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Official Report

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Thursday 8 October 2015

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will meet the film studio delivery group this evening.

NHS Fife (Consultant Vacancies)

2. Jayne Baxter (Mid Scotland and Fife) (Lab): To ask the Scottish Government what action it is taking to fill consultant vacancies in NHS Fife. (S4O-04689)

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn): We have the highest level of medical staffing ever, and record numbers of consultants are working in NHS Scotland. In NHS Fife, the number of medical consultants has increased by more than 50 per cent during the lifetime of this Government. Any fluctuation in consultant vacancies is linked to our efforts to increase capacity by recruiting even more staff. We are working with boards, including NHS Fife, to support their staff recruitment efforts, for example by delivering a number of successful international recruitment exercises, more of which are planned.

Jayne Baxter: Following the recent release of figures from the national health service that show an increase in the number of cancelled operations across Scotland—and specifically an increase in the number of operations that are cancelled for capacity or non-clinical reasons—what action will the Scottish Government take to ensure that the NHS is adequately equipped to prevent a further increase in the number of cancelled operations across Scotland?

Jamie Hepburn: We know that, in many cases, operations and procedures can be cancelled by patients themselves.

We take staffing seriously. Recruitment of staff is a matter for each NHS Scotland board. As employers, NHS Scotland boards are required to have in place the correct number of staff to meet the needs of services and to ensure high-quality patient care, and that includes operations. We work closely with boards to support their staff recruitment efforts, and we will continue to do so.

Rail Investment Programme

3. Jim Eadie (Edinburgh Southern) (SNP): To ask the Scottish Government what discussions it has had with Network Rail regarding the development of the rail investment programme beyond 2019. (S4O-04690)

The Minister for Transport and Islands (Derek Mackay): The Scottish Government has regular and on-going engagement with Network Rail and the broader Scottish rail industry on a wide range of operational and planning matters. That includes quarterly meetings of the Scottish rail industry planning and advisory group, which is chaired by Transport Scotland, whose remit

includes consideration of the priorities for Scotland's railways from 2019.

Jim Eadie: The minister will be aware that, over the past 30 years, there has been consistent demand to reinstate the south Edinburgh suburban railway, which would run from Waverley through Gorgie, Craiglockhart, Morningside, Blackford, Newington, Craigmillar and Portobello. We have seen new and innovative methods of transport in other parts of Europe, such as the hybrid tram-train that is used in parts of Germany, which is soon to be piloted in Sheffield and Rotherham. Does the minister agree that, given current capacity pressures at Waverley, the Scottish Government should monitor the tram-train pilot scheme in Sheffield so that all possibilities for new sustainable rail links can be explored for the benefit of the people of Edinburgh?

Derek Mackay: Mr Eadie has certainly made me aware of the issue. The Scottish Government is open to considering all viable options that could improve the connectivity and accessibility of the rail network across Scotland and around Edinburgh. We would welcome further details from promoters and relevant regional transport partnerships on any proposals and their potential economic and social benefits. I should say, however, that any future investment to improve the capacity and capability of Scotland's rail infrastructure will be subject to a suitable business case and, of course, to sufficient resources being available to support delivery.

David Stewart (Highlands and Islands) (Lab): When the minister next meets Network Rail, will he raise the problem of the congested 20-minute long single-track section of rail between Inverness and Muir of Ord, which has led to cancellations and severe delays in services? It frustrates the further expansion of passenger, freight and charter train traffic on the Kyle and far north lines. Will the minister support the reinstatement of the six-mile section through Lentrán to double track, which would solve the problem?

Derek Mackay: I fear that the member might have pre-empted the next question, but I will answer anyway.

In the current control period, we are trying to maximise what we can do through timetabling and the deployment of resources. There have been issues around staff deployment, but I believe that they have been resolved.

For longer-term investment, we will look at the next control period, but there are two major issues to consider: the availability of resources and the potential restructuring of Network Rail. That is why I will participate in any review that is undertaken of United Kingdom-wide Network Rail issues. While

considering resources and potential restructuring, I will bear the member's suggestions in mind.

Liam McArthur (Orkney Islands) (LD): The minister will be aware that the issue is of concern not just to those in the inner Moray Firth area but to my constituents, who rely on the line north of Inverness. I encourage him to look seriously at the option of twin tracking, not just because it would benefit the passenger service but because it would encourage the movement of freight off roads and on to rail. Will the minister give that serious consideration?

Derek Mackay: Of course we will give the option serious consideration, but we are constrained by the available resources in the current control period. We will be as creative as we can be to maximise our railways' potential.

John Finnie (Highlands and Islands) (Ind): I am similarly interested in the far north line and in the representations that have been made to the minister. Will he look at how the city deal could be involved in funding the Lentrans loop and addressing the signalling challenges to movement on the far north line?

Derek Mackay: It is open to local authorities that are in collaborations such as a city deal to come up with transport projects, and it is for them to decide on their local priorities. I would welcome any bid from city deal alliances, from wherever they come, to support transport infrastructure investment.

Claire Baker (Mid Scotland and Fife) (Lab): I believe that the minister is aware of the long-running campaign for the Levenmouth rail link. Will he give a commitment that he will do all that he can to support the campaigners and try to see that project realised?

Derek Mackay: Many people have raised that campaign with me, including the Presiding Officer, so I am well aware of its issues and demands. I will be informed by the Scottish transport appraisal guidance report, which will contain options, and then I will look at potential funding options. However, as I said in answer to an earlier question, the availability of resources is critical, as is the future structure of Network Rail. I will bear the campaign in mind as we look at the control period going forward.

Long-distance Rail Routes

4. Rob Gibson (Caithness, Sutherland and Ross) (SNP): To ask the Scottish Government what progress Abellio has made on behalf of users of long-distance Scottish rail routes. (S4O-04691)

The Minister for Transport and Islands (Derek Mackay): I am pleased to report that ScotRail remains on track to deliver significant

improvements for long-distance rail users in Scotland. From December 2018, 27 fully refurbished high-speed trains will serve routes between Scotland's seven cities, providing a step change in quality for passengers, with increased capacity, reliability, quicker journey times and improved catering offerings befitting our growing rail network.

Alongside that, an ambitious refurbishment programme for trains serving our rural routes is now under way, with exciting initiatives, including ScotRail's scenic rail package, being launched between now and 2018. That programme will be seen on services covering the Highlands, the Borders and south-west Scotland.

Rob Gibson: I wonder whether the minister will address two current customer issues. First, can he assure us that Abellio will ensure that passengers who are transferred to buses during rail maintenance or line closures are certain to get to the advertised destinations without undue delay, as has happened recently? Secondly, as you will know as a fellow train traveller, Presiding Officer, platform management at Waverley station means that the Inverness service in the evening allows passengers only three minutes to board because the train in front of it, which departs from the same platform, goes to Aberdeen. That must be changed to avoid any confusion for passengers and because it is a disgrace.

Derek Mackay: Some operational matters—for example, not having locally based drivers and conductors available—have impacted on services, but those matters have now been addressed. We have also looked at the timetables to address some of the issues, and those have been improved, which will improve reliability and performance. I will look further at the messaging around any further disruption. Some very successful works have been undertaken over the summer, including the Winchburgh tunnel works, and I will make the point to the operators about the transfer disruption arising from rail-to-bus services.

I believe that I am making progress on wider integrated transport, which all members will welcome.

John Scott (Ayr) (Con): The minister is aware of the shortage of carriages and capacity on several routes at the moment, particularly between Ayr and Glasgow and in Fife, and the impact that that is having on long-distance routes. Does he have any plans to encourage Abellio to source more carriages for trains on lines where overcrowding currently exists due to a lack of available carriages?

Derek Mackay: Yes, I do. Thanks to the franchise that was secured by Keith Brown, there are plans for new trains to come to Scotland—the

70 Hitachi electric trains as well as refurbished trains. In due course, we will have far more trains in Scotland, which will improve capacity, particularly at peak times. The operator, Abellio, is maximising the use of all the carriages that are available at the moment to address demand—for example, on the very popular Borders railway, which was opened by this Government. However, more—bigger and faster—trains are coming to Scotland in due course.

The Presiding Officer: Question 5, in the name of Iain Gray, has not been lodged. The member has apologised.

Flu Vaccinations

6. Roderick Campbell (North East Fife) (SNP): To ask the Scottish Government what it is doing to help increase take-up of the flu vaccination. (S4O-04693)

The Minister for Public Health (Maureen Watt): The Scottish Government runs an annual campaign to promote and support the seasonal flu vaccination programme that aims to raise awareness and encourage take-up in those who are most at risk from flu. Over 2 million people in Scotland will be offered the vaccine. The campaign includes television, radio and newspaper advertising, a range of leaflets and posters targeting the eligible groups, engagement with stakeholders and a suite of digital assets that promote the programme online.

Roderick Campbell: The minister may be aware that it is reported that this year's strain of flu could be particularly virulent. Last year's statistics show that the take-up rates among people at risk—particularly pregnant women and those aged under 65 who are considered at risk—were below the target of 75 per cent. Can she tell us what is being done to target those groups this year?

Maureen Watt: To boost take-up rates among the at-risk groups, the resources for the seasonal flu programme—posters, leaflets and digital assets—that are aimed at that audience were refreshed this year to include the bold messages

“Flu. I’m Ready For You.”

and

“The best defence against flu is this year’s vaccine.”

The new creative approach takes a bolder, more empowering tone, featuring a nurse, pregnant women and an at-risk male celebrating the fact that they have been vaccinated—a positive message.

In addition to the radio, media and digital assets that support the overall campaign, general practices were sent copies of the campaign materials to help them to raise awareness among

their at-risk patients. They also receive a template letter that they can use to contact patients, encouraging them to make an appointment to get their vaccination.

This year, we are also undertaking two small pilots in Greater Glasgow and Clyde and in the Grampian area, where localised awareness-raising activities will test the media and messaging aimed at those with health conditions such as asthma. We will evaluate uptake rates in those areas to see whether that localised activity has made any difference to the programme.

Planning System

7. Nigel Don (Angus North and Mearns) (SNP): To ask the Scottish Government what steps it is taking to improve the effectiveness of the planning system in cases where developers do not adhere to agreed plans or start work without permission. (S4O-04694)

The Cabinet Secretary for Social Justice, Communities and Pensioners’ Rights (Alex Neil): I recently announced a root-and-branch review of the planning system and appointed an independent panel to take that forward. It will now be for the review panel to decide whether enforcement should be a priority area for improvement.

Nigel Don: I have a particularly difficult and frustrating case in St Cyrus, within my constituency, where a Travellers’ site has been built completely without planning permission. The local authority has served all manner of notices with absolutely no effect and the local community is wondering why on earth it cannot be stopped.

Might the root-and-branch review consider whether a planning authority could have not just a power to stop something but a duty, in particularly bad cases, to prevent further work?

Alex Neil: I cannot comment on any individual case, but there is no reason why the review panel could not look at the general issue that the member has raised. I encourage him to make a submission to the review panel, which will be calling for evidence fairly soon.

The Presiding Officer: Question 8, in the name of Jackie Baillie, has not been lodged. The member has apologised.

Stirling Council (Sport)

9. Bruce Crawford (Stirling) (SNP): To ask the Scottish Government what recent discussions it has had with Stirling Council regarding the provision of sporting facilities and opportunities. (S4O-04696)

The Minister for Sport, Health Improvement and Mental Health (Jamie Hepburn):

Sportscotland and Stirling Council are currently in discussion on how to enhance and further improve the Stirling sports village—the Peak—situated at Forthside. The Peak is the biggest single development for sport and leisure in Stirling for over 30 years, with an investment totalling £27.3 million.

Bruce Crawford: I think that the minister will agree that he is pleased that he is not the minister for railways, given the number of bids that have been made around railways today and the deep pockets that Derek Mackay must have. In the meantime, to get away from the issue of railways, can the minister tell me what progress is being made towards the establishment of a national curling centre in Stirling?

Jamie Hepburn: I do not know about the first point, because there are a few rail projects in my area that I would like to discuss with Mr Mackay.

Stirling Council and active Stirling are continuing to work with British Curling, sportscotland and the Royal Caledonian Curling Club to provide a national performance curling centre at the Peak. A design review is currently under way and the council will then undertake a procurement exercise before the project takes the next step forward. That will involve significant new investment into the Peak and it will not only provide a national curling centre for performance athletes but increase accessibility for local community sport, so it will help both elite and grassroots sport, something that is always important to this Government.

Economy (Central Scotland)

10. Clare Adamson (Central Scotland) (SNP):

To ask the Scottish Government what support it is giving to build the economy in the Central Scotland region. (S4O-04697)

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney):

Our economic strategy reaffirms our commitment to delivering sustainable economic growth for all of Scotland. Our continued investment in infrastructure, connectivity, business growth and regeneration is helping to build the economy in the Central Scotland region.

Initiatives such as the new enterprise area that we intend to establish at BioCity in North Lanarkshire and yesterday's announcement of a £1.9 million Scottish partnership for regeneration in urban centres—SPRUCE—investment in commercial units at the Strathclyde business park demonstrate our commitment to growing the region's economy.

Clare Adamson: The cabinet secretary will be aware of the recently announced changes to the regeneration master plan at the former site of Ravenscraig steel works. As I understand it, those changes mean that the vision of creating Scotland's first new town in 50 years will not be realised and the plans for a new town centre will be put on hold. Instead, there will be housing with an element of retail. What is the Scottish Government's view of the potential impact on the local economy of those changes to the regeneration master plan?

John Swinney: I am aware that the developer selected by North Lanarkshire Council has announced that it is to bring forward revised plans in connection with the site. Obviously, the Government's strategic decision to allocate tax incremental financing status to the Ravenscraig development was designed to unlock future economic growth, and the Government remains absolutely committed to that opportunity.

The Scottish Government will work with North Lanarkshire Council and other parties on options for the further redevelopment of the Ravenscraig site. I acknowledge the responsibility that we share with local partners to ensure that an area that requires further economic development is able to receive that through the combined efforts of the Government and other partners working together.

The Presiding Officer: Before we move to the next item of business, members will wish to join me in welcoming to the gallery the Hon Kezia Purick MLA, Speaker of the Legislative Assembly of the Northern Territory. [*Applause.*]

First Minister's Question Time

12:00

Engagements

1. Kezia Dugdale (Lothian) (Lab): To ask the First Minister what engagements she has planned for the rest of the day. (S4F-03004)

The First Minister (Nicola Sturgeon): Engagements to take forward the Government's ambitious programme for Scotland.

Kezia Dugdale: It is now a week since the First Minister was asked about the serious allegations around the property deals of her business spokesperson Michelle Thomson. Since then, the list of questions has only grown.

We were grateful to the Lord Advocate for coming to the chamber to make it clear that the delay in pursuing the case against the lawyer representing Michelle Thomson was down to the Law Society of Scotland. We now know that it was not the Crown Office that delayed investigations by more than a year, but we do not know who did so or why.

As I said last week, I am not asking the First Minister to comment on a live police investigation. However, does she think that the Law Society, in delaying action on the case for so many months, has met its responsibilities on the matter?

The First Minister: In the long list of ridiculous questions that I have been asked by Labour in the chamber over a series of months, that one takes the biscuit. I am not responsible for the Law Society of Scotland—[*Interruption.*]

The Presiding Officer (Tricia Marwick): Order.

The First Minister: The Law Society of Scotland is an independent regulatory body. If Kezia Dugdale has questions for the society, I suggest that she would be better advised to direct those questions to it.

I said last week—and it is worth repeating today—that serious allegations have been made, and I take those allegations very seriously. If they are proven, that would be serious and, in my view, unacceptable. However, a police investigation is under way, and earlier this week we heard that a referral has been made to the Westminster Parliamentary Commissioner for Standards. It would therefore be prejudicial for me to comment in detail on the substance of allegations that are under live investigation—[*Interruption.*]

The Presiding Officer: Order.

The First Minister: Everyone—even MPs—is entitled to due process and a presumption of

innocence. Let us allow the investigation to proceed. When it concludes, if there are questions to be answered or if I require to take any action as Scottish National Party leader, that will happen.

I make it clear that I take, and will always take, responsibility for any action that relates to the SNP. With the greatest respect, however, I will not take sanctimonious lectures from a Labour Party that in the previous session of Parliament watched five of its MPs or former MPs be sent to jail. [*Interruption.*]

The Presiding Officer: Order. I call Ms Dugdale.

Kezia Dugdale: The Law Society has duties around the regulation of solicitors that are gifted to it by an act of Parliament. The society is also an integral part of our justice system, and the First Minister has ultimate responsibility for that justice system. That matters because people must have confidence that the system treats everyone the same, regardless of party or position. The public will not accept any perception, fair or otherwise, that the Scottish establishment is closing ranks to protect one of its own—[*Interruption.*]

The Presiding Officer: Order.

Kezia Dugdale: Not when vulnerable families have been taken advantage of in that way, and not when we see pensioners on our television screens talking about how they have been exploited.

Will the First Minister join me in calling on the Law Society to hold a proper, independent, external inquiry into the matter and to publish all papers relating to the delay?

The First Minister: I think that the Law Society should answer all and any questions that are directed to it. I cannot answer on behalf of an independent organisation, but I would certainly welcome publication of any or all documents relating to this case.

The Law Society is a regular and vociferous critic of this Government on a wide range of policy issues—as I am sure Kezia Dugdale will know, because even if she has not done so personally, many members on the Labour benches will have quoted those criticisms on umpteen occasions. Presiding Officer, can you imagine the outcry if, on one or other of the issues on which the Law Society takes the opposite view to that of this Government, I asked for an investigation into the running of the Law Society? The Opposition, rightly, would be up in arms. The Law Society is an independent organisation.

What we heard in this chamber from the independent Lord Advocate is the fact that the Crown Office acted speedily and appropriately when it received the referral from the Law Society. The matter has now been referred to the police

and a live police investigation is under way. I think that it is incumbent on all of us to allow that police investigation to do its work.

Kezia Dugdale: I welcome that answer from the First Minister and the support that she offered for full publication from the Law Society. I think that that is welcome progress.

Members: Oh!

Kezia Dugdale: I welcome the answer and still they groan.

There are more than questions of legality here; there are questions of judgment. Last week, the First Minister told us that she did not know about the case in question until she read about it in the papers, and I take her at her word. However, we still have not had an explanation for the fact that the First Minister personally appointed Michelle Thomson to lead on business policy for the SNP. There is a contradiction here: on the one hand, everybody in the SNP praised Michelle Thomson for her business experience; but on the other hand, the First Minister says that nobody in the SNP knew anything about Michelle Thomson's business experience. That does not stack up.

Michelle Thomson's company boasted that the increase in the number of people struggling to pay their mortgage during the recession was "a great opportunity" and that if people were emotionally distant they could make a "huge profit". I ask the First Minister: is preying on desperate people ever an ethical way to run a business?

The First Minister: No, I do not think that it is. If those allegations and any other allegations are proven—*[Interruption.]*

The Presiding Officer: Order. Let us hear the First Minister.

The First Minister: As I said last week, we will treat that as a serious matter. As I also said last week and as I say again today, I did not, and the SNP did not, have any prior knowledge of the serious allegations that have been made. If Kezia Dugdale has evidence to the contrary, she should bring that to the chamber instead of simply indulging in insinuation.

I picked up on Kezia Dugdale's comment about judgment. I think that that is important because the judgment that I take seriously—in fact, the only judgement that matters to any of us in here—is the judgment of the Scottish people. I think that Kezia Dugdale should occasionally look at what is happening outside this chamber. For the past eight years, all that we have heard from her and her colleagues is "SNP bad, SNP bad, SNP bad", but all that has happened in that time is that SNP support has risen and Labour support has declined. It is perhaps time for a new tactic by

Kezia Dugdale before it is far too late for a party that is dying on its feet. *[Applause.]*

The Presiding Officer: Order. Let us hear Ms Dugdale.

Kezia Dugdale: I came to the chamber to ask questions about businesses that make their money from exploiting vulnerable people, and the First Minister's response was to refer to a poll and tell us that everyone loves her. That is really quite incredible.

This is the last First Minister's questions before the SNP conference. We know that Michelle Thomson was due to play a starring role at the conference, hosting a fringe event called "What is stopping UK businesses from exploring new markets?". The First Minister personally endorsed Michelle Thomson as a candidate saying:

"Michelle knows what she's doing".

Now we all know what Michelle was doing.

Is it not time for the First Minister to admit—*[Interruption.]*

The Presiding Officer: Order.

Kezia Dugdale: Is it not time for the First Minister to admit that Michelle Thomson's business dealings were wrong, that she was wrong to appoint her and that it would be wrong for Michelle Thomson to return as an SNP MP?

The First Minister: I will continue to take the approach that I set out last week and set out again today, which is to allow investigations to take their course and to act on the conclusion of those investigations. It is because the allegations are serious and because they are being treated as serious that, right now, Michelle Thomson is not a member of the SNP, she does not hold the SNP whip at Westminster, she is not a spokesperson for the SNP and she will not be attending the SNP conference. That is what happens when serious allegations are raised that concern the SNP. If only Labour, down the years, had always acted as appropriately as that, we might be in a different situation.

I will continue to act appropriately, and I say to Kezia Dugdale that she should do likewise because, if she continues to indulge in the behaviour that we have seen repeatedly from her and her colleagues, I think that her and her party's fortunes will continue to go in the same direction that they have been going in for quite some time.

Secretary of State for Scotland (Meetings)

2. Ruth Davidson (Glasgow) (Con): To ask the First Minister when she will next meet the Secretary of State for Scotland. (S4F-02993)

The First Minister (Nicola Sturgeon): No plans in the near future.

Ruth Davidson: Political interference, suppression of critical thought, meddling, devastating, dramatic and harmful—that is what academics think of the Scottish Government’s bill to increase political control over the way universities are run. [*Interruption.*]

The Presiding Officer: Order.

Ruth Davidson: The reputation of our universities has been founded on their academic independence and their sustainable funding depends on their charitable status. The bill, at a stroke, threatens to demolish both of those foundations. It is a bill that can cause huge harm but does not appear to give us any gain.

In education, our primary school literacy and numeracy rates are falling, our secondary school teacher numbers are plummeting and our further education college places have been slashed. Can the First Minister see why people might be worried about her plans for Scottish universities?

The First Minister: First, college places have been protected as per the commitment in the SNP manifesto. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: Attainment levels in our education system are actually improving, but we have said that they are not improving fast enough to our satisfaction, which is why we have put in place such an impressive—I think—and substantial body of work to improve them further.

Let me turn to the important matter of the Higher Education Governance (Scotland) Bill. It is important that we, as a Government, engage with and listen to the views that are expressed from the higher education sector, and we will continue to do that, but let me be clear that the bill is not about introducing ministerial control over universities. It is—I make no apology for this—about ensuring that the governance of our universities is transparent and inclusive. That is why the bill has been welcomed by students and trade unions. I believe that even Labour has managed to welcome something that the SNP has decided to do.

Universities are autonomous bodies. Ruth Davidson particularly mentioned charitable status. It is therefore, probably, quite important that she is aware of the comment that the Office of the Scottish Charity Regulator made in a submission to the original consultation. I quote:

“in our view they”—

the proposals in the bill—

“would not affect the constitutions of higher education institutions in ways that would give Ministers the power to direct or control these institutions’ activities”.

It has raised no concerns about the charitable status of universities.

These are, in my view, important matters. Why are they important? It is because our universities are an amazing success story. We saw just last week that we have five universities in the world’s top 200. That is more per head of population than any other country on the face of this planet. We will continue to work with our universities to make sure that they continue to be that fantastic success story.

Ruth Davidson: The First Minister says that she does not want to increase ministerial control over universities, but that is completely at odds with what is contained in the bill, and the warnings from the university sector could not be clearer. The First Minister talked about charitable status. I have here Universities Scotland’s independent legal advice on the impact of the SNP’s proposals, and it says that the SNP’s reforms contain “significant risk” that Scotland’s universities could lose their status as charities, threatening hundreds of millions of pounds of borrowing, private finance and income from donations.

The bill is a mess. The universities hate it and say that they have not been properly consulted on it; the legal advice says that the bill could threaten universities’ charitable status; and the bill risks blowing a gaping hole in higher education funding—all for reasons that the Scottish Government struggles to explain.

The First Minister is absolutely right when she says that Scotland has five universities in the world’s top 200. Every single one of those five has raised serious concerns about the Government’s plans. Is it not time that the First Minister recognised that and dropped this damaging bill?

The First Minister: There is an opportunity for us to be very constructive about this. Ruth Davidson questions the reasons for the bill. There is a good reason—and a good argument—to say that we want teaching and non-teaching staff and students to be properly and appropriately represented in the governance of their institutions. That is what the bill is about and it is an important objective.

Ruth Davidson cites legal advice. I said in my first answer that we will continue to engage with the universities and discuss these issues. My quote was from the charities regulator—the body that decides whether an institution has charitable status. I do not think that it is possible for Ruth Davidson simply to sweep that aside as if it does not matter.

There are serious issues here. All of us across the chamber want—I certainly want—to see our successful universities go on to be even more successful in future. That is in the interests of the Government and in the interests of our country as a whole. It is ridiculous to suggest that this Government would do anything to put that at risk.

We will continue to engage with our universities and we will do so positively and constructively. If Ruth Davidson wants to be a constructive part of that debate, I would warmly welcome it.

Tavish Scott (Shetland Islands) (LD): The First Minister will be aware that, last night, the Wood Group announced a consultation to cut 90 of its 250 staff at Sullom Voe oil terminal, while Bilfinger Industrial Services will potentially lose 170 of its 290 members of staff. Will she ask Highlands and Islands Enterprise to conduct a full assessment of the impact on the local economy and on local businesses? Will she also agree to meet the office of the oil and gas regulator, the Oil and Gas Authority, which is pressing the case for the Schiehallion oil field to use Sullom Voe oil terminal rather than Rotterdam as is currently intended?

The First Minister: I am very happy to discuss with Highlands and Islands Enterprise the specific request that Tavish Scott has made of that body. That is a constructive suggestion.

John Swinney met the oil and gas regulator recently. If memory serves me correctly, I am due to meet the regulator soon and would be happy to discuss that issue.

Obviously, we are concerned to learn of the developments at Sullom Voe. It is important to say that this will be an anxious time for the workforce and their families. The Government, as we always do in these situations, stands ready to provide support for affected employees through our partnership action for continuing employment initiative for responding to redundancy situations. More widely than that, we are fully committed, through our oil and gas jobs task force, to supporting the industry during challenging times.

I am sure that John Swinney or Fergus Ewing would be happy to meet Tavish Scott to discuss those issues in more detail.

Police Opinion Survey

3. Alison McInnes (North East Scotland) (LD): To ask the First Minister what the Scottish Government's response is to the findings of the first ever Scottish Police Authority and Police Scotland officer and staff opinion survey. (S4F-02997)

The First Minister (Nicola Sturgeon): I welcome the fact that the Scottish Police Authority

and Police Scotland have undertaken the first post-reform opinion survey of the entire police workforce. While there are some positive findings, there are also issues of concern and many areas for improvement.

Police Scotland will address the outcomes of the survey with a detailed action plan and there will be on-going scrutiny by the Scottish Police Authority to measure progress. Addressing the results of the survey will also be a key test within the assessment and appointment process of the new chief constable. It is important to say that we continue to thank all the dedicated members of our police service for ensuring the lowest level of crime in a generation.

Alison McInnes: Police officers and staff serve us all, and they put their lives on the line, as we saw so tragically this week with the death of PC Phillips, who is in our thoughts today.

Last week, the Scottish Police Federation said:

"You cannot deliver a world class police service purely on the good will of the men and women who work in it."

However, the force-wide survey revealed that just 8 per cent of officers and staff thought that the national force was genuinely interested in their wellbeing. The First Minister surely cannot believe that that has nothing to do with the part that her Government played in rushing to create a top-down, target-led, centralised national force, can she?

The First Minister: To be fair to Alison McInnes, although we do not always agree on these things, she has an excellent record in raising police and justice issues. However, she could not have taken anything from my original answer that would have led her to the conclusion that the Government, the police and the Scottish Police Authority do not take the findings very seriously.

As I said, the survey is an important part of the process for measuring progress in an organisation that is still relatively new. Addressing the results of the survey will be a priority for the police, the SPA and the new chief constable.

I mentioned the action plan that will be developed by Police Scotland. There will be on-going scrutiny through the SPA's governance structures, which will be led by its human resources and remuneration committee. Progress against the action plan will be a standing item for review at that committee. It may be worth while to point out to members that the areas that are identified in the action plan will be the subject of a further survey of a sample of the workforce in a year's time, so that progress can be measured. A comparable full workforce survey will be undertaken in the summer of 2017, so the 2015

survey will provide a baseline on which we can measure improvements.

I hope that that reassures Alison McInnes that the results of the survey are being taken extremely seriously. I also hope that we can absolutely agree that our police service does a sterling job.

Alison McInnes was right to point out the tragic case of PC Phillips this week, which brought to all our minds just how much danger our police officers put themselves in in the line of duty. We all owe it to them to ensure that we provide the support that they thoroughly deserve.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): The survey indicates that a major and direct contributor to the fall in morale and commitment is the increase in pension contributions, which is, of course, a reserved matter. Those are now 14.25 per cent of salary. Does the First Minister agree that that increase is a direct consequence of fewer officers south of the border contributing to the United Kingdom fund—currently, there are 14,500 fewer officers for England, which is to be regretted—and that there is now every reason for police pensions to be devolved?

The First Minister: I would like all the matters that currently lie with the Westminster Government to be devolved to the Scottish Parliament. Christine Grahame is certainly right to point out that respondents—49 per cent of them, I think—highlighted changes to their pension as one of the factors that was driving dissatisfaction. Obviously, we did not want to introduce some of the pension changes, but they required to go ahead because of the financial penalties that we would have faced for not doing so.

It is important that we look at the survey in the round and respond to all aspects of it so that we can ensure that we see significant and material improvement in the surveys that follow in the years to come.

Margaret Mitchell (Central Scotland) (Con): One of the key reasons for police officers considering leaving the force has been the pace of change. Officers have stated that it was time to take stock. What cognisance has the Scottish Government taken of that in respect of new legislation that affects the police, including the provisions in the Criminal Justice (Scotland) Bill that relate to police powers of detention, arrest and charging?

The First Minister: We take very careful cognisance of all those factors in deciding the content of any legislation. The Criminal Justice (Scotland) Bill, which the member referred to, is, as she is aware, going through the parliamentary process, and many of the issues around the powers of the police, detention and time limits are

subject to very robust and substantive debate in the Justice Committee. I am keeping a close eye on that. That is the proper process for determining those things.

We will reflect very carefully on the results of the survey. I will not repeat what the police and the Scottish Police Authority are going to do, but the survey results are being, and will continue to be, taken extremely seriously.

Refugee Crisis

4. James Dornan (Glasgow Cathcart) (SNP):

To ask the First Minister whether she will provide an update on the Scottish Government's response to the refugee crisis. (S4F-03008)

The First Minister (Nicola Sturgeon): The Scottish Government remains firmly committed to doing all that we can to support refugees. We have made an initial £1 million available to ensure that services across Scotland are prepared to deal with the arrival of refugees, and we are co-ordinating that work via the refugee task force, which will meet for the fourth time this afternoon. As members will have seen, the Minister for Europe and International Development, Humza Yousaf, visited Lesbos last weekend to meet refugees and aid agencies in person. I know that he is keen to share the learning from that visit with the task force later today.

James Dornan: The First Minister might be aware that I am leaving for Serbia tomorrow with Glasgow the Caring City, a charity that she knows well, to see what difference the 19 tonnes of aid that the people of Glasgow collected will make to the refugees and, I hope, to arrange further aid. Does she agree that the scenes that were just witnessed by Humza Yousaf and which I, unfortunately, expect to see in the Balkans highlight the need for the United Kingdom Government to hold out a hand of friendship to the many thousands of refugees and opt into the European Union relocation scheme?

The First Minister: I am sure that that sentiment will find support across the chamber. I take this opportunity to pay tribute to the generosity that has been shown by people in Glasgow and, indeed, by people across the country in the face of what is a growing humanitarian crisis. I thank James Dornan for highlighting the tremendous contribution that Glasgow the Caring City is making to supporting refugees. As he says, it is a charity that I know well. It does sterling work and I am pleased that the Scottish Government has been able to provide the charity with £10,000 to assist with the transportation of aid to the Balkans.

I am sure that the member's experience in Serbia will bring into sharp focus the suffering and

the human tragedy of the refugee crisis in Europe. As I said, we remain firmly committed to doing all that we can to support refugees and hold out a hand of friendship. Although we welcome the change in the view of the UK Government that has taken place since this matter was last raised at First Minister's question time, we will also continue to press the UK Government to participate in a co-ordinated EU relocation scheme.

"The Cost of the School Day"

5. Mark Griffin (Central Scotland) (Lab): To ask the First Minister what the Scottish Government's response is to the report by the Child Poverty Action Group, "The Cost of the School Day". (S4F-03003)

The First Minister (Nicola Sturgeon): The report is important research and I welcome its publication. It outlines the difficulties that are faced by children from low-income households. It was exactly because of that issue that we launched the access to education fund in June last year, which has to date provided £3 million to just under 700 schools in Scotland to help their pupils overcome barriers to learning that are caused by poverty. Of course, we will consider carefully the recommendations that are made in the report and will continue to work with stakeholders to support schools to do all that they can to help all children and young people achieve their full potential.

Mark Griffin: The report highlights a number of areas that limit the educational opportunities within the school day and which can affect the attendance, health and wellbeing, confidence and, eventually, attainment of pupils from more deprived backgrounds. Other issues that affect attainment include the fact that pupils from more deprived backgrounds who rely on free school transport cannot attend after-school clubs or additional supported study sessions and the fact that wealthier families get their children into better-performing schools by moving into their catchment areas or, because they can afford the extra transport costs, using the placement request system.

The Presiding Officer: We need a question, Mr Griffin.

Mark Griffin: What practical steps is the Scottish Government taking to respond to the report in order to open up access to the opportunities that I have just mentioned?

The First Minister: As I said in my initial answer, the main step that we have taken, which we took in response to these issues being raised last year, is the establishment of the access to education fund. That fund is designed to support schools to help children and young people overcome the barriers to learning that Mark Griffin

has just outlined, which are very often caused by poverty. It might be worth considering some of the examples of the projects that have been funded. They include the purchase of technology for pupils at a school in Glasgow that also supports school family learning clubs; the provision of waterproof clothing to enable children at another school to take part in outdoor activities; the provision of transport for outdoor trips; and other aspects of support that help children to take part in extracurricular activities. The access for education fund is involved in a range of things.

The fund has been designed so that it is flexible and is able to respond to many such issues. We will consider the recent report carefully to see whether there are additional things that we need to do through that fund or in addition to that fund.

I do not mind saying that one of the things that worry me as we try to address these issues is the looming cuts to tax credits that are shamefully being introduced by the Conservative Government, which will affect perhaps 200,000 families with children in Scotland to the tune of about £3,000 a year and will worsen problems such as the ones that we are discussing. However, we will continue to do everything that we can to help children to overcome the barriers that are caused by poverty.

Budget 2014-15 (Underspend)

6. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the First Minister what the Scottish Government's response is to reports from the Auditor General for Scotland that it underspent its budget by almost £350 million in 2014-15. (S4F-03000)

The First Minister (Nicola Sturgeon): I welcome the fact that the Auditor General has—yet again—provided an unqualified audit opinion on the Scottish Government's 2014-15 consolidated accounts. That has been the case in every year of this Administration.

The Deputy First Minister announced the provisional outturn for 2014-15 in June and that position has not changed. The full cash underspend for 2014-15 is being carried forward into the current financial year, 2015-16. The Government's approach represents and will continue to represent sensible budgeting, reflecting fluctuations in cost and demand across the spending review period, and will ensure that there is no loss of spending power in Scotland.

Murdo Fraser: In June 2009, the finance secretary announced an underspend of £31 million and said:

"Long gone are the days when hundreds of millions of pounds of Government money would be underspent each

year, doing nothing to help communities across the country.”

What will those communities make of an underspend that is more than 10 times the amount in 2009?

The First Minister: It might be worth just giving a little bit more context and detail here—otherwise known as facts. [*Interruption.*]

The Presiding Officer: Order.

The First Minister: Of the figure that Murdo Fraser cites, it is worth pointing out that about £150 million is what is called non-cash. That means that it cannot be spent on services—it can never be spent on services—because it represents differences in accounting estimates, for example in depreciation of assets.

The rest of the underspend comes about because the Government has to manage its budget within a context of, first, not legally being able to overspend and, secondly, not being able to borrow. We have to manage our budget through the year to make sure that we do not overshoot it. However, every single penny of the underspend that is capable of being spent is transferred into the next year and spent on public services. Not a penny of it—[*Interruption.*]

The Presiding Officer: Order.

The First Minister: My Deputy First Minister is shouting that the Conservatives are fiscally illiterate. I could not possibly comment.

Not a single penny is lost to the public purse.

The final point that I want to make might be of particular interest to Murdo Fraser, because the amount that we underspent and can spend, and therefore carry forward, is 0.7 per cent of our fiscal departmental expenditure limit budget. The UK Government's underspend—when we take out spending in devolved Administrations—amounts to 1.2 per cent of its fiscal budget, which means that the Scottish Government is much better at managing its money than Murdo Fraser's Westminster colleagues.

The Presiding Officer: Now that the First Minister has outed the Deputy First Minister, I remind him that he should not be making comments from a sedentary position.

HM Naval Base Clyde (Spending)

The Deputy Presiding Officer (John Scott): The next item of business is a members' business debate on motion S4M-14089, in the name of Christina McKelvie, on extra spending on the home of nuclear submarines. The debate will be concluded without any question being put.

I invite members who are leaving the chamber to do so quickly and quietly, and I would further invite members of the public who are leaving the public gallery also to please leave quickly and quietly.

Motion debated,

That the Parliament notes with concern the announcement by the Chancellor of the Exchequer that £500 million will be spent on ensuring the continuation of HM Naval Base Clyde at Faslane as a nuclear submarine base for the next generation of Trident nuclear weapons; understands that this announcement comes before the UK Parliament has made a decision on this next generation of nuclear weapons; considers that money such as this would be far better spent on supporting many in society including people who are sick or disabled, young people and pensioners in constituencies such as Hamilton, Larkhall and Stonehouse, where those in vulnerable positions have been so negatively affected by welfare reforms that have been continued by the current UK Government and the previous UK coalition administration; believes that this continued move toward a next generation of nuclear weapons is at odds with the beliefs of the majority of the Scottish population and elected members, and hopes that sense can be seen that will result in investment in people instead of these weapons of mass destruction.

12:34

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): There are some issues in this world that are far too big for party politics. Immigration and the protection of refugees is one; world poverty is another. International terrorism is another one, as is religious extremism. I am sure that members can give many more examples.

What about nuclear weapons? What about Trident renewal, and £100 billion wasted on having the capacity to wipe out half the world at the push of a button? By taking a stand on immoral and abhorrent weapons of mass destruction, we in Scotland are making a global statement.

Only one political party is clearly and unequivocally dedicated to stopping Trident renewal. That is the Scottish National Party—[*Interruption.*] Okay, I should not forget my friends the Greens. Of course, because we are part of the United Kingdom family of nations, we are not allowed the right to say no to renewal.

All the weaponry is sitting in the estuary behind our largest city. We can hardly be surprised that

80 per cent of Scottish people do not want it to be replaced.

In the Scottish Parliament, members have repeatedly and conclusively voiced their opposition. I understand that three members on the Opposition benches—Neil Findlay, Elaine Smith and Malcolm Chisholm—signed the motion, because they, too, want investment in people instead of weapons of mass destruction. I commend them for their integrity and their willingness to rise above the political mudslinging that remains the background to this debate.

Neil Findlay (Lothian) (Lab): When are you going to join us?

Christina McKelvie: You always let the side down, don't you, Neil?

Meanwhile, Westminster's welfare cuts risk putting up to 100,000 more children in Scotland into poverty by 2020. The Child Poverty Action Group has estimated that Scotland's child poverty level will increase by between 50,000 and 100,000 by 2020 as a result of the UK Government's tax and benefits policies.

Within the UK, Scotland is part of an increasingly unequal society, with far too many people trapped in poverty and prevented from releasing their full potential. The UK ranks 28th out of 34 nations in the Organisation for Economic Co-operation and Development on a measure of overall inequality. In an academic study to compare the earnings of the worst off and best off, Dorling found that the UK is the fourth most unequal nation among the world's richest countries.

I am a lifelong supporter of nuclear disarmament, and I do not want Trident to be reinvented or reinstalled anywhere else in the UK or beyond. However, I firmly believe that the people who live in the area closest to such a weapon of mass destruction should have some voice over whether they are happy to have it there.

Are people happy that mammoth vehicles drive around Glasgow's main roads under cover of darkness, with attached risks that are terrifying? William McNeilly, a Royal Navy submariner, got himself into serious trouble in May when he said that the nuclear deterrent is a "disaster waiting to happen" and cited 70 safety lapses in the transportation of nuclear warheads between July 2007 and December 2012. Those included trucks suddenly losing power, suffering brake failures and breaking down, as well as trucks getting lost, being driven the wrong way up a motorway and losing communication.

This week we heard George Osborne style himself as Bob the Builder. I think that he is the kind of builder that we see on television

programmes such as "Rogue Traders" or "Cowboy Builders"—those builders who promise the best but produce shoddy workmanship at an inflated price.

Let us consider what £500 million would build in Scotland. How would members feel about having about 63 new primary schools, 20 new secondary schools or 20 new community hospitals? Jobs would be created for planners and architects, builders and labourers and the people in the local cafes and sandwich shops who would feed the workforce. The increased tax take from the jobs would boost not just the local but the national economy.

Of course, for £500 million we could get an extra 1,350 teachers or maybe 1,650 newly-trained nurses in our hospitals. What do we get for £500 million from Mr Bob the Builder Osborne? Well, we get some tarmac and a higher fence, to protect not jobs or people but an immoral arsenal of weapons of mass murder.

How can anyone justify having the power to wipe out half the world? Why is that a useful attribute to have? The real threats to world peace come from extremist terrorists as in 9/11, from the apparently irreconcilable divide between Israel and Palestine that has led to so many tragic deaths of civilian women and children in Gaza, or from the devastation wreaked in Syria by ISIS and the millions of refugees now seeking sanctuary on Europe's shores as a result. Does anybody seriously suggest that nuclear weapons will act as a deterrent to Daesh? I do not think so.

Mr Osborne always talks about investment. Trident is just a big investment in global murder—a bigger investment than that of some of the warring factions in the middle east that we have heard about. I ask Mr Osborne: how about investing in infrastructure? What about investing in a social security system that supports and protects vulnerable people? How about ending the need for children—such as the children I saw when I spent time at the food bank in Hamilton on Saturday—to go to food banks?

I say to Osborne the builder: how about building peace in our world by taking the brave step of saying that we will not spend one more penny of taxpayers' hard-earned money on weapons of mass murder? In this, the 70th anniversary year of the United Nations, how about building a consensus around the world that peace and diplomacy are the only way to make our world safer for us all? How about building a reputation as a fairer, greener nation that has the guts to step away from the nuclear bombs and towards disarmament? How about putting bairns before bombs?

12:41

Jackie Baillie (Dumbarton) (Lab): I believe in multilateral nuclear disarmament. I do not think that anybody in the chamber or, indeed, outside it would want nuclear weapons to be used. I want all nations to give up nuclear weapons, and my ambition—which I know is shared across the chamber—is to achieve global zero. Although I absolutely respect the position of unilateralists, I do not believe that unilateral disarmament alone will trigger other nations' reduction of their weapons.

On the detail of the motion and the Chancellor of the Exchequer's announcement of £500 million of investment for Faslane, let us be clear that it is £50 million every year for 10 years, so it is not up-front money. It is to build ship lifts, sea walls and jetties. It is a direct consequence of the decision that the last Labour Government took to make Faslane the submarine base for the whole United Kingdom. The money is for important infrastructure to allow that to happen.

To be frank, I thought that the SNP would welcome that because, in an attempt to answer the pressing question about jobs and the local economy, its position is to come up with the notion of having the headquarters for all of the forces at Faslane. Surely infrastructure for the purpose of making Faslane the UK submarine base is welcome, because it enhances the base and creates construction jobs in the local economy.

The Cabinet Secretary for Infrastructure, Investment and Cities (Keith Brown): Will Jackie Baillie give way?

Jackie Baillie: Let me talk about jobs for a minute, and then I will take an intervention from the cabinet secretary.

There is much contention about numbers. The SNP deliberately downplays the figures and claims that something like 500 people are affected. I will share with the chamber the response to a freedom of information request made to the Ministry of Defence in September 2014. It said that there were 6,800 people working at Faslane at the end of August 2014. That is 300 more than I thought were there, so it is welcome indeed. On top of that, there are 4,500 in the supply chain according to standard income multipliers. That comes from an EKOS study.

There are 11,300 people employed at Faslane, and the MOD expects 2,000 more as a result of the changes, so we are talking about 13,300 jobs. I am happy to give way to the cabinet secretary, who will explain how he will replace those jobs.

Keith Brown: I well understand that, for many years, Jackie Baillie has justified spending billions of pounds on nuclear weapons in terms of the jobs

that she believes that that expenditure sustains, but is she aware of April 2015 report by the Scottish Trades Union Congress and the Scottish Campaign for Nuclear Disarmament—not the Tory Government—called “Trident & Jobs”, which found that many more jobs would be created if the amounts of money spent on Trident were, instead, spent on public infrastructure?

Jackie Baillie: That was interesting. I kind of expected it, because it is the default position. If the cabinet secretary was actually serious about understanding what the workforce knows—indeed, what the dogs in the street in my community know—he would know that there are far more jobs there than the figure that has been quoted.

If the SNP wants to be responsible for its actions, which is what I believe mature politics is all about, it should start by at least admitting the true scale of the job losses in that area. We are talking about the biggest single-site employer definitely in the west of Scotland and probably in all of Scotland. Indeed, more than a quarter of the West Dunbartonshire workforce is employed at Faslane in good-quality well-paid jobs.

I grant that Christina McKelvie's speech touched briefly on jobs; she talked about teachers, schools and hospitals and about using the £500 million for those purposes. Well, it must be a very elastic sum of money, given that the new Southern general hospital cost, I believe, in excess of £900 million to build. That £500 million is not going to go very far.

What is inherently dishonest about this is the SNP saying, “We'll take this money and use it on teachers, nurses, schools and hospitals” when the reality is that its policy position is to invest it in conventional weapons. Not one new penny would be diverted to the kinds of social projects that Christina McKelvie has talked about. The SNP is guilty of spending the money not just once or twice but perhaps 10 times over. It is also dishonest to be happy for a nuclear weapon to be moved south of the border without trying to achieve global zero.

My bottom line is that we as politicians have to be mature and responsible in our politics.

The Deputy Presiding Officer: And brief.

Jackie Baillie: If the SNP is going to take something away, it should at least have the courtesy to tell the local workforce where the jobs are going to come from in future.

12:47

Annabel Goldie (West Scotland) (Con): I am pleased to contribute to the debate, but I observe in passing that it is impossible to address such a significant issue as defence in any meaningful fashion within the four minutes permitted in a

members' business debate. Let me therefore set out my observations in abbreviated form—and I should say that I do not propose to take any interventions.

I make these comments as a West Scotland member whose area includes the communities of Dumbarton, Cardross, Vale of Leven, Helensburgh, Rhu, Faslane and the Gare Loch. I have previously asked the Scottish Government about its response to the additional investment that was recently announced by the chancellor at the Faslane base, and I have to say that I am a firm supporter of the UK Government's proposals to turn Faslane into the UK's submarine centre of specialisation, planning ahead to secure the base's future until at least 2067.

Strangely, what is lost in the motion is what the chancellor actually announced. The money, which amounts to £500 million over 10 years, will, as Jackie Baillie has pointed out, be spent on a number of major projects at the base including the construction of ship lifts, sea walls and jetties to allow the base to serve not only Trident and its successor but Britain's fleet of conventional submarines, too.

I am aware that the SNP opposes nuclear weapons, but in this case that opposition is turning into something quite different. It has now become opposition to equipping our armed forces; opposition to having the best-quality facilities available for our submariners, entirely regardless of whether they are serving with nuclear or conventional weapons; and opposition to hundreds of millions of pounds of investment, securing thousands of highly skilled jobs on the Clyde, supporting numerous businesses and providing an enormous boost to the local economy in the west of Scotland. Faslane is already Scotland's largest single-site employer, and this money will result in the 6,700 staff being expanded to 8,200. This is an asset to Scotland and one that I am sure other parts of the UK look at with envy.

I am also surprised that Ms McKelvie seems to regret that the UK Government will meet our NATO commitment to spending 2 per cent of our national income on defence. One might suppose it to be a strange opinion from a party that just over a year ago was singing the praises of NATO membership—or is it a case of the SNP once again cynically suggesting that money can be spent several times over on countless different things?

I know that, during the referendum, that was certainly where the SNP stood on Trident. The cost of the submarines, which is about 5 or 6 per cent of our defence budget, was earmarked by the SNP in the event of independence for additional spending on conventional forces, childcare, hospitals, schools, personal care, pensions,

infrastructure and diplomatic missions overseas, and on combating youth unemployment, investing in colleges and providing additional social security payments. Those aspirations may be laudable, but there is nothing laudable in inflating the cost of our nuclear deterrent and pretending that getting rid of it will give access to a bottomless pit of public money.

I am pleased that the Conservative Government is meeting its targets not only on defence spending but on international development aid. It is a strong economy that enables such investment. It is positive not only for the UK's interests but for the global reach of our armed forces and international development programmes.

The motion also points to the supposed unpopularity of the nuclear deterrent among the Scottish public. That may well be a matter of faith for Christina McKelvie and her party, but it is at odds with the evidence, with several polls finding support for the deterrent. That aside, the £500 million funding announcement is not about Trident. It is about equipping a key base for the future, for both the conventional and nuclear submarines that it will serve. We should applaud that announcement, not condemn it.

12:51

Christian Allard (North East Scotland) (SNP): Presiding Officer, you are probably familiar with those men who are worried about their virility and buy large sports cars. I do not know whether you are one of them, Presiding Officer, but that is a case in point when talking about the people who want to renew the UK nuclear weapons system. One of those men said:

"Our independent nuclear deterrent is not independent and doesn't constitute a deterrent against anybody that we regard as an enemy. It is a waste of money".

The comment was made by former UK Defence Secretary Michael Portillo, and he is right. He would prefer the £500 million to be spent on conventional weapons and troops. Was Michael Portillo being cynical, Annabel Goldie? I do not think so.

Another of those men and another former UK defence minister, Nick Harvey, also dismissed the argument of wider economic benefits coming from replacing Trident. He said:

"The idea that you should produce weapons of mass destruction in order to keep 1,500 jobs going in the Barrow shipyard is simply ludicrous ... Frankly you could give them all a couple of million quid and send them to the Bahamas for the rest of their lives—and you would have saved an awful lot of money."

That should answer some of Jackie Baillie's claims.

Those are ideas from two male former UK defence ministers on how not to spend the £500 million on Faslane. I wish that they had thought about that when they were in charge.

I like the idea of making sure that our boys and girls serving at home and abroad are well looked after. The idea of spending the rest of my life in the Bahamas is also appealing.

I thank Christina McKelvie for bringing the debate to the chamber. It is clear that we need to keep the pressure on the UK Government to stop spending our money when Westminster has yet to take the decision to renew Trident.

Last week, after Bill Kidd's members' business debate, we met the Austrian disarmament ambassador, Alexander Kmentt, who was instrumental in initiating the humanitarian pledge calling for the prohibition and elimination of nuclear weapons. The pledge is supported by 117 countries; that is the worldwide consensus that Christina McKelvie was talking about. We must listen to the voices from the majority of countries in the world calling for the complete prohibition and elimination of nuclear weapons.

At the meeting, we heard Dr Claire Duncanson, who is a lecturer in international relations at the University of Edinburgh, explain that women being sidelined from decision making is one of the most obvious ways in which gender affects the issue.

Building on Carol Cohn's work on the subject, Dr Duncanson highlighted how in international security debates certain dichotomies prevail, with masculine-associated terms usually being valued more highly. She illustrated her work with a story from a male member of a group of nuclear physicists, who had said, "Several colleagues and I were working on modelling counterforce nuclear attacks, trying to get realistic estimates of the number of immediate fatalities that would result from different deployments. At one point, we remodelled a particular attack, using slightly different assumptions, and found that instead of there being 36 million immediate fatalities, there would only be 30 million." He added that everybody was sitting around the table, nodding and saying, "Oh yeah, that's great—only 30 million," when, all of a sudden, he realised what they were saying and blurted out, "Wait, I've just heard how we're talking—only 30 million! Only 30 million human beings killed instantly?" Silence fell upon the room. Nobody said a word. They did not even look at him. Later, the physicist said how he felt at the time: "It was awful. I felt like a woman." He was careful not to blurt out anything like that again.

That story and the words of two former UK defence ministers illustrate the role and meaning of gender discourse in the defence community.

I again thank Christina McKelvie for bringing the debate to the chamber.

12:55

Neil Findlay (Lothian) (Lab): I want to speak briefly on the motion, which, apparently, the newspapers and some people on social media were surprised that I had signed. Despite the fact that I have spoken at dozens of meetings on the issue over the years and in debates in the chamber and have been opposed to nuclear weapons all my political life, somehow my signing the motion came as a surprise and news to people. Just to get rid of any further doubt, I say again that I oppose nuclear weapons and I oppose the renewal of Trident. I hope that that puts that to bed.

However, I do not want to present my case in the crude party-political terms that Christina McKelvie did. I thought that her speech was thoroughly depressing. That is not how to build alliances and to bring people to the campaign; it is how to ostracise people from the campaign.

Christian Allard: I do not know whether the member listened to what I said. Last week, we had a meeting with the Austrian ambassador about the consensus that exists across the world. I did not see the member there. He really needs to listen and to make sure that he is involved in such groups.

Neil Findlay: Maybe it is Mr Allard who needs to listen, because I was not referring to him; I was referring to Ms McKelvie. I will come to Mr Allard in a minute, because I thought that he made a much better speech than Christina McKelvie did.

Some think that we win people over in this debate by saying, "We are right and you are wrong, and if you don't want to get rid of nuclear weapons unilaterally, you are morally inferior to me and less humane than I am, so your opinion and views are less worthy." I appeal to anyone who takes that tone to think again, because moral superiority does not provide an engineer with a new job, nor does it keep a local shop open, and spending the Trident money dozens and dozens of times over in a crude attempt to make party-political points during a referendum or an election campaign does not keep a community alive, either.

Mr Allard was right to reference Portillo and Harvey. There are others, including former generals and Nick Brown, a former chief whip for the Labour Government, who have all come to the conclusion that we should not renew Trident. Mr Allard was right to reference them, because that is what we need to do—to build alliances of people who are not normally in the same camp to argue

against the renewal of Trident. That is the way to win people over.

If we are to take with us the workforce whose jobs are threatened by what we propose, and if we are to convince the businesses in the supply chain that not renewing Trident is the right move—I believe that it is the right move—we need to put in place the replacement jobs and services to support the people who stand to lose their jobs and their communities. That is our duty and our responsibility.

I appeal to all those people who want to rid the world of nuclear weapons, whether they are multilateralists or unilateralists—after all, we are all on the same side; we simply disagree on tactics—to work together to develop further a credible and serious defence diversification plan and strategy based not on imaginary or fantasy jobs, or on throwaway lines in a debate such as today's, but on real and genuine opportunities for the people involved. If we do that, we can take forward this argument and win it. I am absolutely convinced that we will win it, but we need to build an alliance to take the argument across society and across the political divide so that we can eradicate nuclear weapons from the world.

I want nuclear weapons to be eradicated from Scotland, from the United Kingdom and across the world. I do not want to see them sail from the Clyde to the Tyne or the Mersey or anywhere else. I want the world to be a much safer place.

At times, I despair of our politics. In recent weeks, sections of the media have decried Labour leader Jeremy Corbyn for saying that he would not be willing to press the button to launch a nuclear attack that could kill millions and pollute the earth for centuries to come. Apparently not being willing to wipe out millions of our fellow human beings is something to be knocked while someone who is willing to press the button and wipe out millions of human beings is to be admired as a strong leader. Well, does that not expose the madness of our world at times? I will support someone who works for peace, justice and human rights any day. That is real leadership.

13:00

John Wilson (Central Scotland) (Ind): I commend Christina McKelvie for bringing the debate to the chamber.

The debate is timely in more ways than one. It is timely to highlight the money that the UK Government is prepared to put into refitting Faslane and to look at the events that have led up to today. Three weeks ago, on 19 September, the *Daily Record* reported “US defence send warning to Putin as Trident sub docks on Clyde armed with ballistic missiles”. That was not a UK submarine

that docked in Faslane; it was a US submarine that is capable of launching 24 ballistic missiles. The *Daily Record* estimated that that was the first time that a US nuclear submarine had been in British waters for 10 years, but there is no guarantee that that is true because those submarines operate in secret. It is surprising that the *Daily Record* was able to say even that the submarine was in Faslane.

Refitting of Faslane is not just about making it the nuclear submarine base for the UK; it is also about making Faslane capable of bringing in nuclear submarines from other nations, including the USA. This week, a NATO exercise is being conducted off the west coast of Scotland, although NATO itself has said that it is not an official NATO exercise. Prince Charles visited Faslane last week to speak to the countries and services that are participating in exercise joint warrior, which brings together a number of forces as a warning to Putin and the Russians and to show them the military might that can be commanded by NATO if Russia decides to get out of line.

The reality is that nuclear weapons are being sited at Faslane and sailed into the base at Faslane from other countries. If we are serious about getting rid of nuclear weapons, we do not take the Jackie Baillie line of multilateralism. We are talking about big boys' toys that people want to play with, own and control.

Every day in Scotland and Britain, people are facing benefit cuts and more families are finding themselves in poverty. At the same time, the UK Government is deciding to spend £50 million a year on refitting a base that is, essentially, designed to house the UK's nuclear arsenal and, potentially, those of other countries. Our society has to be mindful of what we are trying to achieve.

It is one small step for a nation such as Scotland or the UK to remove itself from the nuclear arms race. It is a step that I am prepared to support if it means eradicating nuclear weapons from the world and safeguarding the world from future destruction, by using the money to tackle the real need of the people of the world through tackling poverty and injustice. I commend the motion and ask every member to campaign for the eradication of nuclear weapons to ensure a safer and fairer world.

13:05

The Cabinet Secretary for Infrastructure, Investment and Cities (Keith Brown): I, too, thank Christina McKelvie for securing the debate. A fortnight ago, we debated Bill Kidd's motion on the Marshall Islands and the Treaty on the Non-Proliferation of Nuclear Weapons, and a number of members made compelling arguments against

possession of nuclear weapons on both strategic and moral grounds. As Christina McKelvie and others have said, nuclear weapons do not make us more secure and their use would result in huge human suffering. When Jackie Baillie makes a moral argument to justify nuclear weapons, it is worth thinking about the fact that those weapons could never be used in the targeted way that some so-called smart weapons are used. Nuclear weapons do not discriminate between huge civilian populations and armies or service personnel; they are indiscriminate, which is why they are morally wrong and cannot justify the economic expenditure on them.

Today's debate has given members an opportunity to reflect on the economic consequences of the renewal of Trident. Christina McKelvie's motion draws a powerful contrast between the vast expense of replacing the Trident nuclear weapons system and the impacts of the UK Government's welfare reforms on society's most vulnerable people. The Chancellor of the Exchequer has announced £500 million for projects at Faslane that are linked in substantial part to preparing for the introduction of the so-called Trident successor submarines—I am happy to provide evidence to anybody who doubts that fact—at a time when press reports say that the United Nations is to investigate whether the UK Government's welfare reforms have caused grave or systematic violations of disabled people's human rights.

As we have heard, the estimated cost of replacing the UK's nuclear weapons runs to a staggering £100 billion in lifetime costs at 2012 prices. As was reported last year by the Trident commission—an independent cross-party inquiry that was launched by the UK Parliament in 2011—when spending reaches its peak in the next decade, taxpayers will be spending nearly £4 billion a year on nuclear weapons. The commission's report spells out the impacts that that will have on other areas of defence spending. It is worth bearing it in mind that the cost of Trident equates to roughly a third of the entire capital budget of all three services, so it crowds out the ability to invest properly in conventional defence. The commission also stated that

“Important defence projects currently in the pipeline will surely suffer delay or cancellation”

because of that cost. Yet, as George Osborne's announcement on 31 August of £500 million of infrastructure funding for Faslane shows, preparation continues for the next generation of nuclear-weapons carrying submarines operating from HM Naval Base Clyde into the second half of this century and beyond. It flies in the face of democracy that the UK Government is directing further funds to the future of nuclear weapons

before it has put the final decision on a successor fleet to the UK Parliament.

Of course, the Scottish Government welcomes investment in Faslane as a conventional naval base. Members will be aware that we greatly respect, value and support all members of the armed forces in Scotland as well as their families and our veterans. However, alongside plans to replace Trident, the UK has seen deep cuts to its conventional forces, and we have seen disproportionate reductions in conventional forces in Scotland. People on the front line in Afghanistan are being handed their P45s while they are serving, regiments were merged by the previous Labour Government and there have been cuts in the equipment for defence forces. I am happy to hear how Jackie Baillie would defend that.

Jackie Baillie: I have no intention of defending that. Let me pose a question to the cabinet secretary, because I am curious to know what the position is. I understand that his party's policy position is to support conventional forces and weapons by diverting the money into those—that is what I heard him start to say. However, that is at odds with what Christina McKelvie said.

Keith Brown: Not at all. Jackie Baillie has not listened to what I have said. The £500 million in expenditure that has been mentioned is being spent in preparation for the replacement of the Trident nuclear submarines at Faslane, and that is what is being objected to.

Jackie Baillie says that everybody knows the merits of her argument, including

“the dogs in the street”.

I think that the SNP MP Martin Docherty got a majority of about 10,000 in Jackie Baillie's area at the general election—I could be wrong about the figure. I have a feeling that her area voted yes to independence. I think that the arguments about nuclear weapons were very prominent—

Jackie Baillie: Will the cabinet secretary take an intervention?

Keith Brown: No, I will not.

Jackie Baillie: Will—

Keith Brown: I wonder whether Jackie Baillie could be quiet while I finish my speech.

The Deputy Presiding Officer: Ms Baillie! The cabinet secretary is not taking an intervention.

Jackie Baillie: That is a shame.

The Deputy Presiding Officer: Ms Baillie, will you please be quiet?

Keith Brown: I think that we have seen real support for spending that money much more productively. Perhaps Jackie Baillie might want to

see whether she can get her colleagues in the Labour Party on side.

The debate has, inevitably, strayed into party-political areas. To go back to an earlier point, I would not condemn Jeremy Corbyn for what he said about not pressing the nuclear button—rather, I would commend him. What I would condemn—

Neil Findlay: Will the cabinet secretary take an intervention?

Keith Brown: No. I will just finish my point. I would condemn the Labour Party's current position, which is to say that it would spend £100 billion on nuclear weapons but would then not use them. That is also immoral.

Neil Findlay: Will the cabinet secretary take an intervention?

Keith Brown: No, I will not.

The Deputy Presiding Officer: Mr Findlay, Mr Brown is not taking an intervention.

Keith Brown: The spending of that £100 billion—given the cuts that we have seen to welfare and vital services and given that the Labour Party's position is that it would not use the weapons—is deeply immoral. On whether “the dogs in the street”

support Jackie Baillie's position, perhaps she should have another chat with the dogs that she has been talking to, because they might have changed their minds, if that is her position.

Of course, we expect and support proper investment in our defence services. We have seen far too many cuts to the conventional forces—cuts to equipment and personnel. We might have had a much better and more productive response to the crisis in the Mediterranean if we had had the vessels that we could have had, had we spent more money on conventional defence. There are good reasons to be cautious about the UK Government's projections for future personnel numbers at Faslane as well, given that previous promises of a major uplift in the number of army personnel based in Scotland and of investment in the defence estate—for example, the promised new barracks at Kirknewton—have not materialised.

If the argument is about jobs, I also draw members' attention to the April 2015 report by the Scottish Trades Union Congress and the Scottish Campaign for Nuclear Disarmament that I mentioned earlier, “Trident & Jobs”, which found that more jobs would be created if the money to be spent on Trident were instead spent on other areas of public spending.

We can be in no doubt that we face huge cuts to welfare provision in Scotland, including cuts to tax credits, and we know that individuals and families in Scotland are currently experiencing the adverse consequences of welfare reform. Our analysis shows that the impact of those cuts will be felt especially by the most vulnerable people in society. That is why we have pushed for full devolution of social security to this Parliament. A more humane approach can be taken.

Jean Urquhart (Highlands and Islands) (Ind): I thank the cabinet secretary for taking an intervention and I sincerely thank Christina McKelvie for bringing the debate to Parliament.

We heard earlier today about jobs that were being lost in areas where we look to our enterprise companies and the oil and gas task force to go in to see what they can do to help. The debate over jobs at Faslane is a serious one and it inhibits the argument for getting rid of Trident. Could we start planning now, rather than making the mistake of arguing about whether we are going to spend the money on nursing and public services or improving the traditional forces—

The Deputy Presiding Officer: I think that you have made your point.

Jean Urquhart: Should we not now be making that plan, just as we would if jobs were being lost in another industry, so that all the people who work at Faslane know what Faslane would look like as a conventional base?

Keith Brown: Jean Urquhart has made a good point and I have had discussions with Scottish CND about the issue. Jean Urquhart may remember that in the late 1980s and early 1990s, when the Berlin Wall fell, we were told that there was going to be a peace dividend. In fact, the Labour Party used to talk about arms conversion. We have not had that conversation and we do not have access to much of the information that is required in order to do that sensibly. We have said that we are concerned about jobs. We would safeguard the jobs that are currently at Faslane by making it Scotland's defence base, if we had that control. However, we do not have that control. Jean Urquhart is right: we should have discussions around planning, but what is very important and what overrides that need, in my view, is the morality or otherwise of nuclear weapons.

I am very sorry that Neil Findlay's first instinct in responding to the debate—the best that he could do—was to launch a personal, puerile and predictable attack on an SNP member.

Neil Findlay: Will the cabinet secretary give way?

The Deputy Presiding Officer: The cabinet secretary is not taking any more interventions—I am the decider of that. Cabinet secretary, please come to a conclusion.

Keith Brown: The true cost of the UK Government's plans for a new generation of nuclear weapons is all too apparent. We call again on the UK Government to abandon those plans and instead to focus efforts and resources on strengthening our conventional defence forces and redressing the impacts of welfare reform on the most vulnerable people in society.

The Scottish Government supports Christina McKelvie's motion.

The Deputy Presiding Officer: I thank all members for taking part in this important debate.

13:15

Meeting suspended until 14:30.

14:30

On resuming—

Further Education (Glasgow)

The Presiding Officer (Tricia Marwick): Good afternoon. The first item of business this afternoon is a statement by Angela Constance on further education provision in Glasgow. The cabinet secretary will take questions at the end of her statement; there should therefore be no interventions or interruptions.

The Cabinet Secretary for Education and Lifelong Learning (Angela Constance): I am grateful for the opportunity to make this statement on the important matter of college governance in Glasgow. Members will be aware that this morning I laid an order before the Parliament to remove from office the chair and members of the board of Glasgow Clyde College and to appoint a new chair and members in their place. The order came into force this morning.

Glasgow Clyde College serves students from across Glasgow and beyond. It is a significant enterprise, which employs nearly 1,000 staff and has an annual budget of nearly £30 million. Its board, like all college boards, is responsible for the overall functioning of the college and the experience of its students.

Ministers rightly have high expectations of colleges and their boards, because staff, students and the people of Scotland have high expectations. Colleges are vital to the success of our country and its people, and college boards are key to that success. Boards are responsible for governing to the required standards. That includes identifying and controlling the main risks to effective delivery. Governance is also about sustaining and developing the college, to ensure that it thrives and flourishes.

The overwhelming majority of boards recognise the importance of their job, the extent of their responsibilities and the impact of their actions. The fact that members are volunteers in no way diminishes the importance of what they do, nor does it diminish our expectations for delivery.

In light of its important role and responsibilities in a priority area of public service, the sector itself has developed a code of good governance for Scotland's colleges, which sets out the standards that are required. It is important that all college boards adhere to the standards. However, at Glasgow Clyde College standards fell short of what was required. Matters first came to my attention in February, when the principal was suspended. That is, rightly, a matter for the college, as the employer. Concerns were then expressed to me, and the Scottish Further and

Higher Education Funding Council, by students, staff and wider stakeholders. The nature of the concerns was such that we took them seriously and addressed them appropriately.

The funding council undertook an investigation, having established that there were grounds to do so. My officials subsequently sought detailed information from the college. A series of meetings took place between May and September, which involved Scottish Government officials, the funding council, the Glasgow Colleges Regional Board and me. There has also been extensive correspondence between the funding council, the board and the Scottish Government, in which we made clear our concerns and sought to understand the facts. We provided the board with the opportunity to make its case, and we considered its responses carefully.

I have concluded that the board failed on a number of counts. Those are set out fully in the policy note that accompanied the order that was laid before Parliament. I will highlight the four key areas of board failure.

First, the former board allowed its relationship with student representatives and the wider student population to deteriorate. It did nothing to address that problem and does not accept that there is a problem. The board allowed its working relationship with student leaders to deteriorate until they no longer took an active role in the board. Indeed, the relationship with students broke down to the extent that no student was prepared to stand for election to the board. The board made no attempt to repair the relationship and does not—even now—acknowledge that there was a breakdown in its relationship with its student body.

Secondly, the board incurred significant amounts of expenditure without seeking appropriate prior approval. There are clear rules on how colleges can spend public money, which include limits on how much can be spent without a competitive tender. Beyond those limits, colleges must get approval from the funding council. At Glasgow Clyde College, those rules were breached. In fact, the board committed to three times more expenditure than the rules allowed—more than £90,000. In total, the board has committed more than £200,000 on legal and professional fees. In short, it has mismanaged its finances.

Thirdly, the board failed to consider serious concerns about governance that the principal raised in February this year. To date, those have not been addressed. The board took no action to understand the concerns that the principal had raised in writing before her suspension, although they covered matters of propriety, process, procedure, conflict of interest and behaviour.

Finally, the board did not discharge a number of its functions appropriately. At important meetings, it operated without proper agendas, papers in advance of meetings and minutes that recorded discussions and decisions. It operated without a board secretary in place. That position is pivotal to helping any board to govern properly but was not filled for several months. The board also improperly delegated an executive function to a board member in relation to how it conducted disciplinary proceedings.

All that meant that board members could not provide the stewardship that is expected at a multimillion-pound public sector organisation. Consequently, they missed some obvious signs that their decisions were not robust. In short, the board set itself up for failure because it took decisions without proper consideration.

There was extensive engagement with the college to understand the matters that were brought to our attention. Those matters were serious and complex. It was right to consider them fully and we did so. We also provided the board with the opportunity to make its case, and we considered its response carefully. Inevitably, that took time, but it was right that we carefully considered matters and the information provided to us by the board before we reached a conclusion. In particular, it was vital that we took into account the best interests and needs of students and staff at the college. Having done so, I am clear that the board repeatedly breached its grant conditions and mismanaged its affairs through collective board failure.

Despite everything, the board showed no sign of recognising the seriousness of our concerns. It refused to take responsibility for the situation that had arisen through its own failings. I could no longer be confident that the board had the capability, capacity or willingness to move things forward, including to restore crucial relationships with students, staff and other important stakeholders.

Therefore, I have removed all the members of the Glasgow Clyde College board today with immediate effect. I have not taken that action lightly. In their place, I have appointed a new chair—Alex Linkston—and new members. They have the skills, experience and personal commitment necessary for improvement. I am grateful to them for stepping in and I am pleased that, in Alex Linkston, the college and its board will have a highly respected and well-qualified leader.

I am confident that the new board will forge a positive relationship with the college's students and staff, which will allow Glasgow Clyde College to focus fully on supporting students to achieve their ambitions and to ensure that it plays a key role in the life of Glasgow and its people, and its

economy. That is no less than what the Government, the public, the wider college sector and—most importantly—the students and staff at the college should expect, and deserve.

We all have an interest in ensuring that we can continue to build a strong, sustainable and successful college sector. We must consider what lessons for good governance across the sector may be learned from the situation. There may well be lessons for the wider sector, the funding council and Government to learn.

Therefore, I announce that I will chair a task group with Colleges Scotland and the SFC. It will be a practical, purposeful and focused effort to provide additional assurance on the quality and resilience of college governance. The group will consider and take account of best practice in other sectors, and it will produce recommendations for improvement by early next year.

However, my focus today is on the interests and needs of students and staff at Glasgow Clyde. Colleges such as Glasgow Clyde are vital to our aspirations to create a stronger and fairer Scotland with a strong, sustainable economy. Glasgow Clyde deserves and needs a robust, reliable and resilient board, and today I have taken the necessary steps to provide just that.

The Presiding Officer: That ends the cabinet secretary's statement. Any member who wishes to ask a question should press their request-to-speak button now.

Iain Gray (East Lothian) (Lab): I thank the cabinet secretary for early sight of her statement.

In her statement and in the policy note attached to the order, the cabinet secretary provides clear evidence of governance failure at Glasgow Clyde College. It is true that a variety of concerns has been raised repeatedly and for some time by staff, the student association, trade unions and the National Union of Students Scotland about issues in the college, and the cabinet secretary has made the case for the action that she has taken today.

However, such action is extreme and unusual and bears more examination than a short statement allows. The cabinet secretary has said that she will form a task group to find out what lessons can be learned for the wider further education sector, which is under enormous pressure as a result of regionalisation, forced mergers and budget cuts. Will she ensure that the unions that represent staff and the organisations that represent students are also involved in the task group's work along with Colleges Scotland and the funding council? Moreover, will she ensure that the Parliament is fully involved in the examination of these issues through the Education and Culture Committee or otherwise?

Angela Constance: I thank Mr Gray for his comments and I am glad that he acknowledges that the policy note—the statement of reasons for what is indeed an unusual action—makes a clear case and sets out clear evidence of continued and repeated failures of governance. I accept that the action is highly unusual and, of course, I welcome the opportunity to be scrutinised by parliamentarians in the chamber this afternoon. I have also spent this morning engaging with parliamentary colleagues across the chamber and, indeed, other stakeholders, and I recognise that the Education and Culture Committee and the Delegated Powers and Law Reform Committee have a very important role to play in scrutinising the decision that I have made on behalf of Scottish ministers.

I will also endeavour to ensure that all interests are represented as we take forward our work and reflect on what we can learn from this incident. Although the incidents at Glasgow Clyde College are isolated to that particular college, it is important that the Government and the funding council reflect on what more we can learn and how we ensure the highest possible standards across the sector. I give this Parliament a commitment that I will continue to have such dialogue as is seen to be appropriate by Parliament's committees, this chamber and members.

Mary Scanlon (Highlands and Islands) (Con): I, too, thank the cabinet secretary for notice of the statement and, indeed, for taking the time to discuss the issue with Liz Smith and me earlier today.

I am very pleased to note that the cabinet secretary acknowledges the importance of an audit trail in the use of public money. We also welcome the setting up of a task group with Colleges Scotland and the Scottish funding council, particularly given the other very serious issues that the Parliament's Public Audit Committee is looking at in relation to North Glasgow College and Coatbridge College.

I have a number of questions for the cabinet secretary. What are the implications for the way in which the Scottish funding council operates, given its role in the funding of Glasgow Clyde College? Does the cabinet secretary know of any other colleges that are failing to comply with the code of governance and where financial mismanagement is suspected? What action will be taken to clear the names of those who have been suspended inappropriately? Most important, will the cabinet secretary assure the chamber that the staff and the students will get full support from the Government and all of us so that the college can continue providing the excellent education and training that Scotland's colleges offer? What action can be taken to ensure that those who have been

removed do not go on to be employed again in our public sector? What action should have been taken by the Glasgow Colleges Regional Board, which had significant responsibilities in relation to the serious issues at Glasgow Clyde College that we are discussing today?

Angela Constance: Let me be clear that all those who were members of the board during the relevant period—February to July 2015—have been removed, except the principal. We recently held elections for the student positions, and the student representatives are unaffected, because they were not on the board at the time of concern. Two staff representatives were recently elected. The representative who was re-elected was associated with the previous board's failings and has been removed from the board. The representative from the non-teaching side has not been removed from the board because they are newly elected to their position.

On Mary Scanlon's question about the consequences and repercussions for individuals, those who have been removed from the board of Glasgow Clyde College and are named in the order that I laid in Parliament cannot be a member of any other college board, the Glasgow Colleges Regional Board or the Scottish funding council. It has been a big decision. I have taken it cautiously and I have given it all due consideration, because the implications for individuals are, as I have outlined, indeed significant.

I am glad that Mary Scanlon welcomes the establishment of a task force. I pay tribute to the work of the Public Audit Committee and Audit Scotland, which have both recently produced helpful reports. The Government will respond to the Public Audit Committee report by the end of this month.

As I indicated in my statement, the situation has arisen as a result of poor governance and I have concluded that the people responsible for that poor governance were those in whom trust for decision making at Glasgow Clyde College was vested. Nonetheless, we will all have to look at how we respond to difficulties when they arise. There may well be important lessons for the Government, the Scottish funding council, the Glasgow Colleges Regional Board and the wider sector. It is important that we all reflect on our roles, but I must be clear that I am in the chamber today because of repeated incidents of mismanagement and poor governance in one particular college board. That is what we are having to respond to.

The Presiding Officer: As members would expect, a large number of members want to ask questions. I ask for brief questions. It would also be helpful if the cabinet secretary could be succinct.

Stewart Maxwell (West Scotland) (SNP): I thank the cabinet secretary for a copy of the letter on this serious issue that was sent this morning. Given that she has announced a task group review, why was the decision to replace the board taken now, rather than after the review concludes? Given her comments, particularly those in reply to Iain Gray, I assume that she will agree to attend the Education and Culture Committee to discuss the matter.

Angela Constance: Absolutely. I will attend the Education and Culture Committee and any other committee of the Parliament as and when I am requested to do so. I take my responsibility to appear before committees very seriously, just as I take my responsibility to be accountable to the Parliament very seriously. There is absolutely no issue there.

I will endeavour to keep Parliament and all relevant committees duly informed as we progress with the task group's work. We will work up the remit for the task group, which I will personally convene. I hope that that work can continue apace collegiately and in partnership with all the stakeholders involved. Once we have fully scoped out the work, I will be able to provide more precise information.

Mr Maxwell asked why now. As I hope that I have indicated, we have given the matter very careful consideration, taking into account the comments and views of the board. Given that we have concluded that the board is failing, it is not in the interests of staff, students or indeed the wider sector to allow matters to continue. We know from correspondence and from meetings that the board's actions have had a negative impact on staff and students alike. I am very grateful to staff for their continued professionalism and commitment in what has undoubtedly been a very difficult time.

Johann Lamont (Glasgow Pollok) (Lab): I thank the cabinet secretary for her statement and acknowledge its significance for Glasgow Clyde College staff and students, who have continued to sustain the work of the college throughout this extremely difficult time.

I am immensely proud of the work of Clyde College, which was formerly Cardonald College, the quality of its teaching and support staff and the talents of its students, and I am sure that the cabinet secretary will regret the fact that it is in the public eye because of the present difficulties rather than because of that proud record.

Will the cabinet secretary outline how she plans to support staff, students and the local college communities to rebuild morale and give people confidence that Clyde College is a high-quality place in which to work and learn?

Angela Constance: I certainly acknowledge Ms Lamont's on-going interest in the matter.

I again pay tribute to the staff of Clyde College for their dedication in what has been a difficult time. I know that, like Ms Scanlon, Ms Lamont has raised issues to do with the suspension of the principal. I must acknowledge that that is entirely a matter for the college board, and it will be a matter of priority for the new college board to take forward. Quite rightly, as a minister I have no locus in such employment matters, but I am concerned about the serious governance issues that were raised by the principal before her suspension that have not been resolved.

The new chair of the board will start work tomorrow. He will be in the college to meet senior members of staff and others and start the process of rebuilding relationships. The new term has not long started and it is time to reset relationships and move forward. We must continue to remember what the priority is: the priority is students. They must be at the heart of the college experience and all decision making about that process. Alex Linkston, the new chair, will have an interim, informal board meeting next week, but that work starts tomorrow.

John Mason (Glasgow Shettleston) (SNP): The cabinet secretary said that there had been mismanagement of Glasgow Clyde College's finances. Is that having any on-going impact on the college or on the other two colleges in the Glasgow region?

Angela Constance: No. The policy statement attached to the order outlines what the financial mismanagement concerns were. They were in and around the board incurring expenditure beyond agreed limits and not acting in accordance with its procedures or with procedures that are laid out by the Scottish funding council. However, the financial issues as detailed should not have an impact on the other two colleges in the city.

Liam McArthur (Orkney Islands) (LD): I thank the cabinet secretary for making the statement and for early sight of it, and for her engagement with Opposition spokespersons this morning. As Iain Gray indicated, what has been done is an unusual and regrettable step and we all acknowledge the seriousness of the situation and the need to act.

The cabinet secretary referred to the breakdown in the relationship with student representatives and the wider student population. Can she give more detail about the basis of that breakdown and offer reassurances that learning and courses will not be affected? Given the drastic nature of the decision to remove the chair and the board, does she agree that one of the primary tasks for the task group will be to consider what checks and

balances need to be put in place to ensure that the sort of issues that have been identified in this case can be addressed without the need in the future for a minister-directed clear out?

Angela Constance: I agree that it would be entirely appropriate for the task force to look at the checks and balances. There are important distinctions between the responsibilities of non-executive board members and executive employees of the college, and it is important that people understand those respective roles. Within those roles, there are checks and balances and we will want the task force to ensure that all is well in that regard. We will also want to look at matters such as financial control.

Liam McArthur asked for a bit more detail about the breakdown in the relationship with the student board members and the student association. The student association executive has written about the treatment of two student board members who were inappropriately excluded from a board meeting in February. One student member has stopped attending board meetings. Although the individuals who are involved might well have different accounts of who said what and who is responsible for X, Y and Z, board members have a duty of care to each other. The board did not demonstrate sufficient insight or resolve that its members would, in the future, make the relationship with students a priority. Engagement and working collaboratively with the student body is not an optional extra.

It is, of course, regrettable that ministers have had to take such unusual action. Looking forward, we want to minimise any possibility of ministers having to come to the chamber again in similar circumstances.

James Dornan (Glasgow Cathcart) (SNP): The cabinet secretary will be aware that Glasgow Clyde College's Langside campus is located in my constituency. Will she expand on the assurances that she gave to Johann Lamont and Liam McArthur that the decision will not affect the staff and students at the Langside campus or at the other two campuses?

Angela Constance: A competent, credible and well-led board is, fundamentally, in the interests of all staff and students. In the press release that the Government issued today, we list the new appointments—I have mentioned Alex Linkston, who is the former chief executive of West Lothian Council. Other members of the newly appointed board have backgrounds in human resources, business, governance and the university sector, and there are also people who have previous non-executive experience. I am assured and confident that once members look at the details in the biographies of the individuals, they and Mr Dornan

will be confident that the new board will be able to lead the college appropriately.

Mark Griffin (Central Scotland) (Lab): Given the extraordinary sequence of events that led to the deterioration of the relationship between the board and the students, is the cabinet secretary confident that the relationship will return to normal? Have there been any cases in any of the other boards of student associations passing motions of no confidence in the chair, of student representatives being excluded from board meetings, or of students refusing to participate in association elections?

Angela Constance: I am not aware of any other such examples. If members have any examples of, or concerns about, bad practice, poor governance or financial irregularities, I encourage them to bring them to my attention. I will not stand by and watch poor governance in the sector. The students must be at the absolute heart of decision making. As I have said, involving students in the making of board decisions is not an optional extra.

The Presiding Officer: Five members still want to ask questions and I intend to take them all, which will have an impact on the debate that comes after. Therefore, I urge the members whom I call to keep their questions brief.

Bob Doris (Glasgow) (SNP): Members have talked about checks and balances. Does the cabinet secretary believe that the regional board has a central role to play in relation to checks and balances? Is there anything that it could have done before now to provide checks and balances in the system?

Angela Constance: The regional board will continue to work closely with Glasgow Clyde College and will help it to play a full part in achieving its ambitions for the region. It will do all that it can to help to rebuild the governance arrangements.

Ken Macintosh (Eastwood) (Lab): The cabinet secretary will be aware from the recent staff survey that poor morale and unhappiness are not limited to Glasgow Clyde College. I welcome her comment that she encourages people to come forward. A constituent who is a college lecturer in Glasgow came to see me this week to express his dismay, unhappiness and anger at the cuts, the merger process and the unaccountability of management. However, he was worried about the repercussions if he were to come forward. I ask the cabinet secretary to promise anonymity for him and other whistleblowers if they come forward and give evidence to her review.

Angela Constance: Yes—of course. I answered questions on the matter from members in the chamber yesterday. I am aware of the

Unison survey and will engage with Unison shortly. I regularly meet all trade unions that have interests in the education sector, and I am aware from the experience at Glasgow Clyde College that members of staff were concerned about the position but felt vulnerable in raising concerns. I am sure that Mr Macintosh will agree that ministers always act with the utmost discretion in such areas.

Fiona McLeod (Strathkelvin and Bearsden) (SNP): The cabinet secretary has alluded to the fact that this is a worrying time for students at the college. The pupils at Boclair academy, in my constituency, attend the Anniesland campus of Glasgow Clyde College. How will the change in college leadership reassure students?

Angela Constance: I am confident that we now have the right mix of individuals of the right calibre in position as new board members. They understand the priority that we attach to quality learning experiences for students, and they are individuals who have proven track records and who respect and understand how to engage students, staff and the wider Glasgow community.

John Pentland (Motherwell and Wishaw) (Lab): Given the money that was spent in breach of the rules—in particular, the £200,000 that was spent on legal and professional fees, which is a lot of money considering that the total that was requested for the college's student support funding was £423,000—the affair could have a significant impact on college finances. What is the cabinet secretary doing to ensure that the malpractices do not leave the college and its students at a financial disadvantage?

Angela Constance: I say to Mr Pentland and Parliament that this Government will do everything to ensure that malpractice has no impact on students.

Liz Smith (Mid Scotland and Fife) (Con): I ask the cabinet secretary to confirm that she is not aware of any college other than Glasgow Clyde College and the former Coatbridge College, where the situation is very different, that has problems with responding to the code of governance or with suspected financial mismanagement.

Angela Constance: I am acutely aware of events at Glasgow Clyde College and at the colleges that have been named and, to some extent, shamed by the Public Audit Committee. I mean not so much the colleges as the individuals who were involved in senior managers receiving severance payments at quite shocking levels. I am not aware of other concerns, but I always stand ready to listen to concerns from parliamentarians or individuals in the sector.

Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill: Stage 1

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-14437, in the name of Jim Hume, on the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill.

15:06

Jim Hume (South Scotland) (LD): I am delighted to open this afternoon's debate on the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill.

I take this opportunity to thank the Health and Sport Committee, the Finance Committee and the Delegated Powers and Law Reform Committee for their robust scrutiny of the bill. The bill would not have reached this stage without the invaluable input of all those who advocate for a healthier Scotland and those individuals and organisations who have been working so hard with me to get the bill to this point.

The bill provides a major step in the direction of enabling children and young people to have healthy lives. It enables them to improve their health prospects and encourages healthy habits for the rest of their lives. The bill is also in line with the Scottish Government's stated goal of having a smoke-free Scotland by 2034, as it set out in its tobacco control strategy. I thank the former and current Ministers for Public Health for their open and constructive dialogue to date and look forward to continuing discussions after today's debate.

It is estimated that, each week in Scotland, 60,000 children are exposed to second-hand smoke in cars. Numerous studies and reports have shown that there is no safe level of exposure to second-hand tobacco smoke. In fact, in cars, the concentration of second-hand smoke toxins can be more than 11 times as high as in a pub.

Second-hand smoke has proven and profound impacts on health, particularly on the health of children because of their immature respiratory systems. Children suffer because of second-hand smoke. As many as 800 children across the United Kingdom visit the doctor each day as a result of ill health linked to second-hand smoke. They can develop coughing, wheezing and asthma, and respiratory tract infections such as bronchitis and pneumonia, and they have an increased risk of lung cancer.

The purpose of the bill is straightforward. It is to protect our children from the harmful effects of exposure to second-hand smoke. To do that, the bill targets only motor vehicles, where the

concentrations of harmful particles from smoke are some of the most significant. The bill will make it an offence for anyone aged 18 or over to smoke in a private vehicle when anyone under the age of 18 is also present and when the vehicle is in a public place. That approach aims to encourage all adult occupants of a vehicle to think twice before lighting a cigarette and to take responsibility for the potential health impacts of their decision to smoke when there is a child in the car.

To remove doubt and undue penalisation, in the case where the smoking adult is not the driver of the vehicle, the driver does not commit an offence for failing to prevent smoking in the vehicle. That is different from the regulations that came into effect in England and Wales last week. As is set out in the policy memorandum, I believe that making the driver liable for the offence is unhelpful. The goal of the bill is to protect the health of children and any unnecessary element could risk moving the focus away from that goal. We have seen such legislation implemented in some US states as well as in parts of Canada and Australia.

In its report, the Health and Sport Committee suggests that making the driver liable would bring the bill in line with other duties on drivers such as seat-belt legislation. However, that legislation is designed for the safety of vehicle occupants in relation to risks such as accidents that only the driver has control over. My bill is about providing children with protection from adverse health effects that are unrelated to anything that the driver is doing. Additionally, I believe that it is unreasonable to expect the driver to be able to control the behaviour of other adults in the vehicle, given that the driver's focus must always be on the road. Of course, if the driver is the person smoking, they will be committing an offence.

Smoking in a vehicle can generate high levels of airborne particles due to the small volume of air in the vehicle and the potential for it to be recycled without filtering. Even if someone is smoking in a vehicle with the roof down or the windows open, they are in close proximity to other occupants of the vehicle. For that reason, the bill makes no exception for people in a convertible vehicle who are smoking in the presence of a child. The Health and Sport Committee notes in its report that

"A key factor that will impact on the success of this Bill is the clarity of the legislation".

Aside from the fact that the law will apply in Scotland where, sadly, there are not many opportunities to drive around in convertibles with the roof down, I believe that the approach that is being taken provides the necessary clarity for enforcement agencies.

As an additional clarification, I confirmed to the committee on 23 June that there is no desire or

intention to legislate on what people do in their homes. For that reason, the bill provides an exception for people using a vehicle that is

“designed or adapted for human habitation”

and which

“is being used for that purpose”.

In other words, the exception applies only while the vehicle is being used in the same way as a person uses their house, and not while it is being used exclusively for the purpose of transportation. That ensures that people who may habitually reside in motorhomes, and those such as holidaymakers who may reside in vehicles on an occasional basis, are not committing an offence if the vehicle is being used as accommodation at that time.

The penalty for those who are found guilty of an offence is clearly set at level 3 on the standard scale. A fixed-penalty scheme will be available, which I anticipate will be the principal means of enforcement. Provisions for the fixed-penalty scheme are set out in the schedule to the bill. In many respects, the provisions are similar to those set out in schedule 1 to the Smoking, Health and Social Care (Scotland) Act 2005, to which I referred during the policy development stage of my bill. However, the bill includes two specific provisions that I believe are clearer than those provided in the 2005 act.

The first is that schedule 1 to the 2005 act does not specify the amount of the penalty for smoking in public places. Instead, it simply provides ministers with the power to prescribe the amount in secondary legislation. That amount, which was set in 2006, is £50. In my view, a penalty of £50 is not strong enough to deter everyone and does not do enough to properly raise the profile of the danger that is caused by second-hand smoke. Those views came through strongly in responses to my consultation. With that in mind, the schedule to my bill sets the amount of the fixed penalty at £100, with a power for Scottish ministers to vary it through regulations.

However, my bill does not provide for an early payment discount, which I believe would be unnecessarily complex in a measure that is designed to protect children’s health. The penalty should act as a deterrent. People with a greater disposable income may not be deterred if they think that they can get away with a reduced payment on more than one occasion.

I believe that those factors, taken together, provide clarity for all parties. Anyone who is issued with a fixed-penalty notice should pay the set penalty of £100 within 29 days. Failure to pay within the time period will leave an individual liable to prosecution. The legislation is not about raising

revenue or forcing people to stop smoking. It is designed purely to prevent acute exposure of children to second-hand smoke and put an end to the anxiety to which they are subjected.

The bill currently provides that the measures will be enforced by Police Scotland. Following the committee’s evidence sessions and its report, and after discussions with the Scottish Government, I believe that there is merit in adopting a joint enforcement approach between Police Scotland and local authorities, and I am happy to work with the Scottish Government on strengthening that part of the bill.

Questions about how enforceable the legislation might be were also brought up during the consultation, but Assistant Chief Constable Higgins noted in oral evidence to the Health and Sport committee that

“it is better to have the ability to do something and use it rarely than not to have the ability to do it at all.”

Police officers are entrusted with exercising common sense, pragmatism, professional judgment and discretion in determining what approach to take when enforcing the law, particularly in instances where age is a consideration. Assistant Chief Constable Higgins noted that

“officers make judgment calls constantly—every minute of every day—in deciding what action to take or not to take.”—[*Official Report, Health and Sport Committee, 16 June 2015; c 59, 50.*]

The committee noted in its report that police officers have experience in assessing the age of teenagers, such as in circumstances when they are in possession of alcohol. I see no reason why officers could not apply the same discretion, experience, and professionalism in relation to this legislation in instances where there might be doubt about the age of car passengers.

Although enforcement of the law is an operational matter for enforcement agencies, I think that they have an important role to play not just in applying the law but in educating people about it and reminding them of it. However, I note that legislation and education are not mutually exclusive. As the committee said in its report,

“education campaigns alone have not succeeded in protecting children from exposure to second-hand smoke in vehicles”.

Legislation can complement education where education has not succeeded. It is an effective deterrent that can bring about a positive culture shift. We need only look at the impact of the legislation on smoking in public places to note that attitudes to that have changed enormously since the 2005 act was implemented. The 2005 act was coupled with a high-profile campaign that educated people about the dangers and made

them think twice about their actions. In many cases, it is not the fear of being caught that changes people's behaviour but the concern that their actions are not socially acceptable. That chimes with the Scottish Government's position in its memorandum, which the committee report noted was that

"legislation accompanied by an education campaign would be self-enforcing."

I expect that this legislation will be accompanied by a high-profile campaign that will serve to educate people about the new law and encourage them to think about their actions. The legislation that I am proposing aims to introduce a layer of protection against second-hand smoke for the health of children who have no option but to go into smoke-filled cars, whether to go to school or, oddly, to their sports activities.

Again, I thank those involved in the consultation processes. Should the bill be supported today, I look forward to continuing to work and liaise on it with the committee, the minister and her officials, and all members of the Parliament. I firmly believe that the bill offers our children a healthier start in life and I am delighted to move the motion in my name.

I move,

That the Parliament agrees to the general principles of the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill.

The Deputy Presiding Officer (Elaine Smith):

I call Duncan McNeil to speak to the motion on behalf of the Health and Sport Committee.

15:18

Duncan McNeil (Greenock and Inverclyde) (Lab): First, I thank all the witnesses who worked with the committee, committee members and our clerking staff, who allowed us to provide scrutiny of the bill. It is a pleasant change, when we deal with so much Government legislation, to be reminded that the Scottish Parliament has a place for members to pursue legislation that can make a difference to the people of Scotland.

One in five—that is the number of 13 and 15-year-olds in Scotland who reported that they are often, or sometimes, exposed to second-hand smoke in cars. That figure, which is from a recent survey commissioned by Action on Smoking and Health Scotland, is not one to be complacent about. A wide range of stakeholders from the national health service, academia, local authorities and non-governmental organisations responded to the committee's call for written views on the issue, and we are grateful to them for those. It might come as no surprise to hear that 93 per cent of the respondents supported the bill's general principles.

The bill is about protecting children's health, and it highlights children's particular vulnerability to the harmful effects of passive smoking in vehicles. Most obviously, that is because children are dependent on others for transport. We all know countless parents and indeed grandparents and carers who could easily list "chauffeur" as their secondary occupation. Seriously, however, it is precisely children's dependence on others for transport that means that, when someone lights up in a car, they cannot remove themselves from the harm.

In a moving vehicle, unlike a home, it is not possible to take it outside. NHS Health Scotland informed the committee that a misconception prevails that there is no danger from second-hand smoke if the atmosphere is ventilated or smoke cannot be seen. According to research by the University of Aberdeen, even when the windows are down, passengers in a vehicle encounter levels of second-hand smoke that are 10 times higher than the level that is reported to be safe by the World Health Organization.

Children are particularly at risk because they breathe faster and have less developed immune systems and their smaller airways mean that they absorb smoke more quickly than you or I do. The Royal College of Physicians of Edinburgh informed the committee that we could avoid 4,000 new cases of respiratory infection, wheeze and asthma per year by reducing children's exposure to passive smoking.

As Jim Hume pointed out, the Parliament is no stranger to legislation on smoking. It has seen the impact that such legislation can have on smoking rates by bringing about a change in culture, and it knows the importance of getting the detail right. Broadly speaking, the bill achieves that, and the committee supports its general principles. However, there are areas, some of which the member in charge noted, that we consider would benefit from further consideration.

The bill applies to private vehicles, with two exceptions—motorcycles and vehicles that are used for human habitation for not less than one night. That seems sensible, as motorcycles are not designed for carrying children and some vehicles are used as homes or accommodation. In its memorandum, the Scottish Government supports a further exemption for convertible vehicles with the roof down and stowed away. I mentioned the University of Aberdeen's research that shows that, even in ventilated vehicles, dangerous levels of smoke can prevail. I therefore seek the Scottish Government's views on whether it intends to lodge an amendment on such an exemption at stage 2 and, if so, what evidence it has to support that.

The bill also raises an important issue about liability. If someone smokes in a pub, we have legislated to make both that person and the publican liable. If a child passenger who is under 14 years of age is not wearing a seat belt, the driver is liable and is committing an offence. Under the bill, however, only the adult who is smoking is held responsible. We considered views on whether the driver should also bear responsibility if a passenger is smoking and, on balance, we consider that they should be. In his written response to our report, the member in charge of the bill disagreed, arguing that that would add complexity and detract from the bill's focus on health.

The committee considers that drivers hold a unique responsibility to ensure the safety of their passengers and that making the driver jointly responsible would offer added protection to children.

Jim Hume: There is another difference regarding the driver's liability. The driver is liable where someone is not wearing a seat belt only if that person is under 14. If we had vicarious liability in this case, the driver would be liable where someone of any age was not wearing a seat belt. Does the member agree that it might be more difficult for a driver to persuade an adult to stub out, perhaps if they are in the back of the car?

Duncan McNeil: The member has said previously that he is prepared to engage with the committee in the debate. I hope that he does that with an open mind. The committee is clear in its view that making the driver jointly responsible would offer added protection to children and achieve consistency with the law in England and Wales. I invite the member in charge of the bill and the Scottish Government to consider the issue further in light of the committee's findings.

Another key issue that arose during the committee's consideration was whether the bill should contain a defence. The bill provides a defence if, at the time of smoking, a person reasonably believed all other occupants of the vehicle to be adults. The evidence that the committee received that supported a defence noted that the offence is enforced by summary conviction. In some cases, a smoker may not know the age of all passengers. That sparked diverging views in the debate. In its evidence, the Scottish Government confirmed that it does not favour the inclusion of a defence in the bill.

The committee also considered whether any alternative proposals could replace the defence. For example, the Health (Tobacco, Nicotine etc and Care) (Scotland) Bill that is currently before the committee requires businesses that sell tobacco products to take steps to determine a customer's age if they appear to be under 25. We

would welcome it if the member in charge of the bill and the Scottish Government were to consider that alternative to the defence that is currently in the bill.

The bill proposes that fixed-penalty notices will be used to enforce the offence. According to the financial memorandum, approximately 200 notices will be issued per annum. The committee supports that arrangement in principle. However, it heard evidence from Cancer Research UK about the increasing socioeconomic dimension to the issue of tackling second-hand smoking. NHS Borders and ASH Scotland suggested that first-time offenders should be offered an education programme, rather than a penalty, to ensure that those experiencing financial hardship would not be disproportionately affected. In a written response to the committee's stage 1 report, the member in charge argued that that would have a limited impact, due to the low number of notices expected to be issued. However, we would ask the Scottish Government to respond on whether such a provision would be desirable or indeed feasible.

Finally, I note that the bill's core provisions will come into force six months from the date of royal assent. If passed, an education campaign will raise awareness of the new law. In its memorandum, the Scottish Government favoured an approach whereby the commencement date would be determined by a ministerial power to enable better co-ordination with the education campaign. That seems to be a sensible approach and we will consider any amendments that are lodged in that regard.

In summary, the Health and Sport Committee considers that the bill is an important and necessary step to protect children from the harmful effects of second-hand smoke. We therefore support the bill's general principles and recommend that the Scottish Parliament agrees to them.

The Deputy Presiding Officer: Members will perhaps realise that we are a bit tight for time, so I ask them to try to keep to their allocated time.

15:28

The Minister for Public Health (Maureen Watt): I am pleased to speak on the Scottish Government's behalf on this important bill. I thank Jim Hume, whose hard work has brought us here today.

The cost of tobacco use to individuals, families and Scottish society remains too high. Effective tobacco control is central to realising the right to life and the right to the highest standards of health for everyone. As Duncan McNeil suggested, Scotland can be proud that it has proven itself to be a world leader on tobacco control.

The Deputy Presiding Officer: Minister, can I stop you for a moment? I ask broadcasting staff to check the sound levels, because we cannot hear you very well. You can continue your speech while they do that.

Maureen Watt: Although the Parliament is still young, it has already created a legacy of strong cross-party support for a range of tobacco control laws. In 2005, it passed historic smoke-free legislation, which paved the way for the rest of the UK to follow.

In 2007, the legal age for tobacco sales was raised from 16 to 18. In 2010, the Parliament agreed by an overwhelming majority to pass legislation to create the first tobacco retailer register in the UK and to ban tobacco vending machines and tobacco displays. This year, there was the final instalment of Scotland's tobacco display regulations, which are among the most robust in the world.

In 2013, the Government was pleased to be the first in the UK to announce support for plain packaging and to play its part in securing legislation that is due to come into force across the UK next year. Our Health (Tobacco, Nicotine etc and Care) (Scotland) Bill, which includes further measures on tobacco and e-cigarettes, is being considered by the Parliament.

We also continue to build on the investment of successive Governments in awareness-raising campaigns and national health service smoking cessation services, which have helped hundreds of thousands of people to try to quit smoking.

However, we cannot be complacent. In publishing our 2013 tobacco strategy, the Government was among the first in the world to set a national tobacco-free target. Our bold vision is to reduce smoking rates to 5 per cent or less by 2034. There is still a long way to go.

Continuing to protect people—especially children—from second-hand smoke is a key strand of that strategy. That is an important part of ensuring that every child in Scotland has the best start in life. Although existing smoke-free legislation has undoubtedly made a difference, children can still be exposed to second-hand smoke in cars and homes. When children are medically at risk because of conditions such as asthma, the harmful effects can be severe.

Our strategy included our commitment to reduce the number of children who are exposed to second-hand smoke to 6 per cent by 2020. In 2014, that figure was 11 per cent. To achieve the aim, we developed our take it right outside national campaign, which aims to raise awareness of the risks to children that second-hand smoke poses. The campaign evaluation showed that it was well received and had an impact on

behaviour, but more needs to be done to drive home the message that it is never safe to smoke in enclosed places with children present. We have worked hard on that, and I expect that all members are aware that I relaunched the campaign yesterday.

Although our 2013 strategy did not commit to banning smoking in cars, it committed to consideration of whether legislation might be required in the future. At the end of last year, we consulted on that. Seventy-nine per cent of those who responded thought that smoking in a car with a child present should be an offence.

The bill proposes to make it an offence for someone who is over 18 to smoke in a vehicle that is carrying a person who is under 18. Mr Hume's considered work in introducing the bill and the Health and Sport Committee's stage 1 deliberations have helped us to explore the aims of the bill and how it will work in practice. The Government has made it clear that it supports the bill in principle. There can be no doubt that we all have a responsibility to protect children from tobacco smoke.

I note the Health and Sport Committee's conclusion that

“education campaigns alone have not succeeded in protecting children from exposure to second-hand smoke in vehicles”

and that legislation is a necessary next step. As such, the committee recommends that the Parliament support the measures that the bill proposes. The committee has also—rightly—flagged up a number of areas for further consideration that relate to how the legislation is implemented. I know that Mr Hume has responded to the committee on some of those issues. I will write to the committee with my views, but I will touch on some of the areas now.

The Scottish Government has made clear its preference for joint enforcement between Police Scotland and environmental health officers, so I am pleased to note that the committee supports that principle. We will engage with the Convention of Scottish Local Authorities on that and provide further information on the costs for members to scrutinise.

I share the committee's view that any exemptions from the bill should not be “unnecessarily complicated”. On convertible vehicles, I, like Duncan McNeil, note the evidence that the University of Aberdeen provided that a child who is within 1m of a cigarette will still be exposed to second-hand smoke. I therefore confirm that I am persuaded not to lodge an amendment to exempt convertible vehicles.

I note the committee's recommendation to apply the offence to the driver as well as the smoker.

Although Jim Hume outlined why he rejects that recommendation, I look forward to hearing wider views during the debate.

The committee raised the possibility of an education programme as an alternative to the proposed penalty of £100. Again, I thank Mr Hume for considering that and outlining his position today. I am minded to agree with him. There is much that we would need to consider in developing and introducing an education programme, including content, equality of access across the country, infrastructure and administration. We would need to consider costs and value for money in light of the small number of expected fines—around 200 a year—that is set out in the bill's financial memorandum. More important, we would need to consider the timescales for taking forward the work and the impact that that might have on implementation of the legislation. Although I do not think that an education programme would be the right alternative, I am interested in hearing members' views on the issue and on whether the £100 penalty is at an appropriate level.

The Scottish Government supports the bill and will work with Mr Hume to ensure that it is implemented quickly. We must all work together to protect children from the harm of second-hand smoke. There should be no delays in ensuring that protection—in law—is in place.

15:36

Jenny Marra (North East Scotland) (Lab): I warmly commend Jim Hume for the work that he has put into getting the bill to this stage, and I look forward to Scottish Labour supporting it at decision time. Taking a member's bill through Parliament is a long and difficult process and I acknowledge the determination and hard work that he has put into bringing the issue to the fore; I am sure that many people in his team are responsible for getting the bill this far, too.

The bill should represent the next stage in the Parliament's efforts to reduce the high levels of smoking that we have in Scotland and to protect people from the harmful effects of nicotine. We can look back on a proud record in tackling smoking. The advertising ban, the increase in the legal age of sales, the changes to the law on vending machines and the tobacco retailer register all complement the historic ban on smoking in public places that was put in place nine years ago. As the minister said, in May next year, plain packaging will come to Scotland and branded advertising will become illegal.

As is the case with any radical, reforming piece of legislation, it is easy to look back at the ban on smoking in public places and somehow think that it

was inevitable. We know that other Parliaments have followed suit and that the smoking ban is now accepted in our communities. However, we must not forget that, despite the consensus that was reached in this Parliament, it took a lot of work and effort to win the argument for the smoking ban. It was bold, it was ambitious and it was the right thing to do. The Parliament was able to stand up against the vested interests and opponents who challenged it and to convince Scotland that the ban was in all our interests—our health and wellbeing interests and the interests of our national health service's budget.

The smoking ban was in what is perhaps the single most memorable piece of legislation that the Parliament has produced. It illustrated that we in Scotland—a clever country, but one with a shameful record on public health—could use devolution to lead the way and to change and save lives.

However, the ban was never intended to be the last word in our battle to reduce the historically high incidence of smoking. Nearly a decade on, the figures show that we still have much to do. I feel particularly grateful to Jim Hume for bringing the bill to Parliament because, in the past nine years, not all that many radical proposals have been made.

It is to Jim Hume's credit that we are debating the bill today, because smoking is still responsible for the deaths of around 13,500 Scots every year. It accounts for 33,500 hospital admissions and is estimated to cost the NHS around £400 million.

In the most deprived areas, 40 per cent of people smoke, compared with 11 per cent in the least deprived areas. Smoking has a clear role in reinforcing the health inequalities that exist in our communities. It is also estimated that 15,000 young people from the ages of 13 to 24 start smoking every year. Despite our efforts to educate and raise awareness, too many children are giving smoking a try and damaging their health as a result. It is no coincidence that once children are exposed to the smell of tobacco and perhaps the attraction of nicotine—for example, from adults smoking in cars, which Jim Hume's bill addresses—smoking becomes more part of their culture and daily routine and more acceptable for them to try.

As a country, we do not compare well with our neighbours. Around 23 per cent of people in Scotland smoke, compared with 20 per cent in England. The specific issue that we seek to tackle today—second-hand smoking—is still responsible for taking too many lives.

A private vehicle remains one of the few places where children can legally be exposed to tobacco smoke, which poses an obvious health risk in such

a confined space. The time is absolutely right to correct that anomaly and bring us into line with other parts of the United Kingdom. All the evidence shows that the measure has the support of the health professionals—they see the consequences of smoking every day in our hospitals and general practitioner surgeries and are determined to try to reduce the amount of smoking in our country—as well as the support of the police, who will be asked to enforce the bill, and, crucially, of the people of this country.

I am sure that we will agree to the motion today but, if the Scottish Government is to achieve its target—a welcome one, which we all support, of creating a tobacco-free generation by 2034—we must continue to be as bold now as the smoking ban was then. I hope that this is not the last time in this session of Parliament that we will debate more radical moves—perhaps we will do so in the next session, too.

Just this week, figures on smoking cessation showed that we are not on track to meet the Government's target. In the most deprived areas of Scotland, the quit rate after three months fell way short of the target of 12,000—we managed to hit only 58 per cent. NHS Shetland was the only health board to meet the smoking cessation target.

Changing behaviour and lifestyle is not easy, but the bill is an important step towards that. I am proud to say that Scottish Labour will support it at decision time.

15:43

Nanette Milne (North East Scotland) (Con):

The Scottish Conservatives will support the bill at stage 1, because we agree with the policy intention of promoting the health and wellbeing of children—defined as those who are under 18—by protecting them from the harmful effects of second-hand smoke.

However, we have some reservations—particularly about the bill's enforceability. If it becomes law, we will want its impact to be monitored. That is in line with a recent study in Wales, which showed that the impact of any legislation that aims to reduce the effects of second-hand smoke on children's health should be continuously monitored. We agree with the Law Society of Scotland's suggestion that the effects of the prohibition should be researched and reported on by the Scottish Government at regular intervals.

In his closing speech, my colleague Jackson Carlaw will outline our thoughts on an amendment that we are considering to deal with the eventuality that the bill's desired impact is not achieved.

The bill seeks to achieve the policy intention by prohibiting smoking by any adult occupant in a motor vehicle where a child is present. The vehicle must be in a public place, and motorhomes are excluded if they are parked for habitation purposes for a period of not less than one night.

With smoking defined as

“to smoke tobacco, any substance or mixture which includes it or any other ... lit substance or mixture”,

the bill would not cover the vaping of e-cigarettes. It might be difficult to differentiate between smoking and vaping, particularly in a moving vehicle. I note the Law Society's suggestion that including a prohibition on e-cigarettes in the bill should be considered, given that further research is required—and, I hope, is going on—on e-cigarettes' long-term risks and on benefits to public health in general and young people in particular.

There is no doubt that levels of passive smoking in cars can be high, as the restricted area in which smoke is circulated results in much higher levels than are experienced in buildings. Air conditioning and opening windows do not remove the hazard. Young people who are affected cannot remove themselves from exposure to the smoke. According to Asthma UK, around 22 per cent of children in Scotland report exposure to smoke in cars, and it is estimated that 60,000 individuals smoke in cars while children are present.

Medical experts consider passive smoking to be a significant causal factor in respiratory conditions such as asthma, wheeze and glue ear. It has been implicated in sudden infant death syndrome and is increasingly considered to be a risk factor in cardiovascular disease among children. There is little doubt that smoke is particularly harmful to children, who breathe rapidly and whose lungs and respiratory systems are still developing.

It is interesting and perhaps even surprising that recent polling showed that 85 per cent of Scottish adults agree with the bill and that 72 per cent of smokers support it.

On enforcement, Police Scotland suggests that the police will be able to detect breaches of the law without difficulty; it compares the situation with enforcement of seat-belt legislation, of which 36,000 breaches were detected in 2013-14. I can see detection of an offence being relatively straightforward when cars have small children as passengers, but detecting an offence in relation to the 15 to 17-year-old age group will be challenging, given the adult appearance of many of today's teenagers.

The British Medical Association made a fair point when it suggested that an outright ban on smoking in vehicles would be easier to enforce

and would protect vulnerable adults as well as children. Such a ban would have an impact on road safety, in my opinion, although I appreciate that that is not what the bill is about.

I have a degree of scepticism about how the law can be enforced. I expect that my Conservative colleague will express his even greater doubts towards the end of the debate.

None of our witnesses regarded the bill as a panacea, but most felt that it would have a significant effect on the health of Scotland's children and saw it as a step towards the Government's stated goal of reducing the proportion of children who are exposed to tobacco smoke from 12 per cent in 2012 to 6 per cent by 2020.

It is generally accepted that the introduction of the law will have to be reinforced by an education programme. There is some feeling that such a programme might, without the need for legislation, suffice to change people's attitudes towards smoking in cars when children are present.

However, most of our witnesses regarded the legislation as necessary and pointed out successes that have been achieved in places that already have such a law, such as Canada, where the number of children who are exposed to second-hand smoke in cars has reduced by 10 per cent, as well as Australia and several states in America. It remains to be seen how effective the new law in England and Wales, which came into force just last week, will be.

There is an overwhelming medical case for protecting children from passive smoking, which is why we support the general principles of the bill. However, there are questions about the need for legislation over and above education, given the public's growing recognition of the health issues. There are also enforcement issues and, as we heard, there is disagreement about who should be liable for the offence—whether that should be the driver and the smoker, as the Health and Sport Committee suggested, or only the smoker, as proposed by the member in charge of the bill. There needs to be further discussion of Police Scotland's proposal that the bill should be extended to authorise enforcement by people such as environmental health officers, local authority officers and traffic wardens.

I have not had time to go into detail about a number of aspects of the bill, which I have no doubt other members will address. I look forward to hearing the debate and—if we assume that the bill will receive approval at stage 1—I will consider carefully any proposals that come forward at stages 2 and 3.

15:49

Stewart Maxwell (West Scotland) (SNP): I very much welcome the opportunity to speak about the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill, which I regard as the next logical step in denormalising smoking and protecting the health of the most vulnerable members of our society—children.

It is nine years since the smoking ban came into force in Scotland, and in that time the health of our children has improved. Now, fewer than 20 per cent of pregnant mothers are smoking at their first booking-in visit—that target was met several years early—and smoking among 13 and 15-year-olds is at its lowest since modern surveys began.

The health benefits of the ban started to become evident very early on. Only one year after the introduction of the smoking ban, a study that was conducted in nine Scottish hospitals found a reduction in the rate of child asthma admissions of 18 per cent per year, compared to an increase of 5 per cent per year in the years preceding the ban. That is an enormous boost in our children's health. The study also found a 39 per cent reduction in second-hand smoke exposure in 11-year-olds, as well as in adult non-smokers.

Children are being exposed to less smoke, which is very good news. Many parents take great care to protect their children from smoke in their own homes. However, in cars, the only way to protect a child from smoke is not to smoke. I am sorry to say that the Health and Sport Committee's stage 1 report found that education campaigns that highlight the dangers for children of smoke-filled cars have simply not worked.

Smoking in a car quickly creates dangerous levels of air pollution—the levels are often higher than in heavily polluted cities such as Beijing or Delhi—and turning on the air conditioning or rolling down the windows has been shown not to bring the concentration of smoke in the car down to levels below those at which they are known to present a health risk. As everyone knows, children are much more vulnerable than adults to the hazards of smoke because of their smaller lungs and faster rates of breathing. Indeed, the Royal College of Physicians of Edinburgh estimates that more than 5,000 new cases of respiratory infection, wheeze and asthma in children could be avoided annually by reducing children's exposure to passive smoking.

The Scottish Government has introduced a national target to reduce the proportion of children who are exposed to tobacco smoke from 12 per cent in 2012 to 6 per cent in 2020. The bill could provide great support towards meeting that target. Some provinces in Canada have already introduced a ban on smoking in vehicles, and

there is research that shows that the proportion of children who are exposed to second-hand smoke has reduced by about 10 per cent, relative to the period before the ban was implemented and when comparing provinces that have a ban with those that have not introduced one.

Make no mistake: the bill would be popular. The Health and Sport Committee found that 93 per cent of the respondents to its call for written evidence support the bill's general principles, and a YouGov survey that was commissioned by ASH Scotland found that 85 per cent of adults and 72 per cent of adult smokers support the introduction of a ban on smoking in vehicles that are carrying children.

I am aware that some pro-smoking groups oppose the bill on civil liberties grounds. Some things never change. Those groups say that smoking is legal and that what people do in the privacy of their own cars is entirely their own business. In general terms, I have some sympathy with that argument; I agree that, for the most part, we should not tell adults what to do when they are in their own homes and cars. However, we have to weigh the right of an adult to smoke against the right of a child to good health. We all know that smoking damages the health not only of smokers but of people who breathe in their second-hand smoke. Therefore, the balance has to come down on the side of the child. A child in a smoke-filled car has no power to protect himself or herself, so we have to act to protect children from the dangers of second-hand smoke.

More and more countries are moving to ban smoking in vehicles that have children in them: Australia, Cyprus and some provinces of Canada, to name just a few, already have bans in place. France introduced one in July and, on 1 October, a ban on smoking in cars in which there are children came into effect in England and Wales. Therefore, by introducing a ban, Scotland would be moving very much into the main stream of tobacco regulation.

I am sure that the Health and Sport Committee will consider a number of possible amendments at stage 2. One change should, perhaps, concern enforcement. The bill states that enforcement should be the sole responsibility of Police Scotland, but it has been proposed that it should be shared between local authorities and the police. The Scottish Government, Police Scotland and the Royal Environmental Health Institute of Scotland all support that multimodel approach to enforcement in the belief that the bill would have more impact if such an amendment were made to it. I think that that is correct.

It is estimated that 60,000 people in Scotland smoke in their cars while children are present. We know that the Scottish public are pretty law

abiding: seat-belt legislation and drink-drive legislation are successful because the public accept the need for the laws and, by and large, obey them. Given the strength of good will towards the bill that was indicated by the YouGov poll that ASH Scotland commissioned, it is clear that the Scottish public would, on the whole, obey the bill, that it would be successful and enforceable and that that would be another boost to the health of our children.

I very much welcome the bill, which keeps Scotland moving forward on the path to its ultimate goal of a tobacco-free generation by 2034, and I commend Jim Hume for introducing this very important health measure.

The Deputy Presiding Officer (John Scott): We are very tight for time today, so I must ask for speeches of up to six minutes, please.

15:55

Cara Hilton (Dunfermline) (Lab): I, too, pay tribute to Jim Hume's dedication in getting his bill to this stage. I know that it has involved many months—possibly years—of work and research as well as a very effective consultation on the draft proposals. I am also pleased that the Scottish Government has agreed to support the bill.

In Scotland, private vehicles are one of the few places where children can be legally exposed to second-hand smoke, and this bill builds on other important legislative safeguards against passive smoking—in particular, the Smoking, Health and Social Care (Scotland) Act 2005, with which the previous Scottish Labour-led Executive led the UK in banning smoking in enclosed public spaces. The minister and Jenny Marra have outlined the progress that has been made since then, but it is a shame that, although Scotland led the way in the past, this important public health bill that Jim Hume has introduced comes only after such protection has been introduced in England and Wales. That said, I hope that we will soon see change.

The bill itself is undoubtedly another important step forward in protecting the health and wellbeing of Scotland's children from harmful exposure to second-hand smoke. It has the potential not only to improve children's health and wellbeing, but to save lives. Research by Cancer Research UK estimates that second-hand smoke kills at least 12,000 people in the UK every year, with exposure to passive smoking increasing the risk of stroke by 25 per cent and heart disease by 30 per cent.

Members have already pointed out that, every single day in Scotland, 60,000 car journeys are made in which a child is exposed to second-hand smoke, and ASH Scotland has reported that more than one in four Scottish children aged 13 and 15

are sometimes or often exposed to tobacco smoke in cars. Moreover, in evidence to the Health and Sport Committee, Children in Scotland pointed out that children in the most disadvantaged areas are more likely to be exposed to second-hand smoke, with 33 per cent being subjected to high levels of exposure compared to just 3 per cent of children in more affluent areas. That highlights the need for us to link the bill with our wider aspirations to get it right for every child and to tackle health inequalities.

As Jenny Marra has pointed out, there is real and growing evidence that exposure to smoke in enclosed spaces such as cars is particularly dangerous, given the higher concentration levels of toxic substances. In its briefing for today's debate, ASH Scotland says that the toxin levels in cars in which someone is smoking are higher than the pollution levels in cities such as Beijing and Delhi, and are certainly in breach of Scotland's own air-pollution standards. The BMA has argued that smoking in cars exposes passengers to toxins at a level that is 11 times greater than what is experienced in a smoke-filled pub. It makes little difference whether the car windows are open; as Duncan McNeil explained, second-hand smoke still affects passengers. It is a lethal cocktail that contains more than 4,000 chemicals.

That is especially the case for children, who, thanks to their smaller airways, faster rates of breathing and less-developed immune systems, are much more vulnerable than adults are to the effects of second-hand smoke. Exposure to second-hand smoke increases the risk of a number of health problems including cancer, meningitis, asthma and glue ear, and more than doubles the risk of sudden infant death. Research shows that 300,000 children in the UK visit a GP each year because of the effects of second-hand smoke, with 9,500 being admitted to hospital.

Of course, danger comes from not just the health impact of second-hand smoke but from normalisation of smoking in a young person's life. The Royal College of Physicians has noted that a child who spends a lot of time in a smoking environment is much more likely to take up the habit.

As members have made clear, cynics have argued that the bill is unenforceable; I heard people on the radio say as much when I was journeying in this morning. However, evidence from comparable schemes shows that the outcomes are positive. The Canadian ban has reduced by 10 per cent the proportion of children who are exposed to second-hand smoke, and it was reported that four years after the measure was implemented in Queensland, 88 per cent of cars were smoke free. I have every confidence

that Police Scotland will be able to enforce the measures in the bill without significant difficulty.

Politicians always like to support popular policies and, as members have highlighted, there is absolutely no doubt that a ban on smoking in vehicles is extremely popular and is supported by the vast majority of the Scottish population, including the majority of smokers.

However, the bill is not perfect, so I welcome the minister's comment that she is open to further discussions. The bill will make only the smoker criminally liable. We must look at that key issue. If we are truly to take on the problem of second-hand smoke and, more important, the culture of smoking more generally, it is imperative that we hold the driver liable, too. That change has been proposed by the Health and Sport Committee and is backed by the Law Society of Scotland; it is also the system that has been adopted in England and Wales. I understand that, so far, Jim Hume has rejected the approach in favour of simplicity, but I do not agree that adding the duty would make the bill too difficult to enforce. Surely, the driver of any vehicle has a duty of care to the passengers that they are carrying. I hope that we can see progress on that.

In 2014, Scotland became the first country to set a national target to reduce the percentage of children who are exposed to second-hand smoke from 12 per cent to 6 per cent by 2020. The Government also set a goal for Scotland to become tobacco free by 2034. The bill offers the opportunity to realise that ambition.

The Deputy Presiding Officer: Draw to a close, please.

Cara Hilton: We know beyond doubt that passive smoking in an enclosed space does serious harm to people's health, yet thousands of children are being exposed to smoking in cars every single day, with serious consequences for their health. To inflict smoking on children is simply unacceptable. It is time to act, and protecting children from second-hand smoke in cars is the right thing to do. The bill will make a tremendous contribution to the health of Scotland's children. I commend Jim Hume's work on the bill, and I hope that it will receive members' unanimous support.

16:01

Jim Eadie (Edinburgh Southern) (SNP): I, too, support the bill's general principles, because it is an important step in protecting children from the harmful effects of exposure to second-hand smoke in confined spaces. I also congratulate Jim Hume for his leadership on the issue. I welcome the Scottish Government's support for the bill and the scrutiny that has been done by the Health and

Sport Committee in its evidence sessions and its stage 1 report.

Of course the bill is, as the minister said, just one measure in a package of measures that are focused on reducing the impact of smoking on public health in general. Those include the age restriction on sale of tobacco products, which was increased from 16 to 18 in 2007; the overhaul of tobacco sale and display law, including legislation to ban tobacco vending machines; and a ban on the display of tobacco and smoking-related products in shops, which was carried out through legislation in 2010. In 2011, we saw the establishment of the first tobacco retail register in the UK. We have also seen a range of comprehensive awareness-raising campaigns, as well as record investment in NHS smoking cessation services, which have helped hundreds of thousands of people to give up smoking—not least in my health board area, which is NHS Lothian.

Jim Hume was right to highlight that children's exposure to second-hand smoke in private vehicles poses, because they have immature respiratory systems, the significant health risk of their developing respiratory disease. That point has been made by several members this afternoon and by many organisations that gave evidence to the Health and Sport Committee.

At this point, it is probably worth reminding ourselves that the Scottish Government announced a new target to reduce the proportion of children who are exposed to second-hand smoke in the home from 12 per cent to 6 per cent by 2020. It is envisaged that that will protect an additional 50,000 children from exposure. Scotland is the first country in the UK to set such a target.

Jim Hume was also right when he said that the children who are most affected by exposure to second-hand smoke have no other transport options or are too young to make other arrangements. They are quite simply not empowered to change the behaviour of the adults around them. As Duncan McNeil said, the children cannot remove themselves from harm. That is just one reason why the bill is so necessary.

A common reason that is cited for supporting the bill is the evidence of the harmful effects of second-hand smoking and its disproportionate impact on children. It is estimated that each year second-hand smoke exposes children in the UK to a number of diseases. There are more than 20,000 cases of lower respiratory tract infection, 100,000 cases of middle-ear disease, at least 22,000 new cases of wheeze and asthma and 200 cases of bacterial meningitis.

James Cant, the director of the British Heart Foundation Scotland, has said:

“Second-hand smoke leads to an increased risk of coronary heart disease, stroke and other health problems such as asthma. The effects on children are particularly harmful, putting them more at risk of respiratory infections, asthma and sudden infant death.”

We would all do well to reflect on the importance of that observation.

ASH Scotland refers to data that shows that 22 per cent of Scottish 13 and 15-year-olds are sometimes or often exposed to tobacco smoke in the car, and the Scottish Parliament information centre briefing, which Jim Hume referred to, states that it is currently estimated that 60,000 individuals in Scotland smoke in cars while children are present. That is a significant problem for children's health and one that calls for action to be taken, as Cara Hilton said.

As a number of members, including Nanette Milne, have said, public opinion is on the side of the bill. The fact that 85 per cent of Scottish adults overall and 72 per cent of smokers support what the bill proposes shows that public opinion is ahead of Parliament on the issue.

ASH Scotland and Cancer Research UK have pointed to the fact that enforcement of the new law will be simple and straightforward. In its briefing, ASH Scotland says that

“Enforcement of this new law will be simple and straightforward, similar to enforcing the law on seatbelt use. Police Scotland has suggested that officers will be able to detect breaches of the law without significant difficulty, pointing to the 36,000 breaches of the seatbelt law identified in 2013-14.”

It went on to say:

“In Queensland, more than 600 fines were given in the 15 months following the introduction of a similar law, suggesting that enforcement is both possible and practical.”

Therefore, the proposed measures are both proportionate and enforceable.

The bill is not a panacea, but it is an important step in protecting children from exposure to second-hand smoke. It is for that reason that all of us should support the bill at decision time this evening.

16:07

Anne McTaggart (Glasgow) (Lab): I am pleased to have the opportunity to contribute to the debate, because smoking continues to be of great concern to many of us, and I applaud Jim Hume MSP for getting the bill to this stage.

As others have said, studies show that around 23 per cent of adults in Scotland smoke, which means that in Scotland as many as 60,000 car journeys are made each day on which children are

exposed to smoke. As many as 22 per cent of Scottish 13 and 15-year-olds are sometimes or often exposed to tobacco smoke in the car. Those figures are a cause for real concern, because tobacco-related ill health remains one of the biggest public health challenges, and second-hand smoke is especially harmful to children.

As Cara Hilton and others have said, the negative effects associated with exposure to second-hand smoke are well documented. Children are at particular risk, given that their lungs and respiratory system are still developing. Private vehicles are an important source of second-hand smoke exposure in children and the proposed ban will protect children's health. However, an outright ban on smoking in vehicles would also ensure that vulnerable adults were protected and would be easier to enforce.

Second-hand smoke can increase the risk of a number of health problems in children, including lower respiratory infections, middle-ear disease and bacterial meningitis, and it more than doubles the risk of sudden infant death. In addition, there is a growing body of evidence that suggests that passive smoking is associated with medical risk factors for cardiovascular disease among children.

International examples show that such legislation can be effective, and the public seem overwhelmingly supportive of the introduction of the proposed new law. On 1 October 2015, new laws came into force in England and Wales that prohibit smoking in cars where children are present. In addition, similar laws are already in place in four US states, 10 of the 13 Canadian provinces and six countries, including Australia.

Scotland has a proud history of tobacco control, having led the way on legislation on smoking in enclosed public spaces and being the first country in the UK to commit to bringing in standardised packaging. It is essential that Scotland passes legislation to ensure that it does not lag behind in protecting the public's health from the harm of tobacco. The Scottish Government's national target is to reduce children's exposure to second-hand smoke from 12 per cent in 2012 to 6 per cent in 2020, and I strongly believe that the bill could help with that effort.

The bill also seeks to contribute to the wider issues around smoking and the work towards a smoke-free Scotland by engendering a culture shift and an awareness of the harm that is caused by smoking in the presence of children. We should strive for a smoke-free future where our children and adults are protected from such a harmful habit.

Private vehicles remain one of the few places in Scotland where children can legally be exposed to tobacco smoke and second-hand tobacco smoke.

Making it an offence to smoke in a vehicle with anyone who is under the age of 18 present is a proportionate measure to protect children from the health risks that are associated with second-hand smoking. Therefore, I am happy to support the bill.

16:11

Richard Lyle (Central Scotland) (SNP): I am delighted to speak in the debate as a member of the Health and Sport Committee.

I realised how important the bill is when I read a key line in Cancer Research UK's briefing, which said:

"In Scotland, private vehicles remain one of the few places where children can legally be exposed to tobacco smoke or second hand smoke. Making it an offence to smoke in a vehicle with anyone under 18 present would be a proportionate measure to protect children from the health risks associated with Second Hand Smoke."

That eloquently puts firmly to the floor the argument that the approach is well considered, well thought through and proportionate.

I want to take that final sentence from the Cancer Research UK briefing and share a bit more detail about the startling impact that second-hand smoke has on those under 18 and, in particular, the risks to children, given the fact that their lungs and respiratory system are still developing. According to Cancer Research UK, it is estimated that every year, second-hand smoke kills more the 12,000 people in the UK through lung cancer, heart disease, stroke and chronic obstructive pulmonary disease.

The SNP Scottish Government has been committed to tackling the wider issues around smoking and, through the introduction of its smoking strategy, has taken significant steps in working towards a smoke-free generation by 2034. The action that is being taken and the introduction of the bill will contribute to work to reach not only that target but the national target to reduce children's exposure to second-hand smoke from 12 per cent in 2012 to 6 per cent in 2020.

In conjunction with the announcement of new targets to reduce the number of children who are affected by second-hand smoke, the Scottish Government launched the take it right outside campaign, which urges smokers not to smoke around children. The campaign stresses that it is never safe to smoke indoors when children are present. That is just one of the many initiatives that the Government has driven forward to make a difference in tobacco control.

We know the damage that second-hand smoke causes. We have already had pioneering success with the implementation of the smoking ban and its impact not only on health but, crucially, on tackling

social norms. After all, part of this is about seeing what the norm is and challenging it constructively.

We know the damage that smoking causes and we know also that it is a problem that very much exists. According to ASH Scotland, it is estimated that 60,000 people smoke in cars while children are present and that 22 per cent of Scottish children aged 13 and 15 are sometimes or often exposed to tobacco smoke in the car. We have a problem; we have the damaging impact; we now have a bill.

The question is, rightly, how the ban can be implemented and enforced. The proposed measures are both proportionate and enforceable. The bill sets out a way for Police Scotland to be responsible for enforcing its provisions, just as they are tasked with enforcing the seat-belt legislation, of which there were some 36,000 breaches in 2013-14. All children should be protected as much as possible, and it is our responsibility, as members of Parliament, to be the voice of the children and young people of Scotland when they need to be heard. The penalty for breaching the ban will be proportionate, with a £100 fixed-penalty notice being issued to those who are found culpable of the offence, and it will apply to any vehicle. I am confident that the people of Scotland will take a responsible approach to the ban and that, therefore, there will be a benefit to both children and adults who may be exposed to second-hand smoke.

To summarise, we have a problem—the damaging impact of second-hand smoke—but we now have the bill, and we all know how to take it forward. Therefore, I believe that we have a responsibility to take action.

I am a smoker, but I am also a supporter of the bill. I used to smoke in my car when my children were young, but I abhor the thought of doing so now. I see the damaging impact that it can have on our children, and I now know why my children do not smoke. As a grandfather, my habits have definitely changed and I never think of smoking when my grandson or granddaughter is in the car. My grandson, who is aged three, now says to me, “Stop smoking. Stop smoking.” For me it comes down to their rights and my rights. I have the right to smoke, but my grandchildren—indeed all children throughout this country—have the right to fresh air, and I do not have the right to impinge on that.

I offer my support for the principles of Jim Hume’s bill and welcome the SNP Government taking it forward. Let us work together to make the bill work and to make a positive difference to the lives of not only the children of Scotland but the people of Scotland.

16:17

Elaine Murray (Dumfriesshire) (Lab): I congratulate Jim Hume on introducing the bill and commend the Health and Sport Committee for its scrutiny of the bill at stage 1. I am pleased to speak in support of both the bill and the Health and Sport Committee’s suggestions in its report. I know many other people who will be pleased that the bill has reached this stage and hope that there will be time for it to be passed before the end of the session.

I am thinking particularly of a group of children whom I met almost a year ago. At that time, they were in primary 7 at Heathhall primary school, in my constituency. Aware of the discussions around the legislation in England and Wales, which resulted in the ban that came into force there at the beginning of the month, the pupils undertook a research project on the arguments for and against the ban. That made them aware that, although action had been taken by the UK Parliament and the Welsh Assembly, no legislation had been discussed here yet. The pupils considered the evidence, and the proposition that smoking in cars carrying children should be banned was put to the class, receiving 100 per cent support.

The pupils then wrote to me individually, expressing what each of them thought was the strongest argument in favour of a ban; they also mentioned the effects on children of passive smoking. Some mentioned the number of chemicals in cigarette smoke; some wrote about the health conditions that can develop, such as asthma; and some wrote about the bad example that it sets for children when their parents and other adults smoke. I am afraid that they all wanted to know the reasons why the Scottish Parliament was not legislating like England and Wales.

In the face of such well-informed criticism on our lack of action in Scotland, I offered to go to Heathhall primary school and meet the class, armed with a copy of Jim Hume’s proposed bill. I was pleased to be able to advise the pupils that I was one of the signatories to the bill. We discussed the process of scrutiny of a member’s bill, and I explained that I did not know how long it would take for the bill to progress. All those pupils, who were in primary 7 last year, will be in secondary 1 now, dispersed to schools throughout the Dumfries area. However, I hope that, because the pupils were so interested in the topic, they are aware that the bill will pass an important milestone today. I was most impressed by that whole exercise in democracy in a primary school.

The pupils also prepared posters on the dangers to children of second-hand smoke in vehicles, and the Scottish Government has proposed an amendment to the bill’s

commencement date, to co-ordinate it with an education campaign. Indeed, the Law Society highlights, in its briefing, the need for a prominent and rigorous public education programme that addresses smoking cessation in addition to the dangers to children of passive smoking.

My experience of the awareness of the Heathhall primary 7 pupils leads me to suggest that some of the public education efforts could be focused on children because children are receptive to messages about the harm that second-hand smoke can do to them. They probably do not want their parents—or their grandparents, as in Richard Lyle's case—to smoke at all and they will encourage smoking cessation. As all parents know, it is much easier to break a promise to yourself to cease to do something than to break a promise to one of your children.

Of course, an education campaign that is aimed at drivers and their passengers who smoke will also be necessary but it is my view that it would be helpful to engage the children of smokers or children who travel with smokers in getting the message across.

I was also interested to note from its briefing that the Law Society wished to see the scope of the bill expressly extended to include the use of e-cigarettes, as it is not clear that they would fall into the definition of “lit” substances that include tobacco. I am in favour of that suggestion. Although e-cigarettes are less harmful to smokers than conventional cigarettes and can be a helpful substitute, the proliferation of vaping shops that sell electronic tobacco products on high streets throughout Scotland and the promotion of a range of flavours that can be added to e-cigarettes concern me.

There is a danger of e-cigarettes rehabilitating and normalising smoking, and some of the flavours that are offered are clearly designed to attract young people who do not already smoke. Too little is known yet about the long-term effects of nicotine vapour and we should not be taking risks with the health of children in particular by permitting those products to be used in confined public spaces or in vehicles carrying children.

The Health and Sport Committee recommended that

“the driver be made vicariously liable”

if someone else smokes in their vehicle when under-18s are present. The driver is already responsible for ensuring that children use the correct child restraint or seat belt if they are under the age of 14 or less than 1.35m in height, even if the driver is not the parent of the child concerned. It seems sensible to take a similar approach to

smoking. Indeed, that approach is taken in the UK regulations that have just come into force.

Issues around enforcement have been raised and, as with other motoring offences such as using a mobile phone or eating while driving, enforcement could be problematic in some cases—although, unlike eating or using a mobile phone, the smell of smoke in a vehicle containing children would be rather a giveaway. I note that there are discussions between COSLA and the Scottish Government regarding making the legislation jointly enforceable by Police Scotland and councils' environmental health officers, who already enforce the ban on smoking in public places. That seems a sensible development.

I congratulate Jim Hume on introducing the legislation and the Health and Sport Committee on its constructive comments in the stage 1 report. With—I hope—the support of the Scottish Government, we will soon address the gap in our legislation that my young constituents in Heathhall's primary 7 were so anxious that we should close.

16:22

Christian Allard (North East Scotland) (SNP):

Like all the speakers before me, I understand that the bill will play an important role in ensuring that we continue on the path to creating a healthier Scotland. It will not only protect the health of children but it can have a positive influence on decreasing the number of smokers in Scotland.

I thank the Health and Sport Committee for its work and I thank Jim Hume for introducing the bill. I am not a member of the committee. I welcome the committee's consideration of the effect that the bill could have had on the Travelling communities and the worries around that. I am glad that the matter was brought to light and I am delighted that the issue of the privacy of the Travelling communities' mobile homes has been addressed.

I thank the Scottish Government for its support for the bill and its continued work on encouraging the decrease in the level of smoking in Scotland. As part of the Scottish Government's tobacco control strategy for creating a tobacco-free generation, the bill stands shoulder to shoulder with campaigns and legislation such as the Smoking, Health and Social Care (Scotland) Act 2005, which are all contributing to reducing the level of smoking in Scotland.

I congratulate Scotland's public health minister, Maureen Watt, on her work in regard to the take it right outside campaign, which promotes a common awareness that it is never safe to smoke in the home or in a car if children are there. Her commitment to the campaign is important and the bill enhances the strategies outlined by the

Scottish Government. It all combines with the committee's work to create a very promising future for the health of Scotland.

I should say at this point that I am an ex-smoker. Like many members, I used to smoke far too much, and I used to smoke in the car. Thinking about it years later, I want to say, "What on earth were we thinking?" Being in a confined space and travelling far away—travelling to France—with three children in the back, and thinking it was somehow all right just to put the window down a little bit and indulge in one or two cigarettes from time to time, was not only disgraceful but actually dangerous. I remember the number of times that I thought my cigarette had fallen on the floor and I had to try to stop the car quickly. That happened not only when I was on my own, but when I was with my children. I thought, "What could ever happen?" but the worst must happen in a number of cases.

My point is that it is never safe to smoke in the car. Everyone's situation is different, but there are small changes that parents can make to their smoking behaviour that will pay great dividends in protecting their children from second-hand smoke. That is what I did: I smoked a lot outside in the rain before I decided, more than 20 years ago, that I would stop. I never looked back, and I would encourage anybody to follow suit.

Stewart Maxwell noted that similar legislation has been introduced in other countries; France implemented a law in July, not so long ago. I agree with the minister's position: the fine seems to be adequate. Given that some city councils impose penalties of around £50 for littering with cigarette ends, a fine of £100 for intoxicating children with second-hand smoke seems to be appropriate.

We all have a responsibility to ensure that this nation stops hurting itself with tobacco products. I am speaking not only about smokers, or ex-smokers like me, but all of society from children to adults. We need to change our attitude to smoking.

Jim Hume's bill will help to protect the health of children and young people, although I personally would have gone further and stopped everyone smoking in cars, regardless of who is in the car. Jenny Marra called for the legislation not to be the last word on the matter, and I agree with her on that, as there is still a lot more to be done.

I have no doubt that, in the future, children will be shocked to know that it was ever possible to smoke in a vehicle: that it was possible to be in an enclosed metal tank packed with highly flammable fuel and machinery, which moves at high speed on wheels, while igniting a naked flame inches away from such a dangerous situation. It is shocking

that someone in control of a car would not think of their passengers' safety.

We could perhaps have gone further, but I will support the bill at stage 1. It is a stepping stone towards the future and a healthier and smoke-free Scotland. I thank Jim Hume once again for introducing his member's bill. It is important that the Parliament considers bills from members as well as bills from the Government, as that ensures that there is variety and diversity in the legislation that is brought to Parliament.

16:28

Jackson Carlaw (West Scotland) (Con): At one point this afternoon, during an exchange between the minister and Duncan McNeil on the subject of cabriolets, I thought that I saw a gaping hole in the legislation. Where would that leave horse-drawn carriages, or a horse and cart? If a child can be affected by smoke within 1m, the smoke from someone who is smoking 1m away while walking down the street is presumably equally damaging.

I say that only to highlight where the debate on the legislative process can take us. I am a lifelong non-smoker, contrary to what Jenny Marra might think, and it was exposure to passive smoking that made me that way. I will give three examples. First, I remember going home from school in Kelvinbridge on the Glasgow underground, as we used to call it in those far-off days; there was a little ashtray on the floor of the carriage, which was thick with tobacco smoke. I would then get on the bus, which upstairs had a corridor along the side and bench seats, and I needed a knife and fork to carve through the smoke to find the seat that I would eventually sit in.

Then there was my father, who smoked a cigar called Hamlet, but happiness it was not. He got a new car with oyster grey, velour roof lining, but in very little time at all it was bile yellow. I thought, "Well, if it's sticking to the roof, what else is it sticking to?" That was a perfect example of its kind.

Similarly, going to the cinema was an ordeal, as we could hardly see the film because of the smoke. Only once, when I saw "The Towering Inferno", did tobacco smoke add to the atmosphere, but in general it was a hideous experience.

In many respects, I have no sympathy for tobacco. For that reason and because, as Nanette Milne made clear in her opening speech, the Scottish Conservatives support the bill's underlying principle, I will support the bill at stage 1 at decision time tonight and, in all probability, at stage 3.

However, there is the matter of enforcement and policing priorities. Is the issue that the bill addresses so prevalent that only a legislative solution is appropriate? After all, it is not a road traffic matter. Unlike using a mobile phone while driving, driving under the influence of alcohol or not wearing a seat belt, this is a legislative measure that is aimed at motorists and which is, uniquely, not driven by road traffic concerns. In that sense, it is new.

It will be impossible to establish on a drive by whether older children are under or over 18 years of age and, as the bill does not apply to e-cigarettes, the confusion arising could be such that motorists are stopped for no good or appropriate reason by police officers.

Jim Hume: Assistant Chief Constable Higgins said in evidence to the Health and Sport Committee:

“Our officers are well versed in assessing a situation as they see it from a pragmatic point of view. If they passed a car and saw someone smoking in it, and if they also saw child seats in the back, that would give them a fair indication that the child is under 18. It would be about overlaying a common sense, pragmatic approach”.—*[Official Report, Health and Sport Committee, 16 June 2015; c 50.]*

ACC Higgins said that the police would be very happy to enforce the legislation.

Jackson Carlaw: The roads are littered not just with cars with smoking drivers but with good intentions, and joint enforcement with local authorities will presumably be restricted to stationary vehicles.

We will support the bill tonight, setting any concerns to one side, but I have a general rather than a specific reservation, to which I now turn. In order to change public attitudes, we are increasingly resorting to legislative solutions. The case for such measures is invariably subjective, often untried and does not have the necessary evidence base in support. That is not to say that the bill’s proposed measure is misguided; it is to argue that we cannot always be sure, based on what is known. It leads to some adopting an absolutist argument that brooks no alternative view, in order, it seems, to reinforce the case for a particular measure when common sense dictates that the case cannot be proven.

In my view, the Scottish Conservatives were wrong to oppose the Prohibition of Smoking in Regulated Areas (Scotland) Bill, which Stewart Maxwell introduced a decade or so ago to ban smoking in public places. I was not a member of the Parliament then, so it might be regarded as easy for me to say that now. However, I tried to express that opinion in the previous session of Parliament. Conscious of the sensibilities around the issue, I included my opinion in a draft speech

that, out of courtesy, I forwarded to our late colleague David McLetchie. It might be said that I lit a fuse and waited for the explosion. I did not wait long. The thunderous footfall down the corridor and the earnest remonstrations were real and instant enough.

When the Alcohol (Minimum Pricing) (Scotland) Bill was progressed earlier in this session of Parliament, I worked hard to overcome the sceptics in my party to ensure that Scottish Conservatives supported the bill. One key to achieving that was the inclusion of a sunset clause. It seemed to me that the advantage of that was that we could adopt a legislative measure, give it every chance to succeed and then, in a sensible post-legislative debate after a number of years, review its effectiveness. On that basis, a wider consensus was achieved to support the measure.

Let us be in no doubt that had such a provision been attached to Mr Maxwell’s bill, any sunset debate would have unanimously validated the policy. However, that might not always be the case. I accept that when all else has failed, there is a temptation to consider legislative alternatives. It might be that such initiatives emerge in future on matters such as obesity or in respect of other addictions. A good case, but not a proven case, might be made for any measure.

Rather than constructing an artificial debate, it might be more consensual and credible to argue that there is a proposal and a case for giving it a shot at succeeding, but that consensus might well be more readily achieved—or scepticism among the public overcome—if all concerned know in advance that, after a sensible period of time, the measure will be tested in a post-legislative vote and then either found wanting and allowed to fall or, more hopefully, vindicated by practical evidence and then reaffirmed.

The routine inclusion of a sunset clause in ambitious but speculative public health legislative initiatives is not onerous. It simply establishes that Parliament will review the success of the measure after, say, three or five years. Why would we not do that? If a measure has proved to be effective, it will be reaffirmed. If not, it will fall, but the process will allow for more general support as we seek to at least try to improve Scotland’s public health over a much broader range of issues.

For those reasons, Scottish Conservatives will propose a sunset clause for the bill. We believe that what the bill proposes is exactly the kind of measure that could be effective and it speaks to an attack on the public health of young people that we should tackle fearlessly and directly. However, a sunset clause will at least test the effectiveness of the measure in, say, three years’ time.

The Deputy Presiding Officer: Will you draw to a close, please?

Jackson Carlaw: That will enable us to achieve wider support, both political and public. We suggest a sunset clause not to delay, hinder or frustrate the bill—our support for it is not conditional on such a clause—but to require the Parliament to review it, building on the precedent that was set in the MUP legislation and establishing a sensible precedent for the future.

16:36

Dr Richard Simpson (Mid Scotland and Fife) (Lab): The Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill continues the progress on tackling smoking in Scotland that was begun in 1999 by Kenny Gibson, at a time when the evidence on second-hand smoke was still weak, and continued by Stewart Maxwell, whose efforts led to the UK-leading ban on smoking in public places. The evidence on second-hand smoke is no longer weak, and this member's bill is justified on many grounds. I congratulate Jim Hume on its progress.

The bill is justified given the research evidence on the effects of second-hand smoke, and the fact that children are not autonomous and are therefore unable to protect themselves justifies the measure ethically. The reports from the BMA board of science in 2007 and the Royal College of Physicians in 2010 also supported the measure, and experience from elsewhere has demonstrated the improved outcomes that can be achieved. I therefore question whether a sunset clause is necessary. Such a clause is useful for a new measure that has not been tested elsewhere, but it might be an unnecessary addition to the bill given that the measure that we are discussing has been tested elsewhere.

Research has shown that there are direct links between a child's exposure to second-hand smoke and a range of illnesses including, as Nanette Milne said, sudden infant death, asthma, respiratory infections, bronchitis, pneumonia, meningitis and middle ear disease. Stewart Maxwell reminded us of the proven benefits, particularly in relation to asthma admissions, that have derived from the ban on smoking in public places. FOREST—the Freedom Organisation for the Right to Enjoy Smoking Tobacco—and others were quite sceptical about that, but there is absolute proof that the public smoking ban has worked.

Canadian research has shown that a single cigarette in a stationary car with its windows closed can produce 11 times the level of second-hand smoke that is found in an average—Canadian, I presume—bar. The levels of fine

breathable particles were more than 100 times greater than the US Environmental Protection Agency's 24-hour standard for exposure and 15 times the EPA hazardous rating. Research has also shown that the levels of pollution are not reduced to a reasonable level when the windows are open. That is critical, because one of the main defences has been, "Open the windows and it'll be fine." That is just not the case.

We already have bans in a number of situations. Smoking is banned in company cars, and in Germany, Chile and other places there is a ban on smoking in any car that is used for work purposes.

It is a widely held belief—and there is some evidence to support it—that children who are exposed to smoking behaviours are more likely to take up smoking. The fact that that does not reflect Jackson Carlaw's experience probably demonstrates the extreme common sense and intelligence that he had at a young age. Some 2 per cent of 13-year-olds and 9 per cent of 15-year-olds in Scotland are regular smokers. It is good to see from the Scottish schools adolescent lifestyle and substance use survey report that the numbers are reducing. That is welcome, but it is estimated that about 15,000 young people still take up smoking each year in Scotland. The smoking industry needs that in order to continue making profits. It is vital that we bear down on that as far as we can.

Nanette Milne and Stewart Maxwell reminded us that 85 per cent of adults agree with the proposed legislation. The same poll also showed that the proposals are welcomed by 70 to 72 per cent of smokers, including, as we learned, Richard Lyle.

Evidence from Australian states that have introduced bans suggests that compliance is high. That is the fascinating thing about the ban on smoking in public places. It was said that we would have terrible trouble enforcing it. There would be riots in the streets, publicans would go on strike and people would stop going to pubs. However, the number of prosecutions has been tiny. Scots are a law-abiding race and therefore a law like this will probably be obeyed. The estimate is 200 fixed-penalty notices a year; it may well be considerably less.

In Canada, nine out of 10 provinces, for example Nova Scotia and Ontario, have similar legislation. Self-reported exposure to passive smoking reduced by more than a quarter after the legislation was introduced. We heard from many members about other areas, including Australia and Cyprus.

According to ASH Scotland, the best available evidence shows that 22 per cent of Scottish 13 and 15-year-olds are sometimes or often exposed to tobacco smoke in the car. That is a large

number—maybe 60,000 individuals. Reducing that will be important.

As Cara Hilton, Elaine Murray and others reminded us, the issue has already been legislated on in Westminster. Since 1 October, it has been illegal in England and Wales to smoke in a car or other vehicle with anyone under 18 years of age. I slightly fail to understand why a Sewel motion—or, as it is now called, a legislative consent motion, since Lord Sewel got into a bit of difficulty—was not applied in this case, thus making the law apply across the whole of the UK. Nevertheless, the bill is welcome.

Some people have questioned whether the act of smoking in cars is in itself a problem. Jackson Carlaw suggested that it was not, but there is good evidence that smokers are more prone to accidents. Smoking is a distraction and some countries, such as Kuwait, have introduced a total ban on smoking in cars. I am not suggesting that we do that immediately, but it would have the effect of protecting other vulnerable groups, such as non-smokers, smokers who are trying to give up and, in particular, adults with incapacity, who are an important group. There is a high level of smoking among adults with mental health and learning disabilities, and they may need protection, too.

I am glad that the specific issue of convertible cars has been dealt with. The issue of drivers being responsible is a matter for stage 2. Further consideration will need to be given to the issue of the penalties, who should enforce them and whether that should be extended to other groups. There will need to be effective publicity before the bill's provisions are implemented. Jim Hume referred to the issue of discretion when determining the age of passengers. Although I agree with that, the committee did not agree that the defence of not knowing whether the passengers were all adults should apply. Again, that will need further work.

As Jenny Marra said, we need to keep up the pressure with new measures. It is good that the Government supports plain packaging, which needs to be introduced. I suggest that local authorities should have powers to ban smoking in play parks and play areas. We should have a ban on smoking outside stadia and not just inside them because of the necessity of going through big crowds and lots of passive smoke. Jim Eadie referred to support for parents to stop smoking in homes. That is very important and we should continue with that.

For all those reasons, Labour will support the bill at decision time. It is a very welcome measure.

16:43

Maureen Watt: I thank all members for a good and constructive debate on this important legislation for the health of Scotland's children. This is Parliament at its best. I thank again Jim Hume and the non-Government bills unit for their work, the Health and Sport Committee members for their helpful consideration and the committee clerks for their assistance with that work. The stage 1 report is very good. Some issues need further consideration, but it is great to hear such support for the principles of the bill.

As I highlighted in my opening speech, the Scottish Government has made clear for some time its commitment to protecting children from exposure to second-hand smoke.

Jenny Marra and Cara Hilton said that not much has been done since the 2005 act was passed. Incidentally, that was, of course, first proposed by my colleague Stewart Maxwell in a member's bill, which was taken over by the Government at the time. Much has happened since then. I refer to the 2010 tobacco retail register, the prohibition of vending machines and tobacco displays, and the on-going campaigns. I launched the latest take it right outside campaign just yesterday. Plain packaging would, of course, have been in our Health (Tobacco, Nicotine etc and Care) (Scotland) Bill if we had not managed, along with others, to persuade the UK Government to proceed on a UK-wide basis. Smoking in hospital grounds is, of course, covered in that bill, which is going through the Parliament.

We should make no mistake. Jim Hume knows very well that, if he had not proposed this bill, the issue would have been in the Health (Tobacco, Nicotine etc and Care) (Scotland) Bill. That shows that the Government has different ways of working. It has collegiate and cross-party ways of working. Perhaps the Health and Sport Committee might have liked the issue to be in the Health (Tobacco, Nicotine etc and Care) (Scotland) Bill, but this is how we decided to do things.

Jenny Marra: The minister has pre-empted my question. All credit to Stewart Maxwell—everyone knows that the genesis of the smoking ban was his bill. Why did the Scottish Government not decide to adopt Jim Hume's bill, as we adopted Stewart Maxwell's bill when we were in government?

Maureen Watt: I have just answered Jenny Marra's question. The new First Minister said in her very first speech that she wanted to work in a more collegiate way. This is precisely an example of that happening.

I point out to Jenny Marra that she got her figures wrong. The number of people who smoke has dropped to 20 per cent. The figure is not 23

per cent, as she said. There was a 3 per cent drop in 2013-14. People now choose different ways of stopping smoking, of course.

The bill is a very important milestone. It will play its part alongside the vast range of measures that will continue to be progressed by the Scottish Government to reduce tobacco-related harm. I am confident that the rationale behind the measures will earn widespread support in line with public attitudes. It has been estimated that 85 per cent of Scots want children to be protected from passive smoking while they travel in the confined space of a car. As a Parliament, we must respond to that.

I say to Mr Carlaw that there was no sunset clause in the England and Wales legislation and there has been good evidence. The bill is based on the public wanting it and there has been good evidence in the consultations on the bill and the consultations that the Government undertook.

Nearly 10 years on from the introduction of smoke-free legislation, it is difficult, as Dr Simpson mentioned, to imagine smoking in workplaces, cafes or pubs. Attitudes have changed, and the bill's purpose is to build on and continue to drive a change in culture. As Nanette Milne said, there is a perception that the seat-belt legislation and the mobile phone legislation are not enforced, yet in 2013-14 Police Scotland detected more than 36,000 seat-belt offences and 34,000 mobile phone offences. It is perhaps good to get those figures out there. Obviously, the police are taking action where necessary.

As with any bill, amendments and improvements may be suggested as the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill progresses through Parliament. Again, I state the importance of working together to ensure that the legislation is effective, enforceable and implemented quickly. We need to be very careful in considering some amendments that might be lodged—for example, on making the driver liable. There may be equality issues. Imagine, for example, a female driver with a very overbearing and forceful male passenger who might refuse a request from her. We need to be very clear if we want to make the driver liable.

Elaine Murray made a very good point about public education focusing on children. We know, for example, that more children are interested in recycling than their parents. That is why we are funding the ASSIST—a stop smoking in schools trial—pilot, which involves peer mentoring on the harms of smoking.

Ultimately, the Scottish Government believes that the underpinning principles of the bill are strong. That is why we are happy to support the bill at stage 1. I have had a helpful dialogue with Jim Hume since coming into post, as did Michael

Matheson before me. I look forward to continuing to work in partnership with Mr Hume in considering the range of issues that were raised today and possible amendments that might come up at stage 2.

16:50

Jim Hume: I thank the minister for those remarks and all members for their support and contributions. I am greatly encouraged by the wide support from across the chamber.

I will address a few concerns and issues that have been raised. I do not want to be churlish, but I note that Cara Hilton said that the legislation in England and Wales preceded our bill, but the bill was proposed in this Parliament prior to any discussions south of the border. The British Heart Foundation has noted that this Parliament's proposal led to England and Wales legislating. Indeed, a couple of years ago, I went down there to give evidence on my consultation results. We in Scotland are, therefore, still leading the way.

I wrote to the Health and Sport Committee after the publication of its stage 1 report, which I was grateful for, and provided clarification on a number of issues that have been raised this afternoon. I would like to share some of those points with members, to ensure that there is a clear understanding about the principles and aims of my bill.

I will deal first with whether the measures in the bill are necessary. The Health and Sport Committee came to the conclusion that

“education campaigns alone have not succeeded in protecting children from exposure to second-hand smoke in vehicles, and as such, these further measures are needed”.

It is clear that existing campaigns such as the take it right outside campaign—which was mentioned by Duncan McNeil and Richard Lyle—have proved to be inadequate in raising awareness of the dangers of second-hand smoke to children's health. In fact, the campaign continues its efforts to educate people, with the Minister for Public Health, Maureen Watt, having visited a nursery in Glasgow yesterday to raise awareness of the dangers of second-hand smoke. Such work is appreciated, but it is clear that more orchestrated efforts are needed in order that we reach that goal.

The take it right outside campaign has correctly identified the fact that no amount of second-hand smoke is safe. However, as was said by Anne McTaggart and others, there are still 60,000 children per week who sit in smoke-filled cars during journeys. My bill is a necessary step in ensuring that education and enforcement will be uniform across Scotland, and that adults are educated about, and encouraged not to engage in, smoking in the presence of a child.

I previously mentioned—as did Nanette Milne and Jim Eadie—that conditions and diseases including asthma and respiratory tract infections, as well as an increased risk of lung cancer, are avoidable, but they continue to affect children because of second-hand smoke.

I want to reiterate that there is a strong case for Parliament to adopt the legislation and to protect our children today. That will enable at least 60,000 children to have a healthier start in life.

I want to be clear about another topic that has been brought up, relating to penalisation of the person who smokes. The bill is clear that any vehicle passenger who is over 18 and is smoking when children are in the vehicle will be liable for a penalty. I am happy to work with members, the Government and the committee regarding vicarious liability provisions, but at this stage I think that that might make the bill overly complex and also risks penalising people unduly. Instead, the focus should remain on protecting children and, through this measure, on helping to educate people—including children themselves, as they will be future drivers—about the harmful effects of second-hand smoke.

However, as I said, I am happy to work with members and the committee on that. That is why I also believe that setting a single-rate penalty of £100 will serve the purposes of clarity, uniformity in enforcement and fairness for all who are found to be liable to pay a penalty. I believe that the arguments against that—for example, claims that it will negatively impact on people from less well-off backgrounds—do not stand. The deterrent will be as strong and can, in fact, be more fair to those who cannot afford to pay a reduced fine immediately, because they will be given 29 days to do so.

The flat-rate penalty will ensure that those who are able to pay immediately do not get a better deal by having an early-payment discount. I want to see the fine being used as a means not to criminalise people but to deter them from subjecting children to second-hand smoke. Just as I will not accept a discount on children's health, I am opposed to a discount in that deterrent measure.

I will provide additional clarification on the exemption of types of vehicle. People who are using a motor vehicle that is

“designed or adapted for human habitation ... and is being used for that purpose”

will not be liable for a penalty. I was very glad to hear Christian Allard's strong support for that.

As I have stated before, enforcement will be the responsibility of Police Scotland. However, through constructive dialogue that I have had with

the Scottish Government, it has emerged that the principles would be able to go even further through a joint enforcement mechanism whereby local authorities share enforcement responsibilities with Police Scotland. Of course, we know that we can trust Police Scotland to utilise its professional expertise in individual cases, as it stated during the committee's scrutiny of the bill.

I note the results of the 2014 Scottish household survey, which was published a few weeks ago and which Jenny Marra mentioned. The survey shows a drop of 3 per cent over the past three years in the percentage of adults who smoke: it is now down to 20 per cent. Just this week, we saw that the numbers of quit attempts through NHS smoking cessation services are at upwards of 66,000 for 2014-15, which is a rate of 19 per cent.

That is to be welcomed, but it also demonstrates the opportunity that we have right now to capture the potential benefit of the bill in that it may encourage more adults to consider whether it is responsible or acceptable to smoke in the presence of children more generally. In fact, the Scottish Government's tobacco control strategy seeks to reduce the proportion of children who are exposed to second-hand smoke in the home from 12 per cent to 6 per cent by 2020. I welcome that and I note that the bill will contribute to achieving that aim.

Maureen Watt: Does Jim Hume agree that one of the reasons for taking smoke outside is that the effect of the chemicals from the smoke can linger for up to five hours? That effect might be similar, although possibly less, in cars.

Jim Hume: It is well known that the 50 or so toxins in second-hand smoke linger for some time in cars. Although we cannot see them when the smoke dissipates, the dangerous toxins are still there.

Studies from countries that have banned smoking in vehicles show that legislating in this area can encourage people voluntarily to introduce smoke-free homes. From Canada and the United States to Australia, the positive impact of such legislation has been demonstrated.

If the bill leads to cultural and behavioural change in cars—as I hope and believe it will—it is possible that people in Scotland will voluntarily reduce smoking in other areas where children are present.

Other studies show that children who are exposed to second-hand smoke are more likely to become smokers themselves—apart from the case of Jackson Carlaw, of course. Reducing exposure to second-hand smoke in vehicles can not only have immediate benefits in protecting children's respiratory systems, but can reduce the

likelihood of children taking up smoking in later life—which, of course, can only be a good thing.

In taking the bill forward, I have been encouraged by the positive views that I have received from individuals, including parents, grandparents and people under 18, as well as from health organisations and charities. I hope that by agreeing to the bill at stage 1, Parliament will make a significant contribution to enabling every child in Scotland to develop healthy habits and have a healthy life. No child should have to go through the physical and psychological anxiety of being trapped in a car with adults who smoke. The education and deterrence that we need can come through the bill, to enable people to look after their health and wellbeing.

I again thank members for their positive and thoughtful speeches, and I thank the Scottish Government, whose expertise has strengthened the bill. I look forward to the bill process continuing. Like Elaine Murray, I hope that we will get the bill through stage 3 in this parliamentary session. I look forward to Scotland being a country where children are protected when they are at their most vulnerable, and are given the healthy start to life that they deserve.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There is one question to be put as a result of today's business. The question is, that motion S4M-14437, in the name of Jim Hume, on the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill.

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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