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## **Delegated Powers and Law Reform Committee**

# **Instruments considered by the Delegated Powers and Law Reform Committee during the third quarter of the Parliamentary Year 2025-26**



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# Delegated Powers and Law Reform Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1;

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule; and

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.

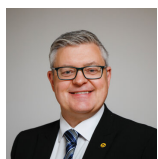


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# Committee Membership



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**Deputy Convener**  
**Bill Kidd**  
Scottish National Party



**Jeremy Balfour**  
Independent



**Katy Clark**  
Scottish Labour



**Roz McCall**  
Scottish Conservative  
and Unionist Party

# Summary

1. This reporting period covers 18 November 2025 to 26 January 2026.
2. The Committee considered a total of **59** instruments laid by the Scottish Government. The Committee also considered **one** document subject to Parliamentary control; this was also laid by the Scottish Government.
3. There were **three** instruments reported by the Committee during this period, and **three** draft instruments were withdrawn and re-laid as a result of issues raised by the Committee.
4. Furthermore, during this period, the Committee considered the delegated powers in **three** Bills at Stage 1 and **five** after Stage 2.
5. The Committee considered Legislative Consent Memorandums in relation to **six** UK Parliament Bills. This included **four** “first” Legislative Consent Memorandums, **one** Supplementary Legislative Consent Memorandum, **one** second Supplementary Legislative Consent Memorandum, and **one** third Supplementary Legislative Consent Memorandum (NB, the Committee considered both a “first” and a Supplementary LCM in relation to the same Bill during this period).

# Introduction

6. The purpose of this report is to provide a record of the Committee’s scrutiny of instruments and documents (Scottish Statutory Instruments (SSIs), UK Statutory Instruments (SIs) subject to joint procedure in the Scottish Parliament and documents subject to Parliamentary control) during the third quarter of the parliamentary year in 2025-26, covering the period 18 November 2025 to 26 January 2026.
7. This report—
  - sets out details of instruments and documents considered by the Committee which were drawn to the attention of the Parliament during the reporting period on one or more of the reporting grounds set out in Standing Orders;
  - touches briefly on the commitments made by the Scottish Government in response to the Committee’s comments and details any action that has been taken; and
  - outlines the Committee’s activity in respect of other matters within its remit.
8. Links to all minutes of Committee meetings and Subordinate Legislation reports from this period can be found in Annexe A at the end of this report.

# Overview and analysis

9. During the reporting period 18 November 2025 to 26 January 2026, a total of **59** instruments were considered by the Committee.
10. All of the instruments were laid by the Scottish Government. They are broken down as follows—
  - 25 affirmative instruments;
  - 19 negative instruments;
  - 14 laid only instruments; and
  - 1 instrument subject to a bespoke procedure set out in the Convention Rights (Compliance) (Scotland) Act 2001<sup>i</sup>.
11. The Committee also considered **one** document subject to parliamentary control, laid by the Scottish Government.
12. There were **three** instruments reported by the Committee. This equates to **5%** of the instruments laid by the Scottish Government.
13. **One** instrument was reported for more than one point:
  - The Firefighters' Pension Scheme (Scotland) Amendment Order 2025 (SSI 2025/406) – one point reported under ground (h), and one point under the general reporting ground, [see Committee report of 20 January 2026](#).
14. For comparison, in the same quarter in the Parliamentary year 2024-25, Parliament's attention was drawn to 2% of instruments considered. No instruments were withdrawn in the same quarter in that year.

## Reporting grounds

15. Under paragraph (a) of Rule 6.11 of Standing Orders, the Committee may determine that the attention of the Parliament should be drawn to an SSI on one or more of a range of technical and legal grounds. These grounds are set out in Rule 10.3.1 of the Standing Orders.

### *Significant reporting grounds*

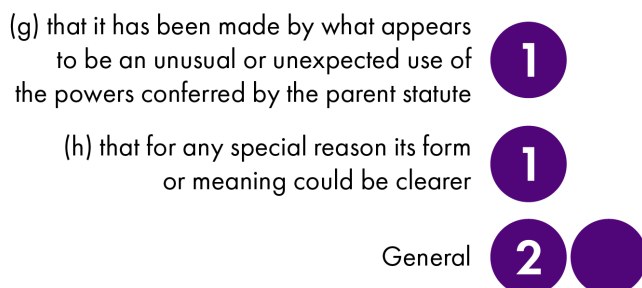
16. The Committee considers some reporting grounds to be of more significance than others. The Committee has therefore determined that it has concerns where an instrument is drawn to the attention of the Parliament on one of the following grounds:
  - **ground (e)** – there appears to be a doubt whether it is intra vires;

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<sup>i</sup> The [Representation of the People Act 1983 Remedial \(Scotland\) Order 2025](#) was subject to the urgent procedure in section 14 of the parent Act, which can be found [at this link](#). Under this procedure, the remedial order is made, but the order remains in effect only if approved by resolution of the Parliament within 120 days.

- **ground (f)** – raises a devolution issue; and
  - **ground (i)** – drafting appears to be defective.
17. These reporting grounds are referred to as *the significant reporting grounds*. The Committee considers every report under one of these grounds to be a serious matter as these raise fundamental legal questions and so there is the potential for the validity of the instrument to be questioned.
18. **No** instruments were reported under a significant reporting ground in this quarter.
19. The infographic below provides a breakdown of the number of instruments reported on by the relevant reporting ground. A detailed list of the instruments reported on can be found at Annexe B—

### Reporting Ground



### Withdrawal of instruments

20. Draft instruments and documents can be withdrawn and re-laid. This sometimes happens after questions about an instrument are raised by a Committee with the Scottish Government, for example, to correct an identified drafting error.
21. **Five** instruments were withdrawn during this period, one of which was withdrawn twice. **Three** of the withdrawals were to address issues raised by this Committee. In detail:
- Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2026 (SI 2026/Draft) (withdrawn on 1 December 2025, re-laid on 2 December 2025 – see footnote below<sup>ii</sup> and withdrawn a second time on 11 December 2025, re-laid on 17 December 2025) ([Committee report of 13 January 2026](#)).
  - Good Food Nation (Specified Functions and Descriptions) (Scottish Ministers) Regulations 2025<sup>iii</sup> (SSI 2025/Draft) (withdrawn on 12 December 2025, not re-laid) ([Committee report of 11 November 2025](#) – see footnote below)
  - The draft Animal Health (Fixed Penalty Notices) (Scotland) Regulations 2026 (SSI 2026/Draft) (withdrawn on 7 January 2026, re-laid on 8 January 2026) ([Committee report of 20 January 2026](#))
  - The draft Civic Government (Scotland) Act 1982 (Licensing of Non-surgical Procedures) Order 2026 (SSI 2026/Draft) (withdrawn on 8 January 2026, re-

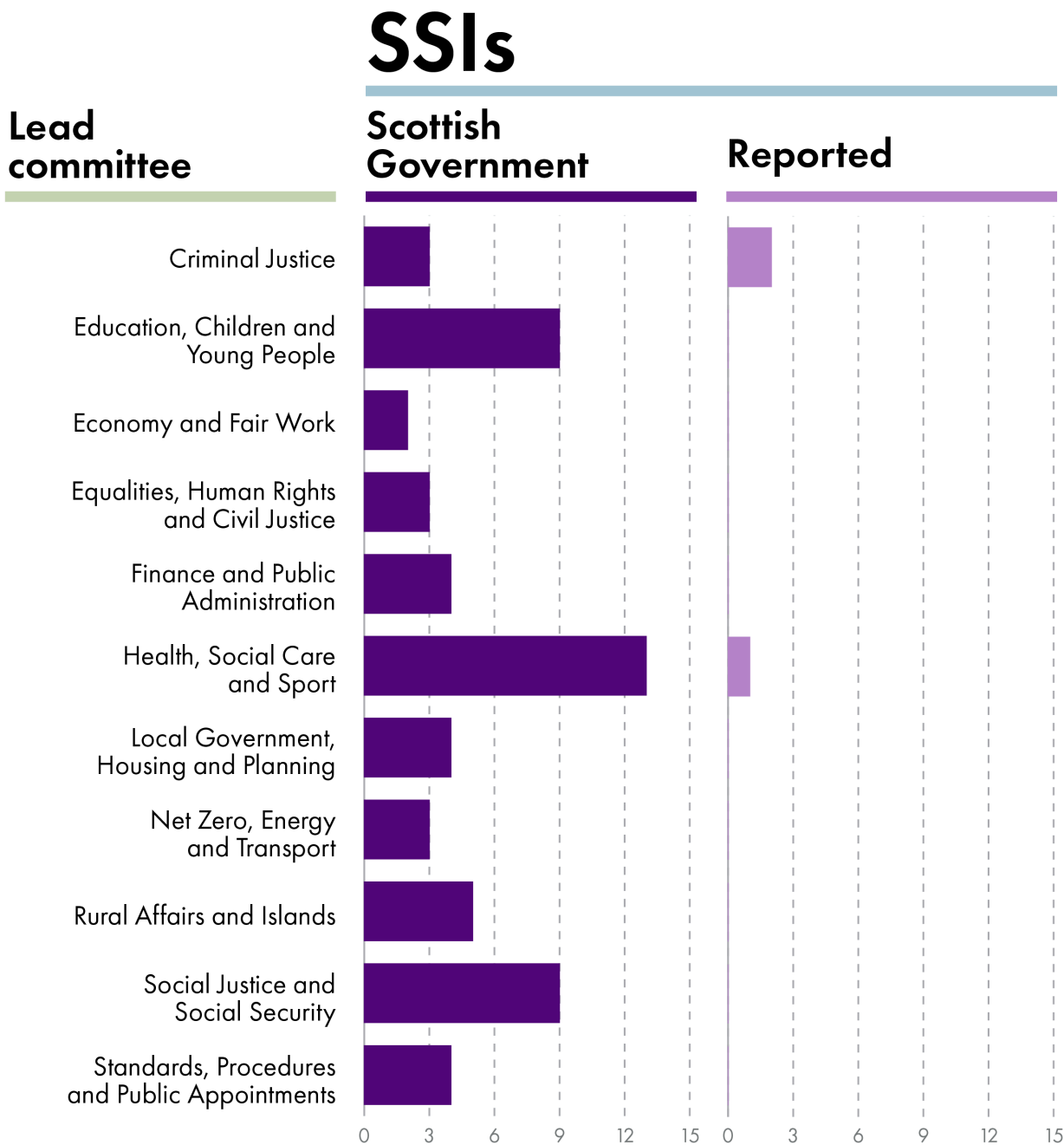
laid on 9 January 2026) ([Committee report of 20 January 2026](#)).

- The draft Conservation of Habitats and Species (Offshore Wind) (Miscellaneous Amendments) (Scotland) Regulations 2026 (SSI 2026/Draft) (withdrawn on 15 January 2026, re-laid on 16 January 2026 – see footnote below<sup>iv</sup>). ([Committee report of 27 January 2026](#) )

- 
- ii The first withdrawal in relation to this instrument followed errors being identified by the responsible Minister. The second was subsequently withdrawn following [questions raised by the Committee](#) with the Scottish Government.
- iii This instrument was withdrawn following the Rural Affairs and Islands Committee's decision to not recommend approval of the instrument on 3 December 2025, rather than following questions from the Delegated Powers and Law Reform Committee.
- iv This instrument was withdrawn after the Scottish Government identified a conflict with newly passed UK Government legislation.

# Instruments referred to lead committees

22. The infographic below shows how many instruments each lead committee received, and of those, how many were reported by the DPLR Committee :



# Commitments

23. The Scottish Government made the following commitments to the Committee during the period:

- the Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 (SSI 2026/Draft) ([Committee report of 13 January 2026](#)); In relation to this instrument, the Scottish Government undertook to amend the Policy Note to explain that regulation 5(3)(i) and (4), which amend references to “the 2024 Regulations”, are correcting previous errors, as set out in the [Instrument Responses paper for the meeting](#). At the time of publication, this has not yet been done.

Also in relation to this instrument, and as set out in the [Instrument Responses paper](#), the Scottish Government undertook, at the next suitable legislative opportunity:

- to correct other erroneous references to “the 2024 Regulations” in the Civil Legal Aid (Scotland) Regulations 2002; and
- to address a minor drafting point on regulation 6(4)(b).

This was met via the Legal Aid and Advice and Assistance (Fees) (Miscellaneous Amendment) (Scotland) Regulations 2026 (SSI 2026/Draft), which was considered by the Committee on 10 February 2026.

- the Firefighters’ Pension Scheme (Scotland) Amendment Order 2025 (SSI 2025/406) ([Committee report of 20 January 2026](#)); in relation to this instrument the Scottish Government undertook to address issues raised by the Committee in the next suitable amending instrument. At the time of publication, this has not yet been done.

24. The Scottish Government also met three of its commitments to the Committee during this quarter:

- the Burial and Cremation (Applications and Registers) (Miscellaneous Amendment) (Scotland) Regulations 2025 (SSI 2025/360) ([Committee report of 9 December 2025](#)); this instrument fulfils the Scottish Government’s commitment to address an issue identified by the Committee in the Burial (Applications and Register) (Scotland) Regulations 2024 (SSI 2024/334) by an amending instrument.
- the Political Parties, Elections and Referendums Act 2000 (Non-Party Campaigner Code of Practice) (Appointed Date) (Scotland) (No. 2) Order 2025 (SSI 2025/347) ([Committee report of 25 November 2025](#)); this instrument fulfils the Scottish Government’s commitment to revoke SSI 2025 288, which the Committee drew to the attention of the Parliament on reporting ground (e) on 11 November 2025.
- The Conservation of Salmon (Scotland) Amendment Regulations 2025 (SSI 2025/390) ([Committee report of 6 January 2026](#)); a [correction note](#) dated 19 January 2026 has been published, addressing the typographical error in the

preamble.

25. A list of all outstanding commitments can be found at Annexe C.

#### Minor Points

26. The Committee identified a total of **25** instruments and **one** document subject to parliamentary control, all laid by the Scottish Government, on which minor points were raised (generally relating to minor typographical matters, and which do not affect the operation of the instrument).

# Other legislation

## Bills

27. During the reporting period, the Committee considered the delegated powers in **three** bills at Stage 1—
- [Non-surgical Procedures and Functions of Medical Reviewers \(Scotland\) Bill](#)<sup>v</sup>
  - [Visitor Levy \(Amendment\) \(Scotland\) Bill](#)
  - [Budget \(Scotland\) \(No. 5\) Bill](#)
28. The Committee considered the delegated powers in **five** bills after Stage 2—
- [Dog Theft \(Scotland\) Bill](#)
  - [Schools \(Residential Outdoor Education\) \(Scotland\) Bill](#)
  - [UEFA European Championship \(Scotland\) Bill](#)
  - [Tertiary Education and Training \(Funding and Governance\) \(Scotland\) Bill](#)
  - [Natural Environment \(Scotland\) Bill](#)

## Legislative Consent Memorandums (LCMs)

29. The Committee considered powers to make subordinate legislation within devolved competence in **four** LCMs—
- [Public Office \(Accountability\) Bill](#)
  - [Biodiversity Beyond National Jurisdiction Bill](#)
  - Railways Bill (scrutiny not completed in this quarter) (report not published at the time of writing)
  - [Finance \(No. 2\) Bill](#)
30. The Committee also considered powers to make subordinate legislation within devolved competence in **three** supplementary LCMs—
- [Biodiversity Beyond National Jurisdiction Bill](#) (The Committee [wrote to the Scottish Government](#) on 7 January 2026)
  - [Sustainable Aviation Fuel Bill](#) (second supplementary LCM)
  - [Crime and Policing Bill](#) (third supplementary LCM) (the Committee [wrote to the Scottish Government](#) and [the UK Government](#) on 21 January 2026, report to be published in next quarter)
- 

<sup>v</sup> The Committee took evidence on the Bill from Jenny Minto MSP, Minister for Public Health and Women's Health, at its meeting on 9 December 2025.

## Lead Committee

31. As the lead committee, the Committee [reported at Stage 1](#) on the [Contract \(Formation and Remedies\) \(Scotland\) Bill](#).

# Annexe A– Reports and Meetings of the Committee

## **Subordinate Legislation Reports**

- [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 18 November 2025 | Scottish Parliament](#)
- [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 25 November 2025 | Scottish Parliament](#)
- [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 2 December 2025 | Scottish Parliament](#)
- [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 9 December 2025 | Scottish Parliament](#)
- [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 16 December 2025 | Scottish Parliament](#)
- [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 6 January 2026 | Scottish Parliament](#)
- [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 13 January 2026 | Scottish Parliament](#)
- [Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 20 January 2026 | Scottish Parliament](#)

## **Minutes of the Committee Meetings**

- [Minutes for Delegated Powers and Law Reform Committee 32nd Meeting, 2025 Tuesday, November 18, 2025 | Scottish Parliament Website](#)
- [Minutes for Delegated Powers and Law Reform Committee 33rd Meeting, 2025 Tuesday, November 25, 2025 | Scottish Parliament Website](#)
- [Minutes for Delegated Powers and Law Reform Committee 34th Meeting, 2025 Tuesday, December 2, 2025 | Scottish Parliament Website](#)
- [Minutes for Delegated Powers and Law Reform Committee 35th Meeting, 2025 Tuesday, December 9, 2025 | Scottish Parliament Website](#)
- [Minutes for Delegated Powers and Law Reform Committee 36th Meeting, 2025 Tuesday, December 16, 2025 | Scottish Parliament Website](#)
- [Minutes for Delegated Powers and Law Reform Committee 1st Meeting, 2026 Tuesday, January 6, 2026 | Scottish Parliament Website](#)
- [Minutes for Delegated Powers and Law Reform Committee 2nd Meeting, 2026 Tuesday, January 13, 2026 | Scottish Parliament Website](#)

- [Minutes for Delegated Powers and Law Reform Committee 3rd Meeting, 2026  
Tuesday, January 20, 2026 | Scottish Parliament Website](#)

# **Annexe B– Reporting grounds: 9 September to 17 November 2025**

As set out in the Committee's remit, the Committee may determine that the attention of the Parliament should be drawn to an instrument. It may do so on a number of reporting grounds (and one instrument may engage one or more of those grounds). The reporting grounds engaged in this quarter are set out below:

**(g) - that it has been made by what appears to be an unusual or unexpected use of the powers conferred by the parent statute**

- Management of Offenders (Scotland) Act 2019 and the Prisoners (Early Release) (Scotland) Act 2025 (Consequential Modifications) Regulations 2026 (SSI 2026/Draft)

**(h) - that for any special reason its form or meaning could be clearer**

- Firefighters' Pension Scheme (Scotland) Amendment Order 2025 (SSI 2025/406)

**General - includes more minor drafting errors and failures to follow proper drafting practice**

- Burial and Cremation (Applications and Registers) (Miscellaneous Amendment) (Scotland) Regulations 2025 (SSI 2025/360)
- Firefighters' Pension Scheme (Scotland) Amendment Order 2025 (SSI 2025/406)

# Annexe C– Historic Commitments

Commitments made by the Scottish Government

Commitment from 2019

- [Scotland Act 1998 \(Specification of Functions and Transfer of Property etc.\) Order 2019 \(SSI 2019/183\)](#) [11<sup>th</sup> Report, 2019. Published 06/03/2019] *commitment to bring forward an amendment at the earliest opportunity*<sup>vi</sup>

Commitment from 2025

- [Carer's Assistance \(Miscellaneous and Consequential Amendments, Revocation, Transitional and Saving Provisions\) \(Scotland\) Regulations 2025 \(SSI 2025/Draft\)](#) (66<sup>th</sup> Report of 2025, Published 23 September 2025); in relation to this instrument (now made as [SSI 2025/340](#)) the Scottish Government undertook to correct errors either by correction slip or amending instrument. As reported in the quarter 2 report, a [correction slip](#) has addressed some of the errors. However, there is one point outstanding, being a missing year in the date referred to in regulation 17(1)(b).<sup>vii</sup>

## Commitment made by the LPPO

Commitment from 2024

- [Act of Adjournal \(Criminal Procedure Rules 1996 Amendment\) \(United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024\) 2024 \(SSI 2024/174\)](#) (47<sup>th</sup> Report 2024, Published 26 June 2024.) *The LPPO has advised that the definition will be removed at the next available opportunity.*

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<sup>vi</sup> This will require a further Scotland Act Order to be brought forward at Westminster. The Scottish Government does not consider that the problems identified are particularly problematic nor that they will impede proper functioning of the devolution arrangements for forestry. [See letters from the Minister of Parliamentary Business, 2 March 2023 and 25 October 2023, and the UK Government, 30 October 2023.](#) See also the [cols. 13-15 of the Official Report from the Committee's meeting on 28 October 2025.](#) In a letter to the Committee on 14 January 2026, the Minister for Parliamentary Business and Veterans confirmed there is now an in-principle ministerial agreement, and that officials met on 14 January 2026 to discuss drafting, timeframes and roles and responsibilities. It is anticipated the Order will go to the Privy Council early after the summer recess.

<sup>vii</sup> This commitment has been met at the time of writing, with the laying of the draft Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2026 on 28 January 2026. This will be expanded upon in the Quarter 4 report.

