Scotland and sees what they think. The polls right now are showing what they think. The SNP is leading the general election polls in Scotland, although I take nothing for granted.

People in Scotland know that, if they vote SNP, they will get a loud voice for Scotland in the House of Commons and progressive politics. That is better than anything that the Tories, the Liberals or Labour have ever offered Scotland.

**Mark McDonald (Aberdeen Donside) (SNP):** Today is world autism awareness day. Does the First Minister agree with the call that was made during yesterday's members' business debate to make Scotland an autism-friendly nation? Will she congratulate the hard-working staff of the Scottish Parliament, which has become the first public building in Scotland to achieve the autism access award?

**The First Minister:** On world autism awareness day, I state that I share the aspiration of making Scotland an autism-friendly nation and give my commitment that the Scottish Government will continue to support the work of autism charities to increase awareness and understanding of autism across all sectors. The Government is committed to the delivery of the Scottish strategy for autism and is working with autism charities and statutory organisations to build awareness.

I congratulate the Scottish Parliament on being the first building in Scotland to be awarded the National Autistic Society's autism access award. All sectors of Scottish society should recognise and understand the needs of people with autism, and it is fitting that the Scottish Parliament should be the first to receive the award. I call on all sectors of Scottish society to work with us in making Scotland an autism-friendly nation.

### 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-02713)

**The First Minister (Nicola Sturgeon):** Matters of importance to the people of Scotland.

**Willie Rennie:** Last week, I told the First Minister that people were waiting up to an hour to have their calls answered at the police control centre at Bilston Glen. Police Scotland dismissed my concerns, saying that calls are answered within a minute. That turns out to be true, because they are answered by an automated machine. A police call handler told me that people can wait an age to speak to a human after they have pressed the right button. Sergeant Murray McKenzie told the police conference that

"supersize control rooms are a disaster"

and

"calls are constantly lost."

I told the First Minister about that last week. Since then, what has she done about it?

**The First Minister:** After First Minister's questions last week, I made inquiries, as I told Willie Rennie I would. I found out that one caller was, unfortunately, left on the line for 58 minutes while making a 101 call. That was due to a technical fault that caused the call to repeatedly drop to the end of the queue. The issue has been resolved and the chief constable has personally apologised to the individual concerned in that case.

On average, 101 calls to Bilston Glen are answered within a minute. As I said last week, the Scottish Government will continue to work with Police Scotland, police officers and those who answer the calls to make sure that the service that members of the public get is of a quality that they have a right to expect.

**Willie Rennie:** I think that the First Minister needs to look into the veracity of the explanation that she has been provided with. It is unacceptable to say that there is a queue that lasts only a minute when it is an automated machine that answers. She needs to ask more questions of the police.

I have been contacted not just by members of the public but by call handlers, and we heard what Sergeant McKenzie said this week at the police conference. I am increasingly concerned about the integrity and practices of the leadership of Police Scotland. The First Minister heard loud and clear yesterday at the conference that, on stop and search, on guns, on the information commissioner and on targets, the leadership of Police Scotland seems incapable of being straight with its answers. That is also now the case on control rooms. Her Government created the single, centralised police force; what is the First Minister going to do to fix it?

**The First Minister:** As I will always do if concerns are raised at First Minister's questions, I will look into those concerns. I give Willie Rennie an undertaking that I will look into the additional concerns that he has raised this week, as I did last week.

Like Willie Rennie and Ruth Davidson, I was at the Scottish Police Federation conference yesterday, and, yes, we heard concerns about a range of issues, but we also heard—and I think that we should all reflect on this—about the good work in very difficult circumstances that our police officers do each and every single day.

Let me take stop and search as an example—and I think that it is an example that illustrates the fact that when concerns are raised, they are responded to and actioned. This week, we have seen Police Scotland move to a presumption

against non-statutory stop and search and remove the performance target around stop and search that has been causing concern. I welcome those actions. We have also heard Police Scotland undertake to implement all the recommendations of the report that Her Majesty's inspectorate of constabulary in Scotland published on Tuesday this week.

The Cabinet Secretary for Justice has set up an advisory group, chaired by John Scott QC, to look at the longer-term issues around stop and search and how we move forward on that issue on a basis, as far as possible, of consensus, so that the public have confidence, Parliament has confidence and the police have the flexibility to do their job in the way that we expect them to do it.

I would hope that Willie Rennie would take all of that as a sign that we respond to concerns that are raised, and we do so in a very constructive way.

### **Meningitis B (Babies)**

**4. Jim Eadie (Edinburgh Southern) (SNP):** To ask the First Minister what steps the Scottish Government is taking to protect babies from meningitis B. (S4F-02727)

**The First Minister (Nicola Sturgeon):** Meningitis B can be devastating for children and for families. The Joint Committee on Vaccination and Immunisation has recommended that babies from two months old should be vaccinated against the disease. I am very pleased to confirm that Scotland will be one of the first countries in the world to offer a meningitis B vaccine as part of our routine childhood vaccination programme.

**Jim Eadie:** I thank the First Minister for that answer. Does she agree with the World Health Organization that immunisation is a proven, safe and cost-effective tool for controlling and eliminating life-threatening infectious diseases, thereby saving millions of lives every year? Given that meningitis B is life threatening and is most common in babies and young children, does she agree that the roll-out of the vaccine is a significant step in making meningitis B a disease of the past, along with polio and tetanus? Can she provide more detail on what specific age groups will be covered by that vaccination in order to save lives and tackle the effects of meningitis B?

**The First Minister:** A total of three doses of the meningitis B vaccine will be given. They will be given at two, four and 12 months of age. All babies who are aged two months at the point of the programme's introduction will be eligible for the vaccine and, as advised by the Joint Committee on Vaccination and Immunisation, there will also be a one-off catch-up programme for babies aged three and four months when the programme begins.

The programme has the real potential to save lives, and I know that everybody across the chamber will welcome it.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Another life-threatening disease is meningitis W. Will the vaccine for that be offered in Scotland to teenagers?

**The First Minister:** As Elaine Smith will be aware, we follow the advice of the Joint Committee on Vaccination and Immunisation when it comes to the vaccines that are offered in Scotland. The decision around meningitis B flows from the recommendation that JCVI has made. We will continue, across a whole range of illnesses and diseases for which there are vaccinations, to follow that expert advice, and we will seek to apply it as quickly as possible.

### Domestic Abuse

**5. Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** To ask the First Minister what services will be supported by the recently announced £20 million to help tackle domestic abuse. (S4F-02714)

**The First Minister (Nicola Sturgeon):** The £20 million that I announced reflects my commitment to create a fairer and more equal Scotland. Subject to discussion with both justice agencies and victims' organisations, the funds will be invested over the next three years in a range of measures to benefit victims, and in particular victims of domestic abuse. It will help to speed up the court process, increase access to specialist advocacy support and legal services and expand innovative initiatives such as the Caledonian system, which helps offenders to change their behaviour and reduce harm to victims. We will also look to improve education and understanding that violence and abuse are unacceptable in modern Scotland.

The funding follows the launch last week of our consultation on measures to strengthen the criminal law against domestic abuse and sexual offences, including plans for a specific domestic abuse offence.

**Malcolm Chisholm:** I am sure that the First Minister supports the Edinburgh domestic abuse court service, which helps to ensure the safety of women who are experiencing domestic abuse as well as ensure their access to justice. However, does she realise that the service, which is run by Edinburgh Women's Aid, is facing a shortfall of £147,000 from 1 June? Will she therefore use some of the domestic abuse money to ensure that the service does not shrink to a dangerous extent?

**The First Minister:** I am aware of the Edinburgh domestic abuse court service and the shortfall in funding that Malcolm Chisholm has

mentioned. When I spoke last week—in fact, a week ago today—at the Scottish Women's Aid conference, that specific issue was raised with me, and I undertook then to look into the matter further. Such is the value that I attach to the Edinburgh domestic abuse court service, which is delivering exactly the kinds of services that I am talking about and which I want to be expanded, that this morning I wrote to the service, confirming that the Government will meet the shortfall and allow it to continue. *[Applause.]*

**Roderick Campbell (North East Fife) (SNP):** In 2012-13, the police in Scotland recorded 60,000 incidents of domestic abuse, which is an increase of less than 1 per cent since 2011-12. Does the First Minister agree with those who think that that is likely to be an underestimate and that further work is required to work out the true extent of the problem?

**The First Minister:** Yes. I think that the figures that are recorded and published will be an underestimate of the true picture. The Scottish Government recognises that the 60,000 incidents of domestic abuse that the police recorded in 2012-13 are not the whole picture and that even though the police record all incidents of domestic abuse, there will still be victims who do not come forward. We are aware of the complexities surrounding domestic abuse, and that is exactly why we launched our recent consultation on reforming the criminal law to address domestic abuse and sexual offences. As we know, some domestic abuse incidents do not fit easily within the current law, and that is why we are looking at the creation of a specific criminal offence of domestic abuse. I hope that everyone with an interest in the matter will respond to the consultation to ensure that we can go forward with action that makes prosecuting this kind of offending behaviour more effective and which better reflects the true nature of domestic abuse as it is actually experienced by victims.

**Rhoda Grant (Highlands and Islands) (Lab):** Although I welcome the additional funding that has been announced, I remind the First Minister that the joint strategic board tasked with the implementation of "Equally Safe" was supposed to provide an interim report by international women's day on 8 March. However, that has not happened. When will the membership of the board be published? When will it meet for the first time? Finally, when can we expect an interim report?

**The First Minister:** We are taking all of that work forward as quickly as possible but I note that, since "Equally Safe" was published on 25 June last year, positive progress has been made in a number of key areas, including the commitments that were made in the programme for government and the consultation that I have already referred

to. That progress also includes the additional resources that the courts and the Crown Office have put in place to speed up the processing of cases, Police Scotland's piloting of a disclosure scheme for domestic abuse in two locations—Aberdeen and Ayrshire—and our announcement of additional funding for tackling domestic abuse. Those are some examples of the progress that has been made, but Rhoda Grant is right: we have to ensure that that progress continues to move forward, and I will ensure that the relevant minister keeps the Parliament fully up to date with the progress of this work.

**Margaret Mitchell (Central Scotland) (Con):**

Although the funding that has been announced is welcome, will the First Minister confirm that, because the majority of sentences given to domestic abuse offenders are short term, they will not be affected by the proposed Government legislation to end automatic early release, which applies only to long-term prisoners?

**The First Minister:** Margaret Mitchell knows that at this stage we propose to end automatic early release for long-term prisoners. We are the first Government to take action to reverse the policy, which was, of course, introduced by a Conservative Government, and to be able to do it, we have had to invest in the prison estate, which is something that previous Conservative Governments completely failed to do. Our objective remains to end the policy of automatic early release completely as soon as we are able to. This Government is making progress on that, and I hope that members across the chamber will welcome that.

However, although sentencing in relation to violence against women and domestic abuse is very important, we also need to look at how we prevent abuse, support victims better and change the behaviour of offenders. That is why our strategy to tackle domestic abuse and the funding that I am talking about are comprehensive. Sentencing is important, but we have to do a whole range of other things much better, too.

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** I very much welcome the announcement of the funding and I acknowledge that the majority of victims are women, but there are male victims of domestic abuse. Will the First Minister ensure that they receive support and that any proposed legislation reflects the fact that domestic abuse can happen to men as well as women?

**The First Minister:** We have to recognise—and the Scottish Government certainly does recognise—that the overwhelming majority of victims of domestic abuse are women. However, that said, men can also be subjected to that intolerable behaviour and we know that there can

be difficulties in reporting where there are male victims of domestic abuse. So, I encourage all victims, regardless of their age or gender, to come forward and report any incident of domestic abuse. As I have said, the additional £20 million of funding will be invested in a range of measures, including widening access to specialist advocacy and support services for victims.

However, this Government is the first in Scotland to have made provision specifically for male victims of domestic abuse. We funded the men's advice line, which provides emotional support and advice for male victims, and we have funded Abused Men in Scotland to help improve mainstream service responses to men who experience domestic abuse. The LGBTI domestic abuse project to raise awareness of domestic abuse in gay relationships is also supported by the Government. We will continue to take that comprehensive action, but we will also continue to recognise that, unfortunately, the vast majority of victims of domestic abuse are women and that that is what we have got to tackle effectively if we are ever to have true gender equality in this country, which is something that I want—as I know everybody wants—to see.

**Broadcasters (Political Interference)**

**6. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the First Minister whether the Scottish Government respects the right of broadcasters such as the BBC to be free from political interference. (S4F-02722)

**The First Minister (Nicola Sturgeon):** Yes.

**Murdo Fraser:** I thank the First Minister for her straight answer. I hope that she would agree that it is one of the hallmarks of a liberal democracy anywhere in the world that the media has absolute freedom from political interference. Therefore, when the Scottish National Party back bencher, Alex Salmond, attacks the BBC for its coverage of the independence referendum and demands that it comes under the political control of this Parliament, is he speaking for the First Minister, her Government, the SNP or just for himself?

**The First Minister:** I think that everybody supports absolutely—I know that I do—the right of the media to be completely free of political interference. [*Interruption.*]

**The Presiding Officer:** Order.

**The First Minister:** I suggest gently to Murdo Fraser that he might want to direct some of his comments to members of his own party. For example, I agreed with the former director general of the BBC, Greig Dyke, when he said this:

“When it comes to deciding impartiality we can't let politicians define impartiality.”

Those remarks were made in response to threats to the BBC licence fee by Tory party chairman, Grant Shapps, as a result of his alleging that the BBC was biased.

Perhaps Murdo Fraser would also want to reflect on the fact that, after last week's television debate, the Conservative Party press office tweeted this:

"BBC showing clear editorial bias by saying there was 'no clear winner' last night".

With the greatest of respect to Murdo Fraser, I will continue to defend the right of all broadcasters and all media to be completely free of political interference, but I suggest that he gets his own house in order.

**Stuart McMillan (West Scotland) (SNP):** Does the First Minister think that the BBC will report the next time that both she and I visit the Ferguson shipyard in Port Glasgow to see how Scotland's greatest job creator, Jim McColl, and the dedicated workforce are giving the yard a secure future?

**The Presiding Officer:** That supplementary is way, way wide of the question. I call Neil Findlay.

**Neil Findlay (Lothian) (Lab):** The media, including the BBC, will play a huge role during the general election campaign, but so will online media. Will the First Minister now show leadership and distance herself and her party from websites and blogs that revel in nasty, vindictive and gutter politics?

**The Presiding Officer:** That is also way wide of the question. I call the First Minister.

**The First Minister:** I think that I might know about some of the websites and blogs that the member is talking about—they are nothing to do with this side of the chamber.

I say clearly that, as somebody who is an enthusiastic—sometimes too enthusiastic—user of social media, I will always condemn anybody from any side of politics who indulges in abuse. I did that very openly in this chamber just a couple of weeks ago.

I call on all parties to do likewise. It is not too long ago that a prominent Labour councillor in Aberdeen disgracefully accused one of my colleagues of using his child for political purposes. The response of the Labour Party was that his tweets were a matter for him.

If Neil Findlay wants to ask me to lead by example, I am happy to accept that challenge, but, a bit like I said to Murdo Fraser, I would call on Labour to get its own house in order as well.

## Greenock Morton Community Trust

### **The Deputy Presiding Officer (Elaine Smith):**

I would be grateful if members who are leaving the chamber would do so quietly and if members of the public who are not remaining for the next item of business would also leave the chamber quickly and quietly, please. The Parliament is still in session.

The next item of business is a members' business debate on motion S4M-12203, in the name of Stuart McMillan, on congratulating Greenock Morton Community Trust. The debate will be concluded without any question being put. I would be grateful if members who wish to participate would press their request-to-speak button as soon as possible.

Before I call Mr McMillan, I request once again that those leaving the gallery do so quietly, please. Mr McMillan, you have seven minutes.

### *Motion debated,*

That the Parliament congratulates Greenock Morton Community Trust (GMCT) on receiving £106,029 from the Scottish Government's Climate Challenge Fund; understands that the group will use the grant to promote lower carbon lifestyle choices in Inverclyde, including a sports kit and footwear recycling initiative; notes GMCT's role in educating school children and providing them with equipment to participate in sport; considers that football clubs across Scotland have an important role in their local communities, and praises all involved at GMCT and Greenock Morton Football Club for the growing community work that they do in Inverclyde.

12:32

**Stuart McMillan (West Scotland) (SNP):** I thank all members who signed the motion to allow the debate to take place.

I am a Morton fan, hence my reason for wanting to highlight the excellent community-based work that is going on, centred around the club. As a long-standing supporter of Greenock Morton, I am proud to speak to the motion congratulating the work of Greenock Morton Community Trust, which I will call the Morton trust in my speech.

I highlight that football clubs of all sizes are readily criticised for some of their actions. However, at my request, only a few months ago, Morton got involved with the Inverclyde food bank. What I am about to tell the chamber highlights that football clubs play a huge and positive part in their communities. Many clubs undertake excellent examples of community involvement, and I want to praise them all for that. It is always easy to criticise clubs, but let us give them praise when they merit it, too.

Before I highlight the key elements of the climate challenge fund investment, I want to provide some background on Greenock Morton and the Morton trust. Morton Football Club was founded in 1874, making it one of the oldest senior Scottish clubs. Greenock Morton has always played an important role in the social and sporting life of Greenock and Inverclyde.

Although the club's fortunes on the field have been varied—in fact, Morton holds the record for the most promotions to and relegations from the top flight; I do not mind the promotions, but I am not so happy about the relegations, as members will understand—there has always been a strong fan base in the community. The fans have always believed that Morton's rightful place in the top tier of Scottish football will come round again—despite the protestations that my colleague George Adam will no doubt make later.

The link between Greenock and Morton is seen in the club's crest, which features a sailing ship—a motif taken from the town's coat of arms, which symbolises Greenock's shipbuilding and maritime heritage. It is through that connection between the local community and the supporters that Greenock Morton Community Trust came into existence.

The Morton trust was the initiative of Morton's consultant for club development and former striker, Warren Hawke, who explained:

"We want to reach out to our local community and ensure that there is an interaction between the club and the people that goes beyond watching or supporting the club on a match day. We want to help address social issues and give something back to the people of Inverclyde."

In order to accomplish that, he invited representatives of Morton and the supporters trust to act as trustees, tasking them with ensuring that the Morton trust meets those aims.

As a registered charity that brings together Greenock Morton Football Club and Greenock Morton Supporters Trust, the aim of the Morton trust is to use the Morton brand to deliver quality community coaching and social inclusion programmes to people of all ages, abilities and backgrounds across the Inverclyde area. I am delighted that Warren Hawke, Karen Welsh, Chris McCorkindale and Cappie the cat are in Parliament this afternoon.

The Morton trust runs a number of very successful football programmes, such as mini Morton, which is aimed at school-age children; micro Morton, which provides sessions for pre-school children; and Morton girls, whose aim is to develop girls' football teams across a number of age ranges. Overall, the Morton trust delivers programmes to more than 250 primary school children and more than 900 nursery school children a week—that is nearly 1,300 children a

week who are obtaining healthy activities from trained coaches.

There is also the football fans in training programme, which is run in conjunction with the Scottish Professional Football League, and the Greenock Morton hockey club programme.

The Morton trust provides a wide range of support to the people of Inverclyde and beyond. In addition to various footballing and sporting endeavours, the Morton trust has various employability programmes and is committed to helping local people to develop the skills and experience that they need to enter an increasingly competitive job market. In February 2015, the Morton trust delivered a pilot employability programme called the lone parent programme. Four out of the 11 who started the programme have found a job.

In February 2014, Greenock Morton Community Trust was awarded £39,388 via the Big Lottery Fund's young start programme to fund the Morton futures project, which will deliver bespoke courses with the aim of tackling youth unemployment. The courses, which will last from seven to 12 weeks, will work around a sports theme and will offer young people training and volunteering opportunities, and opportunities to gain qualifications. Sixty young people aged 16 to 24 from Inverclyde will benefit.

With the support of community jobs Scotland, the Morton trust has been able to employ staff who will re-enter the job market with new skills and renewed confidence, having made a significant contribution to the work of the Morton trust and the football club.

Such employability programmes can make a difference to the lives of young people across Inverclyde by creating the opportunities for them to become involved in sports programmes, gain employment skills, improve their health and, hopefully, overcome some of the challenges that they face, particularly in the jobs market.

More such ventures to develop more innovative social inclusion programmes to enhance the link between Greenock Morton and the local community are planned for the future.

Greener Morton is the first project in Inverclyde to benefit from the Scottish Government's climate challenge fund. The successful grant application will allow the Morton trust to deliver an eco-friendly message linked with physical activity to more than 2,000 pupils in primaries 4 to 6 in schools across Inverclyde. The funding will also allow the Morton trust to create Inverclyde's first football kit and boot recycling facility. That will help underprivileged youngsters in Inverclyde through the re-use of perfectly good boots and kit via the recycling facility. Members will be aware of the



ever-rising cost of sports equipment for families with children who are active in sports and will realise that that will be a wonderful initiative.

Some of the funding will also be used to replace tumble dryers with a new energy-efficient drying room for all team kit. The Morton trust will also start eco-friendly schemes, such as car sharing to reduce emissions, across all Morton-related teams. Ultimately, those actions by the Morton trust will help to reduce the club's total carbon footprint. There are also plans afoot to organise an open day to promote greener living programmes.

New employment opportunities have been created as a result of the climate challenge fund. All the staff have been recruited and the project started yesterday.

The greener Morton project is an excellent example of how the climate challenge fund can be used to support existing local organisations, helping them to develop their services while promoting a more eco-friendly agenda. The Morton trust has worked closely with the ideas bank—a collaboration between Senscot and Beith Community Development Trust—to promote the sharing of best practice.

I am sure that there are other groups across Scotland carrying out similar aims. I welcome the grant given to the Morton trust and have every faith that the Morton trust will get the best value from that funding.

I hinted at the start that I am somewhat biased on the issue of Greenock Morton. However, even allowing for that, I am sure that all members—even my good friend and colleague George Adam, MSP for Paisley and a St Mirren fan—will congratulate Greenock Morton Community Trust on its success in securing that investment, which will allow it to expand the services that it provides to the community in Inverclyde.

12:40

**Annabel Goldie (West Scotland) (Con):** I thank Stuart McMillan for bringing the debate to the chamber. I am delighted to be able to speak in the debate and to recognise the work of the Greenock Morton Community Trust and, indeed, of other football trusts that work to improve their communities.

Football is an important communication medium in local communities, and the community trust is a shining example of what can happen. As Stuart McMillan has indicated, the trust is a registered charity—a combination of the supporters' trust and, of course, Greenock Morton Football Club.

The community trust provides community coaching and programmes to people of all ages, abilities and backgrounds across the Inverclyde

area, but I am perhaps slightly less enthusiastic than Mr McMillan about taking part—I can admire from a distance.

The programmes are invaluable because they are intended to promote and encourage social inclusion—members throughout the chamber can support that. It is interesting that the trust encourages positive interaction between the football club, the fans and the community, all of which gives something back to the people of Inverclyde. That is an excellent example to set.

I was intrigued by some of the courses that are available to the local Inverclyde community, including the mini Morton sessions for school-age children, which are delivered weekly. The mini Morton programme offers children a chance to join structured football coaching sessions with fun challenges in a friendly, nurturing environment. In my day, I have certainly enjoyed sport, including in the Inverclyde area. I have no doubt whatsoever that the benefits that I felt will be shared by those who are the beneficiaries of the community trust's mini Morton sessions.

The micro Morton programme is aimed at pre-school children aged between two and four years old. Obviously, getting children involved as soon as possible makes them aware of all the advantages and potential benefits of sharing the activities that the community trust has provided. Micro Morton sessions offer children a chance to participate in active play. The trust's website states:

"Micro Morton seeks to improve physical literacy, co-ordination, balance, communication and listening skills confidence using a mixture of activities such as skipping, hopping, jumping and fun football activities."

To some, that may seem elementary; to me, it is a very exciting opportunity for those young children to become aware of what sport can offer and the great joy, pleasure and benefits that can be derived from taking part in sporting activity.

I was interested to see that, through the Morton girls programme, the community trust has organised teams of under-13s and under-15s who will play at the Scottish Football Association west region girls league level. That is a great tribute to the talents and skills of those young girls.

The community trust is also committed to helping local people in the community to develop the skills, experience and confidence that they need to enter the jobs market. Stuart McMillan talked about that very positive initiative.

During April in my regional area—in Paisley—street stuff, in partnership with the St Mirren youth academy, will be running a free football camp at the St Mirren training ground in Ralston for boys and girls aged 10 to 16; I will be surprised if Mr Adam does not refer to that. That is another fine

example of how local football clubs can communicate in a positive and practical way with their local communities.

The debate has highlighted the important links that local football clubs have with their communities and how clubs such as Greenock Morton and St Mirren transform those links into something that is so positive and so important. I congratulate all those who are involved with the Greenock Morton Community Trust and I wish them every success in what they are doing.

12:44

**George Adam (Paisley) (SNP):** I congratulate Stuart McMillan on bringing the debate to the chamber. I also congratulate Greenock Morton Community Trust—I say once more for the record that I congratulate Greenock Morton Community Trust—on all the work that it is doing in its community.

When Stuart McMillan first asked me to speak in the debate, I thought that it might have been some kind of joke. Perhaps he thought that it might cause some controversy or lead to some Paisley-Greenock banter or to a reliving of the many successes that St Mirren have had over Greenock Morton over the years—but that would have been petty and not fitting for the Parliament. Mr McMillan then explained that Greenock Morton Community Trust was going to copy the model of the award-winning St Mirren street stuff project. If anything, my fellow buddies and I are charitable. We like to do outreach work and to help other communities in need of our help and guidance, and the community trust provides a perfect example of that.

I go back to the subject of both clubs' successes. When Greenock and Paisley, or St Mirren and Morton, argue with each other over their successes, it is like two bald men fighting over a comb, but let us discuss them.

Both teams have won the Scottish cup: Morton in 1922 and St Mirren in 1926, 1959 and 1987. Morton were runners-up in 1948, and they were Scottish League cup runners-up in 1964, and St Mirren were winners of said trophy in 2013. As for the Scottish challenge cup, Morton were runners-up in 1993, and we were winners in 2005-06. That seems like an awful lot of second prizes for the Greenock Morton, but I am not one to go on about that, because the biggest trophy for us all in Renfrewshire is of course the prestigious Renfrewshire cup, which Morton have won 52 times and St Mirren have won 55 times. In this century, apart from during three seasons when we had a manager who did not see the importance of that prestigious trophy, St Mirren have won every single game.

The Greenock Morton Community Trust is following on from St Mirren street stuff, which was mentioned by my colleague Annabel Goldie. It is led, in Paisley, by Stephen Gallacher. The project was begun during my time as a local councillor, and is a partnership with Renfrewshire Council, Engage Renfrewshire, Police Scotland and the Scottish Fire and Rescue Service. It has reached out to people throughout Renfrewshire and has made such a difference. It has provided access to hard-to-reach young people, who we often talk about at the Education and Culture Committee. The project has reached those young people and has directed them so that they can become a coach within their club or do refereeing or various other things. It also helps them to get work. Those are things that the Greenock Morton Community Trust and St Mirren street stuff will be doing regularly. Both our towns need that type of support.

I am interested in the fact that the Greenock Morton Supporters Trust was part of the initiative when the community trust was being put together. The St Mirren Independent Supporters Association—SMISA for short—has had much to do with some of the work that has been happening in the community. It appears that, on this occasion, Morton has got the jump on us, because it has a member of its supporters trust on the board. For a lot of football clubs, representation from supporters at board level is very important and can help—it can lead to important projects such as the community trust in Greenock. Nick Robinson was appointed to the board at Cappielow some time back, and that makes a big difference.

Interestingly, for Greenock Morton Supporters Trust, together with the Greenock Morton Community Trust, it is important

“To strengthen the bonds between Greenock Morton Football Club and the local community in Inverclyde and the surrounding area.”

That is very important when we are discussing teams and their communities. Such sporting projects can be used in relation to attainment, whether educational or job related. We need to encourage more of that. We do not seem to be able to find out the talents of far too many young people in our communities or help them in any other way. The community trust is a good mechanism to reach the children and young people we in the Parliament constantly call hard to reach.

Once again, I congratulate Greenock Morton Community Trust on all the work that it is doing in that community. I wish the trust all the best in the future. When our teams meet again on the football field, I hope that Morton get stuffed in the Renfrewshire cup final.

**The Deputy Presiding Officer:** Thank you, Mr Adam. I am delighted that the focus of your speech was Greenock Morton Community Trust, since that is the main thrust of this debate.

12:49

**Rhoda Grant (Highlands and Islands) (Lab):** I congratulate Stuart McMillan on securing the debate and join him in congratulating Greenock Morton Community Trust on securing climate challenge funding.

The fund invites applications from communities across Scotland to take action on climate change and to move to low-carbon living. It supports projects that reduce carbon and that are community led, creating a lasting legacy of low-carbon behaviour.

Greenock Morton Community Trust, supported by colleague Duncan McNeil, applied for the grant back in November. Subsequently, it was one of the 33 successful community-led projects that share in the fund. It is the first time that an Inverclyde organisation has received a grant from the fund; it is a first for the area.

As other members have said, greener Morton is a project set up by the Greenock Morton Community Trust, a charity formed by the football club, which aims to provide community football coaching and social inclusion programmes for everyone in the area. The initiative is a good opportunity for people of all ages, but especially for young people who cannot afford to join a football club. It allows them to enjoy the benefits of being part of a football club, but at no cost.

Greener Morton has received £106,000 from the climate challenge fund for its project that plans to create Inverclyde's first football kit and boot recycling facility, where underprivileged children will be able to get used football kits and boots so that they are able to participate in sport. The lack of affordable kit is a great barrier to young people taking part in sport. The cost of kit can be a huge burden on families on low incomes, who feel that their children are losing out because of that.

The organisation will also use some of the money for a new drying room for the team kit, to replace the tumble dryers that the club currently uses. It will be more energy efficient, cut down fuel costs and reduce carbon emissions.

The project will also promote car sharing, the use of public transport and walking. That cuts carbon and is also an initiative that will help families that are less well off to access safe transport to activities, which is another barrier to young people becoming involved in sporting activities and becoming more active.

The project will also host greener Morton days, which the football team will attend, to raise awareness of greener living.

The project is remarkable in that it has so many social goods; it tackles climate change, while also tackling social exclusion and encouraging young people to get involved in sport. We see childhood obesity rising due to a lack of exercise opportunities and because of the lack of safe places where people can take part in sport. The project tackles that and therefore will make young people more physically literate, giving them skills that will last a lifetime. That not only improves their physical health, but also gives them an enjoyable activity to take part in.

I wish them well and I hope that other teams will follow suit.

12:52

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I thank Stuart McMillan for the opportunity, as his motion says, to consider "football clubs across Scotland". Of course, in the north-east we are somewhat distant from the activities of Greenock Morton. It has been interesting and valuable to hear about what it is doing, but it is worth saying that, with four senior clubs in my constituency—in Buckie, Banff, Fraserburgh and Peterhead—I must be absolutely neutral in anything that I say about support for football clubs.

I have a second reason for not being too particularly addicted to any club. In the 1920s, my father played for Ross County, and I always say to people that that accounts for my knowing very little about football. Of course, Ross County has made substantial progress since my father stopped playing for them. He also had a trial for Queen's Park, but that got him absolutely nowhere.

Football, like any other participative sport, delivers a great deal to those who play it, and much enjoyment to those who support it. It provides health benefits, musculoskeletal flexibility through taking good-quality exercise and is likely, providing one does not head the ball too often, to lead to a longer life.

At the core of the motion before us is an award of money from the Scottish Government's climate challenge fund. It is an interesting fund, which has doled out quite a lot of money over a long period of time.

One of the central things about awards from that fund to communities such as the Greenock Morton Community Trust is that there must be genuine innovation in the proposal that is submitted to the fund. In other words, if applicants are just repeating something that has been done, they will

not get the money. That is where the Greenock Morton Community Trust has really ticked the right boxes; it is doing some things that have not been done elsewhere and it is taking forward ideas that may or may not work to the extent that the bid suggests.

When I was a minister, I found myself appearing before a parliamentary committee to be questioned about the activities of the climate challenge fund, and I was asked, "But, minister, how do you know all these projects are going to work?" I somewhat confused the committee by replying, "I know that they won't all work." Even if an award is made and does not work, we will learn something from that. I welcome what the Greenock Morton Community Trust is doing, and it looks as if the elements of its activity of which I have been made aware have every chance of being successful.

I have community trusts in my constituency, in particular the Princess Royal Sports and Community Trust, where Alan Still exhibits significant leadership, bringing people into Deveronvale's facility to support activity, and engaging with four-figure numbers of people across our communities through four full-time coaches. Along the coast a little bit, near Portsoy, the Boyndie Trust runs a cafe and community bus service. Trusts come in all shapes and sizes and provide employment for many people. There is also the Banffshire educational trust, which is administered by Moray Council. A lot is going on in my constituency that will be replicated by community trusts elsewhere.

I congratulate Greenock on the success of its bid and I wish it well in delivering what it has promised to tackle. I hope that if Greenock is playing any of my teams it will have great success in doing so, although that hope of success is moderated by belief that it would be much better if my teams won.

**The Deputy Presiding Officer:** You are right, Mr Stevenson, to note that the motion contains some wording that allows me a little bit of leeway. Nonetheless, the main thrust is to congratulate Greenock Morton Community Trust.

12:57

**Hanzala Malik (Glasgow) (Lab):** I thank Stuart McMillan for securing today's debate. It is a fantastic idea. I too congratulate Greenock Morton Community Trust on winning a grant from the Scottish Government climate change challenge fund. Well done to the trust for its great ideas. The Morton trust's goal of promoting environmental awareness while working with young children in the Clyde valley is an exceptionally good idea. Football clubs play an influential role in our

communities, and all of Scotland should take note of Greenock Morton Community Trust, join in with its ideas and promote them even further.

Beyond sport, Greenock Morton engages with the local community, which is an important element, as environmental awareness begins with education. Our children have to be engaged now so that they can improve upon the policies not only of today but of future generations. That in itself is important. Generations that will come in the future will benefit from our young, and I have seen practical examples of that in my own home. My grandchildren advise me on how to use the waste bins and what goes in which bin, which is fantastic because it just shows that, if you engage with young people at an early age, not only do they benefit themselves but their prior generations also benefit. That is something that we should be proud of.

I am impressed by Greenock Morton Community Trust. I hope that it makes the most of the grant that it has received and that it will continue to build on its success. I hope that the trust's example is seen by people all over Scotland and helps to improve community outreach work, the importance of which cannot be overstated. I call on the Scottish Government to continue to support community groups like the trust that engage with our young people and create awareness of the climate challenges that we face not only internationally but in Scotland.

Football clubs such as the Morton trust have set an example, and other local community groups and football clubs could engage in the same way. Partick Thistle in Glasgow is another club that does a lot of work in the community. It engages with young people and does a lot of work to encourage them to participate in the sport. Given the right opportunities, those young people could benefit from such funding.

The climate change challenges for Scotland are huge, and I believe that engaging with the young is the most appropriate route to deal with those challenges. We see day in, day out how climate change is affecting the globe, and it is important that we carry our young people with us in tackling the issue to ensure that future generations are not only aware of the challenges that we face but are able to deal with them. If we equip them with the right knowledge and skills, they can continue that work.

There is almost a snowball effect: we start small and build on that success, and then continue to do so. Well done, Greenock Morton Community Trust—you do a great job, so I ask you to continue that and to ensure that you engage with others so that they can learn from you.

13:01

**The Minister for Environment, Climate Change and Land Reform (Aileen McLeod):** I congratulate Stuart McMillan on bringing this important debate to the chamber to highlight the success of Greenock Morton Community Trust in gaining an award of £106,029 from the climate challenge fund.

I am delighted to offer my congratulations to the trust. As Stuart McMillan said, its innovative project includes a sports kit and boot recycling scheme, which allows youngsters from less affluent families to use sports kit that would otherwise go to landfill; a bulk laundry system using energy-efficient industrial machinery; an eco-friendly football programme that includes climate change topics; and a car-sharing scheme. Those are all fantastic initiatives, and I wish the trust every success in what it is doing to support local communities in Inverclyde.

Every individual, household and community has an important role to play in helping us to achieve our climate change targets, which are the most ambitious in the world. I am delighted to have announced earlier today the award of 26 additional climate challenge fund grants totalling £1.9 million to support local efforts at the community level.

The total number of communities that have been helped by the fund has increased to 547 since 2008, which is a phenomenal number. The total number of projects that are supported by our investment of £66.3 million is 756.

Details of the latest awards are available on the Scottish Government website. Although it is difficult to capture in a few words the diversity of past funded projects, I will highlight just a few examples. The Local Energy Action Plan project in Renfrewshire provides home energy checks supported by thermal imaging, promotes local food growing and operates a local car club, and it recently received a grant for youth engagement from our junior climate challenge fund.

In the Highlands, the Velocity Cafe and Bicycle Workshop is working hard with the local community to make Inverness a cycling city, while promoting local and seasonal food.

Those are just a few examples in addition to the work that we have seen from the Greenock Morton Community Trust. I give huge thanks on behalf of the Scottish Government to all our communities for their initiatives and for their commitment, enthusiasm and hard work.

Given the unprecedented level of demand for financial support, the fund is now fully subscribed and is therefore closed to new applications. To help to determine how we can best support

community efforts in future, we will now review what we have learned from its operation to date.

As I said in the chamber last week, 2015 is a crucial year for our international climate change effort. In December, Governments from around the world will meet in Paris to agree a new global treaty. One of my earliest ministerial duties was to attend the Lima conference in December last year, where I met many international figures who were committed to challenging the international community to deliver a global treaty to match Scotland's high ambition. This December in Paris, I will continue to press for greater efforts that reflect our climate science.

We as a Government have the ambition to do much more, of course, and we recognise that there is still much more for us to do on climate change. However, the essence of our approach to government is partnership working with all levels of Scottish society. Third sector organisations such as Greenock Morton Community Trust play a major role by working directly with individuals and communities to co-produce solutions and approaches that support resilience and wellbeing and help to combat inequalities through skills development and local job creation. I know that that is supported across the chamber.

Over half of our total support of £66.3 million for the climate challenge fund has been invested in our most disadvantaged areas. We are committed to regenerating and strengthening local community areas such as Inverclyde. In addition to the climate challenge award to Greenock Morton Community Trust, we have invested £32.2 million in the Riverside Inverclyde urban regeneration company to benefit communities across that area. We will, of course, continue to foster the creativity and innovation that exist in Scotland's communities.

Greenock Morton Community Trust is an absolutely fantastic example of how our football clubs can engage with and support the local community in a variety of ways outside football. That activity off the pitch is a powerful way of engaging individuals in a broader agenda, and it will deliver physical, health, wellbeing and environmental benefits across the whole community. I commend the trust for its excellent work.

To pick up a point that Rhoda Grant made in her speech, I absolutely agree that the climate challenge fund is an opportunity to leave a lasting legacy for low-carbon behaviour.

I very much welcome the debate, again thank Stuart McMillan for bringing such an important issue to the chamber, and thank all members for their excellent contributions. I thank Annabel Goldie, who talked about the benefits of our local football clubs and the benefits of sport to the

Inverclyde area, especially for children, including our young girls.

Finally, I sincerely thank once more the hundreds of other communities across the country for their magnificent efforts, and I look forward to visiting some of them in the near future. Greenock Morton Community Trust demonstrates what is happening. What those communities are achieving and delivering is important in helping us to realise our climate change ambitions in Scotland and on the international stage.

13:08

*Meeting suspended.*

14:33

*On resuming—*

## **Prisoners (Control of Release) (Scotland) Bill: Stage 1**

### **The Deputy Presiding Officer (Elaine Smith):**

Good afternoon. The first item of business is a debate on motion S4M-12878, in the name of Michael Matheson, on the Prisoners (Control of Release) (Scotland) Bill at stage 1.

Before I call the cabinet secretary to speak, I express my regret that he was late for proceedings—I consider that a discourtesy to Parliament—and therefore we have started late.

**The Cabinet Secretary for Justice (Michael Matheson):** I begin by apologising for my late arrival, which was entirely my fault and responsibility.

I welcome the opportunity to speak in this debate at stage 1 of the Prisoners (Control of Release) (Scotland) Bill. I thank the Justice Committee, the committee's clerks and those who gave evidence during stage 1 scrutiny of the bill.

I welcome the support for the bill's general principles that is given in the committee's stage 1 report. The issue of the early release of prisoners has been raised in Parliament frequently since the current system was introduced nearly 20 years ago. Section 1 of the bill will fundamentally change the system of automatic early release for long-term prisoners. A long-term prisoner is anyone serving a sentence of four years or more. Currently, such a prisoner is entitled to automatic early release if they are still in custody at the two-thirds point of their sentence.

The system operates so that there is absolutely no discretion to keep dangerous prisoners in custody beyond the two-thirds point. In our view, that is not the right system. The system's operation has regularly brought criticism because it is difficult to explain why dangerous prisoners have to be released in that way when one third of their sentence is left.

The alternative to automatic early release is discretionary early release. That is where the independent Parole Board for Scotland considers an individual prisoner's case and decides whether to authorise early release on the basis of an assessment of the risk that the individual poses to public safety.

The evidence is clear: the rate at which prisoners breach their licence conditions when granted automatic early release is seven times higher than the breach rate for prisoners who are granted Parole Board discretionary early release.

The rate at which prisoners are recalled to custody when granted automatic early release is five times higher than the recall rate for prisoners who are granted Parole Board discretionary early release. The independent Parole Board does a challenging and difficult job well, and the bill will give it further powers to carry on its good work and to consider more individual cases in the future, rather than indiscriminate automatic early release taking place at the two-thirds point of the sentence.

We think that it is right to trust the Parole Board's judgment by giving it that enhanced role. It will help to keep our communities safer while allowing parole release to aid a prisoner's reintegration into the community when the risks to public safety are manageable in the community.

In early February, we announced that we would expand the bill's reach to end the current system of automatic early release for all long-term prisoners. That is the right approach to apply our policy's benefits to a wider group of prisoners.

If Parliament approves the bill, including our stage 2 proposals, that will mean that no prisoner receiving a sentence of four years or more will be entitled to automatic early release at the two-thirds point of the sentence. Decisions about early release will be left to our trusted independent Parole Board. Dangerous prisoners will no longer be entitled to leave custody two thirds of the way through their sentence. If a prisoner is assessed as posing an unacceptable risk to public safety, they will serve their sentence for a longer period in prison. That will help to reassure communities, reduce reoffending and protect public safety.

Concerns were expressed at stage 1 that, following our reforms, some long-term prisoners might be left in a position where they were subject to what has been called "cold release"—release without the ability to apply specific controls over the prisoner through supervision of them in the community. We have listened and responded to those concerns by committing to ensuring supervision through a period of mandatory control, which will now apply to all long-term prisoners leaving custody.

That mandatory control period will help to ensure effective assistance to reintegrate prisoners into their communities. Robust steps will also be able to be taken to bring prisoners back into custody if conditions of release are breached.

It is important to stress that the need for a mandatory control period will apply to a relatively small proportion of long-term prisoners. That is because many long-term prisoners will continue to receive Parole Board early release or will have an extended sentence in place. For those prisoners, a period of mandatory control will always be in place on release from custody, through licence

conditions. However, when a prisoner does not receive Parole Board early release and does not have an extended sentence, a mandatory control period on release needs to be put in place, with the conditions set by the Parole Board.

The Justice Committee's stage 1 report raised two important issues about the mandatory control period. First, the committee explored whether the period might be part of the sentence. It is clear that a mandatory control period after a sentence had ended would be problematic, given that the sentence has been imposed by the court and has ended. It is difficult to see how such a period of mandatory control could be effectively enforced if it was post sentence end. In line with the evidence that the committee received, we therefore consider that the mandatory control period in the community should be part of the sentence.

Secondly, the committee explored how long the mandatory control period in the community should last. Any prisoner requiring supervision through a mandatory control period will have spent, as a minimum, close to four years in custody. Our view is that the necessary period of control over a prisoner who has served close to four years is likely to be similar to that of a prisoner leaving after, say, 10 years in custody, given that both are extremely long periods to be incarcerated.

Members will be aware from the evidence that they have heard that the initial weeks and months following release are generally the most crucial for prisoners. That period after leaving custody is when prisoners have to re-establish themselves in their communities, when challenges such as those faced in accessing housing or work opportunities can be at their most acute and when a mandatory control period would be most appropriate.

At this stage, I am minded to provide for a minimum mandatory control period of six months. Such a period would seem a good balance, so that mandatory control is in place in the crucial first few weeks and months following a long period of incarceration, but it does not extend too far into the future. However, I would welcome further views in the debate about the appropriate length of the mandatory control period.

Reducing reoffending is a key justice priority for the Scottish Government. Earlier this week, we announced that the reconviction rate fell by nearly 6 per cent between 2011-12 and 2012-13 and that it is now at its lowest level in 16 years. That is welcome news. Coupled with recorded crime being at its lowest level in 40 years, that is testament to the commitment of the police, prosecutors, our courts, education and social services and other justice partners such as the Scottish Prison Service, which are working hard to address offending and its underlying causes.

Despite those significant improvements in recent years, reoffending has significant implications for public services and taxpayers' money. Reducing reoffending requires more effective and closer links between the criminal justice system and wider public and third sector partners. A Scottish Government ministerial group on offender reintegration was established in October 2013 to address the demand for better integration between the criminal justice system and wider public services so as to facilitate a reduction in reoffending.

Individuals rely on key public and third sector services to address a range of basic and practical requirements on release from prison. Failure to address them in a timely and effective manner can hinder prisoners' ability to turn their lives around and live a life free from crime. Section 2 of the bill will help in that important area.

In 2011-12, there were approximately 10,500 liberations of convicted prisoners, of which a large proportion—approximately 40 per cent—were released on a Friday or on the Thursday preceding a public holiday weekend. Release on the days preceding weekends and public holidays is consistently raised as a key barrier to plugging the gap between receipt of support in custody and access to wider services in the community. Access to key public services such as housing, welfare and addictions services on the day when prisoners are released can be crucial in helping them to break the pattern of offending. The problem can become even more acute when release happens immediately before a weekend or public holiday.

When there is evidence that suitable arrangements are required to address a prisoner's reintegration needs and they cannot be addressed immediately on release, section 2 will allow the prisoner's release to be brought forward by up to two days. I welcome the Justice Committee's strong support for section 2.

The bill will improve the system of early release by allowing decisions about how and when long-term prisoners are released from custody to be informed by individual consideration of a prisoner, the risks to public safety that the prisoner poses and the need for effective supervision. That is the best of both worlds and ensures that dangerous prisoners do not get released automatically, while all long-term prisoners will receive a minimum mandatory control period in the community when they leave custody. That is the best way to protect communities and to reassure the public.

I move,

That the Parliament agrees to the general principles of the Prisoners (Control of Release) (Scotland) Bill.

**The Deputy Presiding Officer:** I call Christine Grahame to speak on behalf of the Justice Committee.

14:46

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** Thank you, Presiding Officer. I welcome the opportunity to speak in the debate and, as you say, I speak as the convener of the Justice Committee. I will speak to the bill as introduced and therefore will not comment on the items that have been mentioned that result from our report, particularly those that might be raised in amendments at stage 2.

I thank all those who provided written submissions and gave oral evidence to the committee. In total we received 27 written responses to the call for evidence and took oral evidence across three meetings in January 2015. I also thank the Delegated Powers and Law Reform Committee for its report, which we endorse wholeheartedly. Finally, but not least, I thank my colleagues on the Justice Committee, who are a delight to chair. I look forward to that continuing.

Provisions to end automatic early release for certain categories of prisoner were previously due to have been introduced by means of stage 2 amendments to the Criminal Justice (Scotland) Bill. However, the then Cabinet Secretary for Justice wrote to the committee on 27 May 2014, advising us that the provisions would be brought forward as a separate piece of legislation. The Prisoners (Control of Release) (Scotland) Bill was therefore introduced on 14 August 2014.

Some of what I say will undoubtedly repeat what the Cabinet Secretary for Justice has said, but there we go. He referred to section 2 and the early release for community integration, which is the lesser talked about part of the bill but is a very important practical part; that cannot be said of every nook and cranny of the legislation that we pass in the Parliament.

As well as seeking to end automatic early release, the committee felt that the measures giving flexibility on the date of release will have a real impact on stopping recidivism. As the cabinet secretary has said, those people who are due for release on a Friday, and sometimes a Thursday, when key services are about to close—the benefits office, housing services, even the GP practice—can be let out when they can access those crucial services. In practical terms, the other situation was ridiculous.

The early hours—not just days—of release are crucial. Things can go wrong when the prisoner steps straight out of the prison gates into what could be called a services vacuum; that is when



reoffending recommences. Having timely access to services will help a person's reintegration and ultimately reduce the chances of them reoffending, which is in everyone's interest. It is a positive, progressive measure.

Although much of the focus of today's debate will doubtless be on section 1, we should not lose sight of what is an important and practical move. At the outset, I want to put on record the committee's whole-hearted endorsement of section 2.

I turn to section 1, on the restriction of automatic early release. I use the word "restriction" as I refer again to the bill as introduced, which was just going to end automatic early release for sex offenders receiving determinate custodial sentences of four years or more and other offenders receiving determinate—that is, other than life sentences—custodial sentences of 10 years or more.

The evidence that we received on section 1 was generally sceptical of the provisions of the bill as introduced, with witnesses such as the Risk Management Authority Scotland questioning the focus on sex offenders, given that—despite tabloid headlines—that category of prisoner is statistically less likely to reoffend, notwithstanding the fact that there have been some very serious and horrible exceptions. The committee was therefore pleased to receive, on 3 February, a letter from the cabinet secretary committing to lodge at stage 2 amendments to extend the bill's provisions to all prisoners serving four years or more, thereby addressing the concerns that had been expressed about the focus on sex offenders.

Witnesses also questioned other aspects of the bill as introduced, such as whether it would achieve the objective of improving public protection. Academics such as Professor Cyrus Tata from the University of Strathclyde argued that the provisions would simply lead to an increase in cold release. That is because, if prisoners are released at the completion of their full sentence, there is no requirement for compulsory supervision—I know that the cabinet secretary has addressed that—hence the word "cold", as in, I suspect, doing cold turkey.

Professor Fergus McNeill from the University of Glasgow described that as an act of "storing the risky", as the types of prisoners who will be kept inside under the provisions of the bill are, by definition, those who have not engaged with the Parole Board for Scotland and who pose the greatest risk to the public. Witnesses worried that the bill as introduced would simply kick the can down the road and store up bigger problems for later years. It could also have a perverse effect, in that some prisoners might opt to do their full whack and thus avoid any supervision on release.

The committee was pleased to receive the cabinet secretary's letter, which committed to lodging amendments to provide a minimum period of compulsory supervision in the community, as he has described today, for each long-term prisoner at the end of their sentence. I welcome the cabinet secretary's willingness to listen to the evidence heard at stage 1 and to act accordingly.

Having said that, the committee has some remaining questions, which are rehearsed in detail in our report. We are still unclear as to how the compulsory supervision will be imported into the sentencing process, what the compulsory supervision will look like in practice and when it will apply, although we have now been told for how long. We also still have questions about the cost of the proposals and the impact that they will have on the likes of the Parole Board and criminal justice social workers, to name two of the stakeholders involved. We have therefore recommended that the Government publish supplementary financial and policy information at stage 2.

During stage 1, we received evidence about the availability of prison rehabilitation programmes, with some witnesses claiming that there was a supply problem with certain programmes, as opposed to a lack of demand. The Scottish Prison Service acknowledged some of those concerns, but countered that issues around supply may relate to prisoners' wants rather than their needs. However, we would welcome updates from the cabinet secretary and the SPS on the development and resourcing of programmes, given that the bill's policy memorandum envisages that the provisions of the bill will incentivise prisoners to engage with programmes.

Connected to that, we were told by Professor Alan Miller of the Scottish Human Rights Commission that the bill's human rights statement was inadequate. That concerned us, and we have called on the Scottish Government to revisit that statement. For example, if there is no access to rehabilitation programmes and that imperils a prisoner's release, that prisoner might have a claim under the European convention on human rights.

We also have questions about the impact of the bill on the Parole Board. Professor Tata argued in evidence that the Parole Board was being set up for failure. That comment was disputed by the convener of the board, but the board subsequently wrote to the committee stating that

"it may need some support from Scottish Government to manage the impact."

We therefore called on the Government to ensure that the Parole Board is sufficiently resourced.

Clarity in sentencing is important to the victims. Some witnesses told us that the bill muddled the waters in respect of sentencing. That was disputed by the cabinet secretary, who argued that the bill gives victims the certainty that the offender will not be released automatically two thirds of the way into their sentence.

Alternative approaches were suggested. Some witnesses suggested an alternative approach would be to commence an existing statute, namely the Custodial Sentences and Weapons (Scotland) Act 2007, as amended by the Criminal Justice and Licensing (Scotland) Act 2010.

Other witnesses believed that the bill should be delayed until the Scottish sentencing council is set up in autumn this year. On balance, committee members were not persuaded of the merits of delaying the bill. However, we call on the Government to review legislation in this area to establish which wider reforms should be taken forward.

In conclusion, an overwhelming majority of committee members welcomed the general principles of the bill. There is no doubt, from the evidence that we heard, that reform of the court service is long overdue. However, in certain areas, as I indicated, we remain to be convinced that some of the measures will achieve what they set out to achieve. On behalf of the committee, I encourage the Parliament to support the general principles of the bill at decision time tonight.

14:55

**Elaine Murray (Dumfriesshire) (Lab):** I thank the clerks and the witnesses for their efforts in bringing a lot of issues to the committee's attention during the stage 1 process.

The Scottish National Party manifesto in 2011 stated that the party would

"remain committed to ending automatic early release once the criteria set by the McLeish Commission are met."

However, we must be clear about the fact that the bill does not end automatic early release. As introduced, it would have affected 1 per cent of offenders; with the suggested amendments, it will affect 3 per cent of offenders. The vast majority of offenders, and perceptions of sentencing among the vast majority of victims of crime, will not be affected by the bill even as amended.

Of people receiving a custodial sentence in 2012-13, 317 offenders were serving sentences of more than four years; 47 were serving life or indeterminate sentences; and 14,084 were given short-term sentences of less than four years. The offenders who are serving short-term sentences will still be released after serving one half of the sentence and—other than sex offenders who are

serving six months or more—they will not be subject to supervision by criminal justice social work.

In 2011-12, the reconviction rate for offenders serving between three and six months was 53 per cent, whereas the rate for prisoners serving more than four years was 13 per cent.

The Scottish Government is not making much progress in achieving the reduction in prison population that was recommended by the McLeish commission. The cabinet secretary cited some figures today; however, the prison population statistics go up and down. In 2011-12, for example, there was an increase in the average prison population of 4 per cent over the previous year; a 9 per cent increase in those on remand; and a 3 per cent increase in the sentenced population, with a projection—from the Scottish Government's own figures—that the average prison population would increase to 9,500 by 2020-21. It does not look as if automatic early release will be ended in the near future or even in the medium term.

The policy memorandum to the bill states that its provisions will improve public safety, but the extent to which they will do that is debatable given that the bill legislates for the cohort of prisoners with the lowest reconviction rates. Obviously, those offenders have been convicted for much more serious crimes, and therefore their reoffending could be more dangerous.

However, Dr Monica Barry of the University of Strathclyde told the committee when giving evidence on the original bill that

"sex offenders are the most compliant of ex-prisoners you will find."—[*Official Report, Justice Committee*, 13 January 2015; c 2.]

The Risk Management Authority Scotland agreed, based on Parole Board for Scotland statistics, and suggested in written evidence that the bill should refocus on

"risk of serious harm rather than offence type."

Dr Barry also advised the committee:

"If the Government is piloting this with high-risk violent offenders and sex offenders, it is probably piloting it with the wrong people. If it is going to abolish early release, it should be going for the lower end, such as dangerous driving, which is probably a higher risk to the public than sex offenders, or common street crimes such as shoplifting, theft or breach of the peace."—[*Official Report, Justice Committee*, 13 January 2015; c 6.]

One of the major concerns over the bill as drafted was that violent offenders who did not qualify for early release would be released into the community cold, with no supervision. Sex offenders are subject to the multi-agency public protection arrangements—or MAPPA—with regard to the risk that they pose on release, but although

legislation permits those arrangements to be extended to violent offenders, the provisions have not yet been commenced.

There was not much to recommend the bill as drafted. Rather than improving public safety, it could have jeopardised public safety by releasing dangerous unreformed violent offenders into the community without supervision. It also singled out sex offenders serving long-term sentences, who the committee was advised are less likely to reoffend.

The Cabinet Secretary for Justice is to be commended for listening to the evidence of witnesses and subsequently proposing amendments that will extend the ending of automatic early release to all long-term prisoners and—importantly—ensure that all such prisoners are subject to supervision on release, including when they have served the full term of the sentence. However, without seeing the amendments, it is difficult to comment much further, other than to welcome the cabinet secretary's recognition that the original bill was seriously flawed.

To what extent will the amended bill equate to a partial introduction of the provisions of the Custodial Sentences and Weapons (Scotland) Act 2007, as amended by the Criminal Justice and Licensing (Scotland) Act 2010, in introducing for long-term prisoners sentences that are composed of a part that must be served in custody and a part that will be served under supervision in the community? Witnesses in the final evidence session, which took place after the cabinet secretary had written to the committee on his intentions to amend the bill, were unclear whether the cabinet secretary was proposing to add compulsory supervision to sentences that had already been completed in custody, or the provision of compulsory supervision in the community as part of the original sentence. According to Dr Barry and Professor Fergus McNeill, the former would amount to a type of new sentence.

Scottish Labour agrees that there should be clarity in sentencing and that victims, the community and offenders should understand what the imposed sentence means in practice. Unfortunately, as things stand, it is not clear how that will be achieved. Moreover, it will be achieved only for victims of a small number of albeit serious offences.

Several witnesses expressed concerns that the bill addresses only back-door sentencing—the release arrangements—and does not consider front-door sentencing, or sending people to prison in the first place. The Howard League Scotland, Professor McNeill and Professor Tata suggested that the work of the Scottish sentencing council—

which will, we understand, be set up at long last in October this year—is being pre-empted by the bill. Professor Tata told the committee:

“One of the beauties of such a body is that it can be a buffer between the judiciary, the parole board, the SPS, social work and other parts of the system that are trying to do their job and, if you like, penal populism. It can take the heat out of the situation. If a case is given to the sentencing council to be looked at, that immediately takes it away from the control of ministers and the political pressures that they are under.”—[*Official Report, Justice Committee*, 20 January 2015; c 9.]

We are all under those pressures, too, of course.

There are significant human rights concerns, as Christine Grahame has already said. Professor Alan Miller described the human rights impact statement as “not adequate”, and he had particular concerns about offenders’ rights if they are refused early release by the Parole Board for Scotland under circumstances in which rehabilitation programmes that may have made them eligible have not been available.

An answer that my colleague Graeme Pearson received last month revealed that, of the 900 sex offenders who were in custody, 120 had completed or were undergoing the moving forward: making changes sex offender programme and 150 offenders had been assessed as potentially benefiting from the programme. The answer that the chief executive of the Scottish Prison Service, Colin McConnell, provided said that they

“may proceed to do so according to their case management plan, their continued motivation and”—

this is important—

“as resources allow”.

He also said that 100 offenders had refused treatment.

The chief executive of the Scottish Prison Service spoke to the committee about the difference between wants and needs. That answer says that 150 sex offenders have been assessed as potentially benefiting from the programme, but they may get it only if resources allow. If any of those offenders is refused early release because they have not been able to access the MFMC programme because of a lack of resource, they may well have a human rights challenge. That really needs to be looked at.

As the cabinet secretary and Christine Grahame have said, section 2, which introduces early release for community reintegration, was welcomed by all the witnesses and, indeed, all the members of the committee, as it was seen that that would be of benefit to prisoners who may be released at the weekend without adequate services being in place for them after release.

The decision to substantially amend the bill at stage 2 means that neither the policy memorandum nor the financial memorandum is now accurate. We believe that, once the cabinet secretary has decided on the exact form of his amendments at stage 2, it will be necessary to issue supplementary memorandums that reflect the significant changes in the bill.

Had the cabinet secretary not indicated that he was prepared to amend the bill at stage 2, Scottish Labour would have voted against the bill as drafted. It would have ended automatic early release for a very small number of offenders—only 1 per cent—and would have had the unintended consequence of releasing dangerous, unreformed offenders cold into the community without supervision at the end of their sentence. Their automatic early release would have been withdrawn, but potentially they could have been of greater danger to the public at the point of release.

The original plan, of course, was to introduce the provisions as stage 2 amendments to the Criminal Justice (Scotland) Bill, which, as we know, is suspended pending the Bomy review of any safeguards that are required by the abolition of the requirement for corroboration. Thankfully, that did not happen, because if the proposals had been brought in by way of stage 2 amendment to the Criminal Justice (Scotland) Bill, they would not have been subject to the degree of scrutiny that has been applied to the Prisoners (Control of Release) (Scotland) Bill. That scrutiny resulted in the current cabinet secretary listening to the concerns of witnesses and indicating that he was prepared to substantially amend the bill.

As the cabinet secretary has done that, we will support the bill at stage 1. We do not yet know what the amendments will be, or whether and how they will adequately address the points that witnesses made to the committee. Those are matters for discussion at stage 2 and stage 3, and we will come to our conclusions at those stages.

Scottish Labour wants to go further than the bill does on sentencing policy and on the transparency of sentencing. Even with the proposed amendments, the bill will not be enough, but we are prepared to give the Government the benefit of the doubt and to support the bill at decision time in the hope that, once it has been amended at stage 2, it will achieve—albeit to a limited extent—a better outcome than the current situation.

15:05

**Margaret Mitchell (Central Scotland) (Con):**

This stage 1 debate on the Prisoners (Control of Release) (Scotland) Bill is an important one. I thank the clerks, the convener and my fellow

members of the Justice Committee for all their hard work, and I pay tribute to all the witnesses, who gave such invaluable evidence.

The bill has two main sections. Section 2 seeks to provide the Scottish Prison Service with the power to release prisoners up to two days early in order to facilitate community reintegration. That is a sensible provision that seeks to create the flexibility to ensure that appropriate throughcare, including housing and so on, is in place for prisoners on their release in an effort to deal with some of the problems that we know lead to reoffending after release.

I turn to section 1. Although I sympathise with the predicament that the new cabinet secretary has inherited, that does not alter the fact that the bill as drafted—and the proposed stage 2 amendments—is nothing short of a dog's breakfast.

The aim of the bill is to reduce reoffending and increase public safety. That was the supposed rationale behind targeting the provision at offenders who had received sentences of more than 10 years and sex offenders who were serving sentences of four years or more. However, as witnesses pointed out, there is no logic in targeting that particular group because evidence shows that sex offenders have the lowest reoffending rates of all categories of prisoner.

In addition, the bill would apply to less than 1 per cent of offenders in Scotland. The cabinet secretary clearly recognised that the original proposals fall well short of the mark, so the Scottish Conservatives welcomed the improvement that the cabinet secretary announced when he indicated that he intends to extend abolition of automatic early release to all prisoners who are serving long-term sentences of four years or more. That means that at least we have moved from the bill covering 1 per cent of prisoners to its covering 3 per cent of them, but that does not alter the fact that 97 per cent of prisoners will still automatically be released early. As the cabinet secretary said in evidence to the committee,

“It is worth keeping in mind that we are talking about a very small number of prisoners and that it will be several years into the future before any of this will start to have an impact.”—[*Official Report, Justice Committee*, 3 March 2015; c 47.]

It is therefore a real concern that, as the Law Society of Scotland stated,

“the most radical change in custodial sentencing policy for twenty-two years is to be introduced by way of a government amendment”.

**Christian Allard (North East Scotland) (SNP):**

Will Margaret Mitchell take an intervention?

**Margaret Mitchell:** If Mr Allard does not mind, I will make some progress.

That is not a precedent that the Scottish Parliament should set or encourage, and nor is the cabinet secretary's piecemeal filtering down of more information as recently as yesterday, in an attempt to address the numerous unanswered questions that the proposed change has prompted, any more acceptable.

Furthermore, evidence from witnesses such as the University of Strathclyde's Professor Cyrus Tata highlighted the fact that the proposals could result in a prisoner being released without supervision on what has been termed "cold release". He confirmed that, in such cases, released prisoners would be more likely to reoffend.

Moreover, instead of clarifying already complicated sentencing policy, the bill—to quote Dr Monica Barry from the University of Strathclyde—merely "muddies the water".

#### Victim Support Scotland wants

"greater clarity and transparency in the system, so that victims and the community are better able to understand sentencing."—[*Official Report, Justice Committee*, 24 February 2015; c 14.]

That is why it supports the Scottish Conservatives' call for the ending of automatic early release for all prisoners, which would provide clarity and honesty in sentencing.

Witnesses have also raised issues regarding the shortage of places on rehabilitation programmes in prison. With demand outstripping supply, there is—as Professor Miller confirmed—an issue about the human rights impact statements being inadequate. Therefore, the committee recommended that an independent assessment of the provision and availability of rehabilitation programmes in prison be carried out. I look forward to hearing the cabinet secretary's response to that.

The Justice Committee's task was to scrutinise the bill. In addition to dealing with all the flaws that I have just identified, it is being asked to form a view on a policy change that has been announced at the final hour, without having sight of a revised policy memorandum, financial memorandum or explanatory notes. That is hardly conducive to effective scrutiny. Stakeholders across the board have echoed that view, and many witnesses are calling for the bill to be withdrawn.

For those reasons, I dissented in committee from agreeing to the general principles of the bill. Those reasons are also why the Scottish Conservatives will abstain at stage 1.

15:11

**Nigel Don (Angus North and Mearns) (SNP):** I speak on the bill in my capacity as convener of the Delegated Powers and Law Reform Committee. Although the bill contains only one delegated power, the committee has concerns about how that power may be exercised. Indeed, the strength of the committee's concerns is such that it agreed that I should take the unusual step of contributing to the debate from its perspective.

Section 3(2) provides that the Scottish ministers may, by order, bring sections 1 and 2 into force on an appointed day. Section 3(3) provides that such a commencement order

"may include transitional, transitory or saving provision."

In considering the bill, the committee noted that a commencement order made under section 3 will not be subject to any form of parliamentary procedure, irrespective of whether it includes transitional provisions. That provision for the attachment of transitional provisions to a commencement order, combined with the lack of opportunity for parliamentary scrutiny of such provisions, has prompted me to speak today.

The committee has accepted in principle that

"transitional, transitory or saving provision"

may be required in a commencement order under the bill, but it considers that the use of such provisions could have a significant effect on certain persons who will be affected by the bill. For example, the committee noted that a commencement order that is made under section 3 could contain transitional provisions relating to the adjustment of prisoner release dates and that it may be possible for the powers to be exercised in such a way as to have different effects on different prisoners. The possibility of different effects on prisoners could, depending on the provisions, raise consideration of rights that are protected by the European convention on human rights.

The committee wrote to the Scottish Government to ask whether it would consider lodging an amendment to make the power at section 3(2) subject to parliamentary scrutiny through negative or affirmative procedure. The Government's response explained that the powers in subsections (2) and (3) would be used to make a straightforward commencement order that would relate specifically to commencement of the bill. Therefore, the Scottish Government did not consider it necessary for the power to be subject to any form of parliamentary scrutiny.

However, on considering the response, the committee's view remained that where a commencement order includes transitional, transitory or saving provision under section 3(3), it

should be subjected to parliamentary scrutiny. Therefore, the committee recommended in its report that the Scottish Government lodge an appropriate amendment at stage 2 to make a commencement order made under section 3(2) subject to negative procedure if it contains such provisions.

However, the Government's response to the report reiterated its view that it would not be appropriate for the power at section 3(2) to be made subject to any form of parliamentary procedure other than an order being laid before Parliament. The Government also pointed out that Parliament will be given an opportunity to express its views on a commencement order made under section 3 when it is laid.

We are not persuaded by that response. The committee's view remains that, where a commencement order includes a transitional, transitory or saving provision that is of the potential significance of those for the bill, then such a power should be subject to parliamentary scrutiny.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** Is it the committee's view that that is not simply a matter in relation to this bill, but a principle that it wants to apply in similar circumstances in similar bills?

**Nigel Don:** Stewart Stevenson's point is absolutely fair. As a member of the DPLR Committee, he will accept that that is our concern. We have tried to bring principled arguments to bear on this bill as we would with every other bill. The point that I am making is the same one that I would make about any other bill in similar circumstances.

Merely providing for an order to be laid does not, in the committee's view, allow Parliament sufficient opportunity to scrutinise it, nor does it offer Parliament any sanction should it have any concern about the order. Therefore, I would welcome an assurance that the Scottish Government will reflect on the matter further, with a view to amending the bill at stage 2.

15:16

**Roderick Campbell (North East Fife) (SNP):** In historical terms, parole is quite recent, and the Parole Board for Scotland was set up only in 1968. Parole was subject to an important review by Lord Kincaid in 1989, in which he stated:

"the proper objective of parole is to ensure that the release of all long-term prisoners takes place under such conditions and at such a time (within the overall sentence of the court) that the risk to the public may be minimised; and that decisions on the conditions and timing of release take into account, amongst other things, any changes in the offender or his circumstances and any increased

knowledge of the offender since the passing of the original sentence."

That was the position then. In my view, it remains true today.

Of course, the Conservative Government of the day put in legislation the changes that were proposed by Lord Kincaid. It is interesting to read Ian Lang's comments from the time on what became known as the Prisoners and Criminal Proceedings (Scotland) Act 1993. He argued in support of the then new early-release provisions and in opposition to those who argued that the sentence of the court should be precisely that. Times have moved on. The modern Conservative Party appears to take a different view, although I must say that I find it rather difficult to accept that a party that is opposed to, and which believes in ending, automatic prisoner release across the board can dissent from the bill's general principles.

On the Justice Committee's report, it is fair to say that in the course of our evidence sessions there was disquiet that sex offenders serving four years or more, rather than all offenders serving four years or more, were highlighted in the bill. It is certainly more appropriate to concentrate on the length of sentence than on the type of offender. Therefore, I warmly welcome the proposed stage 2 amendments in that regard.

We also need to bear it in mind that the bill is in addition to existing powers that are available to the courts in relation to extended sentences in which, at the time of sentencing, offenders are thought to be likely to pose a continuing risk. Even under the likely stage 2 amendments, what we are talking about will apply only to a small cohort of prisoners—about 3 per cent of offenders receive a determinate sentence in any one year.

The full impact of the bill will be measured over several years. As has been pointed out on numerous occasions since the McLeish commission reported, until overall prison numbers are significantly reduced it will not be possible to extend provisions more widely in relation to the ending of automatic early release. However, it is a start, especially when—as the cabinet secretary has said—we know that someone who is released automatically at present is about seven times more likely to breach their licence conditions than someone who is released after a Parole Board decision.

As the cabinet secretary said in evidence, in 2012-13

"The rate at which non-parole-released prisoners breached their licence conditions was 37 per cent, compared with 5.5 per cent for parole-released prisoners."—[*Official Report, Justice Committee*, 3 March 2015, c 35.]

I hope that that will enable proper focus on rehabilitative programmes, which go hand in hand

with the ending of automatic early release. As the policy memorandum makes clear, the absence of automatic early release may encourage greater interest in participation in the programmes. How great an incentive it will be remains to be seen, but I am encouraged that Professor Alan Miller of the Scottish Human Rights Commission accepted that it will provide an incentive to participate.

The important thing must surely be to ensure that we have the resources available for rehabilitation. As Colin McConnell of the Scottish Prison Service said in evidence, we need to

“prioritise and sensitise the opportunities that best match the needs of the individual”,

while recognising that

“we do not always match their wants.”—[*Official Report, Justice Committee*, 20 January 2015; c 20.]

As the Government points out in its response, however, the Scottish Prison Service is shortly to put in hand a review of SPS programmes that is to be conducted by an external expert. Clearly, that should be a priority. Protection of the public must remain paramount. We heard in evidence concerns about what was described as “cold release”, and the Government has been wise to respond to those concerns.

In its written submission, Sacro suggested a period of compulsory supervision of three months before the end of a sentence. Colin McConnell said that, in his experience, the first six to 12 weeks after release can be extremely risky. The Government has indicated that it is minded to provide for a mandatory control period of six months as a minimum, in order to provide sufficient time to balance any necessary protective conditions with work by criminal justice social work departments in assisting the prisoner with their reintegration and rehabilitation in the community. I believe that that is a considered response to the concerns that we heard in evidence, and I warmly welcome it.

We also heard evidence about the need for clarity in sentencing, which was a particular concern of Victim Support Scotland. It is clear from the bill, however, that that is not the purpose of the legislation. Nonetheless, we should wish the new Scottish sentencing council well in its task, particularly in promoting greater awareness and understanding of sentencing policy and practice.

On section 2, which relates to the date of release, I simply echo what has already been said. Like the committee in general, I fully support the provision.

The bill will change significantly at stage 2. In my view, the Government has seized the initiative and has signalled its intentions in that respect already, which is to be welcomed. We ought to

consider taking further evidence at stage 2, but I do not share the views of those who think that we should abandon the bill and that the matter is best left to others such as the new sentencing council. I believe that we need to continue to respond to public concerns and not to delay further a significant change in response to those concerns.

15:22

**Jayne Baxter (Mid Scotland and Fife) (Lab):**

There is little doubt that the criminal justice system in Scotland is in desperate need of reform. The aspect of that system that the bill seeks to address—sentencing—is a contentious issue, but I think that we will find near-unanimous support in the chamber for the ending of the automatic release of the sort of offenders who are covered by the bill’s provisions.

That does not mean that the legislation and the Scottish Government’s overall approach to sentencing have been a straightforward process. That the Scottish Government attempted to squeeze the content of this important bill into a previous bill is regrettable, but we should be grateful that it listened to the recommendations of the Justice Committee to place it in a free-standing piece of legislation.

We should first examine the recent past. Scottish Labour introduced an innovative form of judicial disposal in 2007. The introduction, in the Custodial Sentences and Weapons (Scotland) Act 2007, of sentences that would comprise a custodial part plus a community part was welcomed by many in the criminal justice community as a sound and well-thought-through measure. The Scottish Government chose not to put those proposals into practice, however. In fact, it chose to heavily amend the disposals in the Criminal Justice and Licensing (Scotland) Act 2010. The new proposals have never been implemented by the Scottish Government, but we are now where we are with the bill under consideration.

The bill fails to address what we might regard as the other end of the conversation: sentencing. Scottish Labour agrees entirely with victim support groups that there needs to be clarity in sentencing. Victims, the community and offenders need to understand what the sentence that has been passed by the judge or sheriff means in practice. It is not good enough for victims of crime and their families to hear that someone is sentenced to X number of years in prison but to have no idea what that means in reality. Victims and their families should be at the centre of the criminal justice system, but the current system of sentencing fails to put them there.

The bill may increase the confusion about sentencing, however. Victim Support Scotland noted in its submission that

“ending automatic early release for only some categories of prisoners would work to further complicate an already confusing system; the proposals would in fact create another rule that needs to be taken into account when calculating the release date of an offender.”

The introduction of the Scottish sentencing council was an important development in this regard. After a recommendation by the Scottish sentencing committee, which used to advise the Scottish Government on its approach to punishment and sentencing, the 2010 act provided for the Scottish sentencing council to be set up. Its stated aim is to foster greater consistency and transparency in the decisions of the courts by the creation of an appropriate framework to promote fairness and justice in sentencing. Its statutory objectives are to

“promote consistency in sentencing practice ... assist the development of policy in relation to sentencing ... and promote greater awareness and understanding of sentencing policy and practice.”

Those are all laudable and sensible objectives.

I welcome the position indicated by Lord Carloway, the chair of the council, that it will seek to take an evidence-based approach to sentencing. I am also pleased that it will reserve a position for victims’ representatives. It is important that the Scottish people have confidence in the court system and the punishments that it apportions to offenders. It is also important that we commit ourselves to doing what works. The sentencing council will provide an opportunity for a wider range of voices to be heard in the sentencing process and will make clearer to the general public the principles and policies that motivate our judges, sheriffs, stipendiary magistrates and justices of the peace when deciding on disposals.

Those are all important tasks. It is surprising and worrying, therefore, that the Scottish Government has dragged its feet for almost five years on setting up the sentencing council. The clarity and certainty on sentencing that the council will provide is desirable and necessary now.

The provision in section 2 that allows prisoners who are due to be released on Fridays to be released two days earlier in order to increase the provision of support for them is a good one. It may appear to some as a small change but, according to the Scottish Prison Service, around 4,000 prisoners are released every year on Fridays. They emerge at the weekends with limited support. We do too little to help offenders back into the community once they have served their time and that modest proposal will at least make

some provision to increase the support and guidance that they receive.

At the heart of any structure surrounding the release of prisoners must be the calculation of risk to public safety. It is notoriously difficult to calculate, and it would be wholly unreasonable for us to expect the relevant authorities to calculate successfully the risk of reoffending every time they are called on to do so, but we must ensure that each offender’s risk profile is central to the debate on whether they are released early. For those who commit serious offences, it should not be an automatic process.

I agree with Victim Support Scotland and Police Scotland, which have indicated that they support the essence of the proposals because they will encourage relevant prisoners to engage with prison rehabilitation programmes and will ensure that prisoners who are assessed as still posing a high risk do not benefit from early release.

I also agree with the Howard League and other experts who have noted that an unintended consequence of the bill would be that prisoners are released cold into the community without a period of supervision from relevant authorities. As the Howard League put it in its submission,

“The current proposal fails to recognise the strong evidence that support and supervision in the community is more effective in reducing re-offending rates than time spent in custody. ... An abrupt and unsupported transition of a prisoner from the structured environment of prison to non-parole release may, in many instances, result in a reversion to pre-sentence behaviour.”

To mitigate the problem, some have suggested the extension of the MAPPA approach to violent offenders. That is an interesting proposal, but it is not good enough that we have no concrete plan on the issue. We are talking about some of the most serious offenders in Scotland’s prisons. We need more specificity when discussing their rehabilitation.

There is more that is vague than just the content of the supervision. How long will there need to be supervision, and will it be pre-release or post-release? Moreover, why has the Scottish Government produced a human rights impact statement accompanying the bill that the Scottish Human Rights Commission has described as “simply not adequate”? That, coupled with the aforementioned vagueness, means that offenders who have been refused release could make a human rights challenge if they have not been offered the necessary rehabilitation programmes.

I hope that the Scottish Government ensures that those comments are addressed as the bill is taken forward.



15:28

**Christian Allard (North East Scotland) (SNP):**

First, I would like to thank all the Justice Committee members and the organisations and individuals who came to give evidence. It was a long session and our chair did great work. It was very interesting to see how much the committee influenced what happened right after and how it influenced the decision of the cabinet secretary. In fact, it was the organisations and individuals who gave evidence—more so than the members perhaps—who changed the report and made it what it is.

The committee supported the general principles of the bill at stage 1. As the cabinet secretary said in his letter to the Justice Committee convener on 3 February, the

“bill provides a step towards achieving”

the aim of

“ending the current system of automatic early release of prisoners, brought in by the then UK Government in 1993.”

John Major’s Conservative Government brought in automatic early release to tackle concerns about prison overcrowding; it was under a Tory Government that criminals were let out of prison after serving only half of their sentence, no questions asked. It was an admission of many failures if ever there was one—of sending too many people to prison, of failing to accommodate them and then of failing to release them under supervision. That is the situation that the SNP Government wants to address, particularly the so-called cold release that the Conservative Government introduced in 1993. With this bill, the SNP Government is taking the first step to end automatic early release.

The bill is all about the right of prisoners to be supported when coming out of prison and the right of families of victims to know that offenders should be assessed before they are released. In other words, it is about public safety. That issue is not only at the core of section 1; section 2 will give the Scottish Prison Service the power to release prisoners up to two days early to facilitate community reintegration. How important is that? We heard in evidence that it is, in fact, very important. A couple of days can make a lot of difference. If a prisoner is released over a weekend, they will not be able to access services and might not have anywhere to stay. We must make release as easy as possible for various prisoners; in fact, we are talking about a huge number of prisoners, given that the provisions apply to all prisoners serving more than 15 days. This measure, which will certainly make a lot of difference, is only common sense, and I have to wonder why it was not introduced before.

Section 2 deals with the last few days before release, and section 1 deals with the last few weeks and months in the same spirit. It is all about supporting prisoners when released, recognising the right of families of victims and improving public safety. In his February letter, the cabinet secretary confirmed to our committee that the Scottish Government intended to lodge amendments at stage 2 to extend the provisions of section 1 and end automatic release for all long-term prisoners, regardless of category.

Let me make it clear: the quality of the evidence that we received has helped the cabinet secretary to be able to amend the bill at stage 2. I note that Elaine Murray has commended the cabinet secretary for his approach, and I think that his pragmatism is to be applauded. He recognised that this first step towards ending automatic early release of prisoners was too small, and he is acting on it by extending the remit of the bill to cover all long-term prisoners.

As paragraph 45 of the committee’s report points out, witnesses told us that prisoners might still be released into the community without mandatory supervision—what has been called “cold release”—and paragraph 46 quotes Professor Tata from the University of Strathclyde as saying:

“We need to explain to members of the public that eventually prisoners have to come out and that if someone is released cold they are more likely to reoffend.”

It is an important point, and I must thank Professor Tata for his contribution. His was one of the strong voices highlighting to committee members the danger that the bill would not eradicate all the problems of cold release. When describing the changes that could come about, he also said:

“Effective reintegration is a prerequisite for public safety.”

I certainly more than agree with that observation. Furthermore, with regard to the powers of the Parole Board and how much of a difference it can make, Peter Johnston of the Risk Management Authority said:

“The Parole Board ... has huge expertise in looking at the risk that the released offender”—[*Official Report, Justice Committee*, 20 January 2015; c 3, 7, 6.]

presents.

I am delighted that stage 2 amendments will address all these important concerns, because the fact is that we have been here before. In welcoming the committee’s report, the Law Society of Scotland pointed out the shortcomings of previous legislation such as the Custodial Sentences and Weapons (Scotland) Act 2007. The Law Society is right: seven years after that act was passed, the parts of it that relate to sentencing have still not come into force. The reason is simple: the expectations of the act were

too high. Indeed, they were so high that it soon became apparent that it would not be possible to implement the provisions.

As Jayne Baxter has said, we are where we are. We have to move on. We have learned the lessons of the past, and the pragmatism demonstrated in the bill has to be commended.

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** I am sorry to interrupt the member, but my reading of what the Law Society said to members was not that the 2007 act was inadequate but that, if the bill was to go through unamended and the 2007 act was to be enacted, there would be a contradiction. That is not the same as what the member has just said.

**Christian Allard:** What I said was my interpretation of what the Law Society said. As I was saying, it all comes down to implementation. If the Government has a problem with implementing the 2007 act, it is not fit for purpose. However, as Jayne Baxter said, we are not there yet and we have to move on. We learn from the past.

The Prisoners (Control of Release) (Scotland) Bill deals with the back end of our judicial system—the last few days, weeks and months before a prisoner is released. That is where we should start; it is the first step towards working on ending automatic early release for all prisoners. Alternatively, we might decide that the second step should be to deal with the front end of the judicial system, which is sentencing. I know that we have heard different views on that this afternoon but, let me be clear, the bill is not about that. We should use future bills to make sentencing more transparent and improve it.

I was surprised when Margaret Mitchell decided to dissent from the general principles of the bill, although I welcome the fact that the Scottish Conservatives will abstain today.

Our stage 1 report reflects the point that prisoners should be supported when they come out of prison, and that families of victims have the right to know that offenders should be assessed before they are released. That is what Victim Support Scotland said that it wanted. The bill is about public safety and I am looking forward to stage 2.

15:36

**Alison McInnes (North East Scotland) (LD):** I apologise to members in advance, as I have a sore throat.

If automatic early release for long-term prisoners is to be abolished, the alternative must pass three key tests. The first is that the risk that is posed by an individual must determine the proportion of the sentence that they serve in

prison. Secondly, it must prioritise public safety. Thirdly, it must guarantee supervision and support on release.

As it lies before us today, the bill fails the last two tests and it is fundamentally flawed. Once again, the justice secretary has had to pick up the pieces and promise to overhaul his predecessor's ill-considered plans. As witnesses commented to the committee, making significant Government amendments at stage 2 is hardly best practice. In this instance, however, I agree with the proposals that the cabinet secretary outlined to the committee and they allow us to support the bill at stage 1 today.

Ending automatic early release for all those who are serving sentences in excess of four years is more coherent with the evidence on risk and reoffending rates. Widening the scope of the bill so that all long-term prisoners are subject to a period of compulsory supervision in the community is equally important.

There was genuine concern that the bill would fail those whom the Parole Board deemed should serve their full sentences. The Scottish Parliament information centre—the Parliament's independent information service—concluded that

“the period of supervision in the community under licence conditions could be reduced (potentially to zero)”.

Victims organisations, the Scottish Human Rights Commission and more warned of risks to the public and increased reoffending, which would defeat the objective of the policy. Some of the analysis was scathing. Dr Monica Barry feared that the “most potentially high-risk people” would be leaving prison with no support. Howard League Scotland said that it would lead to prisoners being “spat out of prison”. It was even suggested that some prisoners would seek to max out their sentences so as to avoid restrictions on release. If they are used as fragmented workarounds, MAPPA and extended sentencing arrangements would not sufficiently ensure that someone cannot walk free completely unsupervised. That is why a minimum guarantee needs to be in the bill and I welcome the cabinet secretary's assurance that it will be.

Some people will legitimately ask whether the introduction of post-sentence-end controls, or a mandatory control period, is automatic early release in all but name. It will be factored into sentencing decisions. Perhaps the cabinet secretary will address that concern in his closing speech. I am minded to agree that so-called end controls should last a minimum of six months, but I am also open to the possibility of their lasting nine months.

I can also confirm that Scottish Liberal Democrats whole-heartedly support section 2 of

the bill. It is entirely sensible for prisoners to be released just a day or two early if it means that they get the support that they desperately need to successfully return to the community. Public and third sector services such as housing, social work and employment are simply not available 24/7.

In 2011-12, 40 per cent of prisoners—some 4,000 people—were released on a Friday or just before a long public holiday weekend. The measure in the bill is a small change that could make a big difference during the transition. It is a small change that could dramatically reduce the likelihood of thousands of people reoffending and causing any further harm.

In the short time that I have remaining, I would like to highlight some other outstanding issues. The revised proposals will, of course, have resource implications for the Prison Service. Each year, 450 more people will receive sentences under whose terms they are not eligible for early release. Before the categories were extended, the number affected was expected to be about 140.

In addition to the general costs of accommodating more prisoners, there will be increased demand for purposeful activity and programmes that address the underlying causes of offending behaviour. However, I note that the cabinet secretary has not explicitly committed to bringing forward supplementary policy and financial memorandums as the committee requested. I urge him to do so. We need to carefully consider the additional costs and demands.

There is public appetite for greater clarity and transparency in the meaning of sentencing. I would not blame the public for thinking that we were talking in riddles when discussing the various release options: automatic and unsupervised, automatic and supervised, discretionary and supervised.

Victims and witnesses are often bemused or even angered by stories of serious offenders being automatically released part way through the sentence that was handed to them by the sheriff or the High Court, regardless of any assessment of whether they continue to pose a threat. That feeling is understandably intensified in high-profile cases or if the individual proceeds to reoffend.

The bill could help begin to enhance understanding and public confidence. However, it could have been informed by the Scottish sentencing council's work. Improving policy, practice and understanding of sentencing is squarely within its remit but, five years after the Parliament legislated for it, it is still not up and running. The body could have played a role in considering how best to manage early release.

Indeed, there is a risk that the bill is being progressed in isolation. Other long-overdue reforms and apparently shared aspirations have stalled: the commencement of the early release provisions already backed by this Parliament through the Custodial Sentences and Weapons (Scotland) Act 2007; reducing the bloated prison population; ending senseless short-term sentences; and shifting the focus of sentencing from punishment to rehabilitation.

This short bill is therefore another example of a piecemeal approach to penal reform. Scottish Liberal Democrats are clear. Although the bill is set to be improved, and we will support it on that basis, justice policy should always be complementary and guided by the evidence of what works, not the quick pursuit of cheap headlines.

15:43

**Gil Paterson (Clydebank and Milngavie) (SNP):** I am pleased to take part in the debate as a member of the Justice Committee.

The ending of automatic early release for prisoners is seen by a large cross-section of the public as a very important issue to which they can relate with regard to their own safety in the community in which they live.

I acknowledge that, following evidence to the Justice Committee, Michael Matheson MSP, the Cabinet Secretary for Justice, said that he would extend the provisions in the bill to cover all long-term prisoners, which is to his and the Scottish Government's credit. He has shown leadership by listening to reasoned argument and responding accordingly. In my book, it is a good thing when Governments and ministers listen and perhaps come to a conclusion that is different from their former conclusion.

During my speech, I will aim to focus on the prisoners who commit serious sex offences and how the bill will impact on them and offer some comfort to their victims. As a former board member of Rape Crisis Central Scotland, I am sadly familiar with that aspect of crime through my work on behalf of the victims of sexual assault.

Many people in Scotland have never understood why serious sex offenders were automatically released early, before they had served their full sentence. The victims of those offences are petrified at the thought of the early release of the person who attacked them in what they understandably believe is the ultimate crime. They live in fear of one day being confronted by their attacker.

On what many of the public think about early release, a large number of those who have been

victims disagree with the present system. Nonetheless, I fully support the Parole Board making the final decision on whether serious sex offenders should be released before completing their sentence. The Parole Board has the benefit of knowing how rehabilitation programmes have worked on the individual.

I particularly support the work carried out in Peterhead prison, which has introduced programmes designed to change the behaviour of serious sex offenders. The work carried out in that institution has had a tremendous record of success, and I wonder whether people tend not to reoffend as a result.

I acknowledge that prisoners volunteer for those programmes for a host of reasons. Some volunteer in order to influence the Parole Board. They want to show that they are putting some effort into changing their behaviour in the hope that they are rewarded by being granted early release. There are, however, many prisoners who volunteer because they sincerely believe that they need help, and that they need to change their behaviour, better themselves and ensure that they are never sent back to prison.

No matter the motivation, we can see the success of such a system in the fact that someone who is cold released or automatically released early is approximately seven times more likely to breach their licence conditions than someone who is released after a decision by the Parole Board.

To victims and to members of the public who are fearful of early release and the impact that it will have on them and their community, I offer this message. What is being proposed by the Scottish Government should give some comfort because the public and communities will know that tried, tested and effective rehabilitation courses will be available to offenders while they are serving their time in prison. Further, supervision in the community will also be in place, whether or not prisoners participate in rehabilitation within prison.

I would far rather that, after deliberating, considering detailed reports and assessing behaviour programmes, the Parole Board granted someone who may have, say, one year left of their sentence early release, knowing that they are unlikely to reoffend. I hope that that is some comfort to the public. That is where rehabilitation and the work of the Parole Board play such an important role. Roderick Campbell mentioned that.

Although I have focused primarily on those who have been imprisoned for serious sex offences, I would argue that the same balanced viewpoint will work across all crimes. The bill goes some way towards ensuring that the policy of ending automatic early release for all long-term prisoners

will have at its heart public safety and the need for effective rehabilitation and supervision.

Section 2 is plain common sense and I welcome it. Knowing that the services were not available, it was wrong of us to send people out who really needed help not to reoffend. Section 2 will have a big effect on people when they are released and, in the long run, will help them and society to get a better understanding of how things work.

Although work is still to be done at stage 2 in committee, I feel that we are more than on the right track and I commend the bill to Parliament.

15:50

**Margaret McDougall (West Scotland) (Lab):**

As we have heard, the bill before us—which proposes to end automatic early release for sex offenders serving four years or more and other offenders serving 10 years or more—is likely to be substantially amended by the Scottish Government at stage 2.

If the bill were to be passed in its current form, it would affect only 1 per cent of prisoners in Scotland. The Scottish Government's proposed amendments would end automatic early release for all long-term prisoners serving four years or more, which equates to only 3 per cent of the 7,851 people who made up Scotland's prison population, on average, in 2013-14.

As we have heard today, there are greater concerns about the sentencing policy and process in Scotland. Scottish Labour agrees with victim support groups that there needs to be clarity in sentencing; victims, the community and offenders need to understand what the sentence that is passed by the judge or sheriff means in practice. The bill does not go far enough in achieving that aim.

The amendments will also introduce a mandatory period of supervision after release. At this stage, however, the period of supervision is undefined in the bill. Furthermore, we do not yet know whether that period will be part of the issued sentence or whether it will be added on at the end of the custodial sentence. It would be helpful if the Scottish Government could clarify that point as a matter of urgency.

Section 2 of the bill, which—like others in the chamber—I welcome, would ensure that offenders who were due to be released on a Friday could be released up to two days early to ensure that proper care and support were in place before the weekend. That should improve the transition from prison back into the community. Currently, if someone is due to be released on a Friday, the proper care and support are not in place in relation

to social services and housing, which can—and does—lead to issues.

Given those substantial amendments, both the financial memorandum and the policy memorandum will need to be rewritten. The SPICE briefing on the bill originally estimated that

“the eventual long-term impact would be to increase the average daily prison population by approximately 140.”

I would expect that figure to increase. The number of those affected, using 2012-13 figures, stood at 131 offenders, but the amendments would affect 473 offenders—again, based on 2012-13 figures.

An increase in demand for prisoner programmes is also expected, reflecting the fact that any early release for relevant prisoners would be based on an assessment of risk to the public. With that in mind, we must ensure that adequate rehabilitation services are in place. The Howard League for Penal Reform in Scotland states that

“it is necessary for the Scottish Prison Service to provide sufficient rehabilitation services to allow prisoners to reduce their risk of reoffending and harm. Where such services are not available, continued detention may become arbitrary and in breach of Article 5 of the European Convention on Human Rights”.

Offenders who have been refused release could have a human rights challenge if they have not been offered the necessary rehabilitation programmes, and members across the chamber certainly agree that we should avoid that.

Some of the changes will put additional strain on the prison system if proper resources are not made available. Indeed, during his evidence to the Justice Committee, Professor Alan Miller of the Scottish Human Rights Commission stated:

“You have heard from witnesses that the resources within and outwith prisons are not seen as being adequate. The legislation will increase the spotlight on whether resources are adequate.”—[*Official Report, Justice Committee*, 13 January 2015; c 13.]

The bill is due to go through substantial amendment, and it is difficult to discuss its full impact when we do not know the full projected costs and effects of the amendments. However, Scottish Labour will support the bill at stage 1. Despite the fact that it fails to address sentencing policy and reconviction, it is a start.

I hope that the Scottish Government will ensure that prisons and the Parole Board are properly resourced, that adequate rehabilitation services are in place and that those services can meet future demand.

15:55

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I very much welcome the opportunity to speak on this important subject. We

all know that control over the release of prisoners is a subject that has needed to be addressed for some time. In session 2, I had the privilege to serve as shadow deputy justice minister, with special responsibility for prisons. I ended up visiting a lot of prisons, including Saughton, Inverness and, of course, Peterhead, which is in my constituency. I was in there more often than I would have wished to be. I also visited a prison in Wales and a prison in France. When I was in Georgia, I met the Georgian Minister of Justice and talked to him about prison policies. It is clear that different jurisdictions take a wide range of approaches.

It is also clear that we need to be careful about some of the broad-brush assumptions that we may have been making. The first obvious thing to say is that each prisoner is an individual, and we need to be careful to consider each prisoner as an individual. It is therefore important that the Parole Board is particularly well resourced on the back of the reforms that we are considering. The figures that are provided in the financial memorandum accompanying the bill say that the number of cases that the Parole Board deals with will rise by 230 by 2029, which is a fair distance out. We need to have the resources in place for that.

We have been talking quite a lot about sex offenders. It is important to remind ourselves that there are two kinds of sex offender. There are those who are essentially violent criminals, who express their violence through sexual offences—rape or violence in a sexual relationship. The more insidious cases involve paedophiles and those who groom the people they are going to subject to sexual abuse. We say that reconviction among sex offenders is lower. That is factually correct. However, we must not confuse that—reconviction is lower, but reoffending may or may not be lower. It is substantially more difficult to detect many sexual offences.

Where sex offenders are concerned, we have to be particularly careful. We must ensure that the Parole Board and the other relevant bodies are well resourced to deal with that particular category of offender. The average IQ of a paedophile is a bit higher than that of somebody who is in prison for other offences. They are more cunning, they are more dangerous and they carry greater risk. We need to be careful to address that. I have confidence that we in the Parliament wish to do that, and I have confidence in the Prison Service.

In the end, our objectives in dealing with people who are serious offenders are threefold. First, there is the element of retribution—giving to the person who has offended a real sense of the opprobrium that comes from their having committed an offence against another member of society. The person who has been subject to the

offence would certainly wish to see that, and that is right and proper.

Secondly, there is rehabilitation. We have talked quite a lot about rehabilitation, which is the moral thing for us to do, and it is also an economic thing for us to do. It is very expensive to put people in prison, as we know. Every time that we effectively turn someone's life round and stop them coming back to prison, there is a huge economic benefit.

The third objective is restitution, which I have not heard mentioned in the debate, although it has been mentioned in justice debates in the past. The use of restitution is relatively limited. However, after my mother-in-law had her purse stolen, the court ordered the two individuals who were responsible to repay her the money. That is a proper part of sentencing policy. We have to be very flexible, and we must allow our judges to look at the circumstances and apply flexibility.

Not all prisoners get it. One of the visits that I made as shadow deputy justice minister was to Saughton prison. I found myself in a cell with six lifers, who were in for murder. The prison chaplain stood at the open door so that he could summon the staff if things got too heated. One of the offenders had been released on licence and had been recalled—in his view, entirely unjustifiably so. He said that he had been recalled just because he happened to be with a group of people when another murder took place—he had nothing to do with the murder; he just happened to be there. When we deal with prisoners whose attitude is thus, we realise that it is in the nature of things that it is impossible to get it right all the time. I did not feel uncomfortable about that recall, and I do not think that many other people would.

The bill could restore public confidence in how sentencing works, which is an important point. It takes the first steps, but we will have to go down the whole road in due course. We have to make sure that we have the resources when people come out and that the new arrangements for access to health, housing and other services are in place for prisoners.

I was very impressed by Saughton prison when I visited a few years ago. Peterhead, with a very different category of prisoners, did its own thing. HMP Grampian has a very good approach to working with prisoners. We now have young offenders, women prisoners and a more general prison population all on one prison campus for the first time; it is expensive to do, but it is expensive not to do it properly.

I look forward to working with HMP Grampian. It will be more challenging for the community to have to interact with prisoners as they adjust to going back out than it used to be when we had all Scotland's serious sex offenders locked behind

the walls, entirely disconnected and discharged back to communities elsewhere. That is a price worth paying and I am sure that the staff in the Prison Service will do well with that facility. What happens in HMP Grampian will inform what should happen elsewhere. It will lead to improvements in our programmes and in outcomes.

This is a good, useful one-page bill, which takes us forward on the road that we need to be travelling. I congratulate the cabinet secretary and the Government on the progress that they have made, but I, along with others, will continue to challenge the Government to do substantially more when it is able to do so.

16:02

**Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP):** I am not, and never have been, a member of the Justice Committee, but looking back over the eight years that I have spent in the Parliament and the debates on justice that I have taken part in, I notice that usually I have a personal or professional interest in the work that the Justice Committee is doing. It is important work, which we expect to be done, because we want to live in a safer society.

My background in social work took me to many households, local area teams, support groups and support centres, where I saw some amazing work going on. When we see people who have been, in a sense, victims of the justice system, in as much as how they ended up there, and how they are rehabilitated out the other end, we cannot fail to realise the fantastic work that is being done by professionals in that field. They need every tool in the toolbox to help them to do that work.

I have said it before, but I will say it again: the safety of the public is our absolute priority. However, rehabilitation and support for people who have been through the justice system are just as important in building the safe society that we all want.

The question is, how best do we achieve that result? I know that it is not going to be done in one great leap, but these debates—the number that I have taken part in is probably a drop in the ocean compared with the number for some others in the chamber—are a way to highlight some of that, and I believe that this particular bill takes us a small but important step forward.

One of my interests as co-convenor of the cross-party group on men's violence against women and children is obviously what happens to people who are victims of domestic violence or sexual abuse. We might see a convicted criminal sentenced for 10 years, and his victim might heave a sigh of relief, but she—and in most cases it is a she—will be well aware that the likelihood of

that perpetrator being released early and of her not knowing about it is very high indeed.

I supported the Clare's law pilot, and I am happy that the Scottish Government has taken that forward. It allows someone who has suspicions about their partner to get the information that they need. That is an important way of providing people with relevant information where appropriate.

There are questions about transparency, and I see that transparency and clarity are a key theme in the stage 1 report. People's rights, and some prisoners' rights, have to be clear and transparent too. They are two sides of the same coin, in my opinion. Knowing what the real, rather than theoretical, outcome is going to be is just as important to prisoners as it is to victims, and transparency is a hallmark of this Government. We live and operate in a real world, rather than behind the gated entrance of Downing Street.

The bill is a move towards greater transparency. Rather than vague assumptions about early release, it will introduce proper controls that will improve the system by allowing decisions about when and how people are released to be the most important element. Those decisions will be taken and informed by individual consideration of a prisoner, taking into account public safety and the need for effective supervision. In that way, it addresses both sides of the coin: it ensures that dangerous prisoners do not get released automatically, while bringing in a mandatory period of control through supervision for all long-term prisoners leaving custody. Long-term support and control are something that I absolutely agree with.

I suppose that doing that successfully will always be something of a balancing act. I spent some time working with criminal justice social workers, so I know that it is sometimes difficult to make that judgment call. That is why they need the best tools to hand.

We are thinking about not petty criminals—people on three or four-month sentences—but people who are serving much longer jail terms and who should remain in jail for the sentence that they have been given. No prisoner serving time for serious offences would be automatically released on licence after two thirds of their sentence, for instance. We already know that a prisoner on automatic release is seven times more likely to breach their licence conditions than someone released after a decision by the Parole Board. The reason is obvious: when individual consideration is applied, people are likely to respond more positively.

When the Government decided to close down Cornton Vale women's prison, that was one of the realities that the cabinet secretary recognised. Prison of itself is not curative. What works is small

units such as the 218 centre, where women prisoners are managed in a far more constructive way. Although by far the majority of women in prison are there for minor offences, women can and do commit violent crime, and society should be protected from them.

Dame Elish Angiolini's report pointed out that women commit different types of crimes for distinctly different reasons. Drug abuse, a dysfunctional or deprived family background, being victims of violence themselves, or confused desperation can all colour their motives. She pointed out:

"While the proportions of the male and female populations in prison for violent offences are similar (about 35 per cent as at 30 June 2010), proportionally more women are in prison for 'other' crimes".

The current system is—much like Westminster, in my view—not working for Scotland, but we have the foresight and intelligence here to find ways to manage criminals better. The elements that I have highlighted indicate how right Dame Elish Angiolini's recommendations are.

I am talking about the women's prison because I believe that the recommendations from that report could apply across the board. One-stop shops such as the 218 centre and the Willow project can be used to deal with all prisoners. There is scope to develop that idea across the entire prison regime, and I hope that the cabinet secretary will think about that.

Support services such as those that have been described, and the greater clarity on release arrangements for which the stage 1 report calls, can only help to ensure that we reduce reoffending and give the professionals the teams and tools to do the job properly. Victim Support Scotland has called for more clarity, and I am sure that the cabinet secretary will step up in that regard.

It is clear that the Government and members want to move forward with innovative responses in order to find a more effective and meaningful direction than the current system can offer. That can only be good for us all.

16:11

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** As an MSP who is not a member of the Justice Committee and is therefore not as familiar with the systems and processes that are involved in our application of criminal justice, it has always seemed to me that the sentencing of those who are convicted of crimes is an area in which greater clarity and more work to explain the system are needed.

Nowhere has that been more the case over the years than in the debates that have taken place on

ending automatic early release. I had hoped that the reforms that we had been promised by the Scottish Government would help to provide clarity to do that, but my reading of the bill and the report by the Justice Committee suggest that that is not the case. In my view, the proposals in the bill do not go far enough in providing protection for our communities.

I am speaking about the bill as it is currently drafted, but we are in a rather strange position today, given that we are debating at stage 1 a bill that will be fundamentally different by the time it emerges from stage 2 consideration. Having said that, I applaud the cabinet secretary's willingness to lodge the amendments that he has outlined today because I think that they will help to make the situation better and clearer. I am sorry that he has found himself in a position in which that has been necessary; I am sure that the problem is not of his making, but he certainly seems to be stepping up to the plate and trying to resolve it.

It seems that we are looking at only one part of the system in the bill, certainly as it is currently drafted: the end point when a prisoner is released. However, we also need to consider the point at which a prisoner is sentenced to ensure that our sentencing policy itself is correct and transparent.

The fact that the sentencing council, which was legislated for in 2010, will not begin its work until the last quarter of this year seems to me to be wrong. It would surely have been better to allow the policy proposals that are contained in the bill to be part of a comprehensive package of measures that could have been influenced by the sentencing council. I am not suggesting that there should necessarily be a delay in putting forward the provisions, but I believe that they would have benefited from consideration by a sentencing council had it been introduced prior to this point.

The Law Society of Scotland, in its briefing to members, makes the valid point that the most significant—indeed, as Margaret Mitchell highlighted, I believe that the society used the word “radical”—change to custodial sentencing policy in more than 20 years will be introduced by way of a stage 2 amendment to a bill that is already before Parliament.

The Law Society contrasts that with the situation in 1993, when significant changes were last made. At that time, as we know, the changes were made only after the careful consideration of two reports on the matter, one of which had benefited from 14 months of consideration and much discussion within the legal profession and elsewhere.

**Christine Grahame:** Does the member accept that the Justice Committee will have the opportunity to take evidence on what might be substantial amendments at stage 2 if it wishes to

do so and that the Law Society of Scotland among others will have the opportunity to challenge those amendments?

**Patricia Ferguson:** I absolutely accept that, but it is still quite a strange way to legislate. The committee and Parliament should really have had those materials at stage 1 if the committee was to do the job that we all expect it to do. I have no hesitation in saying that I know that the Justice Committee, under the convenership of Christine Grahame, will do a fantastic job, but it should not have to do it in that way.

Victims and communities need to know that, if a sentence of four years is handed down, the prisoner will be in prison and communities will be protected from that individual for that length of time. I do not disagree at all with the Scottish Government on that point, but victims and communities also need to know that when that person has been released from prison, everything possible has been done and will continue to be done to prevent them from reoffending.

The bill must put in place systems to help to manage the transition that every prisoner has to make back into their community at the end of a sentence that they will have served in full. The offender has to leave prison equipped with enough skill and self-awareness to be able, with support, to find a productive role in society once again. I acknowledge entirely that that is the difficult part. Rehabilitation is not easy, but it must not be seen as an add-on; it must be seen as an essential part of a successful justice system. If rehabilitation is to work, it must surely continue as tailored support when a prisoner is released.

I congratulate the Justice Committee on its work on the bill and its carefully considered report. It was right to ask for clarification of the Scottish Government's intentions. It is also right to want to know what the minimum period of supervision upon release will be and that any guaranteed minimum period will be sufficient to allow effective post-release work with the offender to take place. That must be accompanied by continuous risk assessment.

In his opening comments, the cabinet secretary quite understandably asked for views on the length of the mandatory period. It is clear that he is still considering that, and that is to be welcomed. My view is that the period must surely depend on the nature of the crime and that it must be proportionate to the sentence. I am not sure that we can say that six months or nine months is right. I think—perhaps the Justice Committee's evidence will prove me wrong; I am happy to be proved wrong on this one—that it should be tailored to the individual, the pattern of their offending and the sentence that they have served. However, time will tell what the outcome of those deliberations is.



As we have heard, continuous monitoring will, of course, bring additional pressure to bear on the parole service and other community-based services. The question of how they are to be resourced must be properly addressed. The committee is right to press for a supplementary financial memorandum and an updated policy memorandum.

The prospect of allowing release to take place up to two days earlier to avoid a clash with the weekend makes absolutely perfect sense to me. Like many members, I am sure, I have had phone calls not just on Fridays but earlier in the week—I have had letters in advance, too—from people who were being or had been released from prison and were looking for support because they were worried about what would happen to them when they were released and about the effect on their behaviour. I very much welcome that aspect of the bill.

16:19

**Clare Adamson (Central Scotland) (SNP):**

The decisions that we make as the bill goes through Parliament will affect our prison communities. A prison community is much more than the prisoners; the staff, wardens and support and counselling services all form part of that community, and any changes that we make with the bill must ensure that no damage is done to community cohesion in our prisons. The long-term safety of the public and public service workers must be paramount.

I am not a member of the Justice Committee, but I have listened to the debate with interest. I do not have a professional background in this area, although I served as a substitute member on Lanarkshire community justice authority and, as such, am familiar with MAPPA. I am convinced that the safety of the public is the Government's absolute priority. Although progress has been made in recent years, the reform that the bill will bring about will ensure that, in the future, no long-term prisoner will be eligible for automatic early release after serving just two thirds of their sentence.

I believe that the bill will improve the system of early release by allowing the decisions that are taken about when and how people are released from prison to be informed by individual consideration of the prisoner, of public safety and the need for effective supervision of that prisoner. As well as ensuring that dangerous prisoners will not be released automatically, the bill provides for a mandatory period of control that will mean that all long-term prisoners who leave custody will be supervised.

As I said, the bill will improve the system of early release by allowing decisions about when and how people are released from prison to be taken in an informed manner. It has already been mentioned that section 2 should ensure that no one comes out of prison on what has been termed "cold release".

We cannot consider the bill in isolation from previous bills and previous reports on what has been happening. I believe that, as was stated in 2008 in the report of Henry McLeish's independent Scottish Prisons Commission, fundamental changes to the operation of the current system of early release can be taken only once prison numbers are established at a longer-term lower-trend level, so that capacity is available in the prison estate to deal with the short to medium-term impact of the changes.

We need to remember the context of the bill, which is that recorded crime has fallen for the seventh year in a row and is now at a 40-year low. The Government continues to maintain its commitment to providing 1,000 extra police officers to tackle crime in our communities.

Many members have mentioned the need to ensure that rehabilitation programmes are available and properly funded. The eventual impact on prisoner courses of the policy of ending automatic early release will be felt some years in the future, but I am sure that the cabinet secretary will work with the SPS to ensure that prisoners will have appropriate access to the support that they need in order to be rehabilitated.

My colleague Stewart Stevenson talked about sex offenders. This week, there was a programme on Radio 4 that was both informative and, at times, challenging to listen to. It was a documentary called "Inside the Sex Offenders' Prison" that was made by the documentary film maker Rex Bloomstein. He had unprecedented access to HMP Whatton in Nottinghamshire, which is the largest sex offender prison in Europe. He sought to investigate how its inmates are rehabilitated for release. In the programme, it was noted that in Whatton no distinction is made between prisoners according to the type of sex offence that they have committed. There is an absolute focus on recognising that all the crimes have victims and on getting prisoners to take responsibility for their actions.

Lynn Saunders, who is the prison's governor, said:

"Whatton's a great leveller ... We've got everybody here you could imagine".

She mentioned that

"vicars, teachers, airline pilots, police officers, prison officers, doctors ... people with learning disabilities, who have low IQ and complex mental health problems"

are all represented in the prison community.

Approximately half the prisoners are on determinate sentences and know their release date; the rest do not. Whatton has become known as a specialist treatment centre for rehabilitation. It offers a wide range of sex offender treatment programmes—indeed, it offers more such programmes than any other prison in the United Kingdom. The overwhelming majority of the prison's inmates have accepted their crimes and are working to address them.

The offences that the prisoners at Whatton have been convicted of vary considerably. Dave Potter, who is one of Whatton's most experienced facilitators, said:

"What we do at Whatton is to try and get them to understand the harm done to others, the harm done to themselves, and ways of identifying that warning sign when they get out, that they are on the path to offending again."

As I said, it was a challenging documentary at times and not an easy listen. It addressed issues such as how the prisoners' negative emotions of shame and guilt are a huge barrier to the treatment process and how staff must work through them to build prisoners' self-esteem.

The documentary maker frequently addressed the paradox that Elaine Murray mentioned, which concerns the societal pressures and the pressures on us as politicians regarding how we view offenders and how they should be dealt with. We want sex offenders to be profoundly remorseful about their crimes, but rehabilitation demands that they go far beyond that in order for reoffending to be addressed and prevented.

Many members have talked about the low rate of reoffending by sex offenders. Governor Saunders of HMP Whatton noted that the rate among them is only 6 per cent compared to more than 50 per cent for the general prison population.

HMP Whatton seems to have had great success. I highlight that because rehabilitation programmes and their resourcing are a big challenge to the Government. I look forward to the cabinet secretary's discussion of how he might approach the matter. It is vital that rehabilitation be at the core of what we do in prisons so that society as a whole can be satisfied that the bill represents progress.

I commend the bold approach that the cabinet secretary has taken. He has listened to the evidence and reacted to the stage 1 deliberations. His decision not to build a women's prison at Greenock is testament to his absolute commitment to prison reform.

16:26

**John Finnie (Highlands and Islands) (Ind):** I, too, thank the many people who gave the evidence that formed the basis of the Justice Committee's report. I will quote straight away from one of them, Professor Fergus McNeill of the University of Glasgow, who said:

"To put it crudely, simply 'storing the risky' for a little bit longer doesn't in fact serve to reduce it—the key issue for public safety is the condition in and conditions under which people are detained and then released, not how long they serve. How long they serve is principally a matter of 'just deserts' or proportionality of punishment to the offence."

Professor McNeill also encouraged us to raise the level of debate. For that reason, I welcome the change to the initial restriction of the bill to sex offenders and prisoners serving more than 10 years. That restriction might have been popular, but it was certainly not evidenced by the reoffending rates that we heard about.

Although some people still want to talk tough, I would sooner talk just and effective. The debate has been wide-ranging and has stretched beyond the stage 1 report. As other members have done, rather than be critical of the approach that the Scottish Government has taken, I say that it is commendable that the Government has listened and responded accordingly.

I will quote another contribution that the committee received:

"Recalibration of sentencing—so that when a sentence is announced or laid down in court it relates to a real time, rather than its being something that has been chopped and changed around—would be very helpful indeed for everybody involved, from the perpetrator who has been convicted, to the victim. A huge amount of clarity is required, but we have the potential to join things together and to come up with something coherent, which we do not have at the moment."—[*Official Report, Justice Committee*, 24 February 2015; c 37.]

That was said not by a Conservative politician but by Pete White of Positive Prison? Positive Futures. It is important that we have clarity. The policy memorandum talks about reducing offending and improving public safety. Surely everyone can go along with that. It also talks about the minimum period of compulsory supervision in the community.

We must understand again what the purpose of prison is. It is not only to punish, but to improve public safety—on more than one occasion, we heard the cabinet secretary talk about dangerous prisoners. However, crucially, the purpose of prison is also long-term re-integration—or, I suggest, integration because many of the people who find themselves to be the subject of custodial sentences have never really been integrated into society in the first place.

It will be years before the effects of the bill kick in and there is an opportunity to see reintegration. That will be the gauge of the proposals' effectiveness and will determine how they are judged, but it will be some time in the future.

We must look outwith the prison walls, too. I commend the outward-looking approach of Colin McConnell, the SPS chief executive, and his staff. They have welcomed the proposed guaranteed minimum release period. As has been said on more than one occasion, it is important that we continually assess the risks and put in place measures to address those risks, which includes the two-day early release. The Scottish Prison Service also has outreach workers who can facilitate the integration that we all want to see happening.

Integration will partly be about the effectiveness of management programmes in the prisons. There are challenges around that. We have heard from the Scottish Prison Service that the programmes are resource intensive and require specialist delivery skills. We have also heard that the SPS delivers them at the most appropriate time in a prisoner's sentence, taking into account their willingness and readiness to engage and, crucially, the availability of programmes, which has been a concern for us all.

It is important to say that prisoners are not a uniform group. Therefore, individual assessment must be made of individuals' needs.

The purposeful activity review that was undertaken by the Scottish Prison Service has been mentioned. The Scottish Government's response talked about developing learning and employability skills in order to build life skills and resilience and to motivate personal engagement with the prison and community-based services. That was welcomed by Positive Prison? Positive Futures.

The Parole Board for Scotland's role has been mentioned. I absolutely agree with the cabinet secretary: I trust its judgment. We know that it welcomes the proposed post-release period.

The cabinet secretary sought views on the minimum period. The figure of six months has been mentioned. My suggestion is that the issue is not about the quantity or the length of the period; rather, it is about its quality. It will also be important to have in place robust mechanisms to support people when they have been released.

The Scottish Human Rights Commission has been mentioned. I hope that the Government will respond positively to its comments.

Early release has been frequently talked about. That is beyond the gift of this chamber. Housing is a challenge, but so, too, are benefits. Therefore,

having the Department for Work and Pensions on board for anything that is done would be helpful.

I want to see a move to end short sentences and I want robust community disposals. Social Work Scotland has talked about a review of sentencing guidelines. I also want to see the Scottish Government do more than simply note the suggestion of extending MAPPA. If we want to enhance public safety, that would, ideally, take in violent offenders and not just sexual offenders.

An issue that is frequently mentioned is co-ordination across the criminal justice system. It is key. The Scottish Government's initial approach was challenging, but I welcome the reforms that are being suggested. However, rather than talk tough, let us talk just and effective.

16:32

**Annabel Goldie (West Scotland) (Con):** The debate has revealed a conundrum. People either support or oppose automatic early release. Those who support it want it; those who oppose it do not want it at all.

My party alone has a distinguished record in this Parliament of consistently opposing automatic early release. As members have said, more than 20 years ago, a Conservative Government introduced automatic early release. It was also a Conservative Government that, recognising that automatic early release failed victims, judges and the public, passed legislation to abolish it. That legislation was never implemented by the incoming Labour Government of 18 years ago.

Since 1999, it has been this Parliament's responsibility to deal with the issue. My party has been unequivocal in its criticism of automatic early release. Since 1999, I have spoken in various debates condemning it; my party has frequently lodged amendments to end automatic early release, only to be defeated by all the other parties.

**Christian Allard:** Will the member give way?

**Annabel Goldie:** Let me just expand my argument.

As a political principle, my party's credentials could not be clearer on the issue. In 2007, it was heartening to find that we had acquired a political ally. In both its 2007 and 2011 Scottish election manifestos, the SNP committed to abolishing automatic early release of offenders.

In 2007, the SNP said:

"The SNP believes there should be an end to the automatic release of offenders. We support the recent legislation in this area and in government will drive forward this important area of reform."

It echoed that in 2011, when it said:

"We will build on the work already done and involve the sentencing council in further action to address unconditional early automatic release."

It seemed that our arguments had won over a new adherent to the principle of ending automatic early release. However, in politics principle is not enough; it needs to be married with policy to deliver what is pledged. It is disappointing that, eight years on, we have from an SNP Government a proposal not to abolish automatic early release but to introduce a partial and heavily qualified abolition.

According to SPICe, the bill as introduced would have applied in 2012-13 to 107 people convicted of sexual crimes and 24 people convicted of other crimes and offences. That total figure of 131 offenders would have represented less than 1 per cent of all people receiving a determinate custodial sentence. So, we have an abandonment of the principle and a divergence from those earlier manifesto commitments.

I make it clear that I do not disagree with the statement that introducing the abolition of automatic early release is not straightforward—it is not. As many members have said eloquently, there is a need to address prison capacity, whatever issues confront the prisoner—be they drug addiction, alcohol dependency, illiteracy or innumeracy—and to prepare the prisoner for release. However, those are issues of management that should neither intrude on nor detract from the kernel principle that we either have automatic early release or we do not.

**Stewart Stevenson:** Will the member take an intervention?

**Annabel Goldie:** I ask the member to bear with me.

What we currently have from the Scottish Government is a proposal to scrap automatic early release for a tiny percentage of prisoners. It would not affect short-term prisoners and it would affect only some long-term prisoners. In my opinion, that is not good enough.

Sensitive to perceived shortcomings in the bill, the Scottish Government proposes to lodge significant amendments at stage 2. However, in my opinion, those proposals do not address the fundamental shortcomings of a partial end to automatic early release although they certainly raise issues of process for the Parliament. The new proposals would apply to approximately 450—just 3 per cent—of all people who received a custodial sentence in 2013-14. Furthermore, the Justice Committee is now being asked to form a view on those proposals as part of its stage 1 report without sight of a revised policy memorandum, a financial memorandum or

explanatory notes on the bill. That is not conducive to scrutiny.

**Stewart Stevenson:** Is the member ready to take an intervention now?

**Annabel Goldie:** I give way to Mr Stevenson.

**Stewart Stevenson:** Although I accept that the member is correct to point to the small percentage of prisoners who would be affected, I wonder whether she accepts that it is a very much larger proportion of the increased prisoner nights that will be derived, because it is the longest sentences that are being lengthened—therefore, it is appropriate to proceed in a way that ensures that we do not lose the principle through difficulties in implementation.

**Annabel Goldie:** I expected an intervention, not a dissertation. What Mr Stevenson does not address is the fundamental intellectual conundrum. In my opinion, we either believe in ending automatic early release or we do not.

**Christine Grahame:** We do.

**Annabel Goldie:** Then why not deliver it? It is not being delivered.

**Stewart Stevenson:** Numbers.

**The Presiding Officer (Tricia Marwick):** Can members stop shouting across the chamber, please, and allow Ms Goldie to continue?

**Annabel Goldie:** Thank you for your protection, Presiding Officer.

That is a fundamental conundrum, and it is why the bill, even with the Government's proposed flourishes, does not end automatic early release. Nobody can pretend that it can—Labour members have been honest about that. They have been quite frank in revealing their sense of a paradox, feeling that the bill does not go far enough but still wanting to support it.

In the opinion of my party, the bill as structured and proposed does not provide victims, their families or judges with the simplicity and clarity that they need and to which they are entitled when a sentence is imposed. For that reason, my party will abstain in the vote tonight.

16:39

**Hugh Henry (Renfrewshire South) (Lab):** I start by echoing some of the comments that have been made about the role of the cabinet secretary. I congratulate him on trying to do the best he can to make something sensible out of what is, frankly, an incoherent and unacceptable bill. I think that he is showing good will to the Parliament in trying to sort out a mess that he has inherited.

This is a bad way to make legislation. It actually undermines the credibility of this Parliament. When the Parliament was set up, we prided ourselves on how we would be different—how we would make good legislation, how we would listen and how we would then reflect the advice that we had heard in our strong and powerful committees. That has not happened and is not happening in this case. It is ridiculous, Presiding Officer. We are having a debate about a bill at stage 1 in the full knowledge that what will be considered at stage 2 will be completely different.

**John Finnie:** Does what the member says not precisely prove the point that there has been robust scrutiny?

**Hugh Henry:** The member fails to understand what I am saying. I am not criticising the committee. It is because we have one of the best committees in the Parliament looking at the bill that we will be able to make substantial changes. My criticism is of a Scottish Government bringing to the Parliament a bill that in many senses is not fit for purpose.

Scottish Labour will support the general principles of the bill at stage 1 tonight, but we do so with severe and significant reservations, because we are having to have a debate in the abstract. We support the principles, but we do not have a clue about what will come before us at stage 2.

Presiding Officer, I share your aspirations about the way in which the Parliament and its committees need to change. However, maybe one of the things that we should all collectively do is reflect on the process that this bill demonstrates. We are being asked to make significant decisions with an absence of detail and of clarity. It does not do anyone any good trying to make a decision on that basis. It does not help the public, and it does not help the victims.

We know what the principle is, and we can sign up to it. In a sense, it is a shame that, because of a lack of substance in the bill, some of the debate this afternoon has veered into a wider debate about sentencing, prison policy and rehabilitation. That is a debate that the Parliament needs to have at some point, and I hope that we will get that opportunity, but this is a specific bill about early release and not about wider prison policy. It is a specific bill about a very specific thing, yet we are not seeing any detail. The cabinet secretary is not able to tell us today what is in the detail.

**Christine Grahame:** We are voting today simply on the general principle of ending automatic early release for long-term sentences. As Hugh Henry is well aware, there is every opportunity at stage 2 for a substantive amendment to fall, as indeed there is at stage 3.

That is not the best way forward, but the Justice Committee has followed procedure at stage 1 and will do its utmost at stage 2 to make good legislation.

**Hugh Henry:** I have every confidence in Christine Grahame and her committee, and I am thankful that it is the Justice Committee that will consider the bill, but that does not excuse the failure of the Scottish Government to bring something coherent to us today to consider. It is not good practice to say that we will press our buttons today to vote for a principle without knowing the detail of what we are voting on.

By all means, let us change, amend and improve bills, but we are taking evidence from people and then saying to them, "Actually, do you know something? What we are going to do once we get to the detail might be different from what we debated and discussed at stage 1."

**Christian Allard:** Will the member give way?

**Hugh Henry:** No.

Michael Matheson, Christine Grahame and others have commented on the Parole Board, but it was Stewart Stevenson who hit the nail on the head. We cannot make these changes unless we are prepared to invest resources in making the Parole Board work effectively. Jayne Baxter, Margaret McDougall and others talked about the need for clarity for victims. At the bottom of any argument on this issue must be the fundamental principle that, when it comes to sentencing, victims should be given the clarity that they deserve, and we should be ensuring that our judges have the wherewithal to do that properly.

However, as Elaine Murray has pointed out, we now have a policy document that is not fit for purpose and a financial memorandum that is based on something completely different. We will vote for that memorandum today, but the fact is that we do not know whether the one that will come later will be anything like the financial memorandum that we have just now, because the bill itself will be completely different.

This is not the way to make good legislation. That comment has nothing to do with party politics; it is an observation about the way in which the Parliament is working. The bill is a poor example. I am not being critical of the cabinet secretary, because he is doing his best to sort out this mess but, as many members including Elaine Murray, Margaret Mitchell and even Roderick Campbell have pointed out, the bill will be totally different at stage 2 from what is under consideration this afternoon.

Nigel Don is absolutely right: there is a need for parliamentary scrutiny. However, we cannot scrutinise if we do not have the information. In that

sense, stage 2 is going to be critical because, as Christine Grahame rightly pointed out with regard to inviting evidence, we are going to have to do the job that should have been done before stage 1 and go back into all the detail. We are going to have to look at evidence not just on the amendments but on some of the fundamental principles.

A number of members have talked about the sentencing council, but the fact is that we have got that whole process back to front. The sentencing council, which was promised long ago, should already have been set up and have been able to make recommendations to ensure that the bill fitted into the council's own deliberations. Instead, we will be setting up the council after the bill goes through.

I want to finish by referring to Christina McKelvie's comments about the broader policy, which is an issue that I touched on earlier. I think that the issue of women's reoffending and Dame Elish Angiolini's recommendations are pertinent to the wider debate, but we need to fit this bill into that wider debate. We need to get out of the party politics of this. We hear that the SNP does not want to spend money on prisons, because it is not seen as the right thing to do; we hear that Labour will not come forward with proposals to spend more money on the criminal justice system, because they might not play well; and we hear that the Conservatives, the Liberal Democrats and the Greens want to do their bit. We are all hesitant about doing something that might well be the right thing, so we need to have a debate on whether we are willing to spend more money on prisons—by which I mean more but smaller prisons—or on the rehabilitation that has been mentioned time after time. If we do not, we will be investing in failure and in the surety of having to spend more money in the future. We need to have a debate about our prison system, about our justice system and about the way in which prisoners are prepared for release, but in the end, we need to remember that it must come down to having safer communities and justice and clarity for victims. As long as we keep dancing around each other, playing party politics—[*Interruption.*] I am not going to engage in that—I do not have the time.

**The Presiding Officer:** You must come to a close, Mr Henry.

**Hugh Henry:** If the Parliament does not address some of the fundamental improvements that are needed and if we keep introducing bills in this cack-handed way, we are never going to advance the arguments at all.

**The Presiding Officer:** I now call the cabinet secretary to wind up. Mr Matheson, you have until about 5 o'clock.

16:49

**Michael Matheson:** This has been a useful debate. There have been a range of different contributions about the content of the bill. As John Finnie correctly said, the debate has gone much wider than the bill does, which, in my practical experience, is not unusual for a stage 1 debate. Individual members often raise issues that relate to the legislation but are issues of concern or experiences that they feel are relevant to the debate.

As I mentioned in my opening speech, I fully recognise the Justice Committee's detailed scrutiny of this particular piece of legislation. As someone who served on the Justice Committee for almost seven years, I am well aware of the type of detailed scrutiny that the committee does. I would expect any committee of the Parliament to identify areas in the legislation that need to be improved and to highlight issues of concern that have been raised during evidence sessions by witnesses, orally or in written form, in its stage 1 report. That is one of the real strengths of the Parliament.

I am a little confused about some of the suggestions that what the Government is now doing is, in some way, not acceptable. I am trying to respond to some of the concerns—

**Hugh Henry:** Will the cabinet secretary take an intervention?

**Michael Matheson:** Can I finish the point that I want to make first?

I am trying to use the stage 1 debate to respond to some of the concerns and issues that committee members and witnesses have raised. That is why I responded to the stage 1 report prior to today's debate, and set out how we will approach some of those concerns and issues. I see that as a mature and reasonable way of conducting this type of debate. It would be inappropriate for the Government not to set out at stage 1 how it will deal with such issues and to push on, irrespective of what the committee has heard, and not respond to the issues.

**Hugh Henry:** The cabinet secretary is absolutely right; that is the mature way to deal with the bill, and I congratulate him on doing the right thing. The problem is that, at stage 2, we will have a fundamentally different bill from the one that was introduced. The failure is in the way that the Government prepared and introduced the bill in the first place. That is what we have got to examine.

**Michael Matheson:** Saying that the bill will be fundamentally different is probably overegging it slightly, but I see the point that the member is trying to make, clearly not for political purposes. I

recognise that we are bringing in amendments at stage 2 and, as I experienced in different committees of the Parliament, it is not unusual to take further evidence at stage 2 based on the amendments that the Government lodges. I also experienced that during the previous Administration. It is an important element of the process. I have set out the approach that we will take and I fully expect the committee to take further evidence at stage 2 to consider the issues.

As I said, the debate has gone wider than the remit of the bill itself. It has gone into penal policy, sentencing policy and a range of other matters. When it comes to penal policy, I hope that every member in the chamber agrees with the McLeish commission's view. It said:

"The evidence that we have reviewed leads us to the conclusion that to use imprisonment wisely is to target it where it can be most effective—in punishing serious crime and protecting the public."

The approach that the Government will take is intended to achieve that in a range of different ways.

Members have raised a range of issues relating to penal policy. The first one that I want to address is the delivery of programmes in the prison estate. Elaine Murray legitimately raised the point about access to such programmes. She will be aware of the purposeful activity review that was undertaken of how activities are delivered in the prison estate. Work is now being done to implement the recommendations that came out of the review.

We will now go into an independent review of programmes, including psychological programmes, that are delivered within the Scottish Prison Service estate. Once we have that report, the SPS will be able to look at how it can build on the programmes that it has at present. Broadly, there are seven strands of programmes that the SPS takes forward, along with a range of other activity mechanisms. The review, which will be conducted by an independent person from the SPS, will consider all those issues.

When I attended the committee, I also said that while there is an anxiety about access to these types of programmes within the prison estate, a significant amount of resource within our prison estate is drawn into dealing with short-term offenders and the churn of short-term offenders within our prison system. If members are serious about dealing with the whole issue of more effective resourcing of rehabilitation programmes within our prison system, they must also be serious about dealing with the churn of short-term offenders. To do otherwise is to completely miss the point and to be entirely unrealistic about dealing with the issue effectively.

I am more than happy to have that debate. The approach that I intend to take will be to ensure that we use our resources in a way that is much more evidence based. Hugh Henry raised the point about whether we should invest in prisons and the political perceptions of that. As a Government, we have spent more than £0.5 billion since we came into office in investing in our prison estate to improve it and the quality of what it can provide.

Christina McKelvie mentioned dealing with women offenders. The cheap option was to build Inverclyde prison, but we as a Government have set out an approach that is much more evidence based. The design of that approach will be more costly to us, but we are mindful that the outcomes will be better and that safer communities will be delivered as a result.

**Elaine Murray:** I do not in any way disagree with what the cabinet secretary is saying, but surely he is demonstrating the point that my colleague Hugh Henry was making. These discussions have to be removed from the party-political battle. We have to discuss this in a sensible way, not by having a go at each other. We will not resolve many of these issues if they become a political football.

**Michael Matheson:** I am not entirely sure about the political football stuff, because the group that we have established is made up of a range of different stakeholders who will advise on how we move forward with the female prison estate and how we manage it; and we had the Elish Angiolini commission and the McLeish commission, which were independent of Government and set out clearly the measures that we should take in a non-party-political way. That is how we will continue to approach the matter.

I turn to the Conservatives' position on automatic early release. I have tried in the course of the debate, as I tried when I read the stage 1 report, to deal with the "intellectual conundrum" that Annabel Goldie highlighted: the logic of the Conservative Party not supporting the ending of automatic early release for our most serious criminals. As Annabel Goldie stated in her contribution, the Conservative Party has a distinguished history on this issue—a very distinguished one, as it introduced automatic early release for all prisoners. The logic that it is not supporting a bill to end automatic early release for our most serious prisoners because it does not also do it for short-term prisoners is, I am afraid, beyond me.

When Annabel Goldie made the point that this change in policy affects only 3 per cent of prisoners, I was mindful of what the UK Government has said on the issue. Chris Grayling, the Conservative member who is responsible for this area of policy in England, said:

"I've got limitations in the number of prison places I've got, so I have to start with the most serious offenders."

That is exactly what we are doing here in Scotland. He went on to state:

"It's not something I can change overnight, but it's something I'm going to change step-by-step and I'm starting with the most dangerous and unpleasant people."

That is exactly what the Scottish Government is doing. If it is good enough for the Conservatives in Westminster, why is it not good enough for the Conservatives here in Scotland?

**Margaret Mitchell:** Will the cabinet secretary give way?

**The Presiding Officer:** You will have to be brief, Ms Mitchell.

**Margaret Mitchell:** I will be very brief.

Given that this is a devolved issue, I am puzzled about why the cabinet secretary should be looking at what is happening in England. Our position is quite clear: we are in favour of the ending of automatic early release for all prisoners. The bill does not do that. We will abstain at decision time in the hope that the radical changes that the cabinet secretary has been forced to make to the bill can be looked at again, so that we have some common sense here and so that, at stage 2, the bill is amended effectively to abolish automatic early release, not for 3 per cent of the prison population but for 100 per cent.

**The Presiding Officer:** Cabinet secretary, you need to be brief.

**Michael Matheson:** I will be brief.

The position of the Conservative Party is that it wants to maintain automatic early release for long-term prisoners. By voting against the bill or abstaining in the vote, that is the message that the Conservatives will send out. They introduced early release and, tonight, it looks as if they are seeking to preserve it.

The bill is an important step forward in ending automatic early release. We set that out in our manifesto at the last election and we are taking it forward in legislation. I would call on all members to support the general principles of the bill tonight.

## **Prisoners (Control of Release) (Scotland) Bill: Financial Resolution**

17:01

**The Presiding Officer (Tricia Marwick):** The next item of business is consideration of motion S4M-11827, in the name of John Swinney, on the financial resolution on the Prisoners (Control of Release) (Scotland) Bill.

*Motion moved,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Prisoners (Control of Release) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—[*John Swinney.*]

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



## Decision Time

17:01

**The Presiding Officer (Tricia Marwick):** There are two questions to be put as a result of today's business.

The first question is, that motion S4M-12878, in the name of Michael Matheson, on the Prisoners (Control of Release) (Scotland) Bill, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Adamson, Clare (Central Scotland) (SNP)  
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)  
 Allard, Christian (North East Scotland) (SNP)  
 Baxter, Jayne (Mid Scotland and Fife) (Lab)  
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)  
 Biagi, Marco (Edinburgh Central) (SNP)  
 Brodie, Chic (South Scotland) (SNP)  
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)  
 Campbell, Roderick (North East Fife) (SNP)  
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)  
 Constance, Angela (Almond Valley) (SNP)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Don, Nigel (Angus North and Mearns) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Dornan, James (Glasgow Cathcart) (SNP)  
 Eadie, Jim (Edinburgh Southern) (SNP)  
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Fee, Mary (West Scotland) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)  
 Finnie, John (Highlands and Islands) (Ind)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Henry, Hugh (Renfrewshire South) (Lab)  
 Hepburn, Jamie (Cumbernauld and Kilsyth) (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)  
 Macintosh, Ken (Eastwood) (Lab)  
 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)  
 McCulloch, Margaret (Central Scotland) (Lab)  
 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)  
 McMahon, Michael (Uddingston and Bellshill) (Lab)  
 McMillan, Stuart (West Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 Murray, Elaine (Dumfriesshire) (Lab)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Paterson, Gil (Clydebank and Milngavie) (SNP)  
 Pentland, John (Motherwell and Wishaw) (Lab)  
 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)  
 Swinney, John (Perthshire North) (SNP)  
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)  
 Urquhart, Jean (Highlands and Islands) (Ind)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 White, Sandra (Glasgow Kelvin) (SNP)  
 Wilson, John (Central Scotland) (Ind)

**Abstentions**

Brown, Gavin (Lothian) (Con)  
 Buchanan, Cameron (Lothian) (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)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)

**The Presiding Officer:** The result of the division is: For 70, Against 0, Abstentions 10.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Prisoners (Control of Release) (Scotland) Bill.

**The Presiding Officer:** The next question is, that motion S4M-11827, in the name of John Swinney, on the financial resolution on the Prisoners (Control of Release) (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Prisoners (Control of Release) (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.

**The Presiding Officer:** That concludes decision time. I hope that the sun shines on you and you manage to get some rest.

*Meeting closed at 17:03.*



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