



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Thursday 19 March 2020**

**Session 5**



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Pàrlamaid na h-Alba

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## Scottish Parliament

Thursday 19 March 2020

[The Presiding Officer opened the meeting at 11:45]

### General Question Time

**The Presiding Officer (Ken Macintosh):** Good morning, colleagues. Thank you for your understanding—these are exceptional circumstances.

We begin with general question time. Question 1 has been withdrawn, so we move to question 2.

#### Mental Health Services (NHS Lothian)

2. **Jeremy Balfour (Lothian) (Con):** To ask the Scottish Government what action NHS Lothian is taking to recruit additional clinical staff, in light of recent ISD Scotland figures suggesting that one in three young people in the area are waiting over a year for mental health support. (S5O-04295)

**The Minister for Mental Health (Clare Haughey):** NHS Lothian has assured me that it is committed to recruiting key clinical staff in order to reduce waiting times for child and adolescent mental health services. It has invested, and it will continue to invest, £3 million of additional funding in CAMHS annually. The funding aims to create new capacity and will be ring fenced, as far as possible, to start the treatment of those who have waited the longest. To date, an additional 23 staff have been recruited, with another 17 expected by the end of April.

Currently, the CAMHS additional workforce includes a range of clinical professionals from psychology, nursing and occupational therapy, and NHS Lothian will aim to recruit a cohort of administration staff to support and develop local service activities. All of that will ultimately improve current waiting times for children and young people who are seeking the services that CAMHS provides.

**Jeremy Balfour:** I thank the minister for her very full answer. My next question will be slightly broader than I had intended it to be. Given the change in circumstances that the First Minister announced yesterday, with regard to schools closing, there will clearly be an effect on the mental health of both children and adults, particularly with social isolation. Will the minister advise parents, in particular, how they should monitor and deal with such issues and what help will be available if they have to take matters to a higher level?

**Clare Haughey:** Mr Balfour's question is very pertinent and topical, given the circumstances in which we find ourselves. Mental health can and will be affected by social isolation, and the current pandemic is, no doubt, having an impact on the mental health of children and young people, as well as across the general population. We are developing strategies and advice, not only for children and young people, but for the whole population, on how to keep mentally healthy and improve wellbeing, whether during self-isolation, when having to go to work or just in the general circumstances. We are progressing those pieces of work and will announce them in the coming weeks.

**Neil Findlay (Lothian) (Lab):** Does the minister accept what we are being told repeatedly by young people and their families who are going through mental health crises, which is that the system is failing them and the services that they require are simply not there?

**Clare Haughey:** I am always open to hearing about service users' and their parents' experiences. As a national health service, we need to learn from their feedback about how we can improve services right across the country.

**Kenneth Gibson (Cunninghame North) (SNP):** I share many of the concerns about younger people suffering from increased mental ill health due to stress and isolation, but what about the people who will look after them? I am talking not just about parents, but about mental health care workers. What steps are being taken to ensure that those people are not overburdened in the difficult weeks ahead, given the workloads that they will obviously have to wade through?

**Clare Haughey:** That is another really important issue. We are looking at it as we speak, including at how we can develop support and guidance for our mental health staff and NHS staff across the piece. There will be changes to how services are delivered, and we are working with NHS managers to ensure that staff feel supported in dealing with those changes.

**The Presiding Officer:** Questions 3 and 4 have been withdrawn.

#### A801 Avon Gorge Crossing (Upgrade)

5. **Angus MacDonald (Falkirk East) (SNP):** To ask the Scottish Government what progress has been made on discussions with Falkirk Council and West Lothian Council regarding upgrading the A801 Avon Gorge crossing. (S5O-04298)

**The Minister for Energy, Connectivity and the Islands (Paul Wheelhouse):** Falkirk Council is leading the delivery of that scheme and, along with West Lothian Council, is responsible for ensuring that the business case remains robust

and for setting the final timetable for delivery, which is expected to come forward in 2021.

Transport Scotland officials remain in dialogue with council officers to ensure that an agreement can be reached between all three partners. Nevertheless, my colleague the Cabinet Secretary for Transport, Infrastructure and Connectivity will seek assurances from the respective councils that they remain committed to delivering the project and that they have the necessary funding to do so.

**Angus MacDonald:** The minister might be aware that another accident occurred recently on the A801 near the Avon gorge and that one person was taken to hospital. He will also be aware that the “Strategic Transport Projects Review Final Report”, which was published in October 2009, advised that, if we upgraded the A801—thereby improving Grangemouth’s connectivity with the M8—there would be

“a reduction in the accident rate of around a third”.

Given the importance of Grangemouth to Scotland’s economy, the dire need to reduce the number of accidents on that stretch of road and the fact that, as part of Falkirk Council’s second cluster of investment under the tax incremental financing scheme, that shovel-ready project is scheduled for a 2021 start, will the minister agree to ensure the upgrade of that road as scheduled?

**Paul Wheelhouse:** I share Mr MacDonald’s concern about the serious accident that took place on 10 March, and I recognise the point that he makes about the importance of that road to the local economy and the community in Falkirk.

Given the passage of time, it is important that the business case for the scheme remains robust and offers value for money in economic terms. We must ensure that the project will still deliver its anticipated benefits, which Mr MacDonald alluded to, and the scheme’s objectives. Mr MacDonald and local stakeholders might be aware that work has been done to revise the costings of the project. Scottish ministers wrote to Falkirk Council in 2015 to confirm that we would provide a 50 per cent contribution towards the scheme. The most recent estimated cost that the council provided for the scheme, in May 2018, was approximately £32 million. That cost has recently been reviewed, and the cabinet secretary is awaiting further detail of it before proceeding. In line with normal procurement rules, the contract to construct the scheme will be subject to a competitive tendering process, which Falkirk Council will manage.

**The Presiding Officer:** Question 6 has been withdrawn.

## Potholes

### 7. Alex Rowley (Mid Scotland and Fife) (Lab):

To ask the Scottish Government what plans it has for addressing potholes on Scotland’s roads. (S50-04300)

**The Minister for Energy, Connectivity and the Islands (Paul Wheelhouse):** We note the challenges that face road maintenance across the network and the importance of a safe, well-performing road network. As set out in the budget, the Scottish Government expects to invest £471 million in managing, maintaining and safely operating the trunk road network in 2020-21.

Local road maintenance is the responsibility of local authorities, which allocate resources on the basis of local priorities. Despite a £850 million real-terms cut by the United Kingdom Government to Scotland’s discretionary resource budget since 2010-11, we have ensured that local government receives a fair funding settlement that supports vital public services.

**Alex Rowley:** Would the minister consider discussions with the Convention of Scottish Local Authorities to plan a strategic economic approach that would pull resources together, work with companies, create the jobs that are needed, address the skills gaps and get our roads fixed? There is something like £55 billion-worth of road repairs that need to be done. The poorest people have cars because they need cars; their cars get damaged as a result of the potholes and they are unable to fix their cars. We need a more strategic approach to national planning, which goes back to the Keynesian approach of investing in the economy, planning jobs and delivering what is desperately needed to fix our roads across Scotland. Sometimes, it is like a third-world country.

**Paul Wheelhouse:** I recognise the importance of this issue at a local level. Mr Rowley touched on a number of points with regard to the impact that potholes have on individuals; we recognise that there are impacts on vehicles and individuals. From the point of view of encouraging active travel, the road surface is important to ensuring the safe conduct of cycling on our local roads. The member might be aware that the National Infrastructure Commission has looked at these issues and at all Scotland’s infrastructure needs and has made recommendations to the Government. The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, is looking at how we respond to that National Infrastructure Commission report. I will pass on the issue that Mr Rowley has raised today for Mr Matheson to take forward.

**Annabelle Ewing (Cowdenbeath) (SNP):** Potholes are a problem in many parts of my

Cowdenbeath constituency, including Benarty. Although it is understood that Fife Council's key focus in the months ahead must of course be on dealing with coronavirus, work in this area could surely go on at pace. It would be outdoor work and it would mean that contractors could stay in work and get paid.

**Paul Wheelhouse:** I certainly recognise the nature of the work that Ms Ewing accurately described as outdoor work. These matters are, obviously, led by local authorities, and we have to trust that the local authority in this case will make sensible decisions about how to take forward work to repair the roads, which is a key priority. However, as Annabelle Ewing recognised, local authorities face a significant challenge at this time. We have to trust them to make sensible decisions as to how they deploy their resources at this most challenging of times.

**David Stewart (Highlands and Islands) (Lab):** What assessment has the minister made of the role of potholes in accidents, particularly in rural areas? Will he ask his colleagues in Transport Scotland and the police to do specific assessments of the role of potholes in accidents across Scotland?

**Paul Wheelhouse:** David Stewart will appreciate that such matters stretch across portfolio boundaries. I note that the Cabinet Secretary for Justice, Mr Yousaf, is sitting next to me. I will certainly raise the matter with the Cabinet Secretary for Transport, Infrastructure and Connectivity, Mr Matheson, and indeed with Mr Yousaf, who will have heard the points that David Stewart made, to see how we can respond. I am not aware of an evidence base that would give us granular detail about how many accidents are caused by potholes, but there may well be data that we can draw on. We will come back to David Stewart on the matter.

#### **NHS Greater Glasgow and Clyde (Meetings)**

**8. Adam Tomkins (Glasgow) (Con):** To ask the Scottish Government when it last met NHS Greater Glasgow and Clyde, and what was discussed. (S5O-04301)

**The Cabinet Secretary for Health and Sport (Jeane Freeman):** At present, Scottish Government officials are in daily contact with national health service boards on planning and preparations to respond to Covid-19.

At NHS Greater Glasgow and Clyde, the oversight board on infection prevention, management and control continues—and will continue—its work as we respond to Covid-19. It is chaired by the chief nursing officer and it met most recently on 19 February and 5 March. The second performance oversight group, which has been

established with the turnaround director, Calum Campbell, and is chaired by NHS Scotland's chief performance officer, met on 7 February and 27 February, and its third meeting is today.

**Adam Tomkins:** I thank the cabinet secretary for that answer and, indeed, for her round-the-clock work on behalf of all of us as we prepare for this unfolding crisis. The cabinet secretary and I have corresponded before about the Yorkhill site in Glasgow, which is largely, but not entirely, decanted. What consideration is being given to using that site which, although not in full use at the moment, is still owned and managed by the NHS, and other similar sites as facilities as the crisis unfolds?

**Jeane Freeman:** We have talked about that site before, and I am grateful to Mr Tomkins for raising it again. I have asked my officials who are currently working on increasing the capacity in the NHS about it. I note that the committed increase in capacity of 30,000 additional beds and the committed doubling of intensive care units relate to existing operational sites. However, we need to look at what more we can do to maximise our health service. The Yorkhill site and one or two others are in that mix and are being considered as we speak. I am very happy to ensure that members are informed as we make decisions on their viability and robustness as we go forward.

#### **Covid-19 (Advice for Pregnant Women)**

**9. Richard Lyle (Uddingston and Bellshill) (SNP):** To ask the Scottish Government what advice is being given to women who are pregnant regarding the coronavirus, Covid-19. (S5O-04302)

**The Minister for Public Health, Sport and Wellbeing (Joe FitzPatrick):** Current evidence does not suggest that pregnant women are more susceptible to the virus than the general population as a result of their pregnancy, or that they are more likely to be ill. However, we know that pregnant women are, generally, more susceptible to infection. Therefore, as a precaution, it was announced on Monday that pregnant women have been advised to take particular care to minimise their social contact.

All pregnant women will continue to receive high-quality maternity care throughout their pregnancy. Guidance for pregnant women and the maternity professionals who look after them has been produced by the Royal College of Obstetricians and Gynaecologists and is available on the NHS inform website. Pregnant women who have any concerns about their pregnancy should contact their maternity care provider. If they have concerns about worsening symptoms, or if they need urgent medical advice, they should contact NHS 24 on 111.

**Richard Lyle:** A constituent of mine who is a teacher is now at home, as per Government advice. Are we advising other women who are pregnant to do likewise?

**Joe FitzPatrick:** As I said, pregnant women along with people over 70 and those who have underlying health conditions are being strongly advised to stay at home as much as possible and to significantly reduce unnecessary social contact. We expect employers to support pregnant women and others to do that.

## First Minister's Question Time

12:00

### Covid-19

1. **Jackson Carlaw (Eastwood) (Con):** In the continuing spirit of asking questions that aim to inform, in the first instance, I seek further clarification from the First Minister on the issue of testing. MSPs have been approached by community pharmacists who have been serving customers with flu-like symptoms. Community pharmacists are often the first point of contact for the elderly, but they will not know whether they themselves have the virus. Members have also been contacted by doctors who are at home with what they think is probably just a cold but, without a test, they cannot be sure. The Government's objective is to expand testing capacity, but can the First Minister confirm whether she believes that, within that expansion, those in front-line service roles should be prioritised?

**The First Minister (Nicola Sturgeon):** Before I turn to the issue of testing, I advise Parliament that, as of 9 o'clock this morning, a total of 266 positive cases have been confirmed, which is an increase of 39 from yesterday. As I have done previously, I stress that that is likely to be an underestimate of the true prevalence of the infection across our society. I am also extremely sad to confirm that, as of 9 o'clock this morning, there have been six reported deaths of patients in Scotland who had tested positive for Covid-19, which is an increase of three from yesterday. I put on record that my thoughts are with their loved ones at this incredibly painful time for them.

On testing, front-line critical and key workers, particularly in the national health service and social care, are the priority for our expanded testing services. Broadly speaking, we are seeking to meet three objectives with testing. The first is to protect those who are most vulnerable and to save lives. That is why those who are admitted to hospital with Covid-19 symptoms or with upper respiratory infection will be tested. Secondly, we aim to allow critical workers to be at work unless they are actually ill. Work is on-going in all four nations to define the list of critical workers, but it of course includes those at the front line of our NHS and social care services. The third objective is to allow surveillance to enable us to monitor the prevalence of the infection across the population.

Right now, we have three laboratories that are operational, in Edinburgh, Glasgow and Dundee. Between them, they currently have the capacity to do around 780 tests per day. Work is under way to expand capacity, initially to enable up to 3,000 tests to be done every day. In the longer term—

hopefully not too much longer—we hope that new forms of testing will be available. That work is being led by the United Kingdom Government. The new tests will be dipstick tests rather than swab tests, which will allow people to test themselves much more quickly and tell whether they have had the virus. Those are not available right now, but I hope that the testing will be expanded in that way as soon as possible.

**Jackson Carlaw:** That is a helpful clarification. To respond to the First Minister's confirmation of the additional lives lost, in our shared endeavour as we confront this emergency, all our thoughts will be with those who are suffering bereavement as a result of it.

Turning to the broader economy, I acknowledge that the chancellor, Rishi Sunak, has stated that everything that has already been announced constitutes but the first step of many and that there is a pressing need for further detailed assistance targeted in support of individuals. On Tuesday, the UK Government unveiled a package of financial measures to support business. Scottish businesses face the toughest of times, but we know that they can, will and must bounce back and prosper with the right help and support. The chancellor has backed business with more than £330 billion. Can the First Minister update us on how the Scottish Government will help Scottish business through the weeks and months ahead? In particular, in response to the many inquiries that MSPs are receiving, can the First Minister confirm to those who recognise the clear advantage of the assistance being offered to their businesses that it will be kept simple and how they should expect to access it?

**The First Minister:** This is a statement of the obvious, but we are in an incredibly difficult time for businesses across our economy and for the workers who staff those businesses.

I welcome, as does the economy secretary, the support that was outlined by the chancellor earlier this week. We have confirmed, and we will continue to ensure, that every single penny of funding that comes to Scotland to support businesses is passed on to businesses in Scotland. The economy secretary has already set out some of the initial detail of that. For example, all small businesses that receive the small business bonus scheme or rural relief will be eligible for a £10,000 grant. We will provide 12 months' relief for properties in hospitality, leisure and retail and a £25,000 grant if those properties have a rateable value between £18,000 and £51,000. On top of that, we have taken steps to effectively halt the inflationary increase in business rates that was due in April. Taken together, that is a £2.2 billion support package to help sustain businesses and, crucially, to help them pay their

staff and treat their staff fairly. As Jackson Carlaw said, that is initial support. It is inevitable that further support will be required and we continue to discuss that constructively with the UK Government.

I will be as brief as I can be on the point about how businesses will access that support, which is very important. We want to make it as simple as possible, but given the different kinds of support that we have announced, we are approaching the situation in three different ways. I will briefly summarise those. We are working to make sure that the universal rates relief that is available for all properties will be available automatically so that businesses will not have to apply for it. The 100 per cent rates relief for retail, hospitality and leisure will require some form of application from the sectors involved, but we are working with the Convention of Scottish Local Authorities and local authority finance directors on how that can be administered in the most straightforward way possible. In the meantime, we will bring forward legislation next week to enshrine that relief from 1 April.

Things are slightly more complicated when it comes to grant schemes. We have set out two grant schemes: the £10,000 small business grants and the £25,000 grants for retail, hospitality and leisure. We are in discussion with COSLA, councils and business associations about how those can be efficiently distributed. I know that the same challenges are being faced in England with grant schemes there. There is no simple answer, but we want to do this as straightforwardly and quickly as possible, and I undertake to make sure that information and guidance are distributed to MSPs and business organisations as soon as the detail is clarified.

**Jackson Carlaw:** That is all very helpful. That clarification will be much valued by business, and we will obviously lend our support to any legislation that is required to give that assistance effect.

The childcare sector faces an uncertain future. This afternoon, John Swinney, will expand on yesterday's confirmation by the First Minister, and by the Secretary of State for Education, Gavin Williamson, that schools and nurseries across the UK, including private nurseries, will close from tomorrow. The medical advice is clear, and we must keep people safe. We also know that childcare is vital to keeping the UK working through coronavirus and, once we have beaten the virus, to returning to prosperity. We all fully appreciate that closure is unavoidable, but could the First Minister tell us what help we can give that vital sector?

**The First Minister:** Jackson Carlaw is absolutely right to highlight the importance of the

childcare sector for the business reasons that he set out and for the care of young children right now and for the future, when we are on the other side of this virus. Obviously, we have ambitious plans to double the provision of early years learning and childcare. We want to work to mitigate the impact as far as possible, although I have to be straight with people: we will not be able to do that completely. John Swinney will set out more details on that, among other things, in his statement this afternoon.

However, I take the opportunity to confirm to Parliament that we have decided, as the Government, to guarantee the funding that private and third sector nurseries currently receive from the Scottish budget. That funding pays for the statutory entitlement that children receive in those nurseries and across the private and third sectors, and it is worth around £220 million. We will keep that cash in place, even while children are at home and not at nursery, so that we can help to support businesses through what is a very difficult time. That will be in addition to the work that we will do with councils to maximise the use of private and third sector nurseries to provide childcare to key workers who need it. There will be more detail on that when John Swinney makes his statement later.

**Jackson Carlaw:** That confirmation of funding will be hugely welcomed by the sector.

Key workers will be crucial in the battle with the virus, but the definition of “key workers” needs to be clarified. It is not as straightforward as it at first seems because, however desirable it may be, if everyone becomes a key worker we are right back where we started. Yesterday, the First Minister mentioned nurses, doctors and other critical staff. Can she confirm that police officers will be included, and will she tell us which other groups will or may be part of the key worker plan?

Finally, will the First Minister join me in asking people to be patient as information is confirmed and made available? These are evolving responses to a national emergency, and it is unreasonable to expect every t to be crossed and every i to be dotted on the detail with immediate effect. The public should know that both Scotland’s Governments are working to ensure that as much clarity as possible is provided as quickly as possible, and we should all support the people who are working flat out to achieve that.

**The First Minister:** I absolutely echo those comments.

On the issue of key workers, we are in difficult and not straightforward territory, and we must get the balance right. Jackson Carlaw asked me directly about police officers. I fully expect police officers to be included—in fact, I think that it is

inconceivable that police officers would not be included. Indeed, I fully expect all who work in the emergency services to be covered by the definition of “key workers”.

Beyond that, work is being done across all four nations to come to the right definition. I will make a couple of points about that, the first of which is the obvious one that Jackson Carlaw made. If we go too far and end up having too many children in our schools, we will undermine the public health reasons for regretfully having to close schools.

Secondly, while we will try to get as much national consistency on the matter as possible, it will undoubtedly be the case that some local flexibility will be required. The definition of who might be considered to be key and critical workers in a remote rural or island community might not be exactly the same as that definition in the centre of Glasgow or Edinburgh. It is important that we have that flexibility.

Understandably, the focus is very much on those workers who are required to keep our health and social care services running to cope with the Covid-19 crisis. Beyond that, there are the workers in some obvious other areas, such as the energy sector, who will make sure that we can continue to heat our homes and keep the lights on. Those workers who are required to get food to different parts of our country are another example. That work is on-going, and we will continue to update Parliament on it as the definition of “key workers” becomes clearer.

I began my answer by agreeing with Jackson Carlaw’s final point, and I do so again. I have given an assurance to people across the country that the Scottish Government will be as open and transparent as possible on an on-going basis. I have never been as acutely aware as I am right now of the inability of Government alone to deal with the challenge that we face. As First Minister, I will do my best to lead that operation in the months ahead, but I need the help of everybody across Scotland. What I can do is share as much information as possible. That will sometimes involve being frank about not knowing the answer to something immediately or being honest about the fact that certain things take some time to be put in place.

I will give an example of that. John Swinney will give as much detail as possible about the alternative arrangements that we are putting in place in the light of the school closures but, to be frank, that planning work will continue over the days to come.

This has to be a collective national endeavour. It will not be easy, but if all of us—Government, the public and all parts of the economy and the public sector—pull together, I have confidence that the

country will be able to get through the current situation, notwithstanding how incredibly difficult and challenging it is.

### **Covid-19 (Personal Protective Equipment)**

#### **2. Richard Leonard (Central Scotland) (Lab):**

First, I want to pay tribute to all our social care and national health service staff, who are working tirelessly under some of the most challenging conditions that we have ever faced. I am sure that I speak for all of us when I say that they have our unwavering support and our unconditional backing.

The First Minister is well aware that there is real and growing concern that two thirds of front-line Scottish Ambulance Service crews do not yet have the personal protective equipment that they need. Can the First Minister tell us when they will get the safety equipment that they need and that they have been promised?

**The First Minister (Nicola Sturgeon):** That work is under way at pace as we speak. This afternoon, the Cabinet Secretary for Health and Sport will meet the Scottish Ambulance Service and the trade union that is associated with it, the GMB, to make sure that front-line workers' concerns are being properly and quickly addressed. I give an undertaking that we will do everything possible to ensure that that is the case.

Health Protection Scotland has issued clear guidance on the types of protective equipment that is required in different circumstances, and we have made supplies available. At the moment, there are pressures on supplies of protective equipment not just in Scotland but globally, but we must do everything that we can to support people on the front line.

We always owe those in our front-line health and social care workforce an enormous debt of gratitude, but I can say candidly that we will never, ever owe them more than we will do in the weeks and months to come. My job as First Minister, along with the health secretary, is to make sure that we do everything that we can do to support them, and I treat that responsibility with the utmost seriousness.

**Richard Leonard:** More supplies of personal protective equipment were delivered to ambulance stations across Scotland yesterday afternoon, but they were not the full-face protection FFP3 masks that are needed. What was received was another batch of paper surgical masks with expiry dates of April 2016. When we raised the concern on Tuesday that that same batch of masks had been supplied to general practitioners, the cabinet secretary said that she was aware of the issue and was taking steps to ensure resupply and that the

situation would not be repeated. Regrettably, it has been repeated.

We all know that we cannot afford to put our front-line NHS staff—our key workers—at increased, unnecessary and avoidable risk. What guarantee can the First Minister give that the appropriate supplies will be made available, and what advice can she give to workers, such as those in the Scottish Ambulance Service, who believe that they have been put at risk?

**The First Minister:** We will do everything that we can to protect those on the front line. Health Protection Scotland has issued guidance on the question of the type of protective equipment that is required by different categories of health workers. In a service such as the Scottish Ambulance Service, a mix of masks will be required, some of which will be those described by Richard Leonard. Other parts of the workforce will require other types of mask. It is not for politicians such as me or the health secretary to say what is required; it is for Health Protection Scotland to do so. We will continue to work with GPs and with the ambulance service to make sure that those supplies are there.

I say again—it is important to understand this—that, as is the case with ventilators, there is a global demand at the moment for that type of equipment. Supplies are under pressure, which is why we are also looking at how we can get alternative supplies.

The health secretary has considered, and will continue to consider, the issue of expiry dates. There will be circumstances in which supplies will be revalidated for use—by experts, not by politicians—because it will be judged that they are safe to use, notwithstanding the expiry date.

The priority in all of those decisions will be the safety and security of those who are looking after us. That is something that everybody has a right to expect from Government. I am sure that Richard Leonard will understand that my decisions must be informed by the best expert advice. I am conscious of that in every decision that I take on the response to this situation, and that is what I undertake to do.

**Richard Leonard:** The cabinet secretary for health has confirmed that, no matter what precautions are taken, rising absence rates are expected during the next few weeks of the outbreak. Absence rates of between 25 and 30 per cent of the NHS workforce at any one time have been predicted.

It is because of that that medics, nurses, paramedics and other health professionals are calling for the testing of key workers as swiftly as possible. They do not want to spread the virus if they have it, but they also want to be able to continue to work to support their colleagues and to

provide essential care for patients if all they have is a cold or if they are no longer contagious.

I appreciate that the First Minister has committed again today to expanding testing. Is she able to tell us the timetable for that, how frequently she expects front-line testing to take place, and, if the possibility of self-testing has been explored, when that is likely to be widely available to key workers in Scotland?

**The First Minister:** I cannot answer the question of when new and different kinds of tests are likely to be available. That is one of the things I must be honest about. It is a global issue. Discussions are happening with pharmaceutical companies in the United Kingdom about the provision of new and quicker types of test. I hope that that happens very soon. That is in everyone's interests, but Richard Leonard will understand the processes that must be gone through to provide new approaches in that regard.

On the more general issue of testing, as I have set out previously, we are committed to testing key and critical workers. It is in everyone's interests for that to happen, because we want those who care for us to be at work whenever possible, and we want them to be as safe as possible.

There is a need for us to be guided by expert opinion with regard to how often key and critical workers require to be tested, just as there is the on-going work, about which I have already spoken, to make sure that we are properly defining that list of who is categorised as a key and critical worker. Obviously, that list includes those on the front line of our national health service and social care services.

On timescales, we are working at pace. There are large numbers of people quite literally working around the clock on this. That includes the Scottish Government, but that is the least of it. People across our emergency services and health and social care services, in particular, are working to do all of this as quickly as possible.

I have already talked about the work on expanding our testing capacity. That was expanded at an earlier stage of this outbreak, when we brought the laboratory in Dundee on stream. We are now working to expand it beyond that in order to ensure that we are using all possible capacity that we have. We are working hard to make sure that, as quickly as possible, there is an understanding of which workers are being tested and how that is to happen.

These things are happening at pace. I would go back to Jackson Carlaw's point: few people—actually, that is not true. Everybody understands the seriousness of this situation. I say to Richard Leonard that he should take some assurance from the fact that I absolutely understand the urgency of

all these issues and I want to make sure that all of these things are put in place as quickly as possible. I will continue to do everything that I can, as head of the Scottish Government, to make sure that we are taking all the necessary steps to do that.

**The Presiding Officer (Ken Macintosh):** I intend to allow some supplementary questions, but after the party leaders have asked their questions.

### **Covid-19 (Voluntary Community Support)**

3. **Patrick Harvie (Glasgow) (Green):** The current crisis is an unprecedented challenge for every level of Government. It is a challenge for all of us to work together as never before, and it is a challenge for our whole society to show that the values of compassion, solidarity and mutual care are what matter at a time such as this.

I want to join with others in expressing our thanks to and concern for the dedicated people working in our national health service and other public services, and those people who have been undervalued for a long time: every carer, cleaner, supermarket worker and many more. Their work is essential to help us all get through this, and they need our support.

Like other members, I have heard from many people who just want to help, whether that is keeping in touch with family, looking out for a neighbour or making sure that people in isolation in our community have got what they need. As social distancing measures become ever more important, that kind of voluntary community help might become more difficult. How can the Government and MSPs make sure that people know how to help one another—and how to do so safely—in the weeks ahead?

**The First Minister (Nicola Sturgeon):** I thank Patrick Harvie for his question and I agree with his sentiment. Right now, we are learning a really hard lesson about the fragility of life in the modern world and all that we have come to take for granted, whether that is hugging loved ones, meeting friends for a coffee or jumping on a plane to go on holiday.

Perhaps, at the same time, we are also being reminded of what and who really matters in life. We are reminded of the importance of good health, the importance of love, friendship and solidarity and the importance of looking out for each other. In these difficult and dark times—there is no doubt that they are difficult and dark—we should hold on to those values, which are perhaps coming to the fore.

I have heard so many heart-warming and inspiring stories of communities not waiting to be told or asked, but just getting on with it, looking out for others and thinking about how they can play a

part in the challenge that we all face. That is happening probably in every corner of Scotland and we, as the Government, are thinking very hard about how we support and facilitate that, whether through financial or other support.

That is why part of Aileen Campbell's statement yesterday was about the provision of funding to help with those voluntary efforts. We will provide MSPs with further information for wider dissemination about how local groups can access that, because it will be really important.

I visited Age Scotland yesterday morning. With help from the Government, it is expanding its existing helpline so that more older people have somebody to phone if they need advice or help, or if they just need to hear a friendly voice. There will be examples of that activity all over the country and we all need to play our part in supporting it as well as we can.

**Patrick Harvie:** I hope that the Government knows that the whole chamber will offer support for those actions.

One group in our society that is most urgently in need of help is those who are losing their incomes but who still face continued rent demands. I have heard from one constituent who has already seen her full-time income disappear completely. Her boss wants to be kind, but an events company with no events to run simply cannot pay her. She has no idea how she will pay her rent or other bills. I have heard of some landlords who are being responsible and recognising people's needs. However, I have also heard from people who are being forced out of their homes, or threatened with that, on a range of existing grounds for eviction, not just rent arrears.

The Scottish Government's announcement yesterday will still leave people facing a choice between the threat of losing their home at this dangerous time, or building up unpayable debts over the coming months while, in many cases, their landlords are benefiting from a mortgage holiday. Is it not clear that we need a complete ban on evictions—on any grounds—during this crisis, and a rent holiday for those who need it?

**The First Minister:** We will continue to look at the actions that we can take and those that we need to take. I will rule nothing out, and want to rule as much in as possible. However, I say categorically, as First Minister, that nobody should face eviction from their home because of rent arrears that are accrued as a result of the coronavirus crisis. I hope that everybody across the chamber agrees with that.

Aileen Campbell set out actions yesterday, but those are not necessarily the end of the road. We continue to look at what more we can do. To put it in context—it is not my intention to be political, or

to criticise the United Kingdom Government, I only want to give context to what I am saying—the Prime Minister set out emergency legislation so that landlords will not be able to start proceedings to evict tenants for at least a three month period. We do not need to do that in Scotland, because that is what our current law says. That is why Aileen Campbell set out that we will extend the existing provision to six months.

In any event, as housing tribunals are not sitting right now, no proceedings will be taken forward. However, I repeat that nobody should face eviction because of the crisis that we are living through. What I have just described applies to landlords in the private rented sector. For completeness, I say that the Government will take action if we find that any social landlord is contemplating raising eviction proceedings against anybody in these circumstances. My constituency experience is that we have outstanding social landlords and I would not expect any of them to do that.

The Government will continue to ensure that if issues arise that put people in an unfair position, we will not hesitate to take the action that is required.

#### **Covid-19 (Emergency Surgery and Procedures)**

**4. Willie Rennie (North East Fife) (LD):** Jackson Carlaw, Patrick Harvie, Nicola Sturgeon and I met yesterday. We agreed that we will keep on meeting, and that we are going to work together, because this crisis demands that we work together.

I got this letter—which I opened here in the chamber—from a constituent, who says:

"Right now, I am scared to death. After blood tests and a scan by my GP, my GP has said I will be referred to a surgeon to save my life after the next test, but now the Scottish Government is saying that they are cancelling all non-urgent surgery for three months due to the Covid-19 virus. As you can see, I might not get the surgery that I require to save my life. I would like to live a bit longer".

We know that it is not the case that the person will not get the surgery. However, people are worried about that announcement and what it means for their operations and treatments. What reassurance can the First Minister give to people like my constituent, and others across the country, who are worried about life-saving treatment right now? We need to be clear about what we are doing so that people are not afraid about their future. What can the First Minister tell us?

**The First Minister (Nicola Sturgeon):** I would appreciate Willie Rennie's passing the letter and the details of his constituent on to us.

Let me try to set this out really clearly. What has been announced by the Cabinet Secretary for Health and Sport—it is being replicated in all

nations of the UK, I think—is a decision that we have not taken lightly, but it is unavoidable and essential because it will allow our national health service, and in particular our critical care services, to cope with what we know is coming down the track. What has been announced is postponement of non-urgent elective procedures in our NHS. We want urgent emergency and life-saving procedures, and cancer and maternity services to go ahead. Without having seen the detail, I think that what Willie Rennie has outlined sounds like the kind of procedure that should not be postponed and will go ahead.

It is important that we all take a responsible approach, as I know we are doing. I appreciated yesterday's meeting with party leaders; I am keen to continue to hold such meetings. We all want to work together, and part of working together will be our being clear about what is changing and what we are striving to ensure does not change. We are facing a big challenge and I do not want to scare people because, in my experience, scaring people is not productive.

However, I want people to understand that this is not a drill; this is real and it is happening. We all have to take seriously our responsibility to follow advice. I take this opportunity to remind people of the advice that we are urging—not asking, but urging—they to follow for their own sakes, and for the sakes of their loved ones and everyone else in Scotland.

If you have symptoms, stay at home. If you are in a household with somebody who has symptoms, stay at home. All of us are to cut down on our social interactions. That is particularly important if you are over 70, if you have a health condition for which you get the flu vaccine or if you are a pregnant woman. We have already said that people who are the most vulnerable due to their health conditions and those who have compromised immune systems will get tailored advice.

I repeat: the advice is not optional, and should not be seen as being optional. It is about saving lives. I have never before had to stand up in the Parliament and say anything so blunt. My job right now—it is not just me who is doing this; I am leading an effort that is enabling everybody to do it—is about saving lives, so we all have to follow the advice for that purpose. *[Applause.]*

**Willie Rennie:** I appreciate the work of the First Minister, the clarity that she is providing and the professional way in which she is going about it.

It is really important that we flush out these issues so that people understand what is happening, are not afraid for their lives and get the treatment that they urgently need.

There is little doubt but that the United Kingdom Government will need to do more to provide money to put food on the tables and keep the roofs over the heads of our constituents. Using existing Government tax and spend mechanisms is the best way to get money to them speedily. The Confederation of British Industry is recommending reverse national insurance contributions. We also need to boost the social security system. Those are probably the best ways to deliver some sort of citizens income.

Is the First Minister talking to the Prime Minister about that? Does she agree that we need an early statement on that from the Chancellor of the Exchequer, because people are worried not just about how exactly they will survive the virus, but about having enough food and a roof over their heads?

**The First Minister:** Across the Scottish Government, we are talking to the UK Government about all those matters. I am sure that Willie Rennie and others will appreciate that most of my and the Cabinet Secretary for Health and Sport's interactions over the past couple of weeks have been on the immediate health emergency that we face. However, the health emergency is undoubtedly fast becoming an economic emergency for businesses, for the economy as a whole, and for households and individuals around the country. Willie Rennie is right to make that point.

I welcome what the chancellor outlined earlier this week. I perhaps did not expect to be saying this, but the UK Government is, like the Scottish Government, trying very hard to do all the right things. However, UK ministers know, and we know, that much more will be required. We will work together on that. We will do everything that we can within our powers and resources; we have already set out a lot of initiatives, and there will be more to come from us.

However, there undoubtedly needs to be more from the UK Government, which holds most of the relevant levers. To move through this situation to a universal basic income or citizens basic income approach is the right thing for us to seek to do, and might be the necessary thing to do.

We will continue to have those discussions, because we cannot allow this health emergency to wreck the lives, livelihoods and incomes of so many people. We all have to pull together. It is really important that we do that in Scotland and around the UK, but it also requires a global economic intervention. I hope that countries will work together to beat the virus and to ensure that the rebuilding that will be required when we are on the other side of this situation is not as difficult as it will be if we do not take the right action now.

**The Presiding Officer:** As members will appreciate, there is a huge amount of interest in asking supplementary questions, from members of all parties. We will not be able to get through them all, but I hope that members will be succinct.

#### **Covid-19 (Air Ambulance Service)**

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** Can the First Minister confirm in more detail what the arrangements will be for patients in Scotland's islands who require the use of an air ambulance? Is the service now equipped and able to carry patients who have tested positive for coronavirus?

**The First Minister (Nicola Sturgeon):** Yes it is, and, as we develop our approach to coronavirus, we will continue to take particular account of the needs of our rural, remote and island communities.

Everyone is feeling anxious about this, but it is inevitable in any crisis that the people who live on the margins of our country will feel that anxiety even more acutely. We will continue to make sure that that is at the forefront of our minds and thinking.

#### **Covid-19 (Private Sector Assistance)**

**Pauline McNeill (Glasgow) (Lab):** Does the First Minister agree that the private sector is essential in dealing with the coronavirus? A company in Glasgow has identified hundreds of ventilators in China—I know that her ministers are aware of that and that Scottish Enterprise is working closely on such matters. I probably do not need to ask this, but, for the record, does she agree that we need to do everything that we can to ensure that the sector gets all possible assistance if it finds ways to help with the coronavirus?

**The First Minister (Nicola Sturgeon):** I agree 100 per cent. I hope that we know about the company that Pauline McNeill is talking about, but, just in case we do not, I would be grateful if she passed on the details.

Ivan McKee is chairing a working group that involves officials from the Scottish Government, the National Manufacturing Institute Scotland, Scottish Enterprise and the national health service, which is co-ordinating efforts to mobilise the wider Scottish manufacturing base so that it can support work on NHS shortages of key manufactured products. Ventilators are very much at the top of the list of priorities, but, as I said to Richard Leonard, other products will fall into that category. Any company that feels that it has something to contribute should contact us.

We have been inundated with offers from individuals and companies. We have gin and whisky distillers making hand sanitiser. I have had

offers of timber if we need to build things. I have had offers right across the spectrum, of everything that members could imagine. People in the entertainment and events industry have offered their skills and help if hospitals need to reconfigure their physical base.

There is so much good will out there, and we need to harness it. I am keen that there is, in the Scottish Government, a central point at which to collate all those offers, so that nobody's offer of kindness or help falls through the cracks. I have asked for some work to be done on that. If members have been contacted in that regard, I ask them please to pass the information on to us.

#### **Covid-19 (Hospital Parking Charges)**

**Miles Briggs (Lothian) (Con):** NHS professionals in Scotland are rightly being told to limit their use of public transport. A number of nurses who work at Edinburgh royal infirmary contacted me this morning to say that they are now presented with a £7.50 daily parking charge at the hospital. What discussions has the Government had with parking companies here, in Edinburgh, as well as in Glasgow and at Ninewells hospital in Dundee, about suspending parking charges while we are in this crisis?

**The First Minister (Nicola Sturgeon):** I sympathise with those in that situation. We removed parking charges for all NHS car parks some time ago, but that does not apply for the private finance initiative hospitals.

The health secretary is looking urgently at how we can get rid of parking charges at those hospitals during this period. I hope that we can talk to the companies and ask them to suspend charges, but, if that does not happen, the Scottish Government will want to look at what we can do to take away those costs from the people who will be working hard to keep the rest of us safe in the weeks and months to come.

#### **Covid-19 (Homeless Accommodation)**

**John Mason (Glasgow Shettleston) (SNP):** I think that the First Minister is aware of the Lodging House Mission, which is based in my constituency and which has run a winter night shelter since December, in conjunction with Glasgow City Mission. The charities are having to close their daytime and nighttime care facilities. Is the public sector able to take over some of the care that the third sector has provided for homeless people and rough sleepers?

**The First Minister (Nicola Sturgeon):** I know that Glasgow City Mission, which runs the winter night shelter, took that decision for the sake of its guests' safety. It was an understandable and appropriate decision.

The health and social care partnership and third sector and registered social landlord partners have made extra accommodation available to help rough sleepers and people in temporary accommodation to self-isolate. They are urgently looking at how to increase capacity in the days to come, including through the use of hotels and perhaps vacant student accommodation.

Our £350 million welfare and wellbeing package, which Aileen Campbell set out yesterday, is all about ensuring that local partners can support people in need, which very much includes people who are experiencing homelessness.

### **Covid-19 (National Health Service Staff Testing)**

**Ross Greer (West Scotland) (Green):** I appreciate what the First Minister has said about the testing of NHS staff, but, three times in the past five days, NHS Lothian staff have received an email telling them that, if they display symptoms, they should stay at home for seven days from when their symptoms started and that they will not be tested.

From what the national clinical director told us yesterday, I am aware that the new testing regime will be operationalised imminently. Will the Scottish Government relay that information to NHS staff? They are panicking about the situation and are sending substantial volumes of correspondence to their MSPs because they simply do not know what to do.

**The First Minister (Nicola Sturgeon):** Yes, we will ensure that all NHS staff know exactly what the testing arrangements will be and how they can access them. As I have said, we are working at pace to make sure that the arrangements are in place and that we have the capacity to process the tests.

I say to Ross Greer, to those in the chamber and to every single one of our health and social care workers that we know how valuable and important those workers are. We want them to be safe and well. We do not want them to be at work if it is putting their health at risk, but we want them to be at work if at all possible, because the rest of us need them, as they will be looking after all of us. We have a shared interest in making sure that testing happens as quickly as possible, and that is our absolute priority.

### **Covid-19 (Mental Health)**

**Jackie Baillie (Dumbarton) (Lab):** The First Minister will be aware that those with an existing mental health condition—whether it is anxiety, depression, psychosis or paranoia—will have their condition exacerbated by the circumstances of the

pandemic. Will she increase the resources and capacity of Breathing Space, which provides really valuable support? What other plans does she have to take care of those with existing mental health conditions and for the wellbeing of the whole population?

**The First Minister (Nicola Sturgeon):** The short answer is yes. If Breathing Space wants to contact us, we will look at how we support it. Part of the funding that was announced yesterday is to support organisations on the front-line that are providing crucial support.

I have already referenced my visit to Age Scotland yesterday. We have given additional funding to allow the expansion of its helpline, but other organisations—Breathing Space is a very good example—will have greater demand placed on their services.

As people are social distancing and self-isolating, the services will become more important in ensuring that the human connections that are so vital to all our lives continue. We very much want to do everything that we can to make sure that those vital organisations have the support that they need.

### **Covid-19 (Immunity Test)**

**Alex Neil (Airdrie and Shotts) (SNP):** I draw the First Minister's attention to the statement that the Prime Minister made yesterday about a reliable test being available imminently to identify those who are immune from coronavirus. Is she yet in a position to advise when such tests may be available in Scotland? Who would be on the priority list for them? The tests will be extremely helpful in fighting coronavirus.

**The First Minister (Nicola Sturgeon):** I have already alluded to that issue in some of my answers today. Notwithstanding what might happen in relation to a new test being made available, I have made it very clear that key workers will be getting tested to make sure that they are not self-isolating unnecessarily and that we can keep that workforce as intact as possible.

I have already said that discussions are ongoing about the possibility of new forms of tests, rather than the swab tests that are currently being used. Dipstick tests are quicker; they are not available right now, but discussions are taking place at United Kingdom level with companies about whether it will be possible to make them available in the near future. If so, that would allow people to test themselves much more quickly and, crucially, to tell whether they had had the virus—that is, to see whether they had the antibodies that suggested that they had had it.

I have set out the three objectives of our testing arrangements: to protect the vulnerable and save

lives; to test key and critical workers; and to carry out population surveillance, so that we know what is happening with the spread of the virus. The new tests, if they became available, would enable people to know whether they have had the virus, which would be hugely important, particularly as we try to get people back to normal in later stages. The tests are not available right now, but I hope that the on-going work will lead to their becoming available as soon as possible.

#### **Covid-19 (Testing for Healthcare Workers)**

**Maurice Corry (West Scotland) (Con):** Will the First Minister commit to prioritising testing for front-line healthcare workers and ensuring that it is accessible at local level?

**The First Minister (Nicola Sturgeon):** Yes. I have been trying to do that repeatedly to date. Front-line healthcare workers are the priority when it comes to making tests available. We want to do that as easily and as accessibly as possible. That is exactly the work that is under way, and I am grateful to Maurice Corry for giving me the opportunity to reiterate that important point.

#### **Covid-19 (Access to Ministers)**

**Monica Lennon (Central Scotland) (Lab):** The Covid-19 pandemic means that we will need to look afresh at how we respond to Scotland's drug death emergency, and give fresh consideration to the available capacity in Scotland's residential rehabilitation centres and how we use them. There are many urgent questions about vulnerable people who are affected by substance misuse. I agree with the First Minister that we need a national collective endeavour, so I ask that Opposition spokespeople can have regular access to ministers. We all have ideas, and there are ways in which we can help, so that we can work together to deal with the issues in our country that were already big but which have become even more acute because of the outbreak.

**The First Minister (Nicola Sturgeon):** Yes, I can give that assurance. I would hope that Opposition spokespeople feel that they have access to ministers. The Cabinet Secretary for Health and Sport has told me that she is meeting with Opposition health spokespeople after First Minister's questions. As Willie Rennie said, I convened a meeting of party leaders yesterday and have given an undertaking to meet them regularly.

Things feel a bit unusual to all of us, me included, because these are unusual times. Politics as normal is not operating right now—nor should it be. The only thing that we should all be focused on—the only thing that I am focused on—is doing everything that we can to get the country through this unprecedented, enormous challenge.

Government has a leadership role, but I will be candid in saying that Government cannot do it all on its own. We try to think of everything, but there will be some things that we do not think of. The questions that are raised in the chamber, and the suggestions that are made, are therefore more important than ever. Not only Opposition spokespeople but members across the chamber should feel that doors are open in the Government. If they have ideas, if they hear suggestions, or if they think that there are things that we are not thinking of or not doing as well as we should, I ask them to tell us. It is in everybody's interest that they do that, so that we can make sure that we are doing absolutely everything that we can.

#### **Covid-19 (Business Insurance)**

**Mark McDonald (Aberdeen Donside) (Ind):** On the subject of the Government not being able to do it alone, I have been contacted by a small business in my constituency that provides specialist inspection and training services to the energy industry. Over the past few weeks, its order books have ended up at less than 5 per cent of the pre-Covid-19 level. The owner tells me that he will have no alternative but to close operations next week. As a responsible business owner, he has business interruption insurance, and he has provided me with a copy of the policy. It turns out that the policy provides cover for smallpox, which was globally eradicated before I was born, but not, his insurance company tells him, for Covid-19.

Last week, the First Minister told Andy Wightman that discussions were on-going with the insurance sector. Where are those discussions at, and does she agree that the insurance sector needs to get a shift on? It could be the difference between companies surviving the crisis or not.

**The First Minister (Nicola Sturgeon):** Yes, I would absolutely send that message to insurance companies. Fiona Hyslop made a comment about the banks the other day, which I absolutely endorse and extend to insurance companies. We need everybody to play their part in doing the right thing. If Mark McDonald wants to pass on the details of the company, we will be happy to look into the issue and to include it in discussions with the insurance sector.

We made Covid-19 a notifiable disease a few weeks ago. That is important for insurance purposes. There has also been some debate across the UK about whether it is necessary for insurance purposes for businesses—in particular, pubs, cafes and restaurants—to be ordered to close. All those things are being carefully worked through.

Through emergency legislation that will be published at Westminster, new powers are being

taken to try to deal with some of those things. However, we should not always have to be exercising legislative power; in this situation everybody has an obligation to step up to the plate and do the right thing to the best of their ability. That undoubtedly includes insurance companies.

#### **Covid-19 (Armed Forces)**

**Richard Lyle (Uddingston and Bellshill) (SNP):** There are unconfirmed reports that Army units are setting up in Strathclyde park in my constituency. What discussions has the First Minister had with the armed forces high command in Scotland regarding the emergency, and will Army units be used during it?

**The First Minister (Nicola Sturgeon):** The Army often provides support when we need it. For example, during previous terrorist incidents, the Army has been able to provide support at the request of the police. In terms of dialogue, procedures are well-established between the Scottish Government and the Army. We will take help wherever we can get it.

I am happy to look into the specific issue that Richard Lyle has raised, but we need to make sure that all our resources are appropriately—I stress “appropriately”—fully deployed to ensure that our efforts against coronavirus are absolutely what the public need them to be.

**The Presiding Officer:** I am conscious that quite a large number of members did not get a chance to ask a question, but we have already let the session run on. I will suspend the meeting there, and we will resume at a quarter to 2 for portfolio questions.

12:49

*Meeting suspended.*

13:47

*On resuming—*

## **Portfolio Question Time**

**The Presiding Officer (Ken Macintosh):** We resume with portfolio questions on economy, fair work and culture. Questions 1 and 2 have been withdrawn.

### **Economy, Fair Work and Culture**

#### **Labour Market Strategy (Employment Rights and Pay)**

3. **Sarah Boyack (Lothian) (Lab):** To ask the Scottish Government what steps it takes to ensure that its labour market strategy protects the rights and pay of people in sectors perceived as undervalued or insecure. (S5O-04288)

**The Minister for Trade, Investment and Innovation (Ivan McKee):** The labour market strategy sets out the Scottish Government's approach to delivering a fair and inclusive labour market that drives our country's economy. The strategy, particularly its commitment to fair work, reflects all aspects of labour standards and supports the vision of Scotland becoming a fair work nation by 2025.

The Scottish Government has repeatedly called for the devolution of employment law, which is a position that is supported by the Scottish Trades Union Congress. Although employment law remains reserved to the United Kingdom Government, we will do all that we can within our current powers to protect workers, including those in precarious employment. For example, in 2019-20, we have promoted payment of the real living wage by increasing funding for living wage Scotland to £380,000, and we continue to encourage all employers to pay the real living wage, including through our procurement powers. We are targeting sectors with long-standing low-pay cultures, and we continue to reduce the gender pay gap to the smallest in any part of the UK.

We want to create a successful labour market that works for everyone by delivering fair work in which all employees are treated well and are paid a decent wage.

**Sarah Boyack:** I very much welcome the fact that there is on-going work and that the STUC is being made aware of it.

Over the past few days, we have reflected on how the care sector is undervalued, with short-term contracts, and there is a real challenge in making sure that we are resilient over the next few weeks. What work is the Scottish Government doing to redesign such sectors of employment so

that we create new career opportunities and make employment that is currently perceived as undervalued or insecure more secure and properly valued so that, when have a shock such as we are having at the moment, people will still be in work and have jobs to go to?

I know that some work is being done in the care sector to reshape opportunities there. Will the minister undertake to look at that and to keep the Parliament updated on developments in the care sector and other sectors in which we could see meaningful change over the next few weeks and months?

**Ivan McKee:** Of course, we all recognise the huge importance of the social care sector, especially in these particularly difficult times. There are two parts to that. As Sarah Boyack will be aware, the Scottish Government is committed to rolling out the real living wage in that sector. We have been delivering that for a number of years, and we will continue to work with the trade unions to ensure that people in that sector are treated as they should be, according to fair work principles. There is also the longer-term ambition, to which we are hugely committed, of making those jobs more valuable and secure. That can be done through a range of activities, including innovation. As more technology comes into the sector, those jobs will become more valuable and more highly regarded. We are all committed to that, and the current situation drives that home.

**The Presiding Officer:** Four members want to ask supplementary questions. If they are concise, we will get through them.

**Angus MacDonald (Falkirk East) (SNP):** As the minister alluded in his initial answer, many aspects of employment are reserved, including pay. Does the minister agree that the full devolution of employment powers would better equip the Scottish Government to protect and improve workers' rights?

**Ivan McKee:** Yes, of course I do. We have repeatedly called for that to happen and, as I highlighted, the STUC joins us in those calls. I encourage those parties in the Parliament that have not already done so to join us in making those calls, because the more of those powers we have devolved to the Scottish Parliament, the better able we will be to deliver for the workers we are talking about.

**Neil Findlay (Lothian) (Lab):** The minister says that we all recognise the importance of the care sector, but that is clearly not the case. If we did, it would not be a sector that is defined by low pay, insecure work and a lack of career structure. Care workers will look at us when we say such things and will want us to take action.

One way in which we could change the ethos and culture of care would be by returning to national collective bargaining. The employers and the trade unions want that. Will the Government facilitate that discussion with a view to returning to national collective bargaining so that we never again get in the position in which carers are treated as they are at the moment?

**Ivan McKee:** The issue of collective bargaining is being addressed by my colleague Jamie Hepburn through the work that is being done around fair work first. A number of sectors have been identified to work with the STUC to map out the position on that and to understand how we can make progress, and I know that Jamie Hepburn is engaged in conversations to pursue that.

**Sandra White (Glasgow Kelvin) (SNP):** I want to ask about insecure employment. I have just received an email from workers at a large firm who are on zero-hours contracts. They have just been made unemployed and, naturally, they are very stressed and worried about that. How is the Scottish Government engaging with businesses to promote fair work practices at this very worrying time?

**Ivan McKee:** With regard to zero-hours contracts, that legislation is reserved to the United Kingdom Government. The Scottish Government firmly opposes the inappropriate use of such contracts and other non-standard types of employment that offer workers little or no security. We continue to work to make progress on that agenda, where we have the power to do so, but the fact that the issue is entirely reserved makes it difficult for us to move forward as far or as fast as we would like to.

**Claire Baker (Mid Scotland and Fife) (Lab):** On the subject of insecure and underpaid work, the minister will be aware that people who work in the creative sector are often expected to work for nothing, by virtue of their performances being free, or are extensively underpaid for the work that they produce. Will the labour market strategy work recognise the issues that have been identified in that sector?

**Ivan McKee:** Yes, that sector will be considered by the labour market strategy. I refer to my earlier comments: the Scottish Government is opposed to the inappropriate use of zero-hours contracts and other non-standard types of employment that offer workers little or no job security. We intend to work with the STUC and others to address that issue as best we can, given the powers that we have in this Parliament.

**The Presiding Officer:** Questions 4, 5 and 6 have been withdrawn.

### Employability Services

**7. Michelle Ballantyne (South Scotland) (Con):** To ask the Scottish Government what role it has in promoting the uptake of United Kingdom Government employability services. (S5O-04292)

**The Minister for Trade, Investment and Innovation (Ivan McKee):** Under the Scotland Act 2016, the Scottish Government's duty is to make sure that disabled people and those at risk of long-term unemployment get the support that they require to move into and towards work.

That is now being taken forward by fair start Scotland. Fair start Scotland has already supported more than 19,000 people, with more than 5,000 people moving into work in a dignified and respectful way. We work with the UK Government and other partners to ensure that services are aligned and delivered for the people who need them most.

**Michelle Ballantyne:** I am aware that fair start Scotland is the devolved employability service. It recently released some troubling statistics showing that only 276 people who had left the programme had secured a job for a year. Even more troubling is that in May 2019 the Scottish Government said that fair start Scotland will support 38,000 people over a three-month period, but a month later the Scottish Government published materials saying that the programme

"will reach a minimum of 38,000 people"

by 2023. In the answer to a parliamentary question that I asked to follow up on the issue, it was confirmed that the date would be 2023.

In the current crisis, many people who are already struggling to get a job that meets their needs will now be even more worried about that. Can the minister clarify the numbers and explain why the targets in relation to that important service were moved?

**Ivan McKee:** It is important that Michelle Ballantyne acknowledges that the programme addresses the needs of the most vulnerable people and those who are furthest from the labour market. It will take time to bed in.

I draw the member's attention to a fact that I already mentioned: 19,000 people have been supported, with 5,000 of them having moved into work. It is also important to recognise that a recent evaluation report showed the 92 per cent of participants in the programme felt that they had been treated with dignity and respect, and that 80 per cent felt that they had a choice about the type of support that they received. That shows this Government's approach to employability services.

### Scottish Enterprise (Suspension of Grants)

**8. Pauline McNeill (Glasgow) (Lab):** To ask the Scottish Government what its response is to reported concerns that the suspension of grants by Scottish Enterprise is because of organisational mismanagement and not success in stimulating demand for strategic investment. (S5O-04293)

**The Cabinet Secretary for Economy, Fair Work and Culture (Fiona Hyslop):** Scottish Enterprise always has to consider how best to focus available resources, including grants. Because of its success in stimulating demand for strategic investment, it already has significant commitments for 2021 and beyond. To the end of February, 179 offers for large capital grants from Scottish Enterprise, totalling £103 million, have been accepted. That includes £66 million for 48 research and development projects, and £29 million for 82 regional selective assistance projects. Those represent more offers and more associated capital grant funding than in any of the previous three financial years.

Scottish Enterprise is also committed to working closely with customers and partners to understand the impact of Covid-19, and it will tie in with the £2.2 billion-worth of measures that the Scottish Government is introducing by supporting business through the Covid-19 helpline, as well as through the very fine [findbusinesssupport.gov.scot](http://findbusinesssupport.gov.scot) website, which is the best way for businesses to find the information that they need.

**Pauline McNeill:** The cabinet secretary will appreciate that the landscape has changed since I lodged my question. I appreciate what she says about the successes of Scottish Enterprise, but she will be aware that it ran out of cash well before the end of the financial year and that staff who were supposed to be helping businesses have been unable to travel without the authority of two managers.

There are suggestions that 40 per cent grants were offered when companies expected only 30 per cent. If that is not true, it is certainly heavily rumoured. I caveat this heavily, but when the time is appropriate, will the cabinet secretary look more closely into the matter to make absolutely sure that Scottish Enterprise did run out of money for the reasons that she has given today?

**Fiona Hyslop:** It is very important that Scottish Enterprise makes sure that every penny of public funds is spent to develop business. That is what it has done. I do not base things on rumour and I certainly want to hold Scottish Enterprise to account. That is my job, and I have already done that. I am confident that it has managed to maximise income, as has been reported. The figures are much better than they have been in previous years.

At no point does Scottish Enterprise stop supporting business. I want to reassure Pauline McNeill on that.

**Maurice Golden (West Scotland) (Con):** I recognise the critical role of Scottish Enterprise at this time. Can the cabinet secretary provide additional information on efforts to upscale the coronavirus business hotline?

**Fiona Hyslop:** As I have indicated, clearly there is heavy demand on that hotline and, importantly, on the website. I encourage all businesses to access the website first. The findbusinesssupport website includes many frequently asked questions, most of which are about the United Kingdom Government announcements of Tuesday night and yesterday. Clearly, we want to ensure that business rates will be applicable immediately when they come in in April. The 100 per cent reliefs will be very welcome.

In terms of the additional information that is required, we want to focus efforts on the helpline, which had 2,300 calls on Tuesday and 1,850 calls yesterday. It has the resources that it needs. Five thousand businesses have now received the Covid-19 email newsletter, and we are upscaling with 80 additional staff to help to screen calls.

I appeal to members to direct businesses to the website in the first instance, because we understand that the great majority of the questions that are being asked are dealt with on it.

## Covid-19 (Education)

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a statement by John Swinney on education: Covid-19. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

14:02

**The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney):** Responding to the coronavirus pandemic is a matter of the greatest national importance, and the scale of the challenge in front of us is truly without precedent. Every aspect of our national life has been affected by the crisis, and sustaining our education system has been at the forefront of my mind. My priorities are to ensure the health and wellbeing of our children, young people and staff, and to maintain teaching and learning wherever possible, guided by the advice of the chief medical officer and public health experts.

I would like to place on record my sincere appreciation for the extraordinary work that all of the teaching and non-teaching staff in our schools and early learning and childcare settings have been doing to maintain educational continuity in these unprecedented days. [*Applause.*]

The approach of the Scottish Government to the crisis has been to deliver clear and open communications with members of the public. When circumstances change, we need to set out the basis of that change, and we reached that point yesterday in relation to our schools. First, scientific advice now highlights that closing schools will help to suppress the spread of coronavirus. Secondly, as people follow the advice issued on Monday, it is becoming increasingly difficult to sustain education provision. As a consequence of those two factors, the First Minister set out yesterday that school and nursery closures for pupils are now inevitable.

I want to be clear at the outset that what we are advising is this: at the end of tomorrow, schools and nurseries should, ordinarily, close for children and young people. Teaching, learning and support will continue, albeit in different ways for different groups of children. For the majority, that will be through distance learning and online learning, with different forms of on-going contact with teachers rather than in-school, face-to-face teaching. Teachers and other staff who are well will continue to work. Senior phase pupils with coursework for national qualifications to complete will be informed by their schools how to complete it. For vulnerable children and those who have parents or carers

employed as key workers, local authorities are developing approaches to support them at this time.

My statement today will provide more detail on what those things mean in practice, and on how our teachers and our education workforce can refocus their work to support pupils in a range of different ways in the weeks and months ahead.

We want our local authorities to be able to exercise the necessary flexibility in the use of school buildings and other settings to enable the education workforce to operate in new and different ways to support learners. There are three ways in which that should be the case, and we have discussed and agreed this approach with local government.

The first is that we need to continue to support vulnerable children. We will not cut adrift vulnerable young people, who often rely on school life for hot meals or for a safe, nurturing and supportive environment.

The second is that we want to deliver as much educational continuity as possible. We want local authorities and teachers to do all that they can to ensure educational continuity for our children and young people, with a particular focus on secondary 4 to secondary 6 pupils who need to complete coursework for national qualifications. Teachers can provide educational continuity for children in the broad general education in a variety of ways, for example through setting weekly learning tasks and emailing those to families where possible, or by using the Glow website and other online learning platforms. I am confident that the teaching profession will respond in a variety of imaginative, creative and stimulating ways to support continuity in learning for pupils.

The third way relates to key workers. We are clear that we must support local authorities to put in place arrangements that ensure that the children of key workers who do not have another parent or carer at home who can look after them during the day have continuing access to all-age learning and childcare that allows their parents or carers to participate in the national response to Covid-19. For example, our doctors and nurses must continue to be available to support the fight against this virus.

I will go on to set out what that is likely to mean in practice. However, I would like to be clear about one thing—that may mean that local authorities opt to keep some settings open with reduced staffing, but operating in a very different way, or they might create local hubs and use community facilities in different ways. It might also mean that they work with private and third sector providers of childcare, including childminders, to deliver childcare to key workers. Indeed, I would strongly

encourage them to prioritise the use of those facilities to ensure continued support for that critically important sector.

In all of those models, we will balance the extent of physical provision in buildings with the risk of undermining the health interventions. In doing so, we will be led by the advice of the scientific advisory group for emergencies.

Speaking specifically to parents and carers whose children do not fall into those categories, I say this: we know that this is a difficult time, and there will be support for you, too. We know that a lot of parents will be thinking about how they can balance working from home with looking after children. Those parents are not expected to be a teacher or to recreate the school day. However, we want to ensure that they feel supported to help their children, and the support to do that will be available through schools, through the provision of resources and suggestions, as the first point of call in providing that advisory support.

I highlight the excellent advice that has already been provided to children and young people by Young Scot. We will be working with a range of partners to find the best way to keep children and young people updated and supported with the latest information.

I will, of course, take questions at the end of my statement. However, I make clear now that we do not pretend to have all the answers at this stage.

We are working with local authorities and partners to ensure that vulnerable children and young people can continue to benefit from the learning, care and support that schools and nurseries provide for them.

Local authorities will need to take into account issues of child protection, welfare, poverty, children with complex additional support needs and the need to provide access to food for young people who need it. I am not going to set a definitive definition of what a vulnerable child is; our schools and local authorities know our children and families well and are best placed to identify which children need care, protection and support the most during the period that lies ahead.

In planning to support young people, the needs of young people will be taken into account. Those with complex additional support needs who are learning and living in residential special schools will continue to receive the care and support that they require. Plans will specifically take into account any long-term health conditions, in order to protect the health and wellbeing of that group. I know that local authorities are creatively considering different ways of supporting young people with different needs during this period, such as using outreach models and joining up

available staff to provide care, support and continuity.

We have made great strides in recent years through increasing multiagency working, and now is the time for professionals and services to work together in new, dynamic ways that meet local needs.

All chief social work officers have been asked to ensure that special consideration is given to identifying and supporting vulnerable children at increased risk, such as those with lone parents who have become too unwell to look after their children.

We have already stated our commitment to work with local authorities to continue the provision of free school meals, which reduce costs to families and ensure the provision of healthy and nutritious food. Multiple options are being planned for by local authorities, including the successful model that is already deployed in Shetland, where direct payments and vouchers have been provided to families whose children are entitled to free school meals. Other local authorities are considering opening community campuses to provide meals or to enable young people or families to collect food.

A £350 million package of support for our communities was announced yesterday, which includes establishing a £70 million food fund to support households who are worried about accessing food. The additional funds will also support the continued provision of free school meals, ensuring the continued support, in their communities, for families who need it.

Elsewhere, we will relax the guidance on the use of pupil equity funding to provide further flexibility for headteachers and local authorities to support our most vulnerable children and their needs during this time. That flexibility will also apply to schools and local authorities that are in receipt of challenge authority and schools programme funding.

I believe that that approach, taken together with our local authority children's services and community partners, will enable the continuation of vital support for Scotland's vulnerable children and young people.

I turn to the 2020 exam diet. In all our history, Scotland has never cancelled the exams. Since 1888, they have been held every May or June without fail. In the midst of two world wars, the exams went ahead. It is a measure of the gravity of the challenge that we now face that I must today announce that the exams will not go ahead this year. I am aware of how significant a step that is. Indeed, it is an unprecedented one in unprecedented times. Scotland's exam diet has never been cancelled before.

Although the protection of life is our overriding priority, we must do our utmost to ensure that we protect the interests and life chances of our young people who are due to sit exams from the end of April this year. Their achievements must be rightly and fairly recognised. I want the 2020 cohort to be able to hold their heads high and gain the qualifications and awards that they deserve after many years of hard work. I know that they will be very worried about the situation that they face and I want them to be assured that we are doing all that we can to deliver the best outcome for them.

Scotland's chief examining officer has advised me that, with the support of the wider education system, a credible certification model can be put in place that can command confidence in the absence of the exam diet and can ensure that young people in our schools and colleges who, through no fault of their own, are unable to sit exams are in no way disadvantaged.

I anticipate that the model will use coursework, teacher assessments of estimated grades and prior attainment as the basis of certification. In order for such an approach to be effective, the Scottish Qualifications Authority will require relevant units to be completed, and coursework and teacher estimates of grades to be submitted by the agreed deadlines or sooner, where that is possible. We are facing significant disruption at this time, but I appeal to our teachers and practitioners to do all that they can—safely—to meet the deadlines to allow qualifications to be awarded to their young people.

My ask is clear: schools should submit coursework and teacher estimates as soon as they can and certainly by the dates provided. I stress that those elements form part of the suite of materials that is provided to the SQA every year when a full exam diet has been in operation.

In addition to thanking teachers for their hard work and on-going commitment, I thank the chief examining officer, Fiona Robertson, and all the staff at the SQA for their significant efforts already and for the efforts that they will deliver in achieving this task. I am aware of the scale of the task that they are facing, but I believe that it is in the best interests of our young people. They deserve to have their achievements recognised and to be able to take their next step in learning, life or work, and we cannot achieve that without the vital contribution of the SQA.

The Scottish people are key to our efforts in tackling this virus. Throughout the pandemic, we will need to ensure that provisions are in place that allow key workers, for example national health service staff, to continue to play their vital role in the national response. The workforces of our health service, our care services and our emergency services have led the way in

addressing this challenge; enabling those staff to continue to work will help to save and protect lives across the country.

At a national level, we view key workers as those who work in posts that ensure that essential services can be delivered, or those who cover tasks within the local community that support the vulnerable and aid community resilience. To best serve local priorities, the exact definition of a key worker might vary across the diverse range of localities in Scotland. Urban and rural communities will rely on different key people doing their jobs in order to keep them safe, healthy and with access to the food and medicines that they need, for example.

I am humbled by some of the early and highly creative thinking of our local authority partners. It was encouraging to see that, in a response to its circumstances, Shetland Islands Council has been able to implement a hub arrangement to provide care and support for the children of key workers.

Another authority plans to create a number of hubs to provide care, learning and a range of stimulating activities for children who might be vulnerable or whose parents are key workers. Authorities are drawing together a range of staff—teachers, active schools co-ordinators, community learning and development staff and others—to provide a high-quality experience for the children who need us most during these unprecedented times.

We will continue to work with local partners and colleagues across the rest of the UK on provision for key workers as the situation develops.

On early learning and childcare provision, it is likely that many local authority nurseries will close, as I said. However, we do not expect or want all nurseries to close. Our priorities are to ensure that key workers who need childcare can continue to access it and that we sustain private and third sector providers during this period of considerable uncertainty and challenge.

We are advising private and third sector childcare providers that they can remain open, as long as they refocus their operating models to support solely the children of critical workers and families who are most in need of support. Childcare providers can make a huge contribution to enabling key workers to remain in work.

Local authorities are making plans for the provision of emergency childcare services to school-age children in their areas. In developing those plans, I have asked authorities to make maximum use of local childcare providers in the private and third sectors, so that they can keep their doors open.

The Scottish ministers are committed to supporting our private and third sector childcare providers to remain viable. We are reviewing the package of general business support measures that the United Kingdom Government announced this week and we are working closely with our partners in the sector to identify what other support we can provide.

As a first step, the First Minister guaranteed earlier today that the Scottish Government will continue funding streams that allow contractual payments to private and third sector providers, including childminders, for statutory early learning and childcare hours to continue. That is worth around £220 million to the sector in the year ahead. We are working closely with local authorities to ensure that they can adopt that position and provide assurance to providers that funding will continue as we all work together to respond to the pandemic.

The Care Inspectorate is today publishing new operational registration guidance for all services, including the children's daycare and childminding sector, which will confirm a range of regulatory flexibilities to support the sector to function in these unprecedented times, while ensuring that the safety of children remains paramount.

Our response to the Covid-19 pandemic will clearly have an impact on the delivery of our early learning and childcare expansion commitment from August. We will provide a more detailed update to Parliament in due course. The Scottish budget delivered additional revenue funding of £201 million in 2020-21 to support local authorities in delivering the expansion to 1,140 hours. I will confirm to local authorities today that they can deploy that funding as flexibly as they need to do, to support families and childcare providers during this period.

Colleges and universities operate in different circumstances, combining learning and research. We recognise that universities and colleges are introducing measures that are intended to minimise the potential disruption for students and staff and to ensure their wellbeing. Many universities and colleges are withdrawing face-to-face teaching and are making arrangements, where possible, for online teaching. The handling of that transition on the ground—in extremely challenging circumstances—is, obviously, key to reducing stress on students and staff. We look to our colleges and universities to make appropriate decisions in relation to their operations, while prioritising the health of staff, students and the wider public.

On student funding, the Student Awards Agency Scotland has robust business continuity measures in place to ensure that its business services remain functioning. We will endeavour to continue

to fund students on time. Given the nature of these unprecedented times, we will keep students updated throughout.

We are working closely with the Scottish Funding Council and institutions on business continuity actions that will support institutions, students and staff. This week, the Minister for Further Education, Higher Education and Science had additional calls with college and university principals, campus trade unions and the National Union of Students Scotland.

We will continue our engagement with local authorities, and expect to work on further details into next week. We would like to see the refocused provision for the three key groups of children and young that I have mentioned—those who are vulnerable, those who have parents and/or carers who are key workers and those who have coursework to complete for qualifications—in operation during next week.

Most, if not all, schools will have pupils in those groups, and all headteachers and staff who are well will need to be a part of the offer. Strong partnership working and clear communication between local authorities and their communities about the arrangements being put in place will be vital in the days ahead.

I understand that people will naturally want clarity on how long these measures will last for and when the education system will return to full provision. The truth is that, at this stage, we cannot know. People should not assume schools and nurseries will reopen after Easter—as the First Minister said yesterday, they may not be able to do so before the summer break. We will keep that under constant review.

I am also aware that, during holiday periods—such as Easter—many schools, local authorities and out-of-school care providers offer services for children and their families. I would, again, encourage colleagues leading those services to look at how they can continue to provide for the three key groups that I have highlighted today—looking after vulnerable children and the children of key workers; and, in the case of young people completing national qualifications, continuing with planned approaches to supporting Easter revision activities.

Now will be a time when we must pull together and harness the strength of our local communities and the various professional groups that support children and families across Scotland. The continuation of education, and the continuation of the health and wellbeing for our children and young people, should be at the centre of all that we do.

In summary, to the teachers or other education professionals listening to this, I encourage them to

channel their professional knowledge and skills in different ways over the weeks and months that lie ahead. That may include teaching and learning in different ways, for example, through the use of technology. It may be that their school will operate a skeleton staff to continue to support vulnerable children or children whose parents are key workers, or their local authority may offer those services through local hubs, examples of which I have cited today.

We need our teachers and our education workforce more than ever over the weeks and months ahead, and I am confident that they will rise to the challenge with determination, creativity and, above all, with the interests of the children and young people who need them most at heart.

Following this statement, I will send a letter to all local authority chief executives and directors of education and children's services setting out the expectations that I have discussed during this statement.

I, again, offer thanks to the local authorities for their efforts to take decisive action in the best interests of children and young people, teachers and staff. Those foundations will be invaluable as we strive to deliver the education that our children need in the most difficult of times.

**Jamie Greene (West Scotland) (Con):** I thank the cabinet secretary for advance sight of his statement. I, too, thank staff who work in all places of childcare and learning.

Yesterday, the First Minister commented that closing schools and nurseries is arguably one of the most difficult decisions that a Government will ever have to take. To that, I would add that a huge light has been shone on the importance of schools and nurseries and their role in society, especially in these extraordinarily difficult times.

I do not envy the Government for some of the difficult decisions that it has had to take today, and I know that not everyone will be happy with them. However, Conservative members commit their full support to the Government on the issue. We do that today and we will do that tomorrow and every day in this unprecedented crisis. [*Applause.*]

I would like to pick up a few important points that have been raised in the statement. The first point relates to early years. On the assumption that the majority of publicly controlled nurseries are indeed closing, providers will be looking for absolute clarity on whether private, voluntary and independent sector nurseries are being told that they must close, and that they are able to stay open only if they offer assistance with childcare for key workers.

That leads me to the children of key workers in Scotland, which I accept is a fluid issue. Local

authorities will have some flexibility, but parents will be asking where they will send their children and when, and how they will know whether they qualify.

My final point is about the important issue of SQA examinations. Given that exams are now not taking place, many parents and pupils will want to know how awards will be given, when grades will be awarded and whether that will be done in time for pupils to make the important move into further and higher education in the next academic year.

**John Swinney:** I thank Jamie Greene for the expression of support for the Government on these questions. He is absolutely right that the decisions are difficult to take. I am certain that my decision on the SQA exam diet in particular will not be universally welcomed. However, having weighed up carefully the three options that I expressed in my answer to Graham Simpson in the Parliament on Tuesday, I consider that it is by far the most robust option that we can take forward.

On early years, in my statement I tried to be as clear as I can be. We expect state schools and nurseries to close in respect of the ordinary learning activities that are undertaken there, but the buildings may of course be used to provide support for vulnerable young people and for the children of those who are key workers in the anti-virus effort.

I cannot direct PVI sector nurseries to close, but I ask them to follow the advice, which means that they should close. However, I am encouraging local authorities to work closely with the PVI sector, to identify how the children of key workers and of families with vulnerability could be supported in a different operating model in the PVI sector, if that is possible. I recognise that that alone would not provide sustainability to the PVI sector, which is why I have set out our commitment to maintain the payments to the PVI sector, despite the fact that children will not be there, to sustain income. I have also set out some flexibility around the resources that are inherent in the 2020-21 budget, which are to be deployed flexibly to try to provide sustainability. That is in addition to the measures that Fiona Hyslop set out yesterday in relation to business support in general.

Out of all that, I hope that we are able to actively support the PVI sector. The minister responsible for early years is at my side, and she will be actively engaging with the sector to ensure that we understand the difficulties and challenges.

On the second point, in relation to key workers, I would encourage any individual who has a critical contribution to make to our economy to talk first to their school or early learning setting, to identify

whether they can be provided with some support to ensure that their children can be educated or cared for in this period. That will be the first port of call, and our local authorities will be supporting that effort.

On the point about the exam diet, as I set out in my statement, the chief examiner's current thinking is that the material that will be used as part of the assessment will include the coursework that young people are ordinarily required to contribute for their exams; assessments by teachers of young people's expected performance, which should be submitted to the SQA annually; and information about prior attainment, which is particularly relevant to higher candidates. The chief examiner will set out further details of the approach that will be taken.

On the dates, the chief examiner is working on the basis that the awards will still be made on 4 August 2020 at the latest, which will enable young people to secure university entrance. It may well be that the results can be posted at an earlier stage. If that is possible, we will try to do that. However, we will be aiming to achieve that on 4 August.

**Iain Gray (East Lothian) (Lab):** We supported the cabinet secretary in the difficult decision that he took to keep schools and nurseries open when many thought that they should be closed. That was right, and we support him in the equally difficult decision to close them now that it is right to do so. I also echo his tribute to teachers and other school and nursery workers who have kept our education establishments open in difficult times.

Many pupils have already been provided with study packs and access to online teaching resources, which will perhaps be critical given the decision on the exam diet and the importance of coursework. However, that varies from school to school and even from teacher to teacher. Surely there is a role for Education Scotland to provide some consistency of curriculum and learning opportunity nationally. What is Education Scotland's role in this crisis?

Secondly, with regard to key workers, I hear what the cabinet secretary said—and indeed what the First Minister said earlier—said about flexibility of definition, but there is widespread confusion. Surely there is a case at least for a core list. Will key workers include supermarket workers, for example?

Finally, in the welcome agreement to continue public funding for private and independent nurseries, what assurances has the cabinet secretary sought and received from the sector regarding commensurate protection of employment and pay for those who work in those establishments?

**John Swinney:** I am grateful to Mr Gray for his support for the difficult decision that we have made and for his tribute to teachers and all the other workers in the education system, because these have been very challenging days for them, given the level of anxiety and the fact that we have managed to sustain education provision to the extent that we have. The fact that, today, we have only 16 schools closed out of 2,500 is a significant tribute to the efforts of those individuals.

In response to Mr Gray's questions, I note that Education Scotland is fully involved in supporting individual schools and local authorities in the continuation of educational provision. Indeed, in my letter, which has probably now been issued to local authorities on my behalf, I have set out the support that is available from Education Scotland at the local level. It is important that it provides that support to individual schools and local authorities in order for the approach to be effective.

On Mr Gray's point about key workers, we have to be careful to strike the right balance, and I tried to address that in as much detail as I could in my statement. There will be different challenges and different requirements in different parts of the country. There will be a universal requirement for healthcare workers to be involved because of the nature of the challenges that we face, but it is important that we provide sufficient flexibility for local communities to be able to take decisions that will enable individuals to make their contributions to the efforts that we need to be undertaken.

Local authorities have asked us for that degree of flexibility, and we are actively working to make sure that that is clearly understood at the local level so that we can maximise the number of individuals who can be supported to make the contribution to the efforts that we need them to contribute to.

**The Deputy Presiding Officer:** An inordinate number of members want to ask questions and I do not think that we are going to get through them all. I suggest that, if people feel that their question has been answered in response to a previous questioner, they withdraw. That might help. I also ask members to make their questions as short as possible.

**Clare Adamson (Motherwell and Wishaw) (SNP):** I thank the cabinet secretary for his statement and the commitment on the funding to deliver Government commitments from the private sector.

Can we have a bit more detail about the advice that will be given when people are being asked to change their practices? We do not want to move the risk that is associated with keeping the schools open into a different place in the community. What advice will be given to private nurseries, after-

school clubs and childminders, who might be expanding or changing their model of working from today? What impact—if any—will there be on parents who enter into pooling arrangements for their childcare under legislation on disclosure or child protection?

**John Swinney:** A key point to be observed in all the issues that Clare Adamson raises is the general health advice that was given on Monday. At First Minister's question time, the First Minister went into detail on the components of that general health advice, and I reinforce the point that, in all settings and circumstances, it must be followed. That will be critical in enabling us to overcome the coronavirus outbreak.

In relation to individual settings, careful account must be taken of the health advice by anybody who is operating in them, whether that be a headteacher in a school or a childminder in their own home.

On Clare Adamson's final point about parents providing childminding facilities for a number of children, that would have to be considered very carefully by individual families, because of the general health advice.

**The Deputy Presiding Officer:** There will be a little change to what I said. I will take Willie Rennie, followed by Ross Greer.

**Willie Rennie (North East Fife) (LD):** I thank the education secretary for advance sight of his statement, especially as he prepared it during difficult personal circumstances.

With a 15-year-old son who is preparing for his nat 5s right now, I have a bit of a window into the practical as well as the emotional issues that are at play. However, I want to press the education secretary a little bit further on the issue of key workers, because it is important. Will there need to be a bit of self-declaration, or will line managers and employers have a role? Will councils make the designation if it is not going to be made centrally?

On nurseries, we have talked about the flexibility of the regulations. Does that mean that we are changing the ratio of nursery teachers to pupils? Is there any limit on that change if it is the case?

**John Swinney:** I am grateful to Mr Rennie for his opening remarks.

On the first point, about key workers, we must be able to leave room for local flexibility in establishing the key skills that will be required in individual localities around the country. We also have to balance that against creating a list of key tasks that does not narrow down those who might be eligible.

That leads to the second point that Mr Rennie raised. There will be limited provision available to accommodate children within the education and early learning system. If we do not limit provision, we will defeat the object of closing schools and nurseries. There is a fine balance to be struck there, and what must be the controlling influence in that judgment is scientific opinion about what will help to tackle the virus and what will hinder tackling it. Mr Rennie should not therefore think that there will be a dramatic change to the operating model, to somehow allow more children to be accommodated; it will be quite the reverse.

**Ross Greer (West Scotland) (Green):** Like my colleagues, I thank the Deputy First Minister for his work.

I appreciate the work that councils are doing to look at cash and voucher systems and collection points for free school meals, but I emphasise the need for home delivery capacity. Whether it is because of chaotic households where barriers to feeding children are more than just financial, restricted access to shops without public transport, the need for self-isolation, or the stigma of having to go and collect a meal, direct delivery provision will be essential for some children and families. Does the Deputy First Minister agree with that, and will the Scottish Government work with councils and others to ensure that direct delivery is available?

**John Swinney:** The approach that we have taken, which has been welcomed by local authorities, is to give local authorities the maximum amount of flexibility to determine what will work. Mr Greer raises very fair points about the necessity of ensuring that food gets to young people. One of the biggest issues that I have worried about in making this decision is getting food to young people for whom, without a word of exaggeration, school is the only place where they get a decent meal. We have to make sure that that provision is maintained for the wellbeing of children and young people.

I know that local authorities are exploring the option that Mr Greer has put forward, and there is no barrier to their pursuing that option in the steps that the Government is taking. I use this opportunity to encourage local authorities to consider the suggestions that Mr Greer has made.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** The cabinet secretary will be aware of the significant impact that home learning can have on parents and guardians. Will he provide further assurances on the support that will be made available to them?

**John Swinney:** A variety of forms of support will be available from individual schools. Yesterday morning, before the Government made it clear that

we intended to close schools, my wife and I received an email from my son's school, advising us of further details about access to home-learning materials, in case the schools were going to be closed. I know that that approach has been replicated around the country. Such mechanisms will be available, but, of course, some young people will not have access to digital materials. Schools must understand that and ensure that those young people have access to the materials.

Some very good advice is available online through Parent Club, which is a superb resource that gives good, practical and constructive advice to parents about home learning and other aspects of supporting children. I encourage parents to use that resource.

**Jamie Halcro Johnston (Highlands and Islands) (Con):** I am sure that the cabinet secretary and others will join me in welcoming the many offers that have been made on social media by current and former teachers to provide advice and support to parents who are helping to educate their children at home throughout this situation.

Will the cabinet secretary outline the role that online learning will play, where additional support might be needed to facilitate it and whether organisations such as the Open University and other remote learning providers will be utilised?

**John Swinney:** I very much welcome the offers that have been made by various members of the teaching profession. Obviously, we are in a completely different position in handling such an event compared with where we would have been 10 or 20 years ago, due to digital connectivity. We have very extensive connectivity in our country—it is not universal, but it is very extensive. A whole range of digital learning supports are available, alongside the direct support that will be available from individual schools. If that support for young people is reinforced by other providers, sources of learning material and teachers who are living in communities, that will be very welcome.

Of course, there will be active participation in learning by teachers who remain well throughout and who can sit at their own keyboards. From my personal experience, I know that we get materials on support mechanisms at all times of the evening and in the early morning from teaching staff who are at home. Going forward, there will be an opportunity to pursue such an approach, and I know that many members of the teaching profession will be committed to doing exactly that.

**Monica Lennon (Central Scotland) (Lab):** Our schools are really good at supporting young people who are transitioning from primary to secondary school. Tomorrow, there will be lots of primary 7 pupils wondering whether it is the last time that they will walk through their school gates.

That will be an emotional issue for some members in the chamber.

What support will be in place for those young people and their families? With regard to the brilliant access to free period products in our school estate, what arrangements are in place to ensure that young people can access such products?

**John Swinney:** Monica Lennon's point on transitioning is really significant. Our schools have done a superb job in changing the ways in which we support young people to move from primary to secondary school, to make it as seamless as possible. It is one of the issues that we will have to deal with.

Monica Lennon will understand that I am not yet thinking about the end of June. I have barely got to the end of Thursday. We must think carefully about that dialogue with local authorities, because we cannot have young people missing out on the precious experience of leaving their primary schools, celebrating that and moving seamlessly into secondary school. If she will forgive me, I say that in response to both of her questions. We will have to get round to thinking through the issues of transition.

The issue of free period products illustrates the pivotal role that schools play in our society and is a perfect example of how schools do more than just deliver education. Our local authorities are focused on ensuring the wellbeing of young people, and, as part of that approach, I will ensure that such issues are reflected in their priorities.

**Mark McDonald (Aberdeen Donside) (Ind):** My question follows Monica Lennon's point about transition. I declare an interest as the parent of a child with additional support needs who is moving from P7 to secondary 1.

For children with complex additional needs, the transition process is often long and needs to be handled carefully to enable acclimatisation to a new school environment, timetable and way of working. My son recently had his first transition meeting at school, but that process has now been put into limbo. I appreciate that it is a longer-term consideration, but will the cabinet secretary consider flexibility at the start of the coming educational year for those pupils who require a longer lead-in for transition than mainstream P7 pupils require?

**John Swinney:** Before I answer the specific point that Mark McDonald raises, I acknowledge the significance of the general disruption that the school closures will bring for pupils with additional support needs. I saw that over the summer, when I was dealing with the issues at St Ambrose high school in Coatbridge and the associated secondary school that provides education for

young people with additional support needs. The young people were disorientated by the loss of their school, which was an anchor in their educational experience. We have to be mindful of that.

As I look at the transition issues, I will give consideration to the specific point that Mark McDonald has raised, to ensure that we minimise the disruption for young people and maximise the continuity of their education, which is so important to young people with additional support needs.

**Emma Harper (South Scotland) (SNP):** The cabinet secretary has mentioned that many pupils will feel anxious during this time, which could have an impact on their mental health. Can he provide assurances of the support that will be available for young people's mental health?

**John Swinney:** We are in a difficult place as a country, because, as a consequence of the advice that we are all having to follow, people will have less social contact and less opportunity to access support services. Within our communities, it is important that we do everything that we can to support individuals, and, where it is safe and practical to do so, that we give the young people whom I cited—in relation to their anxiety about the examination process or the changes that I announced today—access to the support mechanisms that are available around our schools.

Our schools are broad and diverse communities that provide a range of services to young people. We should ensure that young people can access those services where it is safe to do so, but we must always be mindful of the health advice in that respect.

**Michelle Ballantyne (South Scotland) (Con):** I have two quick questions. Many workers in the early learning PVI sector will also be parents, or they might be self-isolating or off sick for other reasons. Has the cabinet secretary given any thought to whether state sector workers who will be off if their settings are closed can backfill in the PVI sector?

Will the children who do not pull their socks up until the last minute for their exams get a chance to resit them?

**John Swinney:** Michelle Ballantyne sometimes has a beautiful turn of phrase. Edward Mountain is confessing that he is one of those people. I encourage him to try harder. *[Laughter.]*

In all seriousness, Michelle Ballantyne has raised a very significant issue, and the chief examiner will be mindful of all those questions as she considers the approach to take. In all the judgments that we take, it is important that we give due consideration to whether young people are

being given a fair opportunity to have their work and contribution assessed. If we do not judge that to be the case, we must find other ways of ensuring that young people are able to progress in their learning. I will relay that particular point to the chief examiner.

On the first point that Michelle Ballantyne raised, about the sustainability of the PVI sector, I hope that I said enough in my statement about the Government's keenness and enthusiasm to ensure that we sustain it through what I acknowledge will be a very difficult period. Michelle Ballantyne made a suggestion about how that might be made practical and possible, which we will add into the discussions. The Minister for Children and Young People will also take that forward in the dialogue that will happen with local authorities.

**Kenneth Gibson (Cunninghame North) (SNP):** With so many teaching and ancillary staff likely to be at home, probably for some months, what steps are being taken to maintain the skills of those staff? In addition, is the Scottish Government examining how staff could be redeployed in the meantime to help their communities during the current crisis?

**John Swinney:** Last night, I saw the director of education of Glasgow City Council being interviewed on television. It was interesting to hear her talk about how the council had invited offers of volunteering from members of the teaching staff and had an overwhelming response.

Some members of the teaching profession will not be well and some will have commitments that make it impossible for them to contribute. However, where it is possible and where they are able to do so, I am certain that members of the teaching staff will make that contribution to our wider community.

One of the issues that we are always wrestling with in the education system is finding enough time for teachers to take forward professional development. Well, there will certainly be a bit more time available in the weeks ahead, and there are plenty of digital learning opportunities through which professional development can be taken forward. Once we get the model stabilised and operating, I am certain that there will be an appetite among members of staff to continue to develop their professional practice, for which they can of course achieve accreditation with the General Teaching Council of Scotland.

**Johann Lamont (Glasgow) (Lab):** The cabinet secretary will be aware of my grave concern about the decision. Although I know that he will have taken it in the best of faith and with real seriousness, I confess that I am very troubled and upset about what I fear will be its long-term and

serious consequences for the life chances and opportunities of some of our young people. There is not only a digital divide; there are also all sorts of other inequalities that I fear will be reinforced over this period.

Will the cabinet secretary confirm that he will keep the decision under the closest review and, in the medium term, will he plan for addressing those consequences when this is over? Specifically, does he—as I do—recognise that individual schools matter to individual families? Will he confirm the benefits of keeping open as many local schools as possible, because they are seen by many families as a source of support and advice that they can trust? Will he also confirm what he believes to be the responsibility of individual schools to communicate directly and regularly with all families for whom they have a responsibility?

**John Swinney:** I recognise the strength of feeling that Johann Lamont has on that question. I think that she knows how difficult it was for me to take this decision. Johann Lamont also knows of the policy commitment of the Government to work to close the poverty-related attainment gap. That is my policy focus today, it will be my policy focus at the end of this crisis, and it will be my policy to protect that focus throughout the handling of this crisis, because I want to see no damage done to the life chances of any young people in Scotland, particularly those who come from the most deprived areas.

We will be working hard to sustain education provision as effectively as possible. There is an argument that schools should be able to provide, in a more limited way, the support that Johann Lamont has talked about in their localities. In the approach that we have taken, we have left sufficient flexibility to enable that to be taken forward at local level. It is important that schools communicate with individual families. Schools know their people, and they must support them as effectively as possible. We will create the assistance and support and deliver the flexibility to enable that to happen.

**Alex Neil (Airdrie and Shotts) (SNP):** I particularly welcome the cabinet secretary's commitment to set aside £220 million for the PVI sector, because it is extremely important that we maintain capacity for the longer-term expansion of early years nursery education. However, can he give a commitment that the payments will be made timeously and indeed urgently? Will he consider sending the payments directly to individual nurseries rather than through local authorities, because that could involve unnecessary delay?

**John Swinney:** I will explore that, but the existing payment channels are through local authorities, and my judgment is that we might slow

things up if we were to make payments on their behalf. However, I will stress the urgency of the issue that Mr Neil raises. There is no good reason for any delay, because the money is in the system and is committed, so it should be possible to distribute it. I will endeavour to ensure that the payments are made timeously to address the significant point that Mr Neil makes.

**Edward Mountain (Highlands and Islands) (Con):** These are, indeed, exceptional times. I want to mention the exceptional support that is given to vulnerable and additional support needs pupils in the Highlands, which is held in high regard. School closures have caused concerns among pupils in those groups and their parents. The cabinet secretary has indicated what he intends to do, but will he shed a bit more light on what support he would like to be given to those pupils and their families during this time?

**John Swinney:** Some of the additional support needs provision should be able to operate in a manner that is fairly consistent with the existing model, as long as that is consistent with the health advice that is being issued. To go back to the answers that I gave to Mark McDonald and Ross Greer about additional support needs pupils, the situation is disruptive for everybody, but it is very disruptive for young people with additional support needs. We therefore have to ensure that we do everything we can to minimise the disruption. The opportunities exist. As I have done in my statement today, we will encourage local authorities to maintain as much continuity as possible.

**Lewis Macdonald (North East Scotland) (Lab):** Given that, as the cabinet secretary has said, we are going to need our teachers more than ever, will he talk to the General Teaching Council for Scotland about the requirement for probationer teachers to complete a full school year in order to achieve full registration and join the teaching workforce permanently in the autumn? In the meantime, will he ensure that probationer teachers continue to be employed and paid?

**John Swinney:** There is absolutely no reason why probationary teachers should not continue to be employed, but I do not have the answer to that at the front of my head, so I will check for Mr Macdonald and write to him after the meeting. Certainly, those probationary teachers should be paid—there is no way that they should suffer disadvantage of that type.

On the regulatory requirements, this is probably trespassing on territory where I should not be, but I will just say that I think that it would be unreasonable for the General Teaching Council not to accredit probationary teachers with a full year of probation because, through no fault of their own, their opportunity has been interrupted. On

Monday, the General Teaching Council and the Scottish Council of Deans of Education withdrew teachers who were on placement and said that, provided that they have achieved the necessary standard, they will be judged to have completed their placement activity, even though it has been concluded early. The logic of that decision is that probationary teachers should be confident that this year has been secured, but I will confirm that in writing.

**The Deputy Presiding Officer:** I have decided to allow questions to run until 10 past three, but no later.

**Andy Wightman (Lothian) (Green):** The cabinet secretary will be aware that the quality of prelims varies hugely from school to school and from subject to subject. His statement refers to

“coursework, teacher assessments of estimated grades and prior attainment”

being used. I have two questions. Can the cabinet secretary confirm that no pupil will be disadvantaged because of such variation, and that some form of quality assurance will be put in place?

Secondly, can he confirm that any difficulties that are faced by pupils in submitting coursework due to home or family circumstances will be taken into account?

**John Swinney:** Quality assurance will have to be an intrinsic part of the alternative certification model. The chief examiner is exploring all such questions as she develops the process that will give us a diet about which we can be confident. That was the standard that I asked that it be tested against, and I have been given the assurance that that is possible, but it will require that quality assurance be put in place.

The second issue is important. We need to make sure that the situation is tackled in a way that recognises the contribution that young people have made. There might be issues of performance that have to be taken into account in assessment of the coursework that young people have completed. Obviously, there must be mechanisms in place for young people to question the results that emerge from the process, as there is in any exam diet that we take forward. Further details on that will be issued in due course.

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I declare an interest in that I am married to a primary school teacher. Provision for key workers will need to continue throughout the Easter holidays and, probably, the summer holidays. How will we provide teachers and pupils with a break during that time, and how will it be decided which teachers will provide cover in person?

**John Swinney:** Fundamentally, that can work only if we deploy flexibility at local level. I am confident that I would not, if I were to sit in St Andrew's house trying to decide exactly how this is going to work across Scotland, get it all right. Therefore, we have to delegate such judgments down to local level. I am sure that the genuine questions that Mr Cole-Hamilton raises can be considered as part of that process.

**Annabelle Ewing (Cowdenbeath) (SNP):** Bailey-Lee Robb, who is the member of the Scottish Youth Parliament for the Cowdenbeath constituency, on his own initiative posted a video clip at lunch time today seeking to reassure his fellow young people in schools across Fife. That seems to me to be an excellent initiative. What can the cabinet secretary do to encourage more such initiatives, so that we provide much-needed reassurance to young people across Scotland?

**John Swinney:** That is a welcome example of how young people can reassure each other at peer-group level. We spend a great deal of our time working with organisations such as Young Scot on giving reassurance in order to provide trusted and safe encouragement to young people around the country. We will certainly continue to do that. Some very good material on the coronavirus was broadcast the other day as a consequence of the partnership between Young Scot and the Government, which involved Professor Jason Leitch. There is a host of opportunities to do that, and I will certainly take forward Annabelle Ewing's suggestion.

**Jeremy Balfour (Lothian) (Con):** I will follow on from Alex Cole-Hamilton's question. I appreciate that the matter cannot be dealt with from Edinburgh, but with the schools closing from tomorrow afternoon, there will be parents who do not have access to email or other ways of communicating. What advice can we give to local authorities on keeping informed parents who do not have access to the devices that many of us have? Questions will come up over the next few weeks and months to which people will want answers, and I appreciate that phoning the local authority and getting through to the right person can often be difficult.

**John Swinney:** It is absolutely vital that schools know their young people and their families, and that they have reliable and trusted means of communicating with all those people. For some, that will ordinarily be straightforward and will involve use of digital communication, but for others it might require telephone calls or written communication. I encourage all schools to maintain dialogue, to reach individual young people and their families, and to make sure that they can access the information and support that they require.

**Neil Findlay (Lothian) (Lab):** If we are to get through the current situation successfully, we will need our key workers to continue to be at work. Currently, we are relying on people who are suspected of having a highly infectious disease to self-diagnose. Is the Government looking at the Irish Government's approach? It has set up testing centres to which people can be referred by their general practitioner, and where they can be diagnosed very quickly. That would enable us to ensure that key workers such as teachers and health professionals could get back to work.

**John Swinney:** Mr Findlay makes an important point, which is addressed fundamentally by the commitments that the First Minister gave at First Minister's question time, and which have been set out in more detail by the Cabinet Secretary for Health and Sport.

It is important that we understand the path and pattern of the virus so that we can take all necessary action. That has led us to the very difficult decision to close the schools. The issue that Mr Findlay raises is important and is being addressed as part of the Government's priorities.

**Graham Simpson (Central Scotland) (Con):** The other day, I asked the cabinet secretary what is to be done for final-year university students, and I ask him that again. His answer was that it is up to the universities. That is true, but thousands of final-year students still do not know whether they will be able to sit their exams or how they will graduate. Therefore, I urge the cabinet secretary to speak to the university sector to ensure that those students get the information that they need in the next few days.

**John Swinney:** I am glad that Mr Simpson acknowledges that what I said to him the other day is true, because it is. If I were to start specifying to universities the means by which they should assess their degrees, we would be in a different world altogether. I see a member of Parliament who is remotely connected to a university that is not far from Mr Simpson's area nodding to indicate that I might be in the right space with that answer. That is encouraging, to say the least.

The Minister for Further Education, Higher Education and Science has been in dialogue with the principals of universities and colleges. Individual universities are using a variety of methods, including online certification, to ensure that students can complete their courses. Communication on that is being undertaken directly by individual institutions, but because Mr Simpson has raised the point so emphatically with me on two occasions this week, I will make sure that Mr Lochhead reiterates to the universities the need to address the matter.

**Anas Sarwar (Glasgow) (Lab):** I thank the Deputy First Minister for his statement, which is about creating safety not only for pupils and teachers, but for the families who come into contact with them.

Mr Swinney rightly mentioned key workers. What consideration has been given to key workers who are not in the public sector—such as care workers who work for third sector organisations—and the support that can be given to them, especially if they have caring responsibilities?

**John Swinney:** That is one of our reasons for not being as prescriptive about the definition of “key workers” as some people might like us to be, because the role of workers such as those to whom Mr Sarwar refers might well be a more significant consideration in one part of the country than it is in another.

I hope that the definition that we are working within with our local authority partners gives the necessary flexibility and enables us to provide the support and assistance that are required in all circumstances.

**The Deputy Presiding Officer:** We have time to squeeze in a final question from Fulton MacGregor.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I thank the Deputy First Minister for his leadership on the issue.

I want to raise a subject that has just been raised with me. Will any consideration be given to the special circumstances of students who have experienced illness or other circumstances that were outwith their control in the earlier part of the school year? Is that something that the chief examiner might take into account?

**John Swinney:** Provision is always made for the individual circumstances of pupils to be taken into account by the Scottish Qualifications Authority. For example, Woodmill high school in Dunfermline and Peebles high school in the Borders have been affected by fire in the past year, and discussions have taken place with the SQA about making sure that those schools' young people are not in any way disadvantaged by those incidents.

**The Deputy Presiding Officer:** That concludes the questions on the cabinet secretary's statement on education. We will move on to the next item of business as quickly as possible.

## United Kingdom Coronavirus Legislation

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a statement by Michael Russell on UK coronavirus legislation. The cabinet secretary will take questions at the end of his statement, so there should be no interventions or interruptions.

15:10

**The Cabinet Secretary for the Constitution, Europe and External Affairs (Michael Russell):** I echo the words and sentiments of the First Minister and the Cabinet Secretary for Health and Sport earlier this week. We are, as a country and across the globe, facing an unprecedented set of challenges. None of us has experienced those challenges before. We can only meet and defeat them if we work collectively to protect, sustain, support, nurture and help each other.

Addressing the challenges will mean change—profound and sometimes difficult change—for us all. Every life will change. Nothing will be nor can be the same from now on. We need to change with hope in our hearts. We need to change with a determination to look after ourselves, our loved ones, our communities and our future.

The First Minister, the Cabinet Secretary for Health and Sport, the Deputy First Minister, and other cabinet secretaries have already outlined to the Parliament the steps that are being taken. Today, I will talk about the necessary legislative changes that we need to bring about quickly in order for our nation to change and respond in the most effective manner.

The first tranche of those changes comes in the UK Coronavirus Bill, for which the Scottish Government will recommend granting legislative consent.

The four nations coronavirus action plan, published earlier this month, set out measures to respond to the Covid-19 outbreak and information on the four-stage strategy: contain, delay, research and mitigate. The action plan outlines a collective approach, reflecting the closely integrated planning process that has been established to help prevent the spread of the outbreak and to combat its impact and consequences. That includes reference to legislation that might be necessary in order to ensure that public bodies across the UK have the tools and powers that they need to carry out an effective response.

The bill introduced today at Westminster underpins the action plan. It is the result of a great deal of intensive work between the UK

Government and the devolved Administrations—work that is unique and extraordinary given the virtual standoff on other legislation that has been the norm for the past three years—and it is required because of the extraordinary public health and economic challenges posed by the coronavirus pandemic. We are grateful to everyone who has been part of that process and particularly to the officials across all the Governments and many departments who have worked tirelessly to make sure that the bill is now available for scrutiny and passage.

Of course the Scottish Government has made it clear that, although we acknowledge the benefits of alignment across all four UK nations, it is also important that devolved matters can be fully analysed and considered against the emerging situation here in Scotland and the specific measures and actions that we and others need to put in place to respond to that. It is good to know that that position has been respected, just as we have respected the need for specific measures and actions in the other three nations of the UK.

It is clear that the bill cannot be scrutinised in the way that we would all normally wish. The immediacy of the unprecedented challenges that Scotland and the UK face at this time do not permit that. However, we must also be conscious of the fact that with any legislative urgency—no matter how extreme—must also come a parallel and urgent recognition of the concomitant need to be vigilant in the protection of human rights, particularly the rights of those who are least able to protect themselves.

I hope that those at Westminster and more widely who are rightly concerned that the two-year sunset period for the bill needs to be looked at very carefully and that safeguards should be put in place for regular reporting, review and renewal if required, will be heeded in their concerned and constructive criticism.

The intention in this Parliament is for a legislative consent memorandum to be considered in committee on Tuesday morning and for a motion to be debated in the chamber on Tuesday afternoon, subject to the Parliament's agreement.

The legislative consent motion does not require renewal, nor is there a statutory reporting function in the legislation for this Parliament and the Scottish Government, although there is such a function for the UK Government. However, I make a commitment today that we will institute, after discussion across the Parliament, appropriate reporting on how and when the powers in the bill have been used by the Scottish Government and in our own further emergency coronavirus legislation, which we hope to bring forward before Easter in order to put on the statute book other urgent legislative changes specifically for our own

competences. We will embed such reporting and renewal—including on our use of provisions in the UK bill—in law.

The measures in the bill cover a range of topics and sectors, and include bespoke provisions for Scotland to reflect our different legal systems in devolved areas. Combined with measures that are already being taken by the Scottish Government and our partners, they will assist in ensuring that our health and social care services remain effectively resourced, protect people and assist in slowing the spread of coronavirus.

There is one very important point that I want stress here, and on which I anticipate that assurances will be sought as the bill undertakes its passage across the UK and devolved Parliaments, which is that creating these additional powers does not automatically mean that we will be required to use them, or that all the powers available to us will be implemented at the same as the bill gains royal assent.

Of course, we recognise the seriousness of the current situation, and the further risks that we now face if, as the scientific advice indicates, we are now on the cusp of a rapid escalation in the spread of the virus. The next few weeks—possibly months—will be a uniquely difficult time, when the people of Scotland will be asked to take unprecedented action as part of our collective efforts to protect our citizens and, as the First Minister said, to save lives.

In using the powers that we have and will gain, we will always be guided by the principle that decisions will be made at the appropriate time on actions and measures to be taken, based on the situation here in Scotland and other parts of the UK. Moreover, we will use those powers in the appropriate way, informed always by our own response planning and by on-going joint work with the UK Government and other devolved Governments.

I will briefly outline some of the measures in the bill in a little more detail, although there is a great deal of detail in the bill. The bill's areas of action can be broadly categorised as follows. It includes additional public health measures to assist with containment or to mitigate the spread of the disease, including powers relating to events and the ability to effect screening for potentially infected persons. It includes measures to allow for increased numbers of health and social care workers to join the workforce, for example by removing barriers to allow recently retired national health service staff and social workers to return to work. Here in Scotland, in addition to retired persons, that will include those who are on a career break or are social work students who can become temporary social workers. The bill also provides for the relaxation of certain regulatory

requirements in existing legislation, in order to ease the burden of staff who are on the front line of our response, and enable a reduction in administrative tasks and the prioritisation of care towards those with the most significant and urgent needs. It includes measures to ensure management of deceased persons with respect and dignity, in acknowledgement that we have already seen tragic loss of life due to the pandemic. Finally, it includes measures to support the economy, including provisions on statutory sick pay, which are aimed at ensuring that the coronavirus impact on small businesses and individuals is lessened.

The bill contains a range of powers that can enhance our response and ensure that action taken can be enforced. One example is the powers in the bill to require information to be provided by those within or closely connected to a food supply chain, where a failure to comply with a request or the provision of false or misleading information will attract a financial penalty. Of course, a route of appeal is set out in the legislation for many of the enforcement actions.

The bill contains a range of other items of importance, and the accompanying information from the UK Government is now available online. I would be happy to talk to my opposite numbers in other parties about the detail and have suggested that we get together by phone later tonight or tomorrow in order for us to do so. I am also happy to provide information to other members if they have questions.

I have used the word "unprecedented" several times in the statement, but, of course, the situation is unprecedented in our time, not in all time before it. As a nation, as a generation and as a civilisation we have been here before. The experience of pandemics is not a modern one, but a very ancient one. Again and again, humanity has had to face this challenge.

It has been recorded and commented on by countless individuals and it has led to great reflections on what it is to be human and to be part of a society under threat. The common thread in all those works has been not just fear and worry for oneself and one's loved ones. It has also been a thread of community solidarity, concern for all of those around us, generosity of spirit and action and hope for the future. It is a thread that emphasises a shared belief in human creativity, ingenuity and survival. Just before the second world war, Bertolt Brecht asked,

"In the dark times  
will there also be singing?"

He answered himself by saying:

"Yes, there will also be singing.  
About the dark times".

On the wall outside the Parliament, there is a quote from Andrew Fletcher of Saltoun, about the relationship between the songs of a country and its laws. We will need both to see us through. I reluctantly leave the singing to others, but as to the laws I will do all that I can, with my colleagues and with the chamber, to put in place what we need to get through. We must do the right thing for everyone. We must take action to protect, enhance and strengthen not only our response but ourselves. As part of that effort, I look forward to engaging further with colleagues across the chamber in the coming days on this vitally important piece of legislation and the further legislation that we will be required to bring.

I will finish as I started, with the sentiments that were expressed by the First Minister. We should all thank the people of Scotland, now and going forward, for all their effort, concern and understanding. It will still be needed in the weeks ahead, but together we can and we will win through.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I thank the cabinet secretary for his statement, and for advance sight of it. As he said, we are dealing with an unprecedented set of challenges, and that requires an unprecedented approach.

I warmly welcome all that the cabinet secretary said about the level of engagement between the Scottish Government, the UK Government and the other devolved Administrations, and I join him in thanking all of those who are involved in a process that has required rapid and diligent action. I pledge the support of the Scottish Conservatives for the proposed legislation, and our co-operation in taking it through Parliament as expeditiously as possible in these circumstances.

In normal times, there would be concerns about the human rights aspect of some of what is proposed. However, we are not in normal times; we are dealing with a crisis, and that requires a different approach. We accept that some freedoms will have to be curtailed, albeit in a measured and time-limited fashion.

I have two questions for the cabinet secretary on his statement. First, by what date does he expect the legislation to be enacted, should it complete its parliamentary passage at Westminster? Secondly, the cabinet secretary referred to further emergency coronavirus legislation that is to be passed in Scotland. Can he say more about what that legislation is likely to cover?

**Michael Russell:** I thank Murdo Fraser for his remarks and for the indication of the support that he and his party will give. I am very grateful for it, and we will need to work closely together. I repeat the offer that, if I can give more information to Mr

Fraser on the phone—we do not often talk on the phone, but I am sure that we can find a way of doing so this weekend—I will speak with him and talk through the detail. I stress that the detail exists. This is a complex bill that covers all four nations of the UK, and there is much in it that we need to absorb.

My first point is on the human rights aspect of what Murdo Fraser said. I appreciate the points that he made in that regard. However, as I indicated in my statement, we have to strike a balance. We are required to act with urgency, but with a continued concern for human rights. At lunch time, I had a conversation with the chair and staff of the Scottish Human Rights Commission, and I am committed to speaking to them again as we develop our own legislation.

I indicated that I want to ensure that we put in place a reporting function. That is not in the bill, but we need to do it so that we are accountable to this chamber. I have also indicated that I have sympathy with those who wish to query the provision in the bill with regard to the period of two years. It is possible to envisage a different set of processes that might come into place.

It is likely that the House of Commons will consider the bill on Monday—all of this is still completely unconfirmed. We intend to finish our entire process on Tuesday, as I indicated. That will begin with my committee appearance on Tuesday morning and will continue in the chamber on Tuesday afternoon—subject to the Parliamentary Bureau accepting that. It is likely that the House of Lords will consider the bill on Wednesday and Thursday, although, again, that is not confirmed. The bill should then receive royal assent by 31 March, when it will come into effect.

Commencement is on 31 March for some provisions in the bill, so there is the need for regulations for others. There are some triggers in the bill—for example, we would have to declare certain things to allow parts of the legislation to take place. That all needs to follow on, but our aim is to have it through on 31 March.

The First Minister has been open with members and I, too, am happy to do that in regard to our own legislation. This morning, I circulated a note to cabinet secretary colleagues that asked them to bring forward their legislative proposals. We already knew about proposals from the justice side and, yesterday, Aileen Campbell indicated a requirement for a legislative change in her area. There might be others. I aim to have the information early next week on what cabinet secretaries require with regard to, for example, ways of expending money and other matters that might require legislative approval.

I hope that we will be able to introduce an emergency bill to the Parliament. Again, that is subject to the agreement of the Parliamentary Bureau, and my colleague Graeme Dey will be speaking or has spoken to members of the bureau about how that will work. I would aim for the Parliament to consider that emergency legislation in the week before the Easter recess, which is an extremely urgent timetable and will require a lot of co-operation and discussion about what should be in that bill. I am committed to that discussion.

**Alex Rowley (Mid Scotland and Fife) (Lab):**

These are indeed unprecedented times, and there is a need for the legislation that we are discussing. However, we should always be vigilant about protecting human rights—that should remain our principal position.

Such legislation should be renewed every six months in order to be accountable to Parliament. I welcome what the cabinet secretary said and I look forward to emergency legislation being introduced. His statement that we will embed such reporting and renewal, including in our use of the provisions of the UK bill, is particularly welcome. Will he consider a six-month rule for bringing the legislation back to Parliament?

This issue has not been mentioned, but there are people out there who are using the opportunity to cash in on the crisis. We have seen that with significant rises in prices for hand-wash products and with some people buying up stock to cash in. Will the legislation that the cabinet secretary seeks to introduce protect people and deal with those who are being unscrupulous during this difficult time?

**Michael Russell:** I welcome Alex Rowley's positive contribution and I look forward to working with him on the matter.

On the issue of human rights, I am open to considering what the appropriate period is in our bill. That clearly must relate to scrutiny and to the likely length of time during which we will need regulation. I am happy to look at that, but six months seems to be the maximum period that we would go for. There might be arguments to have reporting during that time.

I think that, with this bill, formal reporting has to be more regular. There is a commitment in the bill for the UK Government to report every two months. I would have thought that, given this Parliament's committee structure, we would want to ensure that the committees were engaged in that as well.

The focus of our work in the chamber for the foreseeable future will be on issues related to the coronavirus pandemic and how Scotland responds to it. Therefore, committees and the Parliament will want to ensure that the work that is being done

through the bill, and other work, is scrutinised and that there is an opportunity to discuss and debate it.

Alex Rowley raises an interesting point. Earlier in the week, Kenny Gibson raised an issue about a particular product, and our constituents will tell members about circumstances where they notice price rises. There are some powers in the bill to do with the food supply chain and, in particular, information. I suspect that those powers are limited and could perhaps be used to get information, but not to do much more. We have the normal criminal law, but if there is a requirement to take additional powers for such circumstances and we are able to do so—certain powers such as trading and trading standards lie outside this Parliament—be assured that we will take them. It is vitally important that people realise that we are a community. We must treat each other with respect and we must not profit from this situation.

**The Deputy Presiding Officer:** Understandably, the first questions and answers have been lengthy. However, I ask for brevity from now on, because a lot of members want to ask questions.

**Patrick Harvie (Glasgow) (Green):** I am grateful for the statement. Greens, too, will be constructive in bringing what scrutiny is possible to the bill over the coming days.

From my initial reading, what strikes me is not so much what is in the bill as what is not in the bill. For example, there is nothing to mandate an increase in statutory sick pay. The measures on compensation for emergency volunteers cover only loss of earnings, which will rule out people who have already lost their jobs from becoming emergency volunteers. Indeed, there is nothing, beyond information provision on food supply, that will allow public authorities to acquire stocks of food, household essentials and hygiene supplies, to prevent price gouging.

Does the cabinet secretary agree that changes to the bill in that regard would be welcome? Will he join me in urging the UK Government to consider them?

**Michael Russell:** Despite the short notice, I certainly think that the debate at Westminster on Monday needs to be comprehensive. The member raised precisely the sort of issue that needs to be discussed. The bill is the first piece of legislation on this matter but I suspect that it will not be the last; we will also have our legislation. In all circumstances, there should be vigorous debate.

I am sympathetic to the points that Patrick Harvie made. If we can find a way to influence people at Westminster, fine. If we can find a way to do things ourselves, fine. The work that has

been done together on the bill is hugely significant and important, but we will all have freedom of action in our own areas—that is protected in the bill—and if we can do something that needs to be done, we will do it.

**Willie Rennie (North East Fife) (LD):** The powers in the bill are inevitable in these extreme circumstances. Nevertheless, I am sure that the cabinet secretary will understand my nervousness that, under clause 76(2), they will last for more than two years. Does the cabinet secretary consider it appropriate that there should be parliamentary renewal after perhaps 90 days, with periodic renewal thereafter, to maintain public confidence?

The powers to enforce the health protection regulations will require debate, under the affirmative procedure, which is provided for under clause 81. When does the minister think that it will be appropriate to do that?

**Michael Russell:** On the second point, when the regulations come forward. That will require a decision to be made—which will require to be scrutinised by this Parliament—on the trigger event, as the member will know from the bill. That is the type of issue that we will need to discuss.

I have indicated that I think that the two-year period requires careful reconsideration by the House of Commons. We cannot alter that under the legislative consent motion and there is no procedure for renewing a legislative consent motion.

Therefore, we have to be imaginative in the use of powers, as I said. The first piece of imagination in that regard is to ensure that when we introduce our bill and any subsequent legislation, we build in best practice: the period will not be two years; it must be shorter than that. The second is that we voluntarily indicate that we will come back to this Parliament for scrutiny of everything that we do under this legislation and, when we can build that in as a legal requirement in our next bill, as I hope that we will be able to do, we make that legal requirement retrospective so that we do so in relation to the provisions of this bill, too. I think that that is the right way to take the matter forward.

**Emma Harper (South Scotland) (SNP):** What engagement has there been with relevant stakeholders? In his response to Murdo Fraser, the cabinet secretary mentioned the Scottish Human Rights Commission.

**The Deputy Presiding Officer:** I am so surprised that a short question has been asked. Thank you, Ms Harper.

**Michael Russell:** I shall try a short answer. Work on the bill has been undertaken by officials up to now—this week—who have talked to the

stakeholders with whom they normally deal. I have been involved in the bill for slightly more than 48 hours. I spoke to the Scottish Human Rights Commission today and will speak to others. I wanted to speak to the Scottish Human Rights Commission particularly, to express my concern and hear the commission's concerns about the bill, and to establish connections so that we can try to get the next piece of legislation into a position with which we are more comfortable.

For example, the member, who I know is still a nurse, will know that some of the mental health provisions in the bill are very concerning. I am not saying that they should not happen, but we need to be very alert to the issues that they will raise for very vulnerable people.

**Miles Briggs (Lothian) (Con):** The measures to bring forward sick pay entitlement to day 1 are welcome. Can the cabinet secretary say whether Scottish patients will be able to obtain the so-called isolation note, and if so, whether they will do so through NHS 111 online or nhsinform.scot? Given the implications that the school closures will have on the pay sector, what conversations have taken place with payroll companies, to ensure that they can carry on and their staff can ensure that people are paid on time?

**Michael Russell:** The member may forgive me for not being able to answer his questions—he has the expertise that comes with being a health spokesperson; I do not. I will make sure that he gets answers to them, if there are answers.

The bill has changed quite a lot in the past 48 hours. Some of the sick pay provisions were not in it two days ago. In those circumstances, I suspect that a lot of work is being done to work out how those will operate but, of course, we will try to secure that information so that people have it.

**Monica Lennon (Central Scotland) (Lab):** The emergency legislation that has been laid at Westminster removes the requirement to carry out social care needs assessments. Can the cabinet secretary confirm whether the intention is to remove bureaucratic processes only? Can he give assurance that everyone who needs care will still be able to request and access it, especially those who may be discharged early from hospital?

**Michael Russell:** The bill does not remove the obligation on local authorities to provide care; it removes the obligation to undertake a full assessment, if that assessment cannot be undertaken in such a way that will expedite the delivery of social care. If there is a difficulty in the bureaucratic system, the provision will reduce that. There is concern about the provision, because some local authorities may have difficulty in getting assessments under way. However, the bill is careful in how it does that.

The provision needs to be examined closely at Westminster. If we then have things to do—this falls under a power that we have—we can look at refining the process. We are aware of the issue, but it is important that we progress the legislation quickly.

**Annabelle Ewing (Cowdenbeath) (SNP):** In light of the on-going concerns, can the cabinet secretary confirm that the Scottish Government and the UK Government will maintain regular, on-going dialogue to discuss whether and when each Government plans to use the powers set out in the bill?

**Michael Russell:** As I understand it, the secretary of state's reporting powers at Westminster will include the reporting of items that we and the other devolved Governments have undertaken. I also intend to make sure that there is reporting here.

Given that we have got to this stage—I am very heartened that we have got to where we have in relation to the content of the bill and, as I said in my statement, the approach between the Administrations has been far more integrated than anything that I have seen in the past three and a half years—we will commit to working together to ensure that we know what each of us is doing.

**Liam Kerr (North East Scotland) (Con):** On managing the deceased with respect and dignity, the bill intends to remove the need for a second confirmatory medical certificate for a cremation. Does the cabinet secretary have any thoughts on how appropriate safeguards can be put in place given that there will not be a second certificate?

**Michael Russell:** It is a difficult issue. There are a number of procedures, ideas and proposals in the bill that will simplify the registration of death process and change some of the obligations on crematoria and local authorities. They have obligations—for example, on the storage of ashes—that would require a lot of action to trace families, which could not be undertaken if there was pressure on the system. We really need to make sure that any period of suspension, which is not automatic, is very short lived. We are aware of the difficulties that the proposal may cause in the area that Mr Kerr indicates.

There are other areas in the bill where we would look for a period that is as short as possible, because of the removal of a second, or confirmatory, signature. There is a process of review of death certificates—a random process is undertaken—that we would not be able to undertake if there was pressure on staff, but we would still want to make sure that there was some random checking, which is a very important safeguard. The delicacy with which we apply the provision is important.

Some of the bill contains—in the education areas relating to the portfolio of the Deputy First Minister, for example—precise targeting powers, so that measures can be targeted to the level of individual establishments. We need to make sure that we can do that as carefully as possible.

**John Mason (Glasgow Shettleston) (SNP):**

The cabinet secretary has been stressing the integrated approach to the bill by the four countries. Will commencement happen at the same time across the four countries? What about suspension and the use of the powers?

**Michael Russell:** The bill is clear that, where the powers lie in devolved competence, the decision on suspension lies with the Scottish ministers. Provisions in the bill can be operated, suspended and reimposed. Where they are in reserved areas, the decision will lie with UK ministers. There are also areas in which consultation with the Scottish ministers will have to take place.

As I have said, we would not intend to implement all the bill immediately—that would be utterly inappropriate. If members read the bill, they will discover that there are areas in which we can take action where we consider it to be appropriate. In those cases, we will get to trigger points and then address the issues.

**The Deputy Presiding Officer:** Due to the importance of this issue, I have decided to give another five minutes for questions.

**Sarah Boyack (Lothian) (Lab):** I thank the cabinet secretary for his statement. Will the bill add any new powers that will be needed by local authorities to act over the next few weeks and months?

An issue that has been raised with me relates to powers around the cancellation of by-elections. Is it possible to have an additional note about that? Is the cabinet secretary involved in discussions with the Convention of Scottish Local Authorities on those issues?

**Michael Russell:** There are a variety of powers for local authorities. We have mentioned social care assessments. The powers on by-elections are clear. There has been complex discussion between the Administrations. The bill will give to returning officers the power to cancel a local authority by-election, and to the Presiding Officer the power to cancel Scottish Parliament by-elections, should there be any—consulting, in both cases, the Electoral Registration Board and the Scottish ministers.

A by-election that had been due to take place in Clackmannanshire East today was cancelled at very short notice. I apologise for that; it was to do with a change in policy in the UK Cabinet Office,

which we were late to hear about yesterday. From now on, cancellation will be a decision for returning officers. However, I find it highly unlikely that there will be any local government by-elections between now and the summer. A number of them are due to take place in May, and I think that they will not happen.

There are no by-elections to the Scottish Parliament pending, but were there any, the decision would be for consultation.

I put on the record that there are no proposals in terms of the Scottish Parliament election next year. There is already a legislative process for that; one hopes that it will not be required, but we will keep everything under review.

**Stuart McMillan (Greenock and Inverclyde) (SNP):** What role has the Scottish Government had in ensuring that the policy paper that outlines the legislation accurately reflects the areas of the legislation that fall within devolved competence?

**Michael Russell:** I cannot vouch for every single word, but I believe that it does. We are making clear our position in the Parliament, and there will be other material that we can publish if we choose to do so.

**Adam Tomkins (Glasgow) (Con):** In his statement, the cabinet secretary mentioned human rights. Under the Human Rights Act 1998, and the European convention on human rights, countries can derogate from human rights

“In time of war or other public emergency threatening the life of the nation”.

Is it the Scottish Government’s view that the coronavirus crisis is, or might become, a

“public emergency threatening the life of the nation”,

within the meaning of article 15 of the ECHR? If so, does the Scottish Government anticipate that it might in due course become necessary to take powers that derogate from certain of our human rights protections?

**Michael Russell:** I do not want to give a definitive answer to that, and it is probably not for me to do so in any case. I recognise it; it was the subject of a discussion that I had today, briefly, with the Scottish Human Rights Commission.

There is no doubt that there is a balancing act to be had but also that the power to derogate exists. I hope that we are always conscious of the need to respect human rights, and to do so in the best way possible, commensurate with the emergency that we face.

Adam Tomkins and I do not differ about the extraordinarily grave nature of that emergency. We will work together, as best we can, to face it.

Whether to use those words, in the way that Mr Tomkins used them, is for others, not for me.

**Bruce Crawford (Stirling) (SNP):** Given the unprecedented nature of the emergency that we face, does the cabinet secretary agree that it might be inevitable that some mistakes will be made with the bill but that what is more important is the speed with which we get it through Parliament, to protect the people of Scotland? Can he confirm that the LCM will come to the Finance and Constitution Committee? With regard to the Scottish Government's bill, has further consideration been given to using a committee of the whole Parliament to consider it, rather than allocating it to any particular committee? That might not be a bad way forward.

**Michael Russell:** Both those points are well made.

Using a committee of the whole Parliament would be for the Parliamentary Bureau to decide, but it seems to me an interesting proposal. If that is the mood of the Parliament, we will certainly be willing to do that.

I accept that there will be mistakes. This legislation has to go through. I am amazed at the speed with which officials have been able to bring it to a fully formed state, but we have a lot of work still to do. The bill will not be perfect. No bill that the chamber has ever received has been perfect, but it is essential that we do this now.

**The Deputy Presiding Officer:** That concludes the statement by and questions to the cabinet secretary. I apologise to Neil Findlay and Andy Wightman that they were not able to ask their questions.

## Business Motion

15:46

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of business motion S5M-21307, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill.

*Motion moved,*

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

Groups 1 to 3: 1 hour.—[*Graeme Dey*]

*Motion agreed to.*

## Female Genital Mutilation (Protection and Guidance) (Scotland) Bill: Stage 3

15:46

**The Presiding Officer (Ken Macintosh):** We turn to stage 3 of the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill. Members should have the bill as amended at stage 2, the marshalled list and the groupings of amendments.

I remind members that the division bell will sound for the first division of the afternoon, for which there will be a 30-second vote. Thereafter, there will be a one-minute vote should there be a division following a debate on a group. Any member who wishes to speak to an amendment should press their request-to-speak button immediately after I call the group that contains that amendment. Members should now refer to the marshalled list.

### Section 1—Female genital mutilation protection orders

**The Presiding Officer:** The first group is on the provision of practical support. Amendment 1, in the name of Christina McKelvie, is grouped with amendments 2, 3 and 5 to 10. I remind members that, if amendment 1 is agreed to, I will be unable to call amendments 2 and 3 due to pre-emption.

**The Minister for Older People and Equalities (Christina McKelvie):** At stage 2, I said that I would lodge amendments at stage 3 to ensure that the bill reflected the importance of ensuring that women and girls who seek a female genital mutilation protection order receive appropriate and necessary support from front-line bodies. My amendments are intended to meet the spirit of the Equalities and Human Rights Committee's work and the view that it expressed at both stage 1 and stage 2.

Since stage 2, I have had discussions with front-line third sector providers and statutory bodies about the bill as amended. Several third sector bodies submitted a joint letter, and Social Work Scotland has written a letter, too. I hope that members have had a chance to read those.

I pay tribute to the important work that the Equalities and Human Rights Committee has done throughout the process to ensure that we will have the best possible legislation that will protect women and girls and prevent FGM from happening in the first place. Although I disagreed with Oliver Mundell's amendments at stage 2, I completely understood what he was trying to achieve in pressing them, and I understand the

committee's strong desire to ensure that women and girls receive appropriate support and that their identities are not disclosed, given the particularly sensitive and personal issues that arise in relation to FGM and the importance of ensuring that they are protected. I thank Oliver Mundell for engaging with the issue. I am sorry that he cannot be here today to speak to his amendments, but I hope that I will do justice to the spirit of what he was trying to do.

At stage 2, I said that I would lodge amendments to deliver on the committee's aspiration in a sensible and balanced way. In doing so, I have sought to address stakeholder concerns that court-designed and directed support within FGM protection orders would be so precise and directive that it could risk removing the benefits of the professional assessment of need and tailored support. The assessment is best carried out by those who provide complex support packages daily. My amendments therefore place the responsibility for determining appropriate support in the hands of front-line professional experts.

That will provide for a more balanced and sensible approach that starts from the basis that public bodies—in partnership with third sector organisations, and with the needs of the individual at the heart of the process—are best placed to identify and deliver the necessary package of support. My amendments will allow the court to require a public body to consider carefully what support is needed and then to provide that support appropriately and when it is reasonably practicable to do so. They will ensure that vulnerable women and girls will not have to attend court repeatedly to have their support requirements varied. I am sure that everyone agrees that that would not be desirable.

Oliver Mundell's amendments provide for a power for ministers to issue guidance to the courts in carrying out their duties in a case. However, ministers would never do that, as it would run counter to the independence of the judiciary. Our amendments respect the proper role of the courts and their judicial independence from ministers.

Oliver Mundell's amendments also provide for the court to name an appointed person to oversee the order. I understand that the reason for that might be to prevent repeated court trips to vary the order as support needs change. However, I hope I can assure members, including Ms Davidson, who will speak to Oliver Mundell's amendments, that repeated court trips to tweak support packages will also be ruled out by my approach.

I have looked carefully at Mr Mundell's proposals, and I worry that they could cause confusion and tension between the protected person and the public body that is supporting

them. That would mean that, despite mandating someone to be the appointed person, the court would continue to have to step in and resolve any issues. I hope that we can all trust our public bodies to make the right decisions and to provide support that has the needs of the protected person at its heart.

To be clear, the bill will provide guidance on appropriate support. Our statutory guidance at sections 2 and 3 will spell that out clearly to the public body, which must have regard to the seriousness of the order and the steps that it should take in complying with it.

In the light of what I have said, it should be noted that our guidance is expressly prevented from applying to the courts. Mr Mundell has acknowledged that through his proposal to modify, by regulation, proposed new section 5A of the Prohibition of Female Genital Mutilation (Scotland) Act 2005. However, we have an opportunity to get the bill right today, and I respectfully submit that my amendments are a better way forward.

Our proposals meet the spirit behind the amendments that Oliver Mundell lodged at stage 2—and the committee's majority support for them—in reinforcing the provision of support in a sensible and balanced way, ensuring that vulnerable women and girls who require support can access the right support in the right way and that their needs are at the very heart of the process. Once the court has done its job, our public services will be freed to do theirs.

As I said at stage 2, we all agree on the importance of supporting women and girls and their families when there is a current or future risk of FGM. It is certainly right that those who need support should have access to it. As members know, my entire approach to tackling FGM through our strategy, our preventative work in communities and the 2005 act is to support vulnerable girls by taking a person-centred approach. Members will all agree that I am utterly committed to that. All that we want to do is ensure that we have good and competent legislation. That is our collective aspiration for any legislation that is passed by Parliament.

I move amendment 1.

**Ruth Davidson (Edinburgh Central) (Con):** The amendments that have been lodged in the name of my colleague Oliver Mundell are designed to address a number of practical and technical concerns that were raised at stage 2, when an amendment on the provision of direct practical support to those protected by an FGM order was agreed to by a majority of committee members.

At the outset, we acknowledge that the Government has lodged alternative amendments,

and we recognise that, if they are agreed to, they will improve the bill. Although my colleague believes that the Government's amendments do not give everything that the committee members were looking for, he acknowledges that they might be more practical for exactly the reasons that the minister has just outlined. Nevertheless, we are still keen to explain to Parliament the reasons for the amendments that have been lodged by my colleague, to thank all those who came to give evidence to the committee and to demonstrate that the points that were raised at committee, particularly by Scottish National Party members, have been listened to.

Amendment 1 clarifies that any direction from the courts would be limited to public bodies as defined under the Scotland Act 1998. At stage 2, concerns were raised that unfair or unreasonable burdens could be placed on third sector organisations, which was not the intention.

Amendment 3 makes it clear that any support outlined may be "immediate or ongoing", and amendment 5 would allow the courts to appoint a suitable individual to take charge of arrangements moving forward and a mechanism for any support to be reviewed without returning to court. Again, that responds to a specific concern that was raised at stage 2.

I know that our colleague across the chamber, Mary Fee, was keen to see in the bill more detailed examples of what such support might include. That is covered in amendment 6, which focuses on health, housing, "financial support" and education as a starting point.

Amendments 7, 8 and 9 speak to the protections that we seek for the individual who is at the heart of any decision, offering direction to the court and giving scope to ministers to issue guidance.

That was the rationale behind the amendments being lodged. However, we recognise that the minister has taken on board a great number of the concerns that were raised at stage 2. We thank her for that and, to that end, I will not move the amendments in the name of Oliver Mundell. We will support the Government's amendments in their stead.

**John Finnie (Highlands and Islands) (Green):** The Scottish Green Party is not represented on the Equalities and Human Rights Committee, but we are very grateful for the work that it does. We have monitored it closely and are supportive of the Government's bill.

I was involved with this issue through my previous involvement in the Equal Opportunities Committee and the Justice Committee; therefore, I am aware of the sensitivities around it and the perniciousness of the practice. On each of the

occasions on which I was previously involved, we called on the expertise of many people. I understand that the bill is about strengthening protections, and there is no doubt that that is what everyone has sought to do.

I should declare my interest as a member of the cross-party group on men's violence against women and children. The role that Scottish Women's Aid has played in informing previous discussions on the matter is important, as are the views of various other groups, such as Engender, Amina—the Muslim Women's Resource Centre, Saheliya and Shakti Women's Aid. The minister has already referred to the letter from Social Work Scotland.

We ignore at our peril the wisdom of the practitioners on the issue. The letter to the committee from Scottish Women's Aid, which was signed by some of the groups that I have mentioned and many others, including many academics, talks about

"unforeseen consequences which undermine the efficacy of the Bill and will prove harmful to victims and survivors."

I think that we have to pay heed to that statement. Given Ms Davidson's comments, I do not propose to say any more than that. We are entirely supportive of the minister's amendment 1.

**Angela Constance (Almond Valley) (SNP):** I speak in support of amendments 1 and 10, in the name of the minister. I am a member of the Equalities and Human Rights Committee, and the amendments seek to address some of the difficulties that were caused by some earlier amendments, as Ruth Davidson discussed with regard to what happened at stage 2.

It is fair to say that the committee was united in agreeing that endeavours to include practical support in FGM protection orders to reduce on-going risk and harm were based on the very best of intentions, but we were divided on the practical effect and impact of Mr Mundell's proposition. Nonetheless, I welcome the position that Ruth Davidson has taken today on behalf of Oliver Mundell. Oliver Mundell was a very diligent member of the Equalities and Human Rights Committee who cared deeply about the bill. Despite our differences, he genuinely sought to make it the best possible legislation.

I come to the bill as someone who has many years of front-line experience in assessing vulnerable people, those who are at risk and those who present a risk. I have made many applications and recommendations to courts, tribunals and parole boards. Admittedly, that front-line experience is somewhat old now—it is from more than a decade ago—but those of us with such experience will have wrestled with the very delicate balance between the responsibilities,

competencies and expertise of the courts on the one hand and service providers on the other. The minister's amendments try to ensure that, when the courts impose duties, they will be based on assessed need and professional judgment.

John Finnie has already drawn the chamber's attention to the correspondence that the committee received from Scottish Women's Aid, which was signed by other organisations including Shakti Women's Aid, Multi-Cultural Family Base, Dundee International Women's Centre, Saheliya and Amina—the Muslim Women's Resource Centre. As he and other members have said, we will do well to pay heed to those services and workers who have current front-line experience of trying to protect women and girls who are at risk of FGM.

16:00

**Alex Cole-Hamilton (Edinburgh Western) (LD):** I echo what other members have said about the intent of Oliver Mundell's amendments at stage 2, which I was happy to support—imperfect as they were, as he admitted. However, the Scottish Government has done a great deal of work to bring parties together to discuss Opposition plans to alleviate the concerns that we had at stage 2, and I am happy to support the Government's amendments on that basis.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I do not have a lot to add to what my colleagues have already said. In particular, Angela Constance summed it up well.

I support amendments 1 and 10, in the name of the minister. I also welcome Ruth Davidson's approach today. She summed up where Oliver Mundell was coming from and the fact that the Government's amendments have captured where he was trying to go. Along with other committee members, I shared concerns at stage 2 about the risk of the support being so precise and directed that it could minimise the benefits of professional assessment and a tailored approach, as well as the complex support packages that are in place. In the spirit of the current climate, I welcome the Conservatives' approach to the amendments today.

**Christina McKelvie:** I thank Oliver Mundell and Ruth Davidson for the position that they have taken today. When we work together like this, it is incredibly helpful. Everyone in the chamber has drawn attention to the letter that was sent to the committee from all the organisations that do the day-to-day work in these complex situations. I reiterate my commitment that, when we formulate the statutory guidance for the bill, we will be open to the same collegiate approach that we have

taken with the committee, stakeholders and members from across the chamber.

John Finnie raised a few points from the letter. He said that the stakeholders who do that work every day are the experts and that we should always remember that.

Angela Constance talked about getting the balance right between the competencies of the court and those of the statutory bodies. When the courts impose duties, they must be based on assessed need.

Alex Cole-Hamilton and Fulton MacGregor spoke from the position of wanting to ensure that the complex needs of the person are at the heart of the bill.

The core of this bill is about ensuring that those little girls—or their sisters or mums—who have been victims or who could be at risk are protected. We do ourselves proud in agreeing to this amendment and in moving forward with the bill.

*Amendment 1 agreed to.*

*Amendments 5 to 9 not moved.*

**The Presiding Officer:** Group 2 is entitled “Extra-territorial jurisdiction”. Amendment 4, in the name of the minister, is the only amendment in the group.

**Christina McKelvie:** Amendment 4 is a technical amendment to make it clear that an FGM protection order is not to be used to regulate matters that are unconnected to Scotland. Although the bill currently reiterates the powers of the sheriff to decline jurisdiction in such an instance, I consider it to be prudent to put the matter beyond any doubt.

Technical amendment 4 will make it clear that FGM protection orders, which cover individuals who are “ordinarily resident in Scotland”, irrespective of their immigration status or whether they are a UK national, will also cover any person within Scotland. It will ensure that an FGM protection order can be sought to protect even the most transient visitors.

By way of example, if Police Scotland were to receive credible intelligence that a non-UK national girl who was due to visit Scotland could be subjected to FGM when she goes home, our bill will operate so as to allow Police Scotland, while the girl is here, to seek an FGM protection order and, in turn, to protect that girl from future harm. Amendment 4 will not change that, but will put it beyond doubt that an FGM protection order cannot be used in relation to circumstances in which there is no connection to Scotland.

That is because it is important that we take a proportionate approach, and that jurisdiction should not be extended to interfere unduly in the

affairs of sovereign nations and their citizens. We would not want a Scottish sheriff to issue an FGM protection order in relation to a woman or girl—or, indeed, in relation to a potential perpetrator—who has never set foot in Scotland, who has no connection to this country, and who has never had any intention of coming here. It is not for us to interfere in the role of a state in keeping that woman or girl safe, or in holding to account that potential perpetrator of FGM.

However, the bill remains deliberately drafted to provide robust protection of girls who might be taken from Scotland to be abused. Furthermore, the bill is equally robust in tackling non-Scottish perpetrators who might come here to carry out that form of abuse, irrespective of whether a potential victim has been identified. Amendment 4 will make no difference to that comprehensive approach.

I move amendment 4.

**Ruth Davidson:** Amendment 4 is a technical amendment. We have no particular comments to make on it, other than to say that we support the Government’s approach, which seems to be sensible and will, we think, strengthen the existing provisions.

*Amendment 4 agreed to.*

*Amendment 10 moved—[Christina McKelvie]—and agreed to.*

**The Presiding Officer:** We turn to our last group—group 3—which is on provision for anonymity. Amendment 11, in the name of the minister, is grouped with amendments 12 to 18. I remind members that, if amendment 11 is agreed to, I cannot call amendments 12 to 16, as they will be pre-empted.

**Christina McKelvie:** As the Equalities and Human Rights Committee and I acknowledged at stage 2, we all know that individuals may wish to be made anonymous for a number of reasons, and the needs of the person who is seeking protection from harm will always be at the heart of what we are trying to do. In the context of an FGM protection order, it is absolutely right that the court should consider that carefully and act in the best interests of the protected person.

At stage 2, the committee was sympathetic to undoubtedly well-intentioned amendments from Oliver Mundell. However, I was concerned about the workability of those amendments and that they in effect granted automatic anonymity for perpetrators. I explained that the courts already have powers at their disposal to grant anonymity, that there is no evidence to suggest that they do not take their duties in that regard seriously and that they are well placed to decide how best to exercise such powers in a given case. However, the committee was sympathetic to the spirit of the

amendments and voted to amend the bill at stage 2 by inserting Oliver Mundell's provisions. As I said, I understand why it did so.

My focus was then, and remains now, on ensuring that we have good, workable law that the courts are able to exercise, that works well for those whom it is designed to protect and that does not have any unintended consequences. I welcome the fact that Oliver Mundell has sought to fix some of the issues that were highlighted at stage 2. As with group 1, I have lodged what I think are balanced and sensible amendments to strengthen the bill in that area, and I hope that Parliament as a whole can get behind them.

We are fortunate in this country to have a highly skilled and professional judiciary that is well used to ensuring the effective delivery of justice and the protection of persons' rights within that process. That is one of the reasons why we entrust those decisions of enormous personal importance not to individuals, but to courts. As part of that, we need to allow the courts to act justly and to react to the facts of the case that is before them. I continue to believe that the courts have sufficient powers at their disposal and that they are well capable of exercising them and do so seriously. However, I have also listened carefully to the views of the committee and I note—again—the spirit and good intentions that were behind the original amendments. I have therefore lodged an amendment that will insert into the Prohibition of Female Genital Mutilation (Scotland) Act 2005 new sections 5FA, 5FB, and 5FC, which meet that spirit and provide workable law that will meet the purpose of the bill.

Together, those new sections will require the court to consider using the new power to make an anonymity order. That requirement will arise not only when the court receives an application for an FGM protection order but when the need for one arises in other civil proceedings. My amendments do not set out the detail of the measures that are to be used; rather, they set out the effect that is to be achieved.

My amendments are more expansive than Oliver Mundell's approach, in that they require the court to properly consider the whole issue of anonymity. Oliver Mundell's amendments are still a bit too narrow and could constrain the court's thinking and the actions that it can take. My amendments also leave the existing powers of the court untouched in order to guard against any unforeseen circumstances that may arise that are outwith the ambit, allowing the court to fall back on the existing powers if need be.

The briefing by Scottish Women's Aid and Engender raised a specific concern in relation to the Government's amendments, about whether the courts would use the provision to grant

anonymity for perpetrators or potential perpetrators of FGM. Those organisations sought reassurances from the Government on how the provisions are intended to apply in practice, and I am happy to give those reassurances now. There are sometimes occasions when the court has to consider whether to make a perpetrator anonymous. However, the courts are clear that they will do that only in order to protect the victim.

The crime can often take place in small, close-knit communities and families. In such situations, naming the perpetrator will automatically mean identifying the victim, their sibling or perhaps even a brave mother who has taken a stand in seeking protection for her daughter. Journalists call that the jigsaw identification process. That is why our amendments require the court, in considering whether to make anyone anonymous, to keep in mind the key test of the health, safety and wellbeing of the protected person, and only the protected person. That is a critical point.

In extreme circumstances, anonymity can be granted to a perpetrator, but only where to do otherwise would harm the victim or where there is a chance that the case to protect the victim may not proceed at all. If we do not allow the courts to do that, we may inhibit at-risk women and girls from coming forward if they think that a family member could be identified publicly, even when that family member is a potential perpetrator.

As part of the implementation of the bill, we will work closely with the Judicial Institute for Scotland to ensure that the courts understand the particular dynamics of FGM and respond appropriately. That is the right balance—it focuses on building the capacity of the whole system to respond effectively while respecting the fundamental independence and wisdom of the judiciary. We will of course continue to work with front-line experts and communities to shape the approach.

In general, my amendments tidy up a number of technical issues relating to who can make an application, how the protected person's views should be taken into account and how the court deals with issues such as variation. If Parliament supports the amendments, those changes will make the final bill better law. That is reflective of the complexity of the process. We have tested our thinking with the Scottish Courts and Tribunals Service, the Faculty of Advocates, the Family Law Association and JustRight Scotland, which is a group of specialist human rights lawyers who act with potential victims of FGM on a day-to-day basis. Yesterday, the Law Society of Scotland made a submission supporting our approach. I will ensure that the court's decision making continues to be underpinned by the needs of the protected person—that should be beyond any doubt—and in a way that is right for the protected person.

I urge members to support our sensible and balanced amendments and to delete proposed new section 5CA of the 2005 act from the bill.

I move amendment 11.

**Ruth Davidson:** Amendments 12 to 16 in the name of Oliver Mundell aim to simplify the amendment on victim anonymity that was made at stage 2. In particular, we felt that amendments 12 to 16 more accurately captured what victims and survivors were asking for. Often, they are looking for support and help, but they want to ensure that their details and those relating to an order do not make it into the public domain, which is not quite the same thing as anonymity. We believed that the proposed new wording provided the necessary privacy and dignity that people were looking for and that it was self-evidently simpler and clearer than the Scottish Government's alternative.

However, we recognise the minister's amendments in the group, which go further than she was willing to go at stage 2. We welcome the fact that, crucially, the Government's amendments will move the issue of anonymity into the bill.

As all speakers today have recognised, every member, official and minister who has been involved has sought in good faith to act on behalf of some of Scotland's most vulnerable women and to give them the best protection under the law that is within our power. There are perhaps different methods of doing that, but we have the same motivation and commitment. Given the assurances that we have just heard from the minister on anonymity, I am content not to move the amendments in Oliver Mundell's name.

16:15

**John Finnie:** The aim of the bill is to

"strengthen the existing legal protection for those at risk of female genital mutilation."

The bill lays out how that will be done. The very clear point that has been made by practitioners is that the courts already have the power to grant anonymity. We are all familiar with people wanting things on the face of the bill for particular reasons, but, as an organisation told the committee, one of the unintended consequences of that would be

"the potential for promising perpetrators they will not be named."

That would be decidedly unhelpful. It is equally unhelpful when such organisations conclude that

"the potential for criminalising support efforts and organisations is particularly alarming."

Therefore, I am grateful for the amendments that the minister has lodged. They strike the right balance and the Greens will support them.

**Angela Constance:** It is worth reminding the chamber that, on the issue of anonymity, the committee concluded in its stage 1 report that it

"strongly supports the principle that the views and wishes of victims and survivors should be paramount and central to court considerations. The Committee believes that anonymity on request is a reasonable expectation for victims of FGM and asks the Scottish Government how this can be given."

The spirit of that is best reflected in the minister's amendments 11, 17 and 18.

One discrete bill will never be the vehicle for wholesale legal change to our justice system and it is problematic to try to carve out a separate set of arrangements for one particular set of victims and survivors. I am pleased that the minister has taken that recommendation forward as far as she can, and that she has consulted an extensive range of stakeholders, including JustRight Scotland, which acts for potential victims of FGM, day-in, day-out.

John Finnie reflected on the correspondence that the committee received from practitioners in the field. It is important to point out that courts must already withhold a person's identity in circumstances in which that person faces a threat to life or limb and, further, in which it is

"in the interests of justice to protect a party to proceedings from painful and humiliating disclosures of personal information where there is no public interest"

in doing so. Those circumstances are a good description of FGM cases, and the approach offers significant protections already.

I listened carefully to the minister speak to her amendment 17, which includes provision allowing the court to consider making anyone anonymous—for example, a sibling. That is important. Crucially, as the minister said, the court can grant anonymity to someone who is not a protected person, but only if it has the health, safety and wellbeing of the protected person at the heart of its considerations. I listened carefully to the minister's explanation that her amendments will indeed remove the prospect of perpetrators being granted anonymity.

**Alex Cole-Hamilton:** I echo a lot of what has been said by other members on this group of amendments. I was one of the committee members who supported Oliver Mundell's original attempt to get anonymity into the bill. He did so for very important reasons. By definition, we are talking about communities in which FGM is an issue of massive cultural sensitivity, and the fear of being named or identified might act as an inhibitor to those who are victims or might become victims of female genital mutilation. During stage 2, we all recognised the imperfections in his amendments—problems that the amendments

that he lodged at stage 3 were designed to rectify. However, I salute the Government for moving a great distance once again to recognise the need for provision for anonymity in the bill. It has got the balance right and the Liberal Democrats will therefore support its amendments.

**Fulton MacGregor:** I pressed my request-to-speak button to keep the list of speakers the same as it was for group 1 as much as anything else, because I do not have a lot to add to what my colleagues have already said.

Anonymity was probably the most pressing, and the key, issue at stages 1 and 2. Witnesses told us about various approaches that could be taken. I was concerned about some of the amendments that were agreed to at stage 2, but I think that Oliver Mundell and others who voted for them agreed that they were not the finished article. I welcome the minister's approach, and I think that Oliver Mundell, who is obviously not here today, can be very happy with what he has achieved.

I welcome the Conservatives' approach to the amendments before us today.

**The Presiding Officer:** I invite the minister to wind up.

**Christina McKelvie:** I thank Ruth Davidson and Oliver Mundell for shifting so far. I reiterate that I got the spirit of where Oliver Mundell wanted to go, and I hope that that is reflected in the work that we have done.

John Finnie made a key point about the issue of not criminalising charitable and third sector organisations. That was a key part of the work that we needed to do. I wanted to put that absolutely beyond doubt, because we will need stakeholders such as charities and third sector providers to do this detailed and expert work.

Angela Constance talked about the need for the views and wishes of the victim to be put at the heart of the process. I cannot reiterate enough that that is what we have attempted to do through the actions that we have taken. She is absolutely right—it is not just the law that will make the difference here; the work that we do with stakeholders and the work that we do through guidance and our FGM action plan will also be important. She is right that it is important that the scope of what we propose is broad enough to allow for a sibling, and maybe a mother or a grandmother, to be protected, too.

Alex Cole-Hamilton gave a clear explanation of why this is such a sensitive and complex issue, which is to do with the fear of being named in a community. That was raised with me—and, I know, with the committee—repeatedly by communities and stakeholders, and we wanted to make sure that we gave a commitment on that. In

his comments, Fulton MacGregor backed up our position.

The bill is about the protection of women and girls, and I think that we have done a good job by putting them at the heart of the process. Ensuring that siblings and others are protected, too, is a key aspect of what we want to do.

I thank everyone for their contributions.

*Amendment 11 agreed to.*

**The Presiding Officer:** As I indicated earlier, that means that amendments 12 to 16 are pre-empted.

*Amendment 17 moved—[Christina McKelvie]—and agreed to.*

### **Section 5—Definitions of expressions in the 2005 Act**

*Amendment 18 moved—[Christina McKelvie]—and agreed to.*

**The Presiding Officer:** That ends formal consideration of the amendments.

As members will be aware, at this stage in proceedings, I am required under standing orders to decide whether, in my view, any provision of the bill relates to a protected subject matter—that is, whether it modifies the electoral system or the franchise for Scottish Parliament elections. As the bill does no such thing, it does not require a supermajority to be passed at stage 3.

## **Female Genital Mutilation (Protection and Guidance) (Scotland) Bill**

**The Deputy Presiding Officer (Linda Fabiani):** The next item of business is a debate on motion S5M-21279, in the name of Christina McKelvie, on the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill at stage 3.

16:25

**The Minister for Older People and Equalities (Christina McKelvie):** I am delighted to open this stage 3 debate on the Female Genital Mutilation (Protection and Guidance) (Scotland) bill. It is an important bill that will make a real difference to women and girls who are at risk of, or who have experienced, the abhorrent practice of FGM.

Although we have had some debate today on the provisions of the bill, there is broad consensus across the chamber that it is the right thing to do.

Like other forms of gender-based violence, FGM is a manifestation of power and a means of controlling the sexuality of women and girls. It is a form of violence against women and girls. As the minister with responsibility for the Scottish Government's work in this area, I am committed to preventing FGM in Scotland and to ensuring that girls and women who are at risk of FGM are protected from harm. FGM has been illegal since 1985. The Female Genital Mutilation (Protection and Guidance) (Scotland) Bill seeks to add to existing protections and to improve the system response to women and girls who are at risk of harm.

It is estimated that around 200 million girls and women across 30 countries have been subject to FGM. The prevalence of FGM in Scotland is difficult to estimate because of the hidden nature of the crime. A Scottish Refugee Council report in 2014 found that there are communities that may be affected by FGM in every local authority area in Scotland, with the largest affected communities being in Glasgow, Aberdeen, Edinburgh and Dundee.

So, FGM is not a new issue and this Government has been taking action. In 2016 we published "Scotland's National Action Plan to Prevent and Eradicate Female Genital Mutilation (FGM)". I pay tribute to my colleague Angela Constance, who started this journey. I am merely finishing her first steps. The purpose of the national action plan is to foster an environment of prevention in Scotland and to improve the welfare and quality of life of FGM survivors. We are taking steps to engage with communities, to raise

awareness and to improve the response of front-line services.

The bill meets our commitment to strengthen legal protections for those who are at risk of FGM. The new protection order that it will make available means that our public services and our courts will be able to focus on the need to protect those persons at risk or those who have already suffered from FGM being carried out on them. Building on experience in other jurisdictions in the UK, and reflecting on the support in our consultation, this is an effective and proven approach to reducing risk to potential victims.

To support those new protection orders, the bill places a duty on ministers to issue statutory guidance on the protection orders, and also provides a power to issue guidance on FGM more generally. We intend to focus our efforts on ensuring that that guidance is developed with community input at every step, and that we are guided by what women and girls need from their public services. That is critical for me: the approach is "nothing about us without us." I often use that term, and I mean it.

On that note, I thank those both within and outwith the chamber who have worked closely with the Government over the past 18 months to help get us to this point.

I thank the Equalities and Human Rights Committee, under the leadership of Ruth Maguire, which undertook significant detailed and thoughtful scrutiny. That included working closely with community members with lived experience to allow them to tell their stories. I know that every member of that committee was touched by the stories that they heard. They visited front-line services to understand how protecting women and girls from FGM happens on the ground and they took evidence from a range of experts and organisations. It was expert, detailed and valuable scrutiny. I commend the convener and members of the committee for their thoughtful and considered work, which has undoubtedly helped to ensure that we have the strongest possible legislation.

Above all, I thank those organisations and experts who have taken the time to share their deep expertise with me and with this Parliament. They included JustRight Scotland, Multi-Cultural Family Base, Shakti Women's Aid, Saheliya, Community InfoSource, Amina—the Muslim Women's Resource Centre, Kenyan Women in Scotland Association and Dundee International Women's Centre, as well as Dr Ima Jackson, and Judy Wasige of Glasgow Caledonian University who work hard to ensure that the voices of women and girls are better heard in policy making.

I would especially like to thank Neneh Bojang, a courageous survivor of FGM and community activist, who stood with me outside Parliament less than a year ago as we launched the bill. She said at the time that if just one person did not have to experience what she had had to, the bill would be worth it.

I am confident that, if the Parliament votes to pass the bill today, we will be protecting more women and girls than we were yesterday and that we will be one step further towards our goal of ultimately preventing and eradicating female genital mutilation.

I move,

That the Parliament agrees that the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill be passed.

**The Deputy Presiding Officer:** I remind those who are down to speak to press their request-to-speak buttons, please. We have a few minutes in hand, so if anyone wants to intervene, I can allow that.

16:30

**Michelle Ballantyne (South Scotland) (Con):** I am pleased to speak on behalf of the Scottish Conservatives as we bring proceedings on the bill to a close and, I hope, push it through Parliament at the end of the day.

I have spoken previously in this chamber about my experience as a nurse of having to hand over a baby who was being taken out of the country for the purposes of FGM. That has preyed on me for most of my life and, for that reason alone, I welcome the bill. I hope that it will prevent that from ever happening to anybody again.

The bill's intentions are admirable, and it is a symbol of the things that this Parliament can achieve when all parties come together. However, the bill on its own will not be enough. It is important that awareness of the bill is raised, to ensure that it has effect. As Police Scotland remarked in its submission, for the

"broad spectrum of individuals or organisations ... it is imperative that clear guidance and processes must be put in place ... in order that any potential breach of the conditions is effectively policed."

The same point applies to ensuring a strong level of communication with communities in which there have previously been cases of FGM. If people are to report the crime of FGM, it is vital that they understand the implications of the protection orders and where the law now stands on this issue. Without that key effort, all the legislation in the world will not have any effect in bringing more cases to court or ensuring that prosecutions are successful, or, perhaps more

important, in preventing things from even getting to that stage in the first place. I know that the Scottish Government has been active on this issue through the group implementing the national action plan, but it is worth repeating that that is the only way in which we will succeed in eradicating this vile practice.

I want to mention the Scottish Conservatives' amendments to the bill. The Conservatives have always been highly supportive of the bill, although, as my colleague Ruth Davidson just outlined, we had some concerns about the practical and technical considerations involved.

I pay tribute to my colleague Oliver Mundell, who sadly was not able to be here to speak to his amendments. He put in a lot of work in trying to represent the views and experiences of those who gave evidence, which of course they did very bravely, on a subject that is very difficult to talk about. He was very keen that those views should inform the bill and be incorporated into it, so that it would provide the kind of support that those people had asked for.

We accept, as Ruth Davidson said during discussion of the amendments, that the Government has implemented in principle the changes that we sought to make. Although the amended bill is not perfect, I am glad that it will provide for greater support than was originally planned.

At the end of the day, support and communication are key to the bill, if it is to be successful. I hope that the Government will expand its activities in this area so that it keeps pace with the requirements of the legislation. Not only do women who go through FGM need a vast amount of personal support, in terms of managing their lives, but, if we are going to take people to court and prosecute them as a result of the bill, those women will need an inordinate amount of support and protection so that they can continue to live in their communities.

I want to raise the subject of preventative offences. In its evidence to the Equalities and Human Rights Committee, Police Scotland said that there is

"a potential gap in the legislation"

regarding

"additional 'preventative offences' ... where persons have in their possessions items indicative of intending to carry out FGM."

Although I recognise that in some cases it may be hard to discern whether such items might be used to carry out FGM, particularly in ceremonies of a more ritualistic kind, that will probably make it clear that the potential offender intends to commit

a crime, much as the carrying of drug paraphernalia suggests another type of behaviour.

It would be worth exploring those issues in the FGM guidance that will be issued to the police, other organisations and the public, so that people can recognise equipment indicative of FGM whenever they see it, and understand that there are reporting mechanisms available. Whether a full provision was needed in the bill was, perhaps, a different question. However, until we have stronger data on the way in which FGM is conducted, it would probably have been unwise to include a potentially far-reaching amendment that could be liable to abuse.

In its briefing for today, the Law Society of Scotland asked how the bill's success and effectiveness will be measured once it has been implemented, particularly given how low conviction rates have been in the past. A robust way of collecting that information will be useful not only to improve reporting procedures, but to demonstrate the bill's efficacy. That will be an important consideration, and I urge the minister to look at that and report back to Parliament on it in due course.

The Scottish Conservatives are fully supportive of the bill, and we support the direction that has been taken by the Scottish Government. As my colleagues and I have said, this needs to be a strong, comprehensive piece of legislation that is supported by the right training and guidance, and it needs to have the resources to back that up. Ultimately, we must support the victims and those who are under threat from this terrible crime. Many of us have never experienced it ourselves or within our families, but it is absolutely life destroying for those who do.

I thank the Scottish Government for bringing the bill forward. I presume and hope that the bill will be passed tonight, and I hope that it will make a big difference to those women out there.

**The Deputy Presiding Officer:** Before I call Pauline McNeill, I want to let Parliament know that we have fewer members wishing to speak than expected. Therefore, it is likely that decision time will be a bit earlier. I call Pauline McNeill.

16:36

**Pauline McNeill (Glasgow) (Lab):** I am delighted to speak for Scottish Labour.

I thank Oliver Mundell, Ruth Maguire, Mary Fee and the members of the Equalities and Human Rights Committee for being excellent parliamentarians, and for doing work that—although expected—is of high quality. I also want to record my thanks to Angela Constance for the work that she did in her previous ministerial role,

and to Christina McKelvie, who has taken the bill through so ably.

Protection of women and girls is of universal concern. I have not been involved in the debate previously, but I have followed it from its outset. An estimated one in 20 girls and women in the world has undergone some form of FGM, according to figures from the United Nations. In 2020 alone, 4.1 million girls around the world are at risk of undergoing FGM. The UN is, rightly, calling for a complete ban on FGM and wants the practice to be ended worldwide by 2030. However, it strikes me that that is another 10 years of this brutal crime. I hope that the UN might be able to bring that date forward.

FGM is nearly always carried out on minors and is a violation of the rights of girls. FGM has absolutely no health benefits: rather, it harms girls and women, because it interferes with the natural functions of their bodies. There is a ban on it in Scotland, and it is also illegal to help someone to commit FGM or to take someone out of the country to undergo it. The legislation will be vital, because it will provide increased protections for girls who are at increased risk of being put under pressure to undergo the abhorrent and dangerous practice.

I have carefully followed the amendments this afternoon, as they were dealt with by the minister. The question of anonymity is an absolutely vital aspect of the legislation, because it protects women and girls from future harm. The bill will allow a court to make a protection order to protect a person who is at risk of being subjected to FGM. Labour is delighted to support the principles of the bill and will vote for it at stage 3.

Doctors in Scotland treated victims of FGM on more than 230 occasions during 2017 and 2018. NHS Greater Glasgow and Clyde said that it had identified women with FGM on at least 138 occasions over that period. NHS Lothian, which covers Edinburgh, said that there were 93 occasions on which it was notified. It is quite shocking that we still face that in Scotland. Dr Duncan McCormick, who is a consultant in public health medicine at NHS Lothian, pointed out that

“It is a form of abuse and gender-based violence that has serious short and long term physical and psychological consequences”.

All FGM survivors have appalling stories and members have shared those horrible stories in Parliament. I will finish with one such story. Lesha said:

“I was sent to Guinea for the summer. I was mutilated along with my baby sister. She was 9, and I was 11. After the circumcision, I don't know what happened exactly, but she died. She was my best friend.

After the ritual, I was placed in a room with other girls, and men were not allowed to see us. I remember not seeing my family for days—I can't remember exactly how long.

When I finally returned home and saw my family, they were happy and proud. I was finally a woman.

Sex is painful, and I hate it. I hate being touched. It feels like rape every time. I cry inside, I cry out loud, and my husband does not care. It does not hurt him.

I had Type-3 FGM, and I was reopened after we were married."

That kind of pain is typical for a survivor of FGM, and her story shows that some girls even die from the procedure.

I am delighted that the Scottish Government has accepted the recommendation of the Equalities and Human Rights Committee that

"statutory guidance should be supported by appropriate professional training",

so that FGM protection orders are used appropriately and implemented effectively.

Michelle Ballantyne made an important point about the education that is required to accompany the protection order and the crime that we will now have in Scots law.

The enhanced protection will be vital in helping to protect vulnerable girls from the life-changing and life-threatening practice of FGM. I am delighted that Scottish Labour will vote for the bill at decision time.

FGM is a global issue; it is an issue all around the world. Scotland has done the right thing and we can say that we have done everything in our power to protect girls here. However, we know that we need to champion the issue around the globe.

16:41

**Alex Cole-Hamilton (Edinburgh Western) (LD):** As deputy convener of the Equalities and Human Rights Committee, I offer my sincere thanks to the clerks, witnesses and organisations that took us through this sensitive and important bill.

The bill is a monument to the strength of our democracy. It comes in the teeth of the worst of international crises, but the business of public policy and Government must continue. It is an example of a bill that might affect only an extremely small number of our fellow citizens, but by their nature, they are a vulnerable few.

It is an indictment of our efforts to realise gender equality and the rights of women that we have to pass an act such as this in Scotland in 2020. The cultural practice of female genital mutilation typifies men's attempts to exert power and control over women. It has occurred for aeons and it is

time that we finally stamped it out. With the bill, we extend a layer of protection to many existing layers of protection, but it is a vital layer.

In the minister's opening remarks, she was quite right to say that FGM is a hidden practice. However, that does not mean that it does not exist. We should not look at the culture in our country and think that we have got it right. Such acts of savagery or barbarism—I would like to withdraw that word; it is a terrible word to use—happen in our country, which is in no way appropriate. We have statistics on that. Globally, in any given year, 3 million girls are affected, and in Scotland each year, 350 baby girls are born to mothers from countries where female genital mutilation takes place and is the cultural norm.

The FGM protection order will provide the teeth of the legislation. In the words of Leethen Bartholomew from the National FGM Centre, it will give a woman

"the agency and the power not only to take a stance and protect herself but to also protect her child." —[*Official Report, Equalities and Human Rights Committee*, 7 November 2019; c 7.]

Those words struck home with me as we heard them in evidence. We have heard several times in debates on the bill that the order will give agency and power to women. It will reverse what the practice of FGM has sought to do in the millennia in which it has been practised, by giving women the power to defend themselves against the brutality of men.

Until this point in our history, there has been no real legal impediment to the practice of FGM. We have not been able to prevent babies or children from being taken overseas, or to prevent the practice from happening to them at home. It is such a hidden and sensitive practice that people go to great lengths to cover it up.

I welcome the distance that the Government has gone on anonymity, as I said during the debate on stage 3 amendments. It is vital that girls and young women in affected cultures are allowed anonymity when they come forward. By their nature, they are vulnerable. They might have a great sense of shame about putting their hands up and saying that they do not want FGM to happen to them, and they might fear being ostracised if their names become known in their wider communities. I think that we have reached the point at which the bill will protect such women.

Implementation of the bill will be critical, if we are to get the approach right; a bill is only as good as its implementation phase. I very much welcome the efforts that the Government is making to plan focus groups in affected communities in order to shape pathways and structures around the legislation.

I again thank everyone who participated in development of the bill—not least, Saheliya, for example, which is becoming more and more involved with Parliament's work in helping us to help marginalised groups.

I commend the bill to Parliament.

16:45

**Christina McKelvie:** I am pleased to close the stage 3 debate on the bill.

Alex Cole-Hamilton said that FGM is a hidden practice. However, we know that it happens and we should not think that it does not; we heard the stories from Michelle Ballantyne and Pauline McNeill. Michelle Ballantyne talked about having to hand back a baby girl who she knew was at risk. The bill will protect babies such as that, and it will protect professionals such as Michelle in their roles.

Pauline McNeill talked about that wee girl's story. Some wee girls are taken to a birthday party or on an outing by an auntie or a granny, and they do not know what is coming. The practice might be hidden, but we know the stories and they are the reason why we are doing what we are doing.

In key parts of their speeches, members asked for more information. Michelle Ballantyne asked about data collection. We are taking the issue on board and I have committed to develop a data collection strand of work through the FGM national action plan work, in partnership with health and other relevant organisations.

Michelle Ballantyne also asked about FGM equipment. The issue was raised with me at the beginning of this process and we did some work with Police Scotland on the matter. We do not need a new offence, because the matter is already caught by the law: it will be an offence to attempt to break an FGM protection order, including by carrying equipment for FGM. Police Scotland has powers.

**Michelle Ballantyne:** May I ask for clarification on that? My understanding is that if someone is stopped and found to be in possession of equipment, they cannot be prosecuted for that. They have to have done something—may I just check that?

**Christina McKelvie:** If the bill is passed today, given the purpose of an FGM protection order, if we know that a person is using the equipment to carry out or attempt to carry out FGM, they may be subject to a criminal conviction. We have that covered off. I hope that that reassures the member; we can talk more about it if she wants to do so.

Many members asked about guidance, and I want to reassure members about what we want to do in that regard. I draw members' attention to "Scotland's National Action Plan to Prevent and Eradicate Female Genital Mutilation (FGM)—Year Three Progress Report". On page 12, we say:

"Both sets of guidance will set out the policy and legal context for work on FGM. The Guidance on Protection Orders will describe the order, set out roles and responsibilities and cover relevant matters such as application process, costs and access to legal aid".

I want to say something about legal aid. At stage 2, the issue was raised and we considered how a person who is accessing an FGM protection order might be able to access legal aid. I inform members that I implemented the regulatory change to the legal aid list to ensure that FGM protection orders are covered, which means that people have access to legal aid.

The year 3 report goes on to say:

"The guidance on FGM generally will provide a comprehensive summary of the issues around FGM and set out actions for Chief Executives, Directors and senior managers to whom the guidance will apply. Both sets of guidance will be shaped through close community engagement and work with key stakeholders, utilising the expertise of members of the FGM National Implementation Group."

That work will commence immediately following royal assent.

All today's speakers have raised incredibly important issues about implementation. Following royal assent, the work will be complemented later in 2020 by the formal consultation on the draft guidance that will cover the FGM protection orders and FGM generally, should we have the space to do that, given the current climate that we are all facing right now.

It is our intention to do that formal consultation and to give stakeholders and parliamentarians another chance to voice their opinions, to ensure that the implementation of the orders and the guidance matches what we want to be done.

To assist with the effective operation of future statutory guidance on FGM, we will work with stakeholders to ensure that the core training adequately reflects the position on FGM, including the updated legislation. In progressing that work, we will engage with communities at the outset, to ensure that the guidance in particular reflects the needs of women and girls.

A question was asked about legal aid and whether that would usually be subject to the income of the parents. That would be the case only where it would not be unjust and inequitable to do so. Given that FGM protection orders would often—but not always—involve the consideration of restrictions on parents, we think it highly likely

that such means testing would always be unjust and inequitable. In those circumstances, legal aid would be granted.

At stage 2, I indicated that I had instructed the preparation of the regulations because of the urgency of the matter. The regulations will proceed as part of the bill's implementation process.

It is vital to emphasise that the bill is one part of our overall holistic approach to preventing and eradicating FGM. I know that everyone who spoke wanted to make sure that we take that approach. Michelle Ballantyne in particular said that legislation is not enough. We know that. We can use the legislation to prevent FGM and to protect women and girls, but culture change, understanding, support and working with stakeholders and communities are the main ways by which we want to protect women and girls. We have been doing that through our national implementation and action plan, and we want to make sure that we continue that work.

Last month, we published our year three progress report on our action plan to prevent and eradicate FGM. I am pleased to highlight that we are making good progress. I hope that people will take a look at the report—it makes for good reading and shows us all the direction that we want to go in.

I pay tribute to and recognise the hard work and dedication of our third sector partners in helping to drive that progress. Those organisations are doing vital work to raise awareness, challenge attitudes and support women and girls, and, alongside the legislative measures that we will take, will make the change that we all want.

I commend front-line workers—in the police and the health and social work sectors—who are all supporting women and girls. We will continue to work together with stakeholders and communities in making every effort to build a Scotland where women and girls at risk of harm can be equally safe. That means that wee girl who Pauline McNeill spoke about; it means that baby who Michelle Ballantyne spoke about. That is who all this is about.

As I have said, abhorrent gender-based violence has impacted on nearly 200 million women and girls worldwide. We know that there are those in Scotland who have been subject to it and that there are those who are at risk of it.

One of the things that I want to do in issuing statutory guidance to bodies is to make sure that a person-centred approach is at the heart of everything that we do. As a Government and as a Parliament we must send a very strong message that FGM in Scotland will not be tolerated; that women and girls will be believed; that they will be

supported; that they will be listened to; and that we will look after and protect them.

We need to take practical action to build on existing protections, so that the risk of FGM taking place at all is reduced. The Female Genital Mutilation (Protection and Guidance) (Scotland) Bill does that. In future, girls and women can be better protected from harm and, importantly, FGM protection orders can be used to stop potential perpetrators of FGM in their tracks.

I launched the bill outside the Parliament, just short of a year ago, with a woman called Neneh Bojang. If you have not heard her story—actually, you do not want to hear it, because it is absolutely horrifying. At every step of the way in my work on the bill, I have had her front and foremost in my mind—like Michelle Ballantyne with that baby, like Pauline McNeill with that wee girl, and like the conversation that I had with John Finnie about the parties that wee girls sometimes think they are going to, and how abhorrent that is. Those are the people at the front of our minds; they are our Scottish citizens; they are our wee girls. The bill that we have passed into law today will protect them all.

**The Presiding Officer (Ken Macintosh):** That concludes our stage 3 debate on the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill.

## Point of Order

16:55

**Joan McAlpine (South Scotland) (SNP):** On a point of order, Presiding Officer. We all appreciate the steps that you and your team have taken to help the Parliament to continue to do its work while putting in place safety measures for MSPs and workers during the Covid-19 crisis. However, although all MSPs are advising the public to maintain social distancing, that same public can see on its television screens members of the Scottish Parliament crammed next to each other in the chamber, less than a metre apart, even though some members are already absent and self-isolating.

I, therefore, ask you, the Parliamentary Bureau and the Scottish Parliamentary Corporate Body to consider whether to put in place measures to ensure that MSPs maintain a safe distance in Parliament, not only to protect their own health, but also to contain the spread of the disease and to send a clear message to the general public about the importance of social distancing.

**The Presiding Officer (Ken Macintosh):** I thank Joan McAlpine for advance notice of her point of order.

I confirm that members of the corporate body and the bureau are conscious of the importance of such health matters. In fact, the bureau considered that very matter this afternoon.

As I outlined at close of business on Tuesday, all our decisions are consistent with public health advice, and are designed to minimise the impact of Covid-19, with a view to safely and sustainably delivering essential parliamentary business.

In relation to attendance in the chamber, although I do not wish to prevent members from participating in business, I am content that they are not required to be present in the chamber unless they are participating in the current item of business. I am confident that we have sufficient capacity in the chamber to allow members to maintain a safe distance, and I invite members to apply their own common sense on this matter.

## Business Motions

16:57

**The Presiding Officer (Ken Macintosh):** The next item of business is consideration of revised business motion S5M-21311, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a revision to next Tuesday's business.

*Motion moved,*

That the Parliament agrees the following revision to the programme of business on Tuesday 24 March 2020—

delete

2.00 pm Time for Reflection

insert

1.30 pm Time for Reflection

after

*followed by* Topical Questions

insert

*followed by* Ministerial Statement: Justice (COVID-19)

and after

*followed by* Legislative Consent Motion: UK COVID-19 Bill

insert

*followed by* Ministerial Statement: Health (COVID-19)

delete

5.00 pm Decision Time

insert

6.00 pm Decision Time—[*Graeme Dey*].

*Motion agreed to.*

**The Presiding Officer:** That means that we will start business on Tuesday at 1.30, rather than 2 o'clock, with time for reflection.

I am minded to accept a motion without notice under rule 11.2.4 to bring forward decision time to now.

*Motion moved,*

That, under Rule 11.2.4, Decision Time be brought forward to 4.58 pm.—[*Graeme Dey*]

*Motion agreed to.*

## Decision Time

16:58

**The Presiding Officer (Ken Macintosh):** There is one question to be put as a result of today's business. The question is, that motion S5M-21279, in the name of Christina McKelvie, on the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill, be agreed to. As this is a final vote on a bill at stage 3, we will move straight to a division.

### For

Adam, George (Paisley) (SNP)  
 Adamson, Clare (Motherwell and Wishaw) (SNP)  
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)  
 Arthur, Tom (Renfrewshire South) (SNP)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Balfour, Jeremy (Lothian) (Con)  
 Ballantyne, Michelle (South Scotland) (Con)  
 Beamish, Claudia (South Scotland) (Lab)  
 Bowman, Bill (North East Scotland) (Con)  
 Boyack, Sarah (Lothian) (Lab)  
 Briggs, Miles (Lothian) (Con)  
 Burnett, Alexander (Aberdeenshire West) (Con)  
 Cameron, Donald (Highlands and Islands) (Con)  
 Campbell, Aileen (Clydesdale) (SNP)  
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)  
 Cole-Hamilton, Alex (Edinburgh Western) (LD)  
 Constance, Angela (Almond Valley) (SNP)  
 Corry, Maurice (West Scotland) (Con)  
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)  
 Davidson, Ruth (Edinburgh Central) (Con)  
 Denham, Ash (Edinburgh Eastern) (SNP)  
 Dey, Graeme (Angus South) (SNP)  
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)  
 Dorman, James (Glasgow Cathcart) (SNP)  
 Ewing, Annabelle (Cowdenbeath) (SNP)  
 Ewing, Fergus (Inverness and Nairn) (SNP)  
 Fabiani, Linda (East Kilbride) (SNP)  
 Findlay, Neil (Lothian) (Lab)  
 Finnie, John (Highlands and Islands) (Green)  
 FitzPatrick, Joe (Dundee City West) (SNP)  
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)  
 Golden, Maurice (West Scotland) (Con)  
 Gougeon, Mairi (Angus North and Mearns) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Greene, Jamie (West Scotland) (Con)  
 Greer, Ross (West Scotland) (Green)  
 Halcro Johnston, Jamie (Highlands and Islands) (Con)  
 Harper, Emma (South Scotland) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Haughey, Clare (Rutherglen) (SNP)  
 Hyslop, Fiona (Linlithgow) (SNP)  
 Johnstone, Alison (Lothian) (Green)  
 Kelly, James (Glasgow) (Lab)  
 Kerr, Liam (North East Scotland) (Con)  
 Lamont, Johann (Glasgow) (Lab)  
 Lennon, Monica (Central Scotland) (Lab)  
 Leonard, Richard (Central Scotland) (Lab)  
 Lindhurst, Gordon (Lothian) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 Lyle, Richard (Uddingston and Bellshill) (SNP)

MacDonald, Angus (Falkirk East) (SNP)  
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)  
 Macdonald, Lewis (North East Scotland) (Lab)  
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)  
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)  
 Mason, John (Glasgow Shettleston) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 McAlpine, Joan (South Scotland) (SNP)  
 McDonald, Mark (Aberdeen Donside) (Ind)  
 McKee, Ivan (Glasgow Provan) (SNP)  
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)  
 McMillan, Stuart (Greenock and Inverclyde) (SNP)  
 McNeill, Pauline (Glasgow) (Lab)  
 Mountain, Edward (Highlands and Islands) (Con)  
 Neil, Alex (Airdrie and Shotts) (SNP)  
 Robison, Shona (Dundee City East) (SNP)  
 Russell, Michael (Argyll and Bute) (SNP)  
 Sarwar, Anas (Glasgow) (Lab)  
 Simpson, Graham (Central Scotland) (Con)  
 Smith, Liz (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Dunfermline) (SNP)  
 Stewart, Alexander (Mid Scotland and Fife) (Con)  
 Stewart, Kevin (Aberdeen Central) (SNP)  
 Tomkins, Adam (Glasgow) (Con)  
 Torrance, David (Kirkcaldy) (SNP)  
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)  
 Wheelhouse, Paul (South Scotland) (SNP)  
 Whittle, Brian (South Scotland) (Con)  
 Wightman, Andy (Lothian) (Green)  
 Yousaf, Humza (Glasgow Pollok) (SNP)

**The Presiding Officer:** The result of the division is: For 84, Against 0, Abstentions 0.

The motion is therefore agreed to unanimously and the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill is passed. [*Applause.*]

*Motion agreed to,*

That the Parliament agrees that the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill be passed.

*Meeting closed at 17:00.*



This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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