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Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Tuesday 9 February 2016

Session 4

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Scottish Parliament

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[The Presiding Officer opened the meeting at 14:00]

Time for Reflection

The Presiding Officer (Tricia Marwick): Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader today is the Very Rev Monsignor Allan Chambers of St David's Catholic Church in Dalkeith.

The Very Rev Monsignor Allan T Chambers (St David's Catholic Church, Dalkeith): Good afternoon, ladies and gentlemen. I thank the Presiding Officer and Mr Colin Beattie for their kind invitation to me to offer this time for reflection.

We who are engaged in working with others in our capacity as members of the Scottish Parliament or priests or ministers of religion always have a story to tell that can at times lighten our less bright days. What follows is a true story and, while I was not central to it, I was part of it from the sidelines, which is sometimes a very good place to be.

Over and above my parish work, I am part of the chaplaincy team at HMP Edinburgh. A few years ago, while we were all taking part in an advent service for the prisoners, led by one of the chaplaincy team, an attempt was made to engage in a dialogue the congregation present, all of whom were prisoners or staff.

The question was asked if anyone in the group could give three words that would best sum up the forthcoming Christmas celebrations. There was a long, long period of silence, which bordered on the uncomfortable. Eventually, one of our much older guests put up his hand and said, "I'll give you three words." At that, a look of trepidation passed between the members of the chaplaincy team present, because we knew the gentleman well. Then we heard the voice announce his three words: "Let me oot."

I have often reflected on that night, on its humour, on a degree of poignancy, but, surprisingly, also on the accuracy of that statement. The chaplain who was leading the service was looking for another three words: "Jesus is born". However, on further reflection, perhaps there is no contradiction between the statements. However we engage in the work that we do as members of the Scottish Parliament or as members of a religion of whatever denomination, essentially we seek the same purpose. Simply put, that purpose is to enhance

the quality and the dignity of the lives that we seek to serve or minister to.

Clearly, for someone such as me, who is engaged in the proclamation of the gospel, that purpose is rooted in the teaching of Jesus Christ. For others, it may be rooted simply in the belief of the good of humanity. What we have in common then, is an honest and deep desire to make the lives of all those who are trapped in poverty, in homelessness, in addiction or in mental illness better. Therefore, perhaps the old prisoner's words did contain quite a bit of wisdom and, hopefully, will cause us daily to reflect on the fact that we have the ability to liberate and to make better the lives of those who feel trapped or who are in despair.

That, ladies and gentlemen, may I respectfully suggest to you, is our common mission and purpose.

Business Motion

14:03

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-15592, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to the business programme for this week.

Motion moved,

That the Parliament agrees to the following revisions to the programme of business—

(a) Tuesday 9 February 2016

after

followed by Public Audit Committee Debate: Overview of Scotland's Colleges 2015; 2012-13 Audit of North Glasgow College and 2013-14 Audit of Coatbridge College

insert

followed by Legislative Consent Motion: Enterprise Bill – UK Legislation

(b) Thursday 11 February 2016

after

followed by Scottish Government Debate: Scottish Rate Resolution

insert

followed by Financial Resolution: Burial and Cremation (Scotland) Bill

delete

5.30 pm Decision Time

and insert

6.30 pm Decision Time

Motion agreed to.

Topical Question Time

14:04

Fuel and Heating Bills (Financial Assistance)

1. Jim Hume (South Scotland) (LD): To ask the Scottish Government what its position is on reports of a 50 per cent increase in households requesting financial assistance to pay fuel and heating bills. (S4T-01315)

The Minister for Housing and Welfare (Margaret Burgess): The Scottish Government is committed to eradicating fuel poverty and has allocated more than £0.5 billion since 2009 to a raft of programmes to help people in Scotland to heat their homes affordably. It is fuel prices, which we have no control over, that have driven up fuel poverty. The fuel poverty rate for 2014 would have been around 9.5 per cent instead of nearly 35 per cent if fuel prices had risen only in line with inflation between 2002 and 2014. All of the increase in fuel poverty since the introduction of the fuel poverty target can be explained by above-inflation energy price increases.

The United Kingdom Government is planning a further £12 billion cut to the welfare budget by 2019-20. That goes too far, and it is impacting on the most vulnerable households by decreasing their incomes. We are doing what we can to protect household incomes and to mitigate the impacts of the UK Government's welfare cuts. That includes ensuring that the Scottish welfare fund is available as a safety net for the most vulnerable households in the country. Around 178,000 households have benefited from that vital lifeline, and half of the £81 million that has been spent to date has gone to communities in the 20 per cent most deprived areas of Scotland.

Jim Hume: The minister mentioned the period between 2002 and 2014, but there has been a 50 per cent increase in requests for financial assistance in one year. We were told that fuel poverty in the poorest households had been mitigated by Scottish National Party spending, but it has not been. The minister said:

"There is no complacency about the issue whatsoever."—[*Official Report*, 27 January 2016; c 49.]

Meanwhile, SNP ministers have cut 13 per cent from the fuel poverty budget. If the minister believes that the Scottish Government is doing everything that it can to reduce fuel poverty, will she explain how her Government's decision has led to a 50 per cent increase in applications for help with heating bills in just one year?

Margaret Burgess: I say to the member that the very purpose of the Scottish welfare fund is to help people on low incomes who are struggling to

meet essential expenditure, such as expenditure on fuel bills. Many of those people are already in homes that have had energy efficiency measures installed in them. It is because of their low incomes that they are struggling to meet the cost of the bills, and it is because of the cost of the fuel that 19 per cent of households on band D and above are in fuel poverty. The purpose of the Scottish welfare fund is to help out people in those circumstances, and I would have hoped that Jim Hume would have welcomed that.

Jim Hume: I thank the minister for her response, but 845,000 households are in fuel poverty, and the Scottish Government's response is to install energy efficiency measures in 14,000 homes. I believe that ministers have failed to grasp the scale of the problem. We have heard that it is everybody else's fault, but the Scottish Government has powers to address the issue. Will the minister commit to taking additional measures so that people do not have to rely on crisis grants to keep their homes warm?

Margaret Burgess: We have already installed measures in 700,000 homes; 900,000 measures have been installed, and the money that we have set aside this year will improve energy efficiency in a further 14,000 homes. We are working very hard to end fuel poverty. We have set up a strategic working group to work alongside the Scottish fuel poverty forum and the rural fuel poverty task force to build on the efforts that we have already made to drive forward the fuel poverty agenda. There is no complacency on our part. We have no control over fuel prices. We have put in place measures to help those on a low income, and we will continue to do that.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): On "Reporting Scotland" last week, I heard a spokesperson from Tackling Household Affordable Warmth—THAW—Orkney say that the main reason for fuel poverty was the high price of electricity, as the minister has said. The additional 2p supplement that applies in the Highlands and Islands makes the electricity there the dearest in the United Kingdom. The Liberal-Tory coalition did not try to mitigate that and the Tory Government has not done so, either. Will the Scottish Government press the UK Government to end what is the main cause of fuel poverty in my area?

Margaret Burgess: The member makes a very good point, which is one that we have made previously to the UK Government and which we will continue to make to it. At the same time, we will call on the energy companies to reduce energy costs further by passing over the wholesale cost savings to gas and electricity customers now to help bring down the cost of fuel, which is, as the member said, the main driver of fuel poverty in Scotland.

Laggan and Tormore Fields (Productivity)

2. Mike MacKenzie (Highlands and Islands) (SNP): To ask the Scottish Government whether it will provide an update on the productivity of the Laggan and Tormore fields west of Shetland. (S4T-01318)

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): The Scottish Government welcomes the announcement from Total that production has started from the west of Shetland Laggan and Tormore fields. The gas from those fields will be sent to the newly constructed Shetland gas plant, where it will be treated and processed before being exported to the mainland. It is the success of such large investment projects that will see the Shetland Islands remain a key hub for oil and gas production in the North Sea. Production from the North Sea as a whole is now increasing and cost efficiencies are being achieved. The Laggan and Tormore fields, which have a lifespan of 20 years, will provide a further boost to North Sea production.

Mike MacKenzie: Given reports that the gas produced from the Laggan and Tormore fields is expected to provide around 8 per cent of the United Kingdom's gas needs, equivalent to that of about 2 million homes, does the cabinet secretary agree that this is a significant boost to North Sea production; that with 22 billion barrels of recoverable oil remaining in the North Sea, the oil and gas sector still has a viable and, indeed, bright future; and that the UK Government needs to act now in the industry's time of need to provide an appropriate fiscal regime that helps to maximise economic return?

John Swinney: It is very clear from the experience of Total in relation to the Laggan and Tormore fields that the existence of a tax allowance for deep-water gas developments has undoubtedly assisted in securing that advancement, which rather makes the point that Mr MacKenzie raised in his supplementary question. I very much welcome the steps that were taken in the budget last spring by the Chancellor of the Exchequer to improve the fiscal regime in the North Sea; it certainly needed to be improved and it was improved. We would encourage further developments as part of the preparation for the budget later this year, which would enable us to address some of the further challenges that are required to be addressed to improve the fiscal position of North Sea oil and gas companies.

Tavish Scott (Shetland Islands) (LD): I agree with the Deputy First Minister's broad analysis of Total's reason for its investment and, indeed, its commitment to staying the course on the project, given gas prices. However, with regard to his

representations to the chancellor prior to the budget, does the Deputy First Minister accept that there is going to be a deal of decommissioning in the east Shetland basin in particular and that it is very important that the tax relief that is provided for decommissioning goes to ensure that that work stays in the UK? We would rather have it in Scotland, but it should certainly stay in the UK and not go to Norway, as some already has.

John Swinney: I entirely agree with Mr Scott's point. Of course, he will be familiar with the assistance that the Government has given for the development of decommissioning capability in the Shetland Islands, which I think has been an important contribution. I also have to say that the opportunities have been strongly embraced by the Lerwick Port Authority and the Shetland community.

Mr Scott correctly highlights a significant economic opportunity. We will ensure that our representations adequately make the case on the points that he raises. It is inevitable that there will be a focus on decommissioning and we have to make sure that as much of that activity as possible happens as close to home as possible. Although it is accepted that there will be an increased level of decommissioning activity, we have to ensure that that activity is not premature and that we take other steps to ensure that there is a viable fiscal regime in place to support the development of companies and the propositions that they take forward so that we can maximise the capability to extract sustainably the resources that exist in the North Sea oil and gas sector.

Transplantation (Authorisation of Removal of Organs etc) (Scotland) Bill: Stage 1

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-15128, in the name of Anne McTaggart, on the Transplantation (Authorisation of Removal of Organs etc) (Scotland) Bill.

14:14

Anne McTaggart (Glasgow) (Lab): It is my great privilege to open this debate, to welcome key stakeholders and their families to the public gallery and to speak to my motion that the Parliament agrees to the general principles of the Transplantation (Authorisation of Removal of Organs etc) (Scotland) Bill.

Today, we will debate and vote on whether we as a Parliament agree to the general principles of the bill—that is, whether we agree with its overall purpose, which is ultimately to introduce a soft opt-out system of organ donation in Scotland. This debate is not about whether we agree with every specific provision in the bill. That is what the amending stages of the parliamentary process for bills are for. If members agree that Scotland should have a soft opt-out system of organ donation, they should vote for the bill tonight. If they are against the introduction of an opt-out system, they should vote against it. That is the decision that we will make today.

It has taken me almost two years to reach this point, and it would be absolutely devastating to all those who have participated and built up their expectations if that time has been wasted. Time is a luxury that those who are waiting on an organ transplant do not have. Tragically, not everyone who started this journey with us is here today to hear the debate. That is the reality.

It has been a huge privilege to hear the personal stories of those whose lives have been affected by waiting on an organ transplant and those who have been given the gift of life. From the bottom of my heart, I sincerely thank them for sharing their experiences. I know that it has not been easy for them. The bill is for them. Members should be in no doubt that people want us to introduce a soft opt-out system of organ donation, not at some point in the future, but right here and right now.

I also place on the record my thanks to the members of the Health and Sport Committee, the Finance Committee and the Delegated Powers and Law Reform Committee for their consideration of the bill and its accompanying documents, and I thank the non-Government bills unit for all the fabulous assistance that it has provided. I thank

David McColgan of the British Heart Foundation and Caroline Wilson of the Glasgow *Evening Times* for their total support over the past two years. Last but not least, I thank my wonderful team for all their hard work, patience and support. They care as passionately as I do about the bill.

As I said, the bill has a single purpose—to introduce a soft opt-out system of organ donation in Scotland. If there is the will—and the political will—to do so, we can agree at a later date the mechanics of how we implement the system. Let us be clear—as I have always been from the bill’s conception—that the bill as introduced is not the final word but can be amended at later stages. The bill is necessary as people in Scotland still die every year while waiting on an organ transplant.

Mike MacKenzie (Highlands and Islands) (SNP): Does Anne McTaggart agree that some of the difficulties with the bill, such as those that relate to proxies, are complex issues for which no apparent solution springs quickly to mind, at least for those of us who participated in the Health and Sport Committee’s deliberations? Does she agree that it would therefore be difficult, in the short timescale that we have before the dissolution of Parliament, to lodge amendments and give those issues the careful consideration that they need?

Anne McTaggart: No—I do not agree that that is the case. We have had bills to which up to 200 amendments have been lodged, so I do not agree that the issue of proxies need be a difficulty. I add that the provisions on proxies keep us in line with the United Kingdom structure.

As I said, the bill has a single purpose: to introduce a soft opt-out system. Things need to change.

The minister has asked that we do not concentrate on the annual organ donation rates, but look at the long-term trends instead. Every reduction in donations means that lives are lost, and it is right that we should be concerned when donation and transplant rates decrease significantly, not just for one year, but for the second year in a row. Last year, deceased donor rates fell by almost 8 per cent and deceased donor transplants fell by 12 per cent. This year’s data look just as worrying, with an expected 16 per cent reduction in deceased donor rates. The minister did not provide any explanation for that disturbing trend or any sense of urgency in determining why those rates are falling so rapidly.

People want us to take action now. We have the opportunity to turn that trend around by agreeing to pass the bill and implement a soft opt-out system for organ donation, which is a tried-and-tested system that works successfully in many countries around the world; by changing people’s thoughts about organ donation, from being

something that they would rather not think about to something that they take a let’s-discuss approach to; by reducing the instances of families being asked to make a decision on behalf of a loved one while unaware of their wishes; and by honouring the wishes of those who have opted in through reducing the number of instances in which a person’s views are overruled.

We have a pretty good idea of how many lives that could save. Despite improvements, we enjoy nowhere near the rates of deceased donations that our European neighbours experience. They have more than 50 years of experience and knowledge of the matter.

Kevin Stewart (Aberdeen Central) (SNP): I congratulate Ms McTaggart on bringing forward the proposal. She talked about the possibility of extra donors. Does she agree with the figures that the British Heart Foundation Scotland has come up with, which show that there will be around 70 extra donors a year if a soft opt-out scheme is introduced?

Anne McTaggart: Yes, I certainly agree with the British Heart Foundation Scotland.

Let us be clear. There is a price to be paid for delaying the decision. I have never said that the proposal is a silver bullet, but an opt-out system that is part of an effective organ donation strategy can and will improve organ donation.

The legislative process takes time. It has taken me two years to get to this point. Please do not let that time be wasted by making it necessary to start the whole process again. Dr Sue Robertson of the British Medical Association summed it up perfectly when she said:

“All the time we waste now means that more lives will be lost.”

We have a pretty good idea of just how many lives will be lost, as Kevin Stewart just mentioned. NHS Blood and Transplant gave some figures to the Health and Sport Committee. It believes that the bill could result in an extra 70-plus donors in Scotland each year. The director of organ donation and transplantation at NHSBT, Sally Johnson, described that figure as transformative. She told the Health and Sport Committee that, to put that figure into context, there are about 100 donors per year in Scotland, and 70 more would be transformative. Let us not squander our opportunity to begin that transformation today.

I agree with the committee’s finding that there is “merit in developing a workable soft opt-out system for Scotland.”

The bill gives us the opportunity to contribute to agreeing a workable opt-out system. We should grab that opportunity with both hands. The evidence exists that opt-out systems work.

People will find it hard to understand why any MSP would decide to delay implementation at all, let alone for a number of years, when we could begin that process today.

The majority of the committee concluded that the Scottish Government should “consider legislating”—not that it should legislate, but that it should just “consider” doing so. For the avoidance of doubt, the SNP Government has had nine years to introduce legislation. This session, it had the opportunity to legislate rather than me—*[Interruption.]* Does Joe FitzPatrick want to intervene? No? I would have been happier for the Government to legislate—please believe me when I say that—but it refused to do so.

Over the years, we have heard lots of warm words of support for a soft opt-out system—from no less than our former and current First Ministers, Alex Salmond and Nicola Sturgeon, and even from the Minister for Public Health, Maureen Watt. What we have not heard is any commitment to legislate. Therefore, I greatly regret the decision taken by the majority of the Health and Sport Committee, who seem happy to kill off the bill. I hope that they, too, do not come to regret that decision.

The majority of the Health and Sport Committee are asking members to vote down the bill before there is even a chance to amend its details and without a guarantee of anything in its place. We will be no further forward. If members vote down the bill, they will be condemning people to wait even longer for a solution to the shortage of organs. Unfortunately, for many, that wait will be too long.

The Scottish Government has said that it wants to wait and see how the new Welsh legislation works before deciding whether to introduce its own bill. If we take that approach, people would have to wait at least five or six years for any such bill to be implemented. There is no reason why people in Scotland should be expected to wait that length of time.

As I said at the start of my speech, members are debating and voting on the general principles of the bill. Its overall purpose is to introduce a soft opt-out system of organ donation in Scotland—nothing more. Members are not voting on the detail of the opt-out system or how it will work in practice. We can consider such matters later when debating amendments; that is what stages 2 and 3 are for.

Some issues transcend politics—saving people’s lives is one of them. I ask members to look beyond these walls to the people outside them and to decide what is right for them. Is it right to be asked to wait another five or six years—or however long it may be? We have the opportunity

today to save more lives. Please take it. That opportunity may not come around again for a very long time. If members believe in a soft opt-out system, they should vote with their conscience and vote yes at decision time tonight.

I move,

That the Parliament agrees to the general principles of the Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill.

14:28

The Minister for Public Health (Maureen Watt): I pay tribute to Anne McTaggart. She and her staff have worked tirelessly to bring us to where we are today—debating organ donation in this chamber and raising the debate in the public domain.

I know—like all members of this Parliament—that Anne McTaggart is committed to seeing the necessary systems in place to increase organ donation. The circumstances in which someone becomes a donor, or requires a donation, are distressing. As such, it is vital that we are sensitive to the pain and the emotion of those who have lost loved ones, as well as those who are waiting for a lifeline.

Although we cannot support the bill that is before us today due to concerns with specific provisions, we are persuaded that there are merits in developing a workable soft opt-out system.

I thank the Health and Sport Committee for producing a well-considered stage 1 report. The Scottish Government supports the recommendations of the majority of the committee. As the committee heard, many professionals who currently work in the organ donation and transplantation field share our concerns about many aspects of the bill. That the doctors and specialist nurses who would have to work under the legislation have serious concerns about how it would work highlights, in my view, the significant risk in proceeding with the bill.

John Mason (Glasgow Shettleston) (SNP): Will the minister take an intervention?

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): Will the minister take an intervention?

Maureen Watt: The Government shares the concerns that were expressed in the stage 1 report. In particular, we agree that the appointment of proxies could cause unnecessary delays and lead to conflict between a proxy and the deceased person’s family. It is vital that families do not feel marginalised in discussions about the potential donor. Such discussions are important in ensuring that organs are safe to transplant.

Drew Smith (Glasgow) (Lab): Will the minister give way?

Stewart Maxwell (West Scotland) (SNP): Will the minister give way?

Maureen Watt: There is a particular concern in the case of adults with incapacity. The bill's provisions could lock such adults into organ donation, because they could not opt out of donation themselves and a guardian could not do so for them.

On authorised investigating persons, we do not agree that the existing specialist nurses in organ donation could or should fulfil the AIP role.

Patricia Ferguson: Will the minister take an intervention?

Maureen Watt: NHS Blood and Transplant, which currently employs the specialist nurses, also raised concerns about the AIP role. [*Interruption.*]

The Presiding Officer: Order.

Maureen Watt: I will take an intervention from John Mason.

John Mason: The minister mentioned specific provisions and aspects of the bill. Can she confirm that her opposition to the bill is based on those details and not on the major theme of the bill?

Maureen Watt: I absolutely can. I will come to that.

Although some of the issues could be addressed through amendments at stage 2, others could not be.

Drew Smith: Will the minister give way?

Maureen Watt: If the member would just listen, he might understand why we are objecting to the bill. [*Interruption.*]

The Presiding Officer: Order.

Maureen Watt: In particular, the authorised investigating persons provisions cannot be separated from the bill, because the proposed model requires AIPs to police the new system. However, the provisions cannot stay in the bill, because the involvement of AIPs and the legal and practical checks that the bill would require of them would almost certainly result in delays in the organ donation process.

In addition, as provisions on proxies appear in almost half the sections in the bill, it is unlikely that the provisions could just be removed. To make the proxy provisions work, there would need to be significant consultation to clarify the role of proxies.

Anne McTaggart: What is currently in place for that to happen?

Maureen Watt: In terms of proxies? There is nothing about proxies in the system at present.

Although the majority of the committee did not support the propositions in the bill, that does not mean that we should not consider developing a soft opt-out system, along with other measures to increase organ donation.

I point out that in 2005-06, 650 people were waiting for a transplant, but in 2014-15 the number was down to 143. In the intervening years, because of the progress that we have made on organ donation, more than 507 people have had organ donations that were not available in 2006-07.

Margaret McCulloch (Central Scotland) (Lab): Will the minister take an intervention?

Maureen Watt: I can confirm today that, in line with the committee's recommendation, we are starting preparation for a detailed consultation on further methods to increase organ donations and transplants in Scotland, including soft opt-out.

Anne McTaggart: When?

Maureen Watt: If we are re-elected, we will take the matter forward as an early priority in the next session of Parliament and bring forward legislation as appropriate.

We have made progress in recent years. Through changes in process and support since 2008, we have seen an 82 per cent increase in the number of deceased organ donors in Scotland.

Jackie Baillie (Dumbarton) (Lab): Will the minister take an intervention?

Maureen Watt: I can report that there have been 85 deceased organ donors so far in 2015-16. Members will also be interested to hear that last month we saw the highest-ever number of donors in a single month. That means that we are on course to exceed the number of donors from last year. We have also seen a 42 per cent increase in the number of deceased donor transplants undertaken since 2008 and a 21 per cent decrease in the active waiting list.

Anne McTaggart: Will the minister comment on the 70-plus donors that NHSBT has said a soft opt-out would bring if we were to go ahead with it?

Maureen Watt: I do not deny that there could be an increase in the number of people willing to donate their organs, but does the member agree with Dr Rafael Matesanz, whom some members of the Health and Sport Committee went to visit, that law change on opt-out itself is not enough and that other things need to be in place as well? Those things are going ahead, so I want to take the opportunity to thank again the organ donation community, along with organ donors and their

families, because without them the progress that we have made could not have been made.

I reiterate my thanks to Anne McTaggart for raising the issue. We are not against a soft opt-out in principle, but we have a duty to ensure that it is introduced in a way that improves donation rates and does no harm.

Patricia Ferguson: Will the minister take an intervention?

The Deputy Presiding Officer (John Scott): Order.

Maureen Watt: For the reasons that I have set out, the Scottish Government cannot support the bill, but we will instead commence work immediately on our own consultation to develop a safe, effective and workable system for Scotland.

I move amendment S4M-15128.1, to leave out from “agrees” to end and insert:

“does not agree to the general principles of the Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill because it has serious concerns about the practical impact of the specific details in the bill that relate to organ donation rates and transplants; agrees the merits of developing a workable soft opt-out system for Scotland, and calls on the Scottish Government to commence work in preparation for a detailed consultation on further methods to increase organ donations and transplants in Scotland, including soft opt-out, as an early priority in the next parliamentary session, learning from the experiences in Wales, which is currently implementing its own opt-out legislation, and to consider bringing forward legislation as appropriate.”

The Deputy Presiding Officer: I call Duncan McNeil to speak on behalf of the Health and Sport Committee.

14:36

Duncan McNeil (Greenock and Inverclyde) (Lab): I acknowledge, on behalf of the committee, the passion of all those who provided evidence on the bill. The committee met clinicians and nurses, faith and belief groups, families of organ donors and people who are currently awaiting a transplant or had already received one. All of them support organ donation and described it as a gift of life. I want to give special thanks to those who provided details of their own personal experience of organ donation, and I know that that was sometimes emotional and difficult for some.

During those meetings, it was clear to see how transformative organ donation could be for those who receive an organ, and how difficult the impact of the wait is for patients and families who are on the waiting list. I extend my thanks to Dr Rafael Matesanz, director of the ONT, Spain’s national transplant organisation, and his colleagues for taking the time to meet us in Madrid for what was a very informative visit with a world expert in the

field. I thank the minister for her response to the committee’s report and note the reasoned amendment that has been lodged to Anne McTaggart’s motion.

The majority of the committee will be pleased to see that the Scottish Government has taken on board our recommendation at paragraph 264 and has agreed to commence work in preparation for a detailed consultation on further methods to increase organ donations and transplants in Scotland, including soft opt-out, as an early priority in the next parliamentary session. The minority of the committee will be concerned that not passing the bill today will result in delays that could have a significant impact and consequence for those 500 or more people who are on the transplant waiting list.

The bill proposes to change the system of organ donation in Scotland to a soft opt-out system, with the overall aim being

“to increase the number of organs and tissue made available for transplantation in Scotland”.

The committee unanimously supports the aim to increase organ donation rates in Scotland. However, we were in disagreement as to whether the bill would result in that.

The evidence that the committee gathered on the bill covered many different areas and opinion varied, as we have heard, on whether the bill would achieve its aim. Unfortunately, we do not have the time today to cover all that breadth of opinion, but I will mention a couple of the main provisions that caused the greatest concern to the majority of the committee, including the one on proxies.

The bill enables a person who is resident in Scotland to appoint up to three people to act as their proxy. The role of a proxy would be to make decisions about authorisation of the removal of an adult’s organs for transplantation, on the deceased person’s behalf. The proxies are contacted by the hospital in a set order until one is able to take a decision. The rest of the UK allows people to appoint up to two proxies. We recognise that there are reasons why not everyone in a family might be in contact with other members of the family, and that the ability to appoint someone else to make a decision on their behalf after death might be desirable.

However, the majority of the committee believed that the bill’s proposal to allow the appointment of up to three proxies could cause unnecessary delays to an already time-sensitive process, and could result in additional stress being placed on the donor’s family at a sensitive time. A minority of the committee agreed with the provision for a proxy to be appointed, believing that it would be a useful role for people who do not have next of kin

or who do not want their family making decisions on their behalf, such as looked-after children.

The other provision that I want to mention is the role of the proposed authorised investigating person. That person is described as being a health professional whose role is to determine whether a deceased adult's organs can lawfully be removed and used for transplantation. That would be done by deciding whether six pre-conditions had been met. The member in charge of the bill noted that she envisaged the AIP role being carried out by a specialist nurse in organ donation, but in the bill it would be for the Scottish Government and the NHS to decide which staff members would perform the role.

The majority of members of the committee do not consider that the AIP role could be carried out by a specialist nurse for organ donation, as their role is significantly different from that which is proposed for the AIP. They also have concerns that the introduction of the AIP role could cause possible time delays in the organ donation process that could lead to viable organs being lost and families possibly being alienated. The minority of members of the committee believe that the AIP role could be carried out by a specialist nurse for organ donation or another health professional.

Mike MacKenzie: Does Mr McNeil see a logical inconsistency in Anne McTaggart's position that the bill could be changed by amendment and the position of the minority of members of the committee that no amendment is necessary?

Duncan McNeil: The member is inviting me to express a minority opinion. As a colleague on the committee, I would ask him not to do that. I am speaking on behalf of the committee today and trying to do a balancing act. I will not be drawn into criticising the member who introduced the bill. I hope that Mike MacKenzie is able to accept that.

Irrespective of whether the bill is passed, we call on the Scottish Government to consider a range of actions to increase organ donation rates, including structural changes to the organ donation system such as additional specialist nurses and consultants, and more intensive care beds. We also consider that publicity and awareness raising about organ donation should be a priority.

As a committee, we understand Anne McTaggart's aim of increasing organ donation rates in Scotland and we welcome the debate that the bill has sparked. After detailed scrutiny of the bill, however, a majority of the committee did not support the general principles of the bill; a minority believed that the bill should go ahead. The whole committee agrees that more must be done to increase organ donation rates in Scotland. I look forward to the minister's closing remarks to hear how quickly we can progress with her amendment.

14:46

Rhoda Grant (Highlands and Islands) (Lab): I pay tribute to Anne McTaggart for introducing the bill. Today, she gives us the opportunity to vote for a bill that would save lives.

According to evidence that the Health and Sport Committee received, the bill would increase donations by up to 75 per cent. Even those who have concerns about the bill concede that it would increase donations, albeit marginally. I understand that the minister repeated that concession today.

On average, every donor can save three lives; they could save up to eight, but the average is three. Even at the margins, the bill would save many lives. No one is suggesting that this is the only thing that needs to be done to increase donation—we need to do much more. Many such interventions are in the hands of the Scottish Government now and do not need legislation.

The bill would change the focus of donation so that the presumption was that someone would wish to donate. Survey after survey has found that the vast majority of Scottish people want to donate, but that is not borne out by donation rates. The bill would also allow those who do not wish to donate to continue to opt out.

When we decide on the general principles of the bill, we need to put ourselves in the situation of those who are waiting on the organ transplant list and of their families and loved ones. What would they want us to do today? What would we do if it was us or our loved ones who were waiting? Would we say, "Wait and see. Give it some more thought"? I do not think so.

In this Parliament, we have a duty to the Scottish people, including those who are on transplant lists. We must always have their best interests at heart, as if they were our own family. Today we must do the right thing by them. Members must look to their consciences. If they can vote against the bill, put their hand on their heart and say that they did the right thing, so be it. However, we have to remember that every member must answer for their own actions. I urge members not to have this on their conscience. If they know that this is the right thing to do, I ask them to vote for the bill.

The Government's amendment is senseless. It appears to say that the Government agrees with the general principles of the bill while saying that the Government does not agree with them. The Government cannot look both ways at once. If members agree that the bill is the right thing to do, they should vote for it. By all means amend it as it passes through Parliament, but vote for it tonight.

If Parliament votes against the bill tonight, no amount of spurious excuses will justify that. Even

if the Government wins the next election and introduces its own bill early in the next session, people will have died in the intervening period. That is not reasoned; it is unreasonable.

We heard the Government make a number of excuses, the first of which was on the role of the authorised investigating person, which would be carried out by the specialist nurse in organ donation. If there are concerns about how that role is laid out in the bill, the bill can be amended at stage 2.

However, someone needs to oversee the process, deal with family and loved ones and make sure that everything is done properly. That is the case now and it would continue to be the case under the bill. If members believe that the AIP role is not required, it can be removed from the bill at stage 2. The Government has the majority in the Parliament, so it could do that at stage 2 or stage 3.

A similar point applies to proxies. Scotland is the only country in the UK that does not allow for donors to appoint proxies, but such a system is workable and works in the rest of the UK. A proxy can act on behalf of the donor and give permission for organs to be donated. The Scottish Youth Parliament told us that having a proxy is particularly important for people who are estranged from their families, such as looked-after children. It is important that their views are expressed by someone who knew them, rather than a stranger. In evidence we heard of a case where a landlord had given permission for donation because there was no family. Surely allowing someone to appoint a proxy would be better than that.

Another concern about proxies is that they would overrule the next of kin. That is a serious point. If a family were unlikely to agree to donation and the potential donor wanted to donate, the potential donor could appoint a proxy. However, in evidence it was clear that a donation would not be taken if it was likely to cause distress to the next of kin, because health professionals also have a duty of care to them.

In practice, therefore, a proxy cannot ensure donation for someone. It is difficult to accept that the wishes of the deceased will be ignored, which happens in practice today. Concerns have been expressed, but the provisions could be clarified or amended at stage 2.

John Mason: Will the member take an intervention?

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

Rhoda Grant: The bill is simple, but it could make a difference to the number of people whose organs are donated.

I struggle with the Government's opposition to the bill. What concerns does it have that are so grave as to risk lives? The minister did not convince me today, and I wonder whether she even convinced herself.

There is time to change the Government's mind—it can do the right thing by those who are waiting for a transplant. I can only imagine the frustration of the families of the 571 patients who are on the transplant list. We have the wherewithal to make a difference to their lives. I sincerely hope that all MSPs will look to their own consciences and vote for the bill.

14:52

Nanette Milne (North East Scotland) (Con): I add my thanks to all the witnesses who gave evidence to the Health and Sport Committee, to the committee clerks for their hard work and support in bringing that evidence together and to the member in charge of the bill for raising the profile of the hugely important issue of organ donation. I know that Anne McTaggart is passionate about the need to increase organ donation in Scotland. There were some highly charged emotional moments during the stage 1 scrutiny of the bill.

When the committee began to take evidence on the bill, I fully expected to be recommending to parliamentary colleagues that we should support it. However, as our scrutiny progressed, I became less convinced that the provisions in Anne McTaggart's bill would lead to the desired outcome and the ultimate increase in organ transplantation for which we all wish. I will spend a little time dealing with one or two of my concerns.

Having said that, I doubt whether there is anyone in the chamber who does not wish to see the availability of many more organs, to save and improve the lives of the many people with end-stage organ disease whose only hope of recovery at present is transplantation.

As many members know, I have a personal interest in this, because my son has just passed the 24th anniversary of his liver transplant. He would not have had those years without it, and nor would I have my two grandchildren. However, even with my motivation, it still took me more than a decade to sign up to the organ donor register. That inertia led me to think that the soft opt-out would be the solution until, as I said, we scrutinised the bill.

Spain is held up as the exemplar on organ donation, with a donor rate in 2006 of 35 donors

per million of population—the highest in Europe. At that time, the UK rate was one of the lowest, at 13 donors per million of population. However, the improved donor rate in Spain was not achieved until 10 years after it adopted opt-out legislation, and we were told that the increase came about only after significant structural change to the nationally organised organ donor system. It does not seem at all clear from international evidence that legislation per se is responsible for an increase in donor rates.

It is generally accepted that, with or without a change in legislation, more can be done to increase the donor rate in Scotland. The classic approach that is in place, which involves publicity campaigns, donor registers, recording information on driving licences and education programmes in schools, has resulted in a significant improvement. Even in Spain, however, with opt-out legislation in place, it is only when discussion takes place with the family at the point of death that rates begin to show real improvement, and the Spanish see that conversation as pivotal.

In its “Organ Donation and Transplantation Activity Report 2013/14”, NHS Blood and Transplant showed that, when a specialist nurse in organ donation is involved in approaching families to ask for consent to organ donation, family approval rates go up by almost 50 per cent. A whole-hospital approach should make a difference—that means that staff across the whole hospital, and not just transplant teams, give thought to organ donation, and a specialist nurse in donation rather than an intensive care consultant is present to have the conversation with the family. I hope that that approach can be taken in Scotland, certainly in our bigger hospitals, because it has the potential to make a difference. Legislation is not necessary for that.

It is fairly widely believed that a number of provisions in the bill could be counterproductive to increasing the rate and use of organ donations. The use of proxies to make decisions about authorisation on the deceased’s behalf could result in the family being marginalised or excluded from the organ donation process. The family might be the only people with detailed knowledge about the deceased that could have a bearing on the usability of their donated organs. There was also concern that having to contact one or more proxies could result in delays, which could harm the organ donation process. We know that organs are already lost because families pull out when they regard the process as too protracted and stressful, and the bill could make matters worse.

John Mason: Will the member give way?

Nanette Milne: I do not think that I have time—I am sorry.

Another contentious aspect of the bill is the role of the authorised investigating person, who is described in the policy memorandum as a health professional whose role would be

“to determine whether or not a deceased adult’s organs can lawfully be removed and used for transplantation.”

The member in charge of the bill envisages the specialist nurse in organ donation having the role of an AIP. However, NHSBT, the Scottish Council on Human Bioethics and the Law Society of Scotland all took a different view and saw a conflict of interest between the two roles.

It is clear that there are differing opinions about some major provisions of the bill as introduced. However, what influenced me more than anything was the opinions of people who are at the coalface of transplantation—people such as Professor Forsythe, transplant surgeon and lead clinician for organ donation in Scotland, and transplant nurses—who believe that the bill could have the opposite effect from what is intended. It could lead to a loss of public trust that, in the system, organs will be taken only when that is the wish of donors and their families, and an erosion of the concept of organ donation as a gift of life, which is often of great comfort to donor families at a time of grief. That is very important and must be thought through carefully before we contemplate moving to a new system.

I have no time to go into other aspects of the bill, but I am not persuaded that changing to the soft opt-out system of organ donation as proposed would in itself result in an increase in donations. However, I would like to see further enhancement of the on-going efforts to increase organ donation, and I welcome the Scottish Government’s commitment to a thorough consultation on further ways to increase donation and transplantation, including a soft opt-out system. That should be informed by the experience in Wales, which—as we know—started to implement its legislation last December. I urge the next Government to make that an early priority and, in light of the evidence presented to it, to proceed with legislation if that is what is indicated.

We will support the amendment at decision time.

The Deputy Presiding Officer: We move to the open debate speeches. Sadly, we are tight for time, so each member has up to five minutes.

14:58

Kenneth Gibson (Cunninghame North) (SNP): I support the general principles of the bill, not only because I was asked to do so by the British Medical Association, the British Heart Foundation and the Scottish Kidney Federation but because I have long supported the issue—

indeed, since I was first elected to the Parliament in 1999—and I am proud to have been the first Scottish National Party member to have supported Anne McTaggart's bill.

We must give Anne McTaggart a lot of credit. A number of members in my party and in the Labour Party have looked at introducing such a member's bill, but she picked up the cudgels and moved forward. We know that it is extremely difficult for a member to introduce a bill, as members do not have all the institutional support of the Scottish Government. The bill that Anne McTaggart has struggled forward with is not perfect but, in terms of what it is trying to do, it is a good bill.

The issue has been debated by many people over the years. I submitted a motion on 8 October 2012 that said:

"That the Parliament regrets what it considers the tragic death of 43 people in Scotland last year while awaiting an organ transplant; applauds the Respect My Dying Wish campaign by NHS Greater Glasgow and Clyde urging people who wish to donate their organs after death to tell their loved ones of their desire so that their wishes can be respected, and recognises calls to introduce a system of presumed consent to help save the lives of more people awaiting organ transplant."

That was three and a half years ago. The motion was signed by 43 members, including Mike MacKenzie and the minister, yet no bill was introduced.

I have been disappointed that successive Administrations have failed to pick up the cudgels on the issue. There has been plenty of time to move it forward. Although I appreciate that the Scottish Government has said that if we vote down the bill it will introduce another, we have to—as has been stated—consider the 571 people who are already waiting on the transplant list.

Soft opt-out has been used in other countries; it is not brand new. It is axiomatic to me that soft opt-out must increase donation. Members should think about what the UK Conservative Government is doing with the Trade Union Bill. Instead of people having to opt out of a trade union levy, they will have to opt in. Why is the UK Government doing that? Because people are less likely to opt in, so the number of union members contributing will be reduced, which will reduce money for the Labour Party. We know that. It is intrinsically clear that, if people have a soft opt-out from organ donation, we will—in my passionate and 100 per cent totally convinced view—have more people available to donate organs.

When Anne McTaggart came before the Finance Committee, there were issues with the bill, and we heard about some of the difficulties that the Health and Sport Committee had with it, but surely it is not beyond the ken of the Scottish Government to make the necessary amendments

to ensure that the bill works, rather than leave us to wait months or years more before we can go forward. A wait of 17 years, as we have had in this Parliament, is 17 years too long.

We have had umpteen campaigns from umpteen members, but this is a chance for members to stand up and be counted. I hope that members who have signed umpteen motions and spoken in umpteen debates on the issue over the years will follow their consciences and vote for the general principles of the bill. That is what we are voting for: the general principles, not necessarily the nitty-gritty, which can be amended.

I do not want to take up other members' time, so I will finish early. Members know clearly what my position is, and I know that a number of colleagues in my party feel the same way. I look forward to the bill being voted on positively at decision time.

15:03

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I thank Anne McTaggart for all her great work on the bill, and Kenneth Gibson and those of his colleagues who have been supporting such legislation for some time—longer than I have. I changed my mind just during the course of this parliamentary session and was very happy to be in the minority of the committee in respect of the report that we are debating.

The context is the yawning gap between the large majority who wish to donate and the number who are on the register. Equally worrying is the fact that although Scotland has the highest proportion of registered donors in the four countries of the UK, we have the lowest donation rate. As Anne McTaggart reminded us, the donation rate is decreasing while three people a day die waiting for transplants.

No one is arguing that the bill itself will solve the problem. The minister quoted the Spanish professor who said that law change to provide for opt-out is not enough, but no one is saying that it is. Those of us who support opt-out are saying that we need opt-out plus other measures. Indeed, the committee report suggests a range of actions that could be carried out irrespective of what happens with the bill.

The simple fact of the matter is that it is hard to resist the evidence that we received about donors. NHSBT, the key UK body on the issue, has been quoted already. Who could be more authoritative than it? It said in written evidence that there would be 70-plus extra donors. That evidence is very compelling when we are talking about there being 100 donors currently in Scotland. Sally Johnson of NHSBT said—as Anne McTaggart reminded us—that that increase would be transformative.

There is also interesting evidence from the NHS donor task force of 2008, which commissioned research from the University of York, which examined all the available evidence and said that it all shows that changing to a soft opt-out system would be followed by increases in donation rates. The British Heart Foundation Scotland also cited the figure of 70 extra donors. It went so far as to say that there is little, if any, evidence of significant increases in transplant rates without a soft opt-out system. That is all compelling evidence.

Of course, the objective is, in general terms, to achieve a culture change that will make donation the norm, but the change would, more specifically, also enable a change in the dynamics of the conversation with the family. That is the most significant part of the organ donation process. Put simply—as, I think, one of the witnesses said—the conversation would then be along the lines of, “We’re aware that the person has no objection to organ donation,” which would in itself change the nature of the conversation with the family—that conversation would, of course, still take place.

That leads on to the role of the proxy. Concerns have been expressed about the proxy, but the key fact is that England and Wales have had a proxy role—called an appointed representative—since 2004. We received strong evidence in support of the proxy from the Scottish Youth Parliament, for example. It carried out research among many young people among whom there is strong support for the proxy role. The example was given of young people in care, who might not want their natural families to be the ones who give consent. That would apply in other situations too. If somebody does not trust their family to have the same opinion as them, why should they not appoint a proxy?

There has been much misunderstanding around the issue of having three proxies. It does not mean that all three would have to be consulted; if the first on the list was not available, the second or the third would be consulted instead, so there would be no extra delay. I think that the proxy provision can stand in the bill without amendment, but Mike MacKenzie or any other member who wants to lodge an amendment is, of course, at liberty to do so.

In relation to the authorised investigating person, the fact of the matter is that judgment is exercised now, just as judgment would have to be exercised under the bill, irrespective of whether an AIP is mentioned specifically in the bill. It is interesting that no such person is explicitly mentioned in the Welsh legislation, so it is possible to have an opt-out system without an AIP. Again, if Mike MacKenzie wants to suggest the deletion of the AIP role from the bill, that would not wreck the bill.

Mike MacKenzie: Will the member give way?

Malcolm Chisholm: I am in my last minute, so I do not think that I can take an intervention.

The fact of the matter is that if people do not like the detail of the bill, they can amend it. However, we are voting today on the general principles of the bill. People should be absolutely clear about that and not pretend that they support soft opt-out in general and then vote against the bill.

Finally, 62 per cent of Scots support a soft opt-out. They will not understand it or forgive us lightly if we pass over this opportunity on the pretence—or the so-called pledge—that some kind of legislation may be introduced in the next session of Parliament.

15:08

Sandra White (Glasgow Kelvin) (SNP): I congratulate Malcolm Chisholm on his speech. His comments regarding the proxy role should certainly alleviate the concerns that a number of people have.

I also respect the comments that others have made. In the Parliament, we should always respect comments and contributions from members and treat them accordingly.

I commend Anne McTaggart for all her work and thank her very much for pursuing the bill with great tenacity. It is never easy, as Kenny Gibson said, to try to introduce a member’s bill. I thank the Local Government and Regeneration Committee for approving my member’s bill at stage 1, although I do not think that it will get through. I know how difficult it is to get any member’s bill through Parliament, so the great work of Anne McTaggart and her team deserves congratulations and praise.

I also pay tribute to the individuals and the many charities who work tirelessly to highlight organ donation. In particular, I mention the British Heart Foundation Scotland and Kidney Research UK, which have done an absolutely fantastic job in raising awareness about transplants and donations. Regardless of the outcome of the vote tonight, they will continue to do a great job, and I know that all members will continue to support them.

I support the principles of the bill and will vote for it tonight. I note the Health and Sport Committee’s report and the concerns that it has raised. As I said, I thank the committee for its work. A committee’s job is to look at every aspect of the bill. As other members have said, at stage 2 we can get into the nitty-gritty—as I think Anne McTaggart called it. That is when we can look at the details, but it is certainly my intention to vote for the principle of the bill at decision time. It is a

free vote for members of all parties, so nobody is being harangued into doing anything that they do not want to do.

We should perhaps cool some of the language that is being used. On an issue on which feelings are running high, we should always respect the comments of others. I certainly respect Nanette Milne's comments, coming as they do from great professional and personal experience.

While I am in the mode of congratulating, I should not forget to congratulate my colleague John Mason on the motion that he lodged highlighting the Welsh Government's opt-out system, which is important.

I have done a good deal of work to highlight the issues with the British Heart Foundation Scotland and with Kidney Research UK, which is a fantastic charity. There are lots and lots of fun runs and marathons. I certainly have not taken part in any marathons, although I have taken part in a couple of fun runs. I remember one on which we were all dressed in purple—we had to wear purple T-shirts and people had all sorts of purple dresses and costumes on. Last year at the Glasgow Science Centre a large gathering for Kidney Research UK raised loads of money—although I cannot remember how much, off the top of my head. That event was very well supported, as such events will continue to be.

The Government has funded Kidney Research's peer groups project, which involves working closely with Asian families. Those groups have been doing a fantastic job. I know that the Government supports Kidney Research not just with money, but with advertising. The project has been absolutely amazing. Quite a lot of folk from the gurdwara and the mosque in my Glasgow Kelvin constituency have taken part in it. The project involves people talking about what happens when people from an ethnic minority group cannot get a transplant; donation levels tend to be lower among such groups. Anything that increases donation among them through advertising, Government support and, obviously, public support can only be a good thing. I would like to hear more about the peer project. I know quite a bit about it, but I will not spend my whole time talking about it. It would be good if we were to hear a wee bit more about it.

The Deputy Presiding Officer: You must close, please.

Sandra White: I will support the principles of the bill at stage 1, and I wish it all the best through the trials of the Parliament.

15:13

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I come to the debate informed by experience—not the experience of receipt of organ donation, but the experience of donating by a deceased relative. When my father-in-law, who was a nurse, died suddenly at the early age of 54, his widow and daughters decided that there could be no finer memorial to his life than that his death should mean life for others. In fact, they drew it wider than simply authorising use of his remains for organ donation, and he became part of the education of medical students. Their dissection of him after death helped to prepare them for their careers.

In due course, we sought the same disposal for his widow, but practical issues prevented it. Jim's funeral had a different focus: it was less on the coffin at the front of the church—there was none—and more on the man, his contribution to the lives of others and the contribution to the future wellbeing of others that he was now making. The grieving process seemed to be easier for that knowledge. A year later, an invitation arrived from the students who had benefited from his donation to join them at the cremation of his remains. Today, Jim's granddaughter—a nurse—is state transplant co-ordinator in Queensland, Australia.

Like many others, I had, prior to Jim's death, given little or no thought to organ donation. My instructions to my executors are now clear and unambiguous. They are to reuse everything in any way that could benefit others. All my close relatives know that. My driving licence has the 115 code on the back that can tell others about my registration; it is one of the least understood indicators of one's being registered for organ donation.

Our Parliament's Health and Sport Committee has performed its task in preparing for our consideration a stage 1 report with the diligence that we always expect and almost always get. With the experience of having taken five bills through Parliament, I know how challenging it is to get the detail right, and to convert the policy intention into proper form for legislation. It is difficult with all the support that a wheen of civil servants or committee clerks can provide to a minister or convener, so how much more difficult is it for an individual MSP who is relying on the substantially more limited resources of their own knowledge and experience and the assistance of Parliament's non-government bills unit?

When the bill was introduced, I indicated to our whips that I could not oppose its general principles because I give paramouncy to helping others and I have not changed my mind, even if the bill's prospects of doing so have created difficulties

because of the detailed expression of its principles. [*Applause.*]

I have great sympathy with the minister's position and the fact that she cannot yet see a way of making the bill into something that can be implemented. However, any bill that offers even the most meagre prospect of an increase in organ donation needs us to endorse its general principles. But, and it is a significant "but", those whose faith means that they have a different view to mine about proper disposal of human remains must not—repeat not—find themselves being forced to go against their wishes or the wishes of a deceased person.

I must say that it remains a mystery to me that I can create a will that directs how all my assets heritable and movable should be used after my death, but I cannot command how the disposal of the most personal of all that is mine—my body—is disposed of. That is for another day, perhaps in the succession bill that I expect will be introduced during the next parliamentary session. I understand the difficulties in respect of legal issues, such as confirmation of wills, which take more than the very short period of time within which decisions on organ donation have to be made.

The Government and the committee have accepted the principle of soft opt-out, and it is tremendous that there is unanimity on that. If we support the general principles of the bill at decision time, it might well be that difficulties with the bill's detail mean that it will fall later in the parliamentary process. Well—let us test the general principles and their expression in the bill through further parliamentary process, when there will come the proper point at which to derail its progress, if that is the correct outcome.

This evening I must and shall vote in favour of our endorsing the general principles of the bill.

15:18

Jim Hume (South Scotland) (LD): I congratulate Anne McTaggart on introducing the bill at a time when the need for transplants is increasing. I also thank the Health and Sport Committee for its work in scrutinising the bill. I support the bill.

Lives are being lost because of the lack of available organs. The Health and Sport Committee has made it clear that it believes that there is not enough evidence to demonstrate that implementing the soft opt-out system that the bill proposes would result in an increase in donations, but the committee also noted in its report that

"there may be merit in developing a workable soft opt-out system for Scotland."

The Scottish Council on Human Bioethics points out that the de facto opt-out system that the Human Tissue (Scotland) Act 2006 introduced is a hybrid between an opt-out and an opt-in system. It proceeds to point out that although more than 90 per cent of the Scottish population support organ donation, only just over 40 per cent of the population are on the organ donor register. It describes that as the difference between good intentions and actual decisions.

The fact that people hesitate, or are unable, to carry an organ donor card—I do—is an impediment to increasing the donor list numbers. The British Medical Association believes that the decision not to opt out of donation is as much of a gift as a decision to opt in, so we must harness the 90 per cent support that exists among the population for organ donation and save more lives along the way.

There are examples that we can look to domestically and internationally. We can point to the world-leading example of Spain, which continuously surpasses its own record on organ donations, as well as that of Wales, which has recently implemented similar legislation. The Spanish example, with its high donation rate, can be imitated in Scotland. Its management methods, its more flexible and robust legislative framework, and its population's awareness of the issue should be our key drivers and objectives. The Health and Sport Committee recognises that. It heard evidence on the transformative effects of organ donation for the individuals concerned and their families. A new life can be found as a result of a person being willing to make such a gift. We must promote that message among our people.

Our main goal must be to save more lives and to do so in such a way that every potential donor and family member understands that that is the case. Therefore, I am supportive of hearing more about the bill and how we can turn it into an instrument that can benefit more people. I also want to ensure that, on an ethical issue such as this, we allow no margin for error or ethical quandaries.

How will we ensure that a sustainable long-term education and awareness campaign achieves the goal of answering the right questions? What will the relationship be between family members and proxies who are appointed by the donor in the case of conflict? What do medical ethics tell us about such conflicts?

The committee noted that there are numerous other issues, as well as other perspectives, to consider. Do we have enough evidence that an opt-out system in itself would lead to an increase in organ donations? At this stage, is the NHS able to undertake the necessary structural change, to develop the specialist workforce that is needed for

the organ donation system, to create the infrastructure capacity to accommodate the rise in operations and to run the necessary awareness campaign?

I believe that much stronger scrutiny of the bill is needed, but that does not warrant its defeat at stage 1. Many of the answers to the questions that I raised can be provided if the bill continues to the next stages.

However, should Parliament not agree to the bill at stage 1, I would like the minister to guarantee that it is her intention to proceed in the next session of Parliament with a consultation on further methods to increase organ donation, so that we can improve health for the thousands of people who are waiting on the transplant list. That would bring about long-term savings for the NHS, because those who received organs would live with better health, and it would allow us to talk more openly about organ donation and to drive up donation rates in our society and thereby save lives. I believe that we can start that work now with the bill that is before us. Agreeing to it at stage 1 will give us all a chance to amend it at stages 2 and 3.

This topic touches on issues of ethics, personal belief, medical evidence and health. Organ donation is a multifaceted issue that enjoys support for its end goal, but the bill must be heavily scrutinised, and the right balance must be struck between what is right and what is good.

I support the bill and shall vote for it at decision time.

15:23

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I, too, congratulate Anne McTaggart. Rightly, it is an emotionally charged debate. I have every sympathy for the ends that the member wishes to achieve. I am a registered donor. It is the easiest thing to do, and I encourage people to do it: simply go online, fill in the boxes and the card arrives.

However, I do not support the bill. I turn to section 6, which no one has really addressed. My concern is to do with the state authorising consent. Although the phrase "presumed consent" is not in the bill, that is what is in the background. Notwithstanding the caveats in that section, I cannot agree to it.

How can one presume consent? That is an oxymoron. Consent is greatly defined in Scots law. The consenting party must have capacity, which they might not have because of age or mental ability. Consent must be informed; opting in and opting out both satisfy that but silence does not.

Consent must be freely given, but above all it must be evidenced by the facts.

In my view, any bill that introduces the idea of a presumption of consent where there is no evidence as to the individual's view flies in the face of a basic principle of Scots law that is tested in the courts frequently in contractual disputes, in claims of negligence and, particularly, in cases of rape and sexual assault. For me, the idea of presumed consent in the absence of any evidence of consent is unacceptable.

I will come back to solutions to that, but moving on to the practicalities I take this opportunity to quote the words of a retired consultant from the Western general hospital:

"The answer to the question 'why now presumed consent?' is as we have heard that there are insufficient organs available to meet the needs of those with terminal organ failure who need new organs. It is very tempting to change the ethical and legal framework in which we operate to overcome this shortage. However, to someone with little specialist legal or ethical knowledge this would appear to be a rather dodgy thing to do. As I said I am not qualified to speak with authority on the legal and ethical issues. However, as an intensivist, I have an involvement in organ donation stretching over 30 years and I feel reasonably well qualified to comment on the possible implications of presumed consent and practice of organ donation."

There would of course be an opt-out, with people able to register their unwillingness to donate their organs in the event of sudden death. If someone felt sufficiently motivated, they could access the register, probably via a website, and opt out of donation. However, how valid would that be? How many would do that? I think that it would be difficult to reassure grieving relatives that, given that their loved one who had just died had not registered an opt-out, he or she really did want to donate their organs.

The retired consultant also stated:

"It is amazing how hard information about the deceased's wishes as expressed on the register removes any doubt, and relatives are immediately able to agree to donation. I have personally never had a family refuse a retrieval where the deceased held a donor card or was on the register, although of course there have been exceptional cases that others have had. If we have ... compulsory registration of wishes either way, we will retain the concept of balanced and informed consent rather than cutting legal and ethical corners and I think more people will be happy to agree to organ donation."

The consultant went on to say:

"If I seem negative about organ donation I must provide evidence to the contrary. I was first involved in organ donation as a senior registrar in the Southern General and Glasgow in 1978. I was involved in the first multi-organ donor in Dundee, and as consultant in-charge of the general and neuro ICU at the Western from 1988-2002 I personally fostered a positive attitude to donation."

I leave members with the following thoughts. First, the principle in Scots law of consent must not be waived, even for the best of reasons and ends, but be considered very carefully. Secondly, is the solution maybe to consider a compulsory register of opt-in and opt-out, subject to exceptions on religious grounds? We would then have a clear view of what the deceased's wishes were on death. I think that that, given the consultant's views and the legal position on knowing what people really want and when they have given their consent—

Neil Findlay (Lothian) (Lab): Will the member take an intervention?

Christine Grahame: I am sorry, but I am in my last minute.

Knowing where people are on the issue of consent would take us where we all want to be, which is to have more donors but to have them in a proper legal form.

15:28

Margaret McCulloch (Central Scotland) (Lab): I congratulate Anne McTaggart on bringing the bill to the chamber and taking her proposals this far through the parliamentary process. Her bill has been an important part of a genuine national conversation about organ donation in this country. That is a testament to her hard work, the hard work of Drew Smith before her, and the campaigning efforts of Kidney Research UK, the British Heart Foundation, the *Evening Times* and many more.

Whatever the Parliament ultimately agrees to do on the bill, the conversation that was started by the opt for life campaign has been a healthy and productive one. If it has got people out there considering organ donation and thinking about their final wishes, the debate has been worth while.

I also state at the outset of my speech that I am firmly of the view that, if the changes that we are discussing were to become law, we could give real hope to people on waiting lists and save lives. It is for that reason that I support the principles that underpin the bill, and I hope that members on all sides can do so, too.

When we last debated transplantation, I mentioned the work of the organ donation task force. It is now eight years since the task force reported on ways to improve organ donation, and the progress that has been made in that time has been welcomed, particularly by the medical profession. Its findings have shaped policy, informed the work of Government and, many believe, contributed to an increase in donation rates. Better training and co-ordination and more

awareness have all made a difference, yet despite the progress in recent years, real challenges remain, and they must be overcome.

I draw the Parliament's attention to the written evidence that the British Heart Foundation Scotland supplied to the Health and Sport Committee, according to which nearly 7,000 people in the UK are on waiting lists and three people die each day waiting for an organ. Levels of organ donation are still low by European standards. Even though 90 per cent of the public say that they support organ donation, only 32 per cent are registered as organ donors. Over 46 per cent of families refused organ donation in a single year because they did not know their relative's wishes. Long waits and confusion about families' wishes are costing lives, and that is why the bill is so important.

John Mason: The member talks about the relationship between the donor and the family. Does she agree that that is to be challenged anyway and that it is not relevant to the bill because it is a problem whichever way we go?

Margaret McCulloch: Yes. I totally agree. Also, under the bill, the relatives are consulted and their wishes are taken into account as well.

For us in Scotland—a country that has already improved public education and awareness in the health professions—the next step is surely to look at new ways of increasing donation rates through legislative and cultural change and to give serious consideration to a soft opt-out. It is not just a matter of changing the law and moving towards a position of presumed consent. It is also about changing attitudes and creating a culture of openness and understanding in which we can more readily talk before we die about what we want to happen to our bodies. There should be rigorous safeguards to make sure that liberty and choice are protected and that presumed consent does not mean taking away choice.

I am not a member of the Health and Sport Committee, but I see that many of its deliberations have focused on how to ascertain what the individual's choices are. Families should be consulted even when their loved ones have failed to opt out, to establish whether they are aware of any objections and whether proceeding with organ donation would cause distress.

I note that the committee also discussed whether the proposed changes would lead to the desired increase in organ donations. BMA Scotland, which supports the principles of the bill, accepts that it is notoriously difficult to assess the impact of opt-out legislation on donation rates. However, it also pointed to the example of Wales, where only 3 per cent have opted out from organ donation, and we can look to other examples

around the world where the legislation is different yet donation levels are higher.

Opting out is not new. Across Europe, there are plenty of examples of countries that have successfully managed opt-out systems of organ donation for many years. As we have heard, the committee visited Spain, which has the highest level of organ donation in the world.

The Deputy Presiding Officer: You must close, please.

Margaret McCulloch: If the bill does not proceed, I hope that the Government will revisit the issue in the next session of Parliament, as it has promised. For now, I will support a soft opt-out to give real hope to all those who are waiting for a life-saving transplant, and their families. Let us choose to change and opt for life.

15:34

Mike MacKenzie (Highlands and Islands) (SNP): I have a great deal of respect for Anne McTaggart and for her passion about and conviction on organ donation, and I approached our scrutiny of her bill with more than an open mind. I actively wanted to support it.

Back then, I could find nothing in the general premise of the soft opt-out for organ donation on which the bill is founded to disagree with. It seemed to be a matter of common sense that moving from a soft opt-in system to a soft opt-out system would be bound to increase the supply of organ donors and therefore the supply of organs. It seemed straightforward, and I know that a number of my colleagues had similar views. However, during the course of the scrutiny and in the face of the evidence that we uncovered, I have been forced to change my mind—not on the general principles, but certainly on the detail in the bill.

Jim Hume: Will the member take an intervention?

Mike MacKenzie: No, thank you. We are short of time.

It is important to set the context. It is true that we saw a falling off of organ supply in 2014-15, but that is against a significantly rising trend in the supply of organ donations. Therefore, we must be doing something right, and we ought to pay heed to the advice that we received from many experts in the field who were opposed to the bill. It would be strange if we took evidence from experts and then paid no heed to it.

The evidence from across the rest of the world is not clear cut.

Jim Hume: Will the member take an intervention?

Mike MacKenzie: No, thank you. I am short of time.

Although there is a suggestion that soft opt-out systems seem to perform better, it is difficult to know whether that is purely because of the soft opt-out system—we have heard about the situation in Spain—or whether the increased organ supplies are due to other complementary factors. I think that Anne McTaggart agrees that a whole range of actions is needed to improve organ donation rates.

Patricia Ferguson: Will the member take an intervention?

Mike MacKenzie: No, thank you.

The Deputy Presiding Officer: The member has made it quite clear that he is not taking any interventions.

Mike MacKenzie: The Scottish Government has informed us that action is already under way to improve the quality of conversations that are held with bereaved families.

Neil Findlay: On a point of order, Presiding Officer. I wonder whether you can help me, so that I am clear on how I will vote at decision time. Are we voting on the general principles of the bill?

The Deputy Presiding Officer: Members are voting on the general principles of the bill. You are quite correct, Mr Findlay.

Mike MacKenzie: As I said, the Scottish Government has informed us that action is already under way to improve the quality of conversations that are held with bereaved families, which could potentially reduce family refusal rates. That seems to me to be the nub of the matter and the reason why many health professionals in the area are cautious about the soft opt-out approach. They feel that introducing an apparent compulsion for organ donation may produce an unfortunate backlash and result in a reduction in the organs that are available for transplants.

The other problematic issue that I must mention is proxies. The tensions and the potential conflict of interest between the authorised investigating person and the specialist nurses in organ donation are a further issue, which has already been mentioned. I cannot see a simple solution for those problems.

Stewart Maxwell: Will the member take an intervention?

Mike MacKenzie: No. I am sorry, but I am short of time.

Problems are woven throughout the bill—the minister touched on that. There are very difficult and thorny issues, and it behoves us to take the time to consider and resolve them in a proper

fashion that will not give rise to unintended consequences and potentially a reduction in organ donation rates. Can members imagine the tabloid headlines if there was a serious dispute between a proxy and a family, for instance?

For those reasons and on balance, I feel that I cannot support the bill at decision time, just as the majority of the committee indicated that it could not. Anne McTaggart is due great credit for taking forward the bill. She has moved the debate and the discussion on far forward, and I hope that, if the bill is not passed, she will take consolation from the commitment that the minister has given.

15:39

Jackson Carlaw (West Scotland) (Con): In the course of the afternoon, this has become the bill on which I have found myself most conflicted. I have been incredibly impressed with the speeches of those who support Anne McTaggart. As the debate has gone on, it has caused me to question my position. I have also found the debate to be quite fractious, although I understand that that has been motivated by the bill's important content.

This is, I think, the third time that we have debated the issue, but it is by far the most important time, because a potential piece of legislation underpins our discussion. I am slightly uncomfortable at the suggestion that any one side in the discussion has the moral high ground. Everybody in this chamber is in favour of organ donation; that is not the nature of the debate. [*Applause.*]

It is incredibly important that we understand that we are talking about a move to what Parliament would then judge to be the best way of maximising the organ donation potential in Scotland.

In this parliamentary session, my position—had there not been a bill in Wales—would probably have been to favour a bill here in Scotland, because we need to move forwards. However, with a bill in Wales, my position has been that there was an opportunity for us to pass not just any bill, but the right bill, and for that right bill to incorporate the concerns that have been expressed to me by those who are very or somewhat unsure, as well as my own slight misgivings, which I think that I will overcome at some point to support an opt-out legislative process. In that move, it has been incredibly important that we do everything meanwhile to increase the positive donation record that we have, and that nothing we subsequently do could be used to undermine the integrity that exists in our organ donation programme.

The minister spoke about a significant increase in the number of donors and donations that we have seen. Nanette Milne spoke at length about

the system in Spain, which is often alluded to, and the particular improvement that arose through having specialist nurses in organ donation as part of the whole hospital process and the critical difference that that has made in the overall number of donations that has been subsequently achieved.

Jackie Baillie: I think that the member would agree that no one is saying that passing the bill would, in and of itself, be all that is required. We must make other changes, too, such as those that have been made in Spain. However, does he accept that, in making those other changes, passing the bill would be a good way to start?

Jackson Carlaw: That is the conflict with which I and others are wrestling. There is much more that could be done meanwhile, along the lines that Nanette Milne has suggested and within the Government's intention to keep the process moving forward.

I accept some of Christine Grahame's arguments, although the words "presumed consent" have been understood by those who have been discussing the issues and they have been addressed in how the debate on organ donation is progressing, so I am less concerned about that.

The Public Petitions Committee took evidence from the Welsh Government Minister for Health and Social Services. I was impressed with how the Welsh Government has progressed the issue. Therefore, I have wanted to see what happens in Wales and to learn from the experience there in order to see a bill introduced in this Parliament, presumably—this is my hope—early in the next session.

I have a personal concern. I am suspicious of the capacity of the systems in our health service to honour the wishes of those who express their view. It is one thing for a whole lot of people to opt in and for those preferences to be recorded in our information technology systems and whatever else to ensure that we know who wishes to be a donor; it is quite another thing if we were to move to the whole population opting out and our computer systems adequately ensuring that those wishes are protected and respected.

Christine Grahame: Will the member take an intervention?

Jackson Carlaw: I apologise to Ms Grahame. I am nearing the end of my speech.

The concern that remains to be addressed and overcome is about the enormous reputational damage that could be done to the organ donation system in this country if we were to move to an opt-out system and, for whatever reason,

someone's wishes were to end up not being respected. That gives me cause for concern.

Anne McTaggart has brought tremendous integrity and passion to the issue, over a number of years, and I understand the dynamic that she has brought to the whole process and the debate. The Scottish Conservatives will ultimately have a free vote on any proper piece of legislation that is put before us, but at this stage the correct approach is to support the Government amendment and to look for a new bill's introduction in the next session of the Parliament. I do not say that easily, but that is the conclusion that I stay with, even after this afternoon's debate.

15:46

Drew Smith (Glasgow) (Lab): I am grateful for the opportunity to close the debate on behalf of the Scottish Labour Party.

I thank the Health and Sport Committee for its report, and I thank the committee clerks and everyone who engaged in the consultation on the proposal. I also thank the minority of committee members who took part in the debate. It is regrettable that other members, who expressed strong views in the committee, did not come to the chamber to defend their views.

I also thank everyone who has campaigned for greater organ donation rates and everyone who works in our organ donation system. Most important, I want to acknowledge everyone who is currently on the organ donation waiting list and the families of the people in Scotland who have died while awaiting the donation of a suitable organ for transplant.

If we achieve nothing else today—as seems more than likely, given the Scottish Government's opposition to the bill—I hope that we will have at least again raised the profile of organ donation in Scotland.

Mike MacKenzie: Will the member take an intervention?

Drew Smith: I am sorry. Mr MacKenzie was reluctant to take interventions from others but is keen to intervene during other members' speeches. I would rather make progress.

There are facts on which all members agree. Most important, we agree that there are more members of the public who express support for organ donation than there are donors who have got round to opting into the register. The unfortunate—and, I regret to say, unnecessary—consequence of that is that, despite all efforts, some of which we heard about in the debate, and some of which Labour supported in government and is supporting the current Government to pursue, there are people in Scotland who will

continue to die for the lack of a suitable organ being transplanted.

In that context, I have found the debate to be extremely frustrating, and I think that some SNP members share that frustration. In our view, the principle of informed consent is not undermined by a soft opt-out register, just as the principle of autonomy is not protected by the current opt-in register. At present, 10 per cent of the potential donors who have registered their wish to make a donation have their wishes overridden by objections after their death.

Whether we have an opt-in register or a soft opt-out register, Margaret McCulloch was right to say that there is a chronic need for greater openness and more discussion about what we want to have happen to our organs after death. In our view, a major change in attitudes stands the most chance of being achieved through the major public information campaign that would have to precede a move to a soft opt-out system. That is exactly what has happened as a result of the bravery of Welsh ministers in moving to an opt-out system. I commend Wales for leading the charge for change.

I could read out the names of members and ministers who have publicly supported calls for a soft opt-out organ donation bill in Scotland but who intend to vote against further consideration being given to the bill that is before us. However, I will not do that. I will leave it to those members to reflect on why they found the time to pose with newspapers and campaigners supporting a change but are not willing to engage with the bill at the amending stages.

John Mason: The SNP is having a free vote on the bill. I believe that the Conservatives are not. Is Labour having a free vote?

Drew Smith: The Labour Party has had a public position on opt-out donation for some time. The point that I am concerned with is not whether people disagree with the bill, but that some people who have publicly supported and endorsed the campaign now intend to vote against a bill that would deliver it.

The technicalities of the bill are important. They were important three, four and five years ago. They were important when I supported and proposed the change. Those of us who supported it took the time to understand that systems and processes would need to be in place to make soft opt-out work. It is therefore regrettable that, on a vote on the general principles, we are only now being presented with the Government's amendment, finally acknowledging that soft opt-out is part of the solution. No one has ever argued that soft opt-out alone would resolve all the issues, but we believe that it would save lives. I have

absolutely no doubt that Labour members and other members—and, I am sure, Government back benchers—will engage with the Government in the next session of Parliament on measures to improve our donation rates, just as we have in the past.

What is missing from the Government's amendment, even still, is any mention of timescales. Perhaps that means awaiting the post-implementation review in Wales before even the possibility of further consultation on how such a scheme would work in Scotland. That means that it could not be in place in the next session of Parliament either. The time needed to inform, reassure and educate the public about how an opt-out system would work makes that the case.

There are many legitimate reasons to oppose any piece of legislation, and on this issue there are strongly held views. The decision itself on whether to donate or to allow a donation to go ahead after the death of a loved one is an emotional one, but let us think of the emotions of those awaiting transplants, which must be difficult for the rest of us even to begin to comprehend. Members on this side of the chamber commend Anne McTaggart for taking up the issue. It is a source of great regret to me, as a supporter of her bill, that the Government will not allow it to be given further consideration by the Parliament. As a result of that, there will be further deaths in Scotland that I believe could have been prevented.

I support the bill in Anne McTaggart's name, and I urge Parliament to reject the wrecking amendment in the name of Maureen Watt, which calls on us to support the principle of soft opt-out by rejecting the general principles of a soft opt-out bill.

15:52

Maureen Watt: I thank all members for their contributions to the debate. It is clear that we all want to see increased numbers of successful organ transplants for the patients in Scotland who need them. I recognise the strong feelings and the points that have been raised during the debate, but the Scottish Government and experts in the field have significant concerns about the bill and its provisions.

As I said in my opening statement, the current Scottish Government is committed to taking forward a wide-ranging consultation this year on further methods to increase organ donations, including the opt-out. We will consult from now and we will be introducing a bill in 2017. Although that will take a little longer, I feel that it is vital that we take the time to get the proposals right. Rushing through this flawed legislation would be likely to do more harm than good, by creating

additional delays and legal complexities in what is already a complex process.

Christine Grahame: I do not support the soft opt-out, whether it is the Government or a member who proposes it, because of the issues that I set out in my speech, but can the minister say whether, through the consultation, she will give consideration to compulsory registration in an opt-in opt-out register with exceptions for religious or other reasons? If she could at least give it consideration, the medical practitioners would know exactly where they are.

Maureen Watt: I thank Christine Grahame for casting her legal eye on the debate. She is right to have brought up the issue of consent. We have real concerns about adults with incapacity and what the bill says in relation to that group, and the issues that she raises will certainly be addressed in our consultation.

Stewart Maxwell: Will the member take an intervention?

Maureen Watt: I want to make some progress.

Although we previously wanted to wait for a full evaluation of the new opt-out system in Wales before considering Scottish legislation, we have reflected on the level of public interest and the views of the committee. To an extent, the system in Wales reflects the same culture that we have. As Malcolm Chisholm pointed out, views on this matter are shifting, and there is a disconnect between the number of people who say that they want organ donation and those who authorise it when they are in a position to do so. As someone mentioned, the youth are very much in favour of the idea, and there has been a cultural shift.

We have to reflect on the public interest, the cultural shift and what has happened in Wales so that we can take forward a bill that causes no harm. The experts are extremely concerned that we do no harm. They believe that getting the legislation wrong could be devastating to organ donation. It is important to take those views into account. For example, as Mike Mackenzie said, there is as yet no clear international evidence that conclusively proves that opt-out leads to more transplants.

Jackie Baillie: Will the minister take an intervention?

Maureen Watt: Just listen for a minute.

The majority of committee members agreed with that point and, in the stage 1 report, said:

“there is not enough clear evidence to demonstrate that specifically changing to the opt-out system of organ donation as proposed in this Bill would, in of itself, result in an increase in donations.”

Jackie Baillie: Earlier, the minister was talking about harm. Does she regard halving the budget for advertising organ donations to be harmful to increasing donation rates?

Maureen Watt: The way in which the Scottish Government and experts have been taking forward organ donation has not involved blanket advertising.

Anne McTaggart: Put your money where your mouth is.

The Deputy Presiding Officer: Allow the minister to be heard, please.

Maureen Watt: If Anne McTaggart would listen, she would learn what she would have known if she had been at the event in Glasgow that I was at and which she was supposed to be at. We have peer educators in the black and minority ethnic community because we know that there is a disconnect arising from the fact that, although a large number of people who are waiting for an organ transplant are from that community, that number is not matched by the number of people from that community who are on the register.

Unfortunately, that community is waiting longer than others, which is why the peer education programme that Sandra White mentioned is important. It involves people from the Scottish Government and peer educators who are enthusiastic proponents of organ donation talking to their colleagues, their families and their communities in order to ensure that there is an increase in the number of people from those communities who are on the register. That is the kind of specifically targeted campaign that we are taking forward. The work is going on in the gurdwaras, the synagogues, the mosques, the melas and so on, and I have been hugely impressed by it.

We will, of course, monitor the effectiveness of the new opt-out system in Wales to ensure that we can take account of any early lessons from that system. The consultation process will also involve an examination of non-legislative ways of increasing donation.

Drew Smith: Will the member give way?

The Deputy Presiding Officer: The minister is in her last minute.

Maureen Watt: I would like to make some progress.

Nanette Milne made a very important point about ensuring that lessons can be learned from the organ donation nurses who are doing such a good job in Grampian and in Lothian, for example, and that everyone in intensive care units has organ donation in their minds when, sadly, someone is coming to the end of their life. Of

course, new technology is available to improve the quality of organs for transplant.

To sum up, we recognise the positive aims of the bill but there are many significant issues with the drafting that mean that we cannot support it. I challenge the scaremongering of those who say that lives will be lost if we do not support the bill. There is no clear evidence to support that view. As I said in my opening statement, some of the bill's provisions could actually make things worse, which is certainly not what we want to achieve. We must consult to ensure that the practical, legal and ethical implications of any future legislation have been fully thought-through.

We will bring forward our own legislation. However, as Jackson Carlaw said, we have to get it right in the interests of every donor and every recipient. The members of my party will have a free vote on the bill at 5.30.

16:00

Jackie Baillie (Dumbarton) (Lab): I congratulate Anne McTaggart on bringing the bill to Parliament. She has been diligent in making the case for an update system of organ donation. It is literally a life and death issue.

I acknowledge the principled cross-party support throughout the chamber. Jackson Carlaw is right—we all want a system of opt-out organ donation. I particularly single out speeches from Kenny Gibson, Sandra White and John Mason. I believe that Humza Yousaf was here earlier—he supported a previous motion and I hope that he will be voting for the general principles of the bill this evening.

We should not lose sight of why we are debating the bill. It is because too many people in Scotland still die waiting for an organ transplant. The minister is asking us to delay our decision on implementing a soft opt-out system of organ donation. Unfortunately, time is a luxury that those who are on the waiting list now simply do not have. They want us to take action now and introduce a soft opt-out system.

Why should those who have already contributed to the parliamentary process be asked to do so again at some later date? They have given their view—80 per cent of those responding to the bill consultation supported the proposal and there was majority support for all of the proposals in the Health and Sport Committee's online survey. Today, members are being asked to agree the general principles of the bill.

The minister's amendment is confused, if I am being generous. On the one hand, it raises concern about specific details on impact but, on the other, it says that it agrees the merits of the

case. Well, this is stage 1. This is when we agree whether a soft opt-out system of organ donation is the right thing for Scotland. It is about the merits of the case. The minister agrees with the merits but wants us all of us to vote the bill down. It is really simple: if members agree with the principles, they should support the bill at stage 1.

Experts tell us that an opt-out system can improve donation rates. I say to Nanette Milne that there are opportunities to do more. It is not just about the bill; it is about doing some of the things that are done in Spain. However, the bill presents an opportunity to take that first step.

The minister's issue seems to be whether the bill, as currently drafted, will lead to the increase in organ donation that we all want to see, but that is what stage 2 is for—to look at the detail, to consider the bill line by line and even to amend it, in the same way that all bills can be amended at stages 2 and 3.

Stewart Stevenson: As the member knows, we are on the same side of the argument. However, will she join me in welcoming the fact that, whatever outcome we achieve at 5.30 tonight, this is an idea that will continue? Even if the member and I favour a particular approach, if Parliament does not vote for the bill at decision time we should welcome the Government's commitment to soft opt-out as a way forward.

Jackie Baillie: I want to make progress now. That is a view shared by the member. I do not want the Government's reasoned amendment to succeed because it introduces delay, which I find unacceptable.

We should not accept that there is somehow too little time left to amend the bill. The bill is shorter and less complex than the Land Reform (Scotland) Bill, and there have been more than 200 amendments lodged to it. The bill can be amended before dissolution. We are legislating on the supplement to the land and buildings transaction tax within a matter of weeks, so there is the time and capacity to take the bill through Parliament. It is our role to make any necessary improvements—it is not beyond us to do that. That is the parliamentary process. We should be using it.

Saving more lives by increasing organ donation rates should not be a party political issue. It is therefore extremely disappointing that the minister is effectively refusing to participate in the normal parliamentary process. Instead, she is declaring the bill as unamendable. I struggle with that.

It is the very first time in this Parliament that a minister has come and said that a bill is unamendable but agreed with the general principles. The minister's approach is in stark contrast to that taken by her fellow minister Paul

Wheelhouse. He recently had a look at another member's bill, the Apologies (Scotland) Bill. While Mr Wheelhouse supported the aims of the bill, he had concerns about some of the provisions, but he did not declare the bill to be unamendable.

Kevin Stewart: Will the member give way?

Jackie Baillie: I am sorry; I need to make progress.

Instead, Mr Wheelhouse worked with the member to suggest amendments, and the Apologies (Scotland) Bill was passed in this Parliament last month.

In relation to the bill before us, the minister is not only wrong but just about alone in her view that the bill cannot be amended. There is no good reason not to progress the bill; let it go forward to the amending stages. There is no reason why the Parliament should have to start again, repeating the consultation and legislative process next session. What message are we sending to those waiting for transplants, their families and their clinicians if we do not make progress?

We have not heard a proper timescale from the minister. Delaying decisions will cost lives. We know that the Welsh Government is not due to carry out its evaluation until 2017. If the Scottish Government is going to take account of that, which it says it will, its own bill will be later. It is asking people to wait two, three or maybe four years for something to happen. According to the organisation NHS Blood and Transplant, the bill could lead to an increase in 70-plus donors in Scotland, which would be transformational.

We all know the devastating impact on people's lives of waiting for a transplant. Delaying a decision to implement a soft opt-out system is an extremely difficult position to defend. I heard what Christine Grahame said—I have enormous respect for her—when she talked about how members may not have the knowledge and skill to understand complex legal issues, and I accept that.

Christine Grahame: I did not say that.

Jackie Baillie: However, the Scottish Government has an army of civil servants with a great deal of knowledge that can be brought to stage 2 in amendments to improve the bill.

The minister has said that the measures in the bill are not those that the Government would put in place if it had introduced its own bill, but she has not told us what measures she would put in place. The reason why is that the Scottish Government has not thought that through. The minister's official told the committee:

"We have not yet considered how we would introduce an opt-out system if we wanted to do that in Scotland." —

[*Official Report, Health and Sport Committee*, 8 December 2015; c 16.]

It is a matter that affects the lives of hundreds of people the length and breadth of Scotland—one that requires urgent action, not delay. It is not something that can be delayed for three to four years, if it is introduced at all. Let us remember—*[Interruption.]*

The Deputy Presiding Officer (Elaine Smith): Order.

Jackie Baillie: If they could all stop shouting across me, that would be helpful.

The Deputy Presiding Officer: Yes, it would be very helpful.

Jackie Baillie: The fact is that the Scottish Government has had nine years to introduce a bill, there has been a petition from 10,000 people, and there have been previous debates and motions across this Parliament in which views have been shared across parties. There has even been a campaign by the *Evening Times*, and yet there has been no work done on what an opt-out system would look like.

If that does not provide members, who are obviously hoping for an imminent Scottish Government opt-out bill, the clearest indication of the Government's actual intentions, I do not know what will. To be clear, in its reasoned amendment the Scottish Government has not committed to soft opt-out legislation; it has committed to a detailed consultation.

Today we have a choice: the Scottish Government and all members have a chance to introduce a soft opt-out system in Scotland by supporting and then amending this bill. It is not a party political issue. Those whose lives are on hold while they wait for an organ transplant do not care whether it is a member's bill or a Scottish Government bill that is passed, but they do care that we take the issue seriously and take urgent action to improve donation rates.

Members have a choice tonight; let us vote for what we know is right.

Colleges

The Deputy Presiding Officer (Elaine Smith):

The next item of business is a debate on motion S4M-15584, in the name of Paul Martin, on the Public Audit Committee's three reports: "Report on Scotland's colleges 2015"; "Report on The 2012/13 audit of North Glasgow College: Governance and financial stewardship"; and "Report on The 2013/14 audit of Coatbridge College: Governance of severance".

16:10

Paul Martin (Glasgow Provan) (Lab): On behalf of the Public Audit Committee, I welcome the opportunity to highlight our work on the colleges sector, which has been a major component of the committee's scrutiny work. I draw to members' attention the three committee reports that have been brought to the chamber today, all of which have their roots in the work of Audit Scotland.

As colleagues will know, it is not in the Public Audit Committee's remit to scrutinise policy decisions in areas such as the mergers process. Instead, our duty—which we take seriously and perform on a cross-party basis—is to scrutinise the performance and economy of public bodies and examine whether they have used taxpayers' money to perform in an effective and efficient manner. Unfortunately, in relation to Coatbridge College and North Glasgow College, we found that that was not always the case. I do not plan to go through the whole mergers process or dive too deeply into the issues, as I am sure that other members will wish to do so.

Across our three reports, we heard more than 18 hours of oral evidence from 34 witnesses, and we considered thousands of pages of documents during the process. We heard from the Scottish Government, the Scottish Further and Higher Education Funding Council, Audit Scotland, solicitors, individual colleges and individuals who worked in the college sector. The sheer volume of evidence that we had to ask for during the process to unpick the issues highlights the challenges that the sector faced.

First, I will touch on the report that we received on North Glasgow College. In May 2014, Audit Scotland published its report on "The 2012/13 audit of North Glasgow College", which highlighted poor governance and a lack of transparency in relation to severance payments for senior staff. I will give a few examples. The chair of the board also chaired the remuneration committee; the remuneration committee had not met for a number of years, despite being required by its terms of reference to meet at least once a year; and the

remuneration committee failed to report its decisions to the board, which is a basic governance step that it is incredible to imagine was overlooked.

Ironically, given my earlier mention of the sheer volume of evidence that the committee received, there was a lack of a basic audit trail at North Glasgow College for severance packages, which highlighted the most appalling governance failure. Although I was not on the committee during the inquiry, I know that poor governance and the ineffective oversight from the Scottish funding council in relation to highlighting guidance were of great concern to the committee. That concern would only be exacerbated by our investigation of a similar situation at Coatbridge College.

I have to say—and I know that other members share my concerns in this respect—that I was not convinced by the evidence that we received from the Scottish funding council that it had done anywhere near enough to prevent the kind of poor governance that was uncovered during the processes at Coatbridge College and North Glasgow College.

I know that I speak for the whole committee when I say that we found the Auditor General for Scotland's section 22 report, "The 2013/14 audit of Coatbridge College: Governance of severance arrangements", a complex report that dealt with complex issues. It is probably the most complex report that has been placed before any committee, certainly in my experience and in that of other members. Indeed, it would be possible to spend the entire debate discussing Coatbridge without beginning to scratch the surface of the myriad governance failures.

In a nutshell, what the AGS highlighted to us—and what the evidence that we received confirmed—was that John Doyle, who was the college principal, used his influence and worked with the chair of the college board, John Gray, to secure a severance package that was well beyond that which was offered to other staff at Coatbridge and indeed across the sector.

That arrogance and self-serving misuse of public money was made possible by poor governance, a lack of oversight and—at the time—a lack of appropriate sanctions available to the appropriate bodies. In our committee report, we called on John Doyle to repay £304,000 that he received as part of his severance package. We also highlighted the need for the Scottish funding council and the Office of the Scottish Charity Regulator to have in place more effective monitoring. We recommended that the college good governance task group, which is led by the cabinet secretary, reflects on our findings, and we look forward to hearing from it what steps will be taken to ensure that such a situation is not

repeated. More widely, we asked the Scottish Government to look at the operation and effectiveness of the Scottish funding council, which we believe did not take sufficient action to support colleges going through the complex and difficult mergers process.

As concerning as the issues surrounding severance packages were, the committee found that there was work to do in other areas to ensure that the college mergers process laid solid foundations on which to build for the future, in the interests of students primarily. In our report on Audit Scotland's overview report "Scotland's colleges 2015", we raised concerns about the need to ensure the transparency and accountability of the arm's-length foundations that are established to carry forward college reserves. We also raised concerns over the detail of the projected £50 million of savings generated by college mergers and how the new regional boards will be supported to ensure accountability and clear lines of communication and responsibility.

In my opening remarks, I touched on reform and value for money; perhaps a better phrase would be "accountability and value for money", which encapsulates the committee's responsibility to push and promote at every opportunity. In the case of the further education sector, it is clear that, during the mergers process, those essential principles were not always present. It is vital that safeguards are put in place to ensure that there is a floor of basic governance beneath which public bodies cannot fall. Although we cannot change the past, we can learn the lessons for the future and ensure that public money is spent in the best interests of the public. Our unanimous recommendations, which were made in our three reports on colleges following the committee's cross-party process, relate to stronger regulatory roles for OSCR and the SFC and transparency for regional boards and arm's-length-foundations. We hope that they are examined, considered and taken on board as a matter of urgency.

I move,

That the Parliament notes the conclusions and recommendations in the Public Audit Committee's 3rd Report 2015 (Session 4), *Report on Scotland's colleges 2015*, its 4th Report 2015 (Session 4), *Report on The 2012/13 audit of North Glasgow College: Governance and financial stewardship* and its 1st Report 2016 (Session 4), *Report on The 2013/14 audit of Coatbridge College: Governance of severance*.

16:18

The Cabinet Secretary for Education and Lifelong Learning (Angela Constance): I welcome the opportunity to set out the success of Scotland's colleges, to reflect on the need for stronger accountability and to look to the future of this valued and valuable sector. We are here as a

result of three reports that the Auditor General presented to the Parliament over the course of 2014 and 2015. The Public Audit Committee considered those reports and published its own findings. I welcome the opportunity to discuss the committee's findings, as well as the Auditor General's findings.

As we know, Audit Scotland has a key role in ensuring transparency, high governance standards and effective use of public money, and I very much welcome its important work. It is of course likely and understandable that today's today debate will focus on areas for improvement, but we should not forget, as the "Scotland's colleges 2015" report acknowledges, that there are many positives. The report confirms that colleges' finances are sound, that planning for mergers was good and that the sector has responded well to a period of significant change.

We know that colleges play a crucial role in this Government's commitment to improving the employability of all Scotland's young people. Colleges' ability to flex to the needs of industry while attracting young people to courses that better prepare them for the world of work is excellent.

Current youth employment levels are at their highest for 10 years and colleges have played a significant role in that achievement. Quite simply, colleges matter; they make a vital contribution to our people, our economy and our society. Their proper stewardship clearly matters, too. Good boards can support a college to better the lives of students and to help businesses perform better. They can be a force for good—they can be a force for great good. However, because of their vital role, poor boards could risk actively making things worse—indeed, much worse.

That is why the committee's reports are so jarring—they document how those entrusted with the proper stewardship of public funds broke that trust. The events at Coatbridge, at North Glasgow and at Glasgow Clyde were appalling. However, it would be catastrophic to fail to learn the lessons. That is why I am absolutely determined to take concrete action to prevent the recurrence of such events.

Although the specific governance failures outlined in the two college-specific PAC reports occurred before Office for National Statistics reclassification of colleges and the Auditor General for Scotland's confirmation that the new controls are much more robust, we cannot and must not be complacent.

Following the serious failures of governance at Glasgow Clyde College and the unprecedented action in October last year to remove board members, I announced the formation of my

college good governance task group to consider what more could be done. There is an opportunity, which my task group is seizing, to extract some good from recent failures.

I chaired an excellent second meeting of the task group last week. I thank all the members of the group for their contributions to date, including those from the president of the National Union of Students Scotland, union representatives from the Educational Institute of Scotland and Unison, and members representing Colleges Scotland, the Scottish funding council and OSCR as well as the member who is independent from the sector. The group is well on the way to producing its report next month.

I do not want to pre-empt our report but key areas that we are looking at include: the Scottish funding council taking a more proactive, risk-based approach to satisfy itself that governance standards are being met; enhancing the key role of board secretary; and providing better support for board member training, building on a lot of good work that has been done in recent months.

All colleges need to be led and governed to the highest of standards. Through my task group and other relevant work, I will ensure that we have greater confidence that the required standards are being met across the sector.

The Scottish funding council is vital to realising our ambition for the success of the sector and its better regulation. I welcome the SFC's engagement with my task group, and my expectations are that the SFC will implement the recommendations swiftly and effectively.

My letter of guidance to the SFC, which was published just yesterday, sets out my priorities for both the college sector and the university sector. In what has been a tight financial settlement for public services in Scotland, I am pleased to have been able to protect college resource funding at 2015-16 levels. With responsibility for such a significant amount of public funds, I place the highest importance on proactive risk management and rigorous monitoring, and my letter of guidance makes clear my expectations in that regard.

Colleges have implemented the most profound set of public sector reforms in Scottish tertiary education for more than a generation, which is, in itself, a remarkable achievement. The debate over structures is behind us. We must now ensure that they work to their full potential. Colleges are now delivering similar levels of activity for less resource and with much greater impact—that is surely the definition of good public sector reform, especially in the current economic climate. The Scottish Government is working with the Scottish funding council and Audit Scotland with a view to

publishing data on financial and non-financial benefits.

The Public Audit Committee's three reports have helpfully captured areas of improvement for our continued attention. I recognise that there is more to do, and I look forward to continuing to support the sector in the next phase.

16:24

Jackie Baillie (Dumbarton) (Lab): I welcome the opportunity to contribute to the debate. Colleges are critically important institutions that provide vocational education and improve employability. I know that the college in my area, West College Scotland, works with local employers to improve its offer.

The reorganisation of Scotland's colleges has been one of the few public sector reforms that the Scottish National Party Government has undertaken. The investigations by the Public Audit Committee into North Glasgow College and Coatbridge College have shown that the SNP Government's handling of the reorganisations has not really done it credit.

Towards the end of last year, the EIS conducted a survey of members on the mergers and, frankly, the results were damning: 89 per cent of respondents did not believe that their merger improved learning or teaching quality; 94 per cent did not believe that their merger improved staff morale in the college; 86 per cent did not believe that their merged college better meets the needs of their local communities; and 81 per cent indicated that their workload has increased following their college's merger. That is not a pretty picture. In fact, one could describe it as a truly damning assessment from staff on the front line experiencing the SNP's reforms to our colleges.

Last year, the First Minister asked to be judged on her Government's record. Frankly, on further education, that record is not one to be proud of. Since the SNP came to power, the number of college students has reduced by 152,000. We in the Parliament know that the SNP Government has deprioritised our colleges in terms of funding, but it will sicken people across Scotland to see how members of senior management, such as the former principal at Coatbridge College, played the system to get a golden goodbye. I believe that the former principal should return the chunk of his pay-off that was in excess of college guidelines. To do otherwise would be a slap in the face for staff across the sector.

I know that the cabinet secretary agrees with that, but I hope that the SNP Government considers how the loopholes that were abused can be closed and what action it can take to prevent

that from ever happening again. What role should the funding council play? Was the SNP cabinet secretary at the time aware of what was going on and, if not, why not? There also needs to be an acceptance that the mergers have been incredibly damaging to further education in Scotland.

Analysis of responses to freedom of information requests that were submitted by the Scottish Labour Party shows that nearly 3,500 college staff have been made redundant since 2007 and that the cost of shedding staff from our colleges has been a staggering £90 million. Meanwhile, NUS Scotland has said that student support in further education is not fit for purpose. If we want to do something for students who access colleges, including the most disadvantaged students, it is essential that we increase the support that they receive.

To me, that all reads like a shopping list of failure on the part of the Scottish Government. It is the Government that created the circumstances that allowed people such as John Doyle to feather their nests. That should act as a wake-up call. The First Minister has said that education will be the "driving and defining" issue for her Government. That should apply to all forms of education, and the Government should learn the lessons that the scandal of Coatbridge College has to teach us.

The public outrage is about more than a bureaucrat playing the system to line his pockets; it is about the fact that he did so while in charge of a college in one of the most deprived parts of Scotland—a college that for generations had been a ladder out of disadvantage—and while the SNP has taken an axe to further education budgets. Under the SNP in 2016, students lose out while bureaucrats rake it in. It is not fair, it is not right and it makes a mockery of the SNP's statement that education is its priority.

16:30

Liz Smith (Mid Scotland and Fife) (Con): When the Auditor General for Scotland says that this case was among the most serious failures of governance that she has ever seen in her time, the Scottish Parliament must not fail to take notice. Although I am also conscious of the difficult and sensitive issues, including the tragic death of a senior member of the college staff, it is important that Parliament ensures that all the facts come into the public domain and that it takes action to ensure that such a situation can never be repeated. On that point, I compliment the convener of the Public Audit Committee and his fellow committee members for the assiduous manner in which they have pursued the truth, often against the odds. They deserve great credit for the report that they have produced and I am sure that it will serve as a blueprint for the future.

At the time of college reform, there was general agreement that there was a need for some mergers and economies of scale, and that mergers should at all times be measured against the drive towards better educational outcomes and financial discipline. There was less agreement about the pace of reform and how it would be handled—especially whether we had the right relationship between the Scottish Government and the Scottish funding council. I remember several committee meetings in which that relationship was put under the spotlight, and I remember the cabinet secretary at the time being certain that the pace of change was appropriate.

The college sector, however, was split. Some colleges were very keen on the merger process while others were much less so—usually because they were worried about losing their autonomy and/or their ability to best serve the needs of a diverse local economy. Jackie Baillie referred to the EIS survey on that very issue.

We might have thought that, amidst all that, extra care would have been taken to provide maximum transparency and scrutiny of the merger process, and to allay the fears of people who were unsure about the new structures for governance. When large sums of public money are involved, it is paramount that institutions are fully accountable for their spending and how they make their decisions.

In the case of Coatbridge College, there was utter failure on several fronts. Although it was the worst example that the Auditor General saw, we should not assume an absence of failures in other colleges. The failures might not have been so comprehensive, but they exist, so it is to be hoped that those colleges also learn a great deal from this episode.

I have no wish to dwell on the specifics of the case because they have been well covered in recent months. For me, the worst aspect of the Coatbridge College culture was the deliberate collusion in some echelons of senior management to secure personal financial gain and the complete incompetence when it came to abiding by good practice in governance. All that was happening at a time when there was already significant concern about whether some public sector institutions were sufficiently honest and principled.

In Audit Scotland's report "Scotland's colleges 2015", it was made clear that the external audit of Coatbridge College had not been completed at the time of publication because the auditor had experienced difficulties with getting the relevant information. Two months later, Audit Scotland published a press release alongside the presentation of its audit of Coatbridge College to the Scottish Parliament. In that, Audit Scotland highlighted the weaknesses in governance that

had been uncovered, including the fact that severance payments exceeded the terms of the college's severance scheme.

It then became clear that that was the tip of a very substantial iceberg that successfully sank every principle of good governance. There were no accurate minutes; in some cases, there were no minutes at all and in others the minutes were produced nine months later. There were examples of meetings that had no agendas and a complete absence of the appropriate lines of communication. Those are inexcusable failures—indeed, they are unbelievable. That any governing council could allow such a situation to persist is extraordinary as well as unacceptable.

Serious failings in senior levels of the Scottish funding council have also been uncovered. The committee's report could hardly be blunter and I am sure that the Scottish Government and Parliament will want to reflect on it. It is important that we review what happened in the Coatbridge situation and whether the tripartite relationship between the Scottish Government, the Scottish funding council and individual colleges is the most appropriate when it comes to maximum transparency and financial probity. Whether the SFC is being asked to be judge and jury at the same time is surely an important question.

All this has had a human cost, the most tragic of which was the death of a member of staff. It has also had very serious effect on staff morale at a time when colleges are already facing huge pressures from financial cuts. Who can blame staff and students when they worry about the broader implications of the Coatbridge College issue? We need public confidence in our colleges and we need an assurance that the means by which they are governed are wholly watertight and in line with the very best practice that can be expected.

These are very serious matters and the Parliament cannot ignore them.

The Deputy Presiding Officer: We come to the open debate. Members have been advised that speeches would have to be of four minutes. I can give members very slightly longer than that.

16:35

Colin Beattie (Midlothian North and Musselburgh) (SNP): The Auditor General's report "Scotland's colleges 2015" confirmed that college finances were sound, that planning for mergers was good and that, overall, the sector had responded well to a period of significant change. That is important.

However, the reports on Coatbridge College and North Glasgow College highlighted that in both cases there was clear evidence of poor

governance and lack of transparency—most particularly around severance payments. The negative findings were a considerable concern, so I welcomed the rigorous investigations that were undertaken by the Public Audit Committee, of which I am a member.

I would like to focus on the worst of the two cases—that of Coatbridge College, where incontrovertible evidence was found of deliberate deception and obfuscation by key players.

Over the years, I have been involved in many investigations, but I have rarely seen such a blatant and successful attempt to subvert normal processes and to seek an outcome that brought financial benefit to one person. Make no error: other staff benefited financially from the doubtful practices that were followed by the college, but none did to as great an extent as the college principal, Mr John Doyle, who pocketed more than £300,000 in cash. In part, that payment resulted in the college going into the red at the end of the financial year to the detriment of the students of that college, who otherwise would have enjoyed the benefit of that money being spent in support of their education.

The Public Audit Committee was unanimous in its condemnation of the practices that were followed by the college, and Mr Doyle should repay the money, which was obtained under false pretences, and settle for the same severance terms that other staff at the college enjoyed.

We would not be the Public Audit Committee if we did not seek to identify those who were responsible for what appears to have been misapplication of public moneys. Mr Doyle, as the principal, and Mr John Gray, as the chair, bear responsibility for serious failures in the governance of Coatbridge College. No system of supervision has yet been devised that will provide 100 per cent protection against deliberate and premeditated deception such as took place at Coatbridge College. It is astonishing, to say the least, that senior staff wilfully colluded to achieve a particular outcome, but I believe that that has been proved to be a fact in this case.

Could the Scottish funding council have done more? It is apparent that the SFC was not sufficiently prepared to manage the levels of deception and avarice that were evidenced. The SFC should have been aware that opportunistic individuals might take advantage of the fluid situation that was created as the merger process progressed. Clearer directions and firmer management of the overall merger process might have made a significant difference. As I have already stated, deliberate and intentional collusion in deception can be very hard to detect, at least initially, especially at senior level and when more than one senior individual is involved.

Could the Government have done more? Some people argue that closer oversight of the SFC might have been appropriate, and that the Scottish Government had too much confidence in the SFC and its ability to manage the merger process. However, micromanagement of the SFC would not have been expected, as the SFC's role in the process seems to be clear and no regulator in the United Kingdom has Government officials closely monitoring its activities.

I am pleased that the committee's report has resulted in the Government responding by the cabinet secretary setting up the college governance task force. The cabinet secretary has also confirmed that the Government will take full account of the committee's recommendations.

We must all ensure that no such disgraceful event can happen again, and I am encouraged by the knowledge that, post-merger, such an event is highly unlikely, given the new governance structures, but the role of the SFC needs to be beefed up. In effect, the SFC is the regulator for the college sector. It must be fit for purpose, and its function must be clear and unequivocal.

Nigel Don (Angus North and Mearns) (SNP): I am very grateful to the member for taking an intervention. As a member of the Public Audit Committee, I sat there thinking all the things that he has just mentioned.

However, I find myself reflecting on whether boards of such public bodies are in a good place to provide the kind of scrutiny and challenge that they should provide. There were many members of the board of Coatbridge College who did not challenge some of the things that they could have seen. I suspect that they could have understood what was going on.

Colin Beattie: The cabinet secretary mentioned that the college governance task force is looking at such issues as training of board members, so I hope that that will be addressed.

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

Colin Beattie: The investigation highlighted the unacceptable behaviour of a few people in the college sector, but we should remember that not everyone in the sector should be tarred with the same brush. However, it is required that good guidance be enforced in order to ensure that public funds are not diverted for the benefit of individuals by public figures who should be setting an example to the communities in which they work.

I commend the good work that was done by the Auditor General in bringing her report to the Public Audit Committee for its scrutiny.

16:40

James Kelly (Rutherglen) (Lab): I thank the Public Audit Committee for the in-depth work that it carried out on the reports on Coatbridge College and North Glasgow College. I think that the Public Audit Committee is one of the top committees in Parliament in terms of how it drills down to the detail of issues and flags up areas of real concern for public policy and use of public money.

A total of £52 million was made available to support the college merger process, so it is right that serious questions are asked about not only whether the process has delivered the political outcomes that the Government wanted but whether it has delivered value for money. When we look at some of the detail in the two reports, we can see that there are areas of real concern.

Questions have to be asked of the Scottish funding council because it is absolutely clear that it did not provide proper guidance and oversight. The guidance on severance payments was issued in 2000—it was 12 years old at the time of the merger process, but was not reviewed, reissued or reinforced, which I find absolutely shocking in audit terms.

There are also real concerns around governance in the two colleges and the lack of audit trails. The fact is that the chair of the remuneration committee at North Glasgow College and the chair of the college board could be the same person, which is unacceptable, given that such big decisions were being taken at the time about large sums of public money. We really have to wonder how that situation could happen.

People in my constituency who work in colleges or who are students struggling to make ends meet would be shocked by some of the sums of money that have been involved in the colleges' severance processes. The top three severance payments for North Glasgow College totalled £700,000, and the payment to John Doyle at Coatbridge College, which has been under a lot of scrutiny because it was reckoned to be overpaid, was £304,000. That is £1 million of public money in those examples alone. It is absolutely correct that the Public Audit Committee has asked Mr Doyle to pay back that money, because it is clear that there was collusion in order to get a good deal. However, it has clearly not been a good deal as far as the public are concerned.

It is very important that the SNP Government takes some responsibility for that situation. A theme that has run through the way in which the Government operates is that when something goes wrong, it is "an operational matter" and somebody else's fault. It was a Government decision to go through the college merger process and the Government backed it up to the tune of

£52 million, but there were serious errors in how it was implemented and there was a lack of proper follow-through.

There are clear audit and financial points that have to be followed through in terms of there being a lack of proper guidance and good governance. However, in terms of how the college sector is operated, there are 152,000 fewer college places than there were in 2007 and when they see how the severance payments operated, it demoralises staff and students.

That situation is an example of why the SNP needs to wake up to what is going on in the college sector. The Government not only needs to take the lessons from the two audit reports, but needs to examine the overall process to see why we have fewer college places than we had in 2007 and why we are not getting students out to fill the skills gaps that our employers are asking to be filled. Those issues have to be addressed by the Government.

16:44

Tavish Scott (Shetland Islands) (LD): This debate would not be happening were it not for Audit Scotland and Caroline Gardner, the Auditor General for Scotland. It is on days like this that a number of us reflect that Audit Scotland is one of the few parts of the public sector that keep the rest of the public sector and the Government honest, which is what happened in this case. The convener of the Public Audit Committee rightly drew attention to Audit Scotland's forensic analysis of what went on at Coatbridge College. Our committee report, which covers that analysis in some detail, and all the hours of evidence that we took happened only because Audit Scotland did the job that we expect it to do.

Audit Scotland deserves a heck of a lot of credit for that work, not least because, when the former principal of Coatbridge College whom we are discussing today turned up at the Public Audit Committee, the first thing that he did was to attack the Auditor General, cast doubt on the veracity of her findings and impugn her reputation. What we found out afterwards was that the person who needed to apologise for their behaviour was not the Auditor General but John Doyle.

I agree with what other members such as Colin Beattie have said. I do not know how Mr Doyle can look at himself in the shaving mirror in the morning. He should get up, write a cheque for £304,000 and pay it back, not to the Scottish funding council or even to the cabinet secretary, but to the students and staff at the college. That £304,000 would help the institution to move forward. If we achieve anything as a committee—I

do not suppose that we will—it would be something on those lines.

A number of members have reflected on why all this happened, and some members, including Jackie Baillie, have drawn some of that out. I completely understand that the then cabinet secretary Mike Russell was determined to deliver a college merger programme across Scotland and he had cross-party support for that. I suspect that what happened was that the funding council was pretty well left to get on with it by the cabinet secretary and the Government of the day. We can understand that, but the fact that there was not a heck of a lot of parliamentary scrutiny of it at that time is an illustration of what is not good about public policy. It points to the need to constantly question why something is happening, even if we agree with it.

As others have said, there was no question but that, because of the merger process, a number of college principals and senior people in different colleges were going to go. That was illustrated by one of the tables that we eventually dragged out of the Scottish funding council. The 14 individuals who left different colleges across Scotland under the merger process received a total of £2.6 million of public money in pensions, on-costs, annual leave and various other things. I do not think that that would be acceptable to any of us, and it is certainly not acceptable to the woman or man who is walking down Market Street this afternoon that people could benefit to that extent from a merger process.

I agree with the comments of the convener of the Public Audit Committee, Paul Martin, and other members who have spoken this afternoon that the lines of financial accountability were just not there in the way that, frankly, we should expect. The cabinet secretary made a good point about a risk assessment at the end of her speech. It is a pity that that did not happen at the start, but she is right.

There is no better illustration of that than in the Public Audit Committee's "Report on Scotland's colleges 2015", which was published on 28 September 2015. On the savings that were claimed for the merger process, the Auditor General told the committee in evidence on 29 April 2015:

"At this stage, the funding council and the Government could not give us the information that we asked for to demonstrate the costs of the merger process."—[*Official Report, Public Audit Committee, 29 April 2015; c 33.*]

It is no wonder that all this was going on behind the scenes when the matter was first considered.

I ask the Government to reflect both on the committee report and on what the Auditor General has said about the lines of financial accountability

and the governance of what happened, not just for Coatbridge College but for the future of public spending in Scotland.

16:49

George Adam (Paisley) (SNP): I am not a member of the Public Audit Committee, but I sat on it during the first year of this session, and I am only too aware of its work programme. I appreciate the hard work that its convener, Paul Martin, and others have done on this and many other issues.

As a member of the Education and Culture Committee, I have followed the sorry saga with great interest. The whole purpose of the reform of colleges was that they would make a more powerful contribution to growing Scotland's economy and be more focused on employability. We are all aware of the very challenging times that we live in and that public sector reform, like college reform, can deliver services in new and innovative ways, but the process of reform is not helped by examples such as Mr Doyle, who encouraged the public to be very cynical about the public sector. In his case, greed overcame practicality and reality. Certain very senior managers have put their own financial security above that of the education institution that they have served and have forgotten about the college, the staff and the students who have been involved in the major reforms at a very difficult time.

I have found the whole sordid little deal rather sickening. Such situations, although they are in the minority, make our constituents and the public very cynical about the value of public service. They do an injustice to the men and women who commit themselves to the noble ideals of public service and show an individual who is looking after number 1 and no one else.

I would like to discuss the part of the committee's report on the Scottish funding council's financial memorandum with colleges. The report says that that memorandum states:

"The Council (SFC) must be able to rely on the whole system of governance, management and conduct of the institution ... to safeguard all funds of the institution deriving from Scottish Ministers and to achieve the purpose for which those funds are provided."

Exhibit 3 in "The 2013/14 audit of Coatbridge College: Governance of severance arrangements" includes

"Extracts from Scottish Funding Council guidance on severance arrangements to senior staff in further education colleges".

Paragraph 13 of that guidance says:

"Colleges have a responsibility to use both public and any 'private' funds in a prudent way that achieves value for money."

That does not seem to have been the case in this scenario.

An institution's management structure needs to be robust and transparent enough to deliver the desired outcomes. Mr Doyle, in the position that we have had to deal with, seems to have failed in those principles. Perhaps Mr Doyle's principles might have to come into question.

With that in mind, I commend the Public Audit Committee for its work, sitting through the evidence that it has had to sit through, and particularly for the recommendation that it came up with on page 45 of its report. Recommendation 1 states:

"We recommend that John Doyle repay the £304,254 he received and that his severance pay is then recalculated with reference to the agreed voluntary severance scheme applicable to all other staff. In the event that he does not repay the money, renewed consideration must be given to recovering it from him."

That is probably one of the most important parts of the whole scenario.

I take on board the fact that, since April 2014, the Scottish Government has put in place in the "Scottish Public Finance Manual" a number of measures to ensure effective scrutiny of severance and settlement arrangements, as the cabinet secretary has already said. Colleges must comply with that manual and, in doing so, seek approval from the SFC on both severance and settlement arrangements.

We need to ensure that we are very prudent with public money, and we need to learn from the excellent report that is in front of us. We need to ensure that we do all that we can so that what has happened does not happen in the public sector again.

Recommendation 1 in the committee's report sums up a very sordid affair. It is time for Mr Doyle to do the right thing.

16:53

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): I, too, thank the Auditor General for illuminating the entire saga, and I thank the Parliament's Public Audit Committee for the thorough and analytical report that it has produced on a very sorry chapter in further education in Scotland.

My colleague Jackie Baillie was quite right to discuss at the beginning of her contribution the various ways in which colleges matter. They matter to our communities, to employability and to Scotland's economy. I was slightly surprised that the minister mentioned on various occasions their importance to young people. If I am correct, it was said three times that they are important to young

people. Surely their importance is not just to young people, but to women returners or those who need to be reskilled, for example. I am disappointed that the minister has not recognised that. A suspicion that many people in and out of the sector have had for a long time is that the 152,000 college places have been lost to the detriment of such groups.

My particular concern about the reports before us is about North Glasgow College, which was located in my constituency and, in its new merged form, still is. I was surprised when I read about the scale of the payments made to some outgoing staff members. I was even more surprised to read of the many opportunities to intervene and to question whether the payments were appropriate. Unfortunately, those opportunities were not taken.

The Public Audit Committee drew our attention to the fact that, in 2000, the Scottish funding council provided guidance to colleges about how to deal with severance for senior staff. In 2004, it updated that guidance, as my colleague James Kelly said. Crucially, the Scottish funding council did not remind colleges of the guidance at the point at which the mergers were being discussed and taking place.

This is not the first time that Scotland has witnessed the merger of public bodies. The Auditor General has provided good practice guidance for such occasions. Therefore, we must also question why the guidance was not followed in this case.

The college merger programme was one of the largest public sector reorganisations that we have ever seen. In those circumstances, we could—indeed, perhaps we should—have expected the funding council to be more proactive in that regard. However, it is also clear that North Glasgow College failed in a number of important ways. As the committee said, it fell short of the required level of governance. That is just unacceptable.

The merger was a Scottish Government initiative and it conformed to the Government's requirements. I do not understand how it did not foresee the possibility of the scenario that arose. Where people want to do something that is perhaps not up to the standard that most people would expect, they will always find a way to get around the rules. The measures were controversial and senior staff of long standing found themselves in a situation in which there was no longer a job for them. How those staff members would depart should surely have been of concern to ministers, as well as to the funding council.

The committee's report exposed that, on 11 October 2013, the funding council received a funding request from North Glasgow College that

included payment for two senior staff members. On 24 October 2013, the funding council apparently advised the college that funding would be restricted—that it would not get the full amount that it had asked for. However, by that time, just over two weeks after the college had made the initial request, the payments to those senior staff members had been authorised and, on 28 October 2013, they were made. There was a three-week period between the application and the money being disbursed. That seems to be what can be described only as a deliberate attempt to pay money that perhaps should not have been paid in the first place.

It should also be noted that North Glasgow College's remuneration committee's decisions about severance were not reported to the college board, because the chair of the board was advised—wrongly—that there was no need for that to happen.

The cost of restructuring and severance at North Glasgow College was £1.29 million. In the end, the Scottish funding council provided £866,000 of that amount, resulting in a shortfall of £424,000. Of that amount, £240,000 arose from the severance payments. That might not be a huge sum of money in the overall scheme of things, but that sum might have been better spent on supporting students, widening access or perhaps even in restoring staff morale. We must learn the lessons.

16:59

Stuart McMillan (West Scotland) (SNP): As someone who studied at college before attending university, I have a huge amount to thank further education for.

I was happy to support the proposals for college mergers because I thought that they would introduce efficiencies into the college sector. I also thought that by removing layers of senior management we could ensure that more money would be invested in students. That is where the money should go. Members will notice that I used the word “invested”, rather than “spent”. Every penny that is invested in colleges should be an investment in people and in the future prosperity of the country.

I knew that the merger process would raise issues that would need to be addressed, and I knew that some bad apples would be found as mergers occurred. However, I was genuinely appalled by the arrogance of some people in the sector, who thought that they could use taxpayers' money as well as college-earned income to top up their already substantial pension pots—and at a time of public constraint, when public sector workers were being offered a pay increase of 1 per cent.

The discovery of the information proves two things. First, the Government was right to change the college structure, to make it more accountable. Secondly, the greed is good attitude was unfortunately alive and well in a sector in which reform was long overdue.

Audit Scotland deserves a huge amount of credit for the reports that we are considering. The organisation exists not to curry favour with the Government of the day but to shed light on how the public pound is being spent. My former colleague Andrew Welsh could not speak too highly of Audit Scotland, because the thorough auditing of Scotland's public finances did not take place before the re-establishment of this Parliament.

A speech of four minutes is short for a topic of this nature, so I will focus on the Coatbridge College audit. It is obvious that something has gone seriously wrong when a committee report quotes an Auditor General saying this:

“There is absolutely no doubt that there have been very serious failures of governance; indeed, they are among the most serious that I have seen during my time as Auditor General.”—[*Official Report, Public Audit Committee*, 9 September 2015; c 11.]

Liz Smith mentioned the Auditor General's comment in her speech.

As members said, the Public Audit Committee decided to investigate the matter. I commend our report, which was published on 13 January, to anyone who has an interest in the matter. It was clear that the overall governance was not as it should have been. During our investigations, we asked for a timeline of events, so that we could try to clarify a somewhat cloudy situation. The timeline can be found in annex C of our report.

I never for one minute thought that my name would go on a parliamentary report that we would send to Police Scotland and to OSCR, the charity regulator, but it did—and we have sent the report to Police Scotland and OSCR, which was the least that the committee could do. Ultimately, when money over and above already budgeted-for and generous leaving packages leaves the college sector, that is nothing short of removing money from students' pockets.

All members of the committee were shocked, disgusted and appalled by the actions of a few at the expense of many at Coatbridge College. Our report is clear on that. We made three recommendations. First, we recommended that Mr Doyle pay back the money, although we did not expect that to happen because no admittance of wrongdoing was forthcoming during the evidence sessions.

Our second recommendation concerned action for the Government. During this afternoon's

debate we heard from the cabinet secretary about progress in that regard, particularly in relation to the creation of the college good governance task group.

Our third recommendation concerned the Scottish funding council. I accept that there were limitations on the SFC at the time and that its remit has changed as a result of the college restructuring programme. However, the committee thought that the SFC could have been more forceful, could have deployed more scrutiny and could have been more attentive to what was going on. The SFC has questions to answer.

Audit Scotland uncovered, at best, bad practice, and at worst, financial chicanery. The Public Audit Committee has produced excellent reports, having obtained further detail on how bad things were. We have done our job. The next step is a strengthening of the rules, to ensure that Scotland's students do not face such a financial hit at the hands of the few again.

17:04

Liz Smith: In her opening speech, the cabinet secretary was quite correct to say that this is a response to three serious reports. Stuart McMillan has eloquently explained again why the reports are so serious.

I am sure that the Auditor General, who is a senior figure in Scottish public life, would not have made the comment that she made—that it was one of the worst cases that she had ever seen in her time in the role—had it not been true. That alone one of the most important reasons why the Parliament must take the matter so seriously. I return to the fact that the Public Audit Committee of the Parliament has recognised that, and I compliment the convener and his committee once again on their handling of the issue. They have had to deal with thousands of different documents; as Stuart McMillan said, some were of such a serious nature that they had to be sent to OSCR and the police. It was no small task, and the committee has done excellent work, because it was clear that the audit trail simply did not exist. In fact, I believe that it has been an extraordinary state of affairs—I will come back to that in a minute, because how we react to it is important in how we take things forward.

There are, of course, issues to do with the Scottish funding council. It is clear that it had not done enough to uncover all the problems and to ensure that its important monitoring role was operating correctly. The Scottish funding council's structures need to be looked at, as does its responsibility to the cabinet secretary. I think that it was James Kelly who made a good point about what good audit actually means. We have to be

clear in our own minds about whether there are structural issues with the Scottish funding council and whether we need to make changes that could spread across how it looks at colleges and universities, or whether we feel that there have been some failures of leadership in that body too. What we decide on that will be crucial in how we react to the serious reports that have been put before us.

There are also issues to do with OSCR and whether it needs to have more measures at its disposal, should it feel that there has been malpractice. We need to think carefully about that, but I suggest that that should come after we have examined the funding council's mechanism.

I mentioned in my opening speech that there are question marks over the tripartite relationship between the Scottish funding council, the Scottish Government and individual colleges, particularly in a merger process that has perhaps been necessary in many cases but which has certainly been controversial, particularly as the pace of reform was seriously questioned by many colleges. Some of them did not respond well, and Parliament must take that seriously.

The most important thing that we can do is restore trust, because that is the crucial word when it comes to our responsibilities to college students and staff, who feel badly let down. George Adam described the situation as a very "sorry saga", and he was correct. We have a responsibility to students and staff to ensure that they can feel confident about their future.

I believe that the Public Audit Committee has gone a long way towards helping that process, but it will take robust action from both the Scottish Government and this Parliament to deliver on the committee's recommendations. Specifically, I draw the chamber's attention to paragraphs 296 and 301 of the committee's report on Coatbridge College, in which the committee asks for consideration to be given to the future powers of both the SFC and OSCR. It is clear that it believes that those are central core issues to be discussed. Whether sanctions should be available to the SFC and whether there is an appropriate relationship at the base level between the funding council and the Scottish Government, as Tavish Scott mentioned, this is about lines of accountability, democracy and the transparency that we can provide to allow people to have trust in our college sector again.

The Deputy Presiding Officer: Before I move on, I point out that Mr Kelly was mentioned in Liz Smith's speech but unfortunately was not in the chamber. I remind members that they should come back for the closing speeches when they have participated in the debate.

17:09

Mark Griffin (Central Scotland) (Lab): I am pleased to have the opportunity to speak in the Public Audit Committee's debate on Scotland's colleges. I pay tribute to the Auditor General, her staff at Audit Scotland and the convener, committee members and clerks for their dissection of the issue.

Context is important when we come to talk about this issue. Scotland's colleges should be the envy of the world. Everyone, regardless of privilege or postcode, should be able to access the skills that they need in order to get on in life. Sadly, that is not happening. The Scottish Government's record on colleges has been shambolic. As Jackie Baillie pointed out, the NUS says that support is not fit for purpose and the lecturers union says that the SNP's mergers have not improved learning and teaching quality.

College mergers are one of the few public sector reforms that have been undertaken by the Government, and the programme has been a complete and utter failure for the 152,000 students who have been locked out of college courses, a large number of whom are women returning to work and other adult learners, as Patricia Ferguson said. The SNP should have spent its eight years in power investing in colleges, not making nearly 3,500 college staff redundant at a cost of more than £90 million.

As Stuart McMillan pointed out, the parliamentary report into a former college principal who is accused of accepting a "vastly excessive" severance payment has been passed to the police. That should shock everyone here. As Colin Beattie said, the Public Audit Committee has called on John Doyle, the former principal of Coatbridge College in North Lanarkshire to repay part of his £304,000 deal—a settlement that was described as an

"appalling abuse of the public purse".

The report also criticised the Scottish funding council, which was responsible for overseeing the merger process.

Last summer, Auditor General Caroline Gardner issued a highly critical report on Mr Doyle's severance deal. The committee agreed with Ms Gardner's view that John Gray, the chair of the former college, colluded with Mr Doyle

"to get the result they wanted"

by withholding relevant information from the college's remuneration committee, which approved the payment. The committee's report said:

"Given the significant governance and oversight failings ... the Scottish Government must look at the operation of

the Scottish Funding Council and the effectiveness of its supervisory role."

That is the context of where we are today.

The amounts that are involved and the failure to get to grips with the issue will stun people outside the chamber. However, how do we move forward? I think that an apology and repayment would be a good place to start, but I will not hold my breath. The Government has insisted that the college governance task group will review the circumstances that led us to this point. I appreciate the update on that that the cabinet secretary gave. I note that she did not want to pre-empt that review, but has she drafted new rules or regulations that would avoid such a circumstance arising again? Is there a blueprint in place for future public sector pay-off scenarios that could be used more widely? There was a blame game at the time, with the Scottish funding council, officials and politicians all scrambling to avoid taking the brunt of the criticism. Will there be a clear channel of responsibility for the size and nature of the packages after the review is complete?

I welcome the Public Audit Committee's work in this area and commend the dogged approach that it has taken in seeking to shed light on the issue.

The Scottish Government must show that it has more of an appetite to try to correct the perceived injustices of the packages that were delivered in this case. The only thing that we can hope for is that we do not see a repeat of this shambles, because one thing that is clear is that, as Stuart McMillan, Colin Beattie and others have said, the money that has been paid in severance packages has come directly from funds that would have supported college students in my region and in my colleagues' regions.

17:14

Angela Constance: Once again, I want to reinforce how important the work of Audit Scotland is in helping us to focus on the actions that we can and should take. When I was first elected to Parliament, one of my tasks was to chair the Scottish Commission for Public Audit, which is in charge of auditing Audit Scotland, so I am well acquainted with the good and thorough work that Audit Scotland undertakes on behalf of us all.

I pay tribute to the Public Audit Committee. At the start of the debate, we heard from Mr Martin, who spoke of the 18 hours of oral evidence and the 34 witnesses, of whom I was one, as well as the task for the committee in going through such a volume of evidence.

It is right that college governance has faced considerable scrutiny. We must understand the detail of what happened to ensure that there is no repetition. I want to assure members, not just on

the Public Audit Committee but throughout Parliament, that the recommendations in the committee's report and from the Auditor General are all being actively pursued.

As is often the case with debates on further education, this debate has touched on the pros and cons of the reform programme and the outcomes for young people and other learners. James Kelly, Patricia Ferguson and Jackie Baillie have all referred to that. This Government has more than met its manifesto commitment to maintain full-time equivalent provision and I will accurately maintain that we are spending more in cash terms than our predecessors; we have also invested more in capital. I also point to the fact that student support is at a record high and that the number of full-time students over and under 25 is increasing.

However, for me the crux of the matter in college reform is that it is the right thing to do to have more full-time students studying recognised qualifications that relate to the skills needed for work and for our local and national economy. I remain of that view. I have spent much of my time as a minister looking at youth unemployment. What we, as a Parliament and as a country, have failed to do has been to tackle structural youth unemployment at times of economic growth and increasing budgets. The reform of the college programme is absolutely essential in order finally to get to grips with structural youth unemployment in this country. I remain absolutely committed to the college sector in terms of what it can deliver, not just for older learners but to the aim of tackling structural youth unemployment.

According to the Auditor General, in her evidence on 4 November last year, the failures of governance at Coatbridge College occurred because of the actions of a small number of people. Although that does not abdicate me, the funding council or anybody else in this chamber from our responsibilities, we should remember that, at the centre of this, was a small number of people—people who ignored guidance. As we have heard from Mr Kelly and others, we had a situation in which the chair of a college board was also the chair of a remuneration committee. I would say to Mr Griffin that my task group is very interested in that issue. When the funding council said, "Don't do it. Don't pay the money", it was ignored.

I reassure members that I agree with the funding council's assessment that it could have been more proactive. I went to a recent board meeting of the funding council to communicate that, and I have also communicated it through the recently published guidance letter. I do not want anybody in this chamber to be in any doubt that I will take whatever action is necessary to prevent

or deal with poor governance. I think that my actions to date have demonstrated that.

It is imperative that we learn the lessons, and that the appalling circumstances so eloquently outlined by a range of members in the chamber today do not happen again.

Nigel Don: Will the cabinet secretary take an intervention?

Angela Constance: I am running out of time, but I will take a brief intervention.

The Deputy Presiding Officer: Be very brief.

Nigel Don: I am grateful for the cabinet secretary's comments about governance. Was she as surprised as I was at the very limited powers that OSCR seemed to have to deal with this situation, and is that something that we might change?

The Deputy Presiding Officer: Cabinet secretary, I can give you a few seconds more.

Angela Constance: Yes, and Government officials remain in contact with OSCR to deal with any outstanding concerns that it has in relation to the powers that it has or does not have.

The Auditor General has confirmed that the new controls that are in place are much more robust. As we all know, before reclassification decisions on severance were the sole responsibility of colleges, taking into account funding council guidance. Following reclassification in April 2014, incorporated colleges must now seek approval from the funding council for severance and settlement arrangements.

The Deputy Presiding Officer: Cabinet secretary, I must ask you to conclude.

Angela Constance: Seeking that approval is a term and condition of grant, and ministers now have far more explicit powers to remove incorporated college boards for serious or repeated breaches of those terms and conditions.

17:21

Mary Scanlon (Highlands and Islands) (Con): This has been an excellent debate. In all the years that I have been on the Public Audit Committee, it is the first debate that that committee has had in the chamber. I hope that there will be more in the next session of Parliament.

I thank every member who contributed to the debate, and I have to say that I detected a bit of additional anger coming from those MSPs who are members of the committee. When Paul Martin spoke about the hours that we spent taking evidence, he did not mention the hours that we spent reading the hundreds and hundreds of pages of evidence that we all received.

I acknowledge a point that was made by Colin Beattie and the cabinet secretary. Because things were so bad at Coatbridge and North Glasgow, at the outset of this speech I point out that it would be wrong to say that all colleges are the same—they are not. There is absolutely excellent best practice in Scotland that should be put on the record.

However, we regularly debate how money should be allocated in Scotland's public sector. We do that every week and in every debate, but we should perhaps scrutinise a bit more thoroughly how well the money is spent in relation to delivering value for money and high-quality public services. When we meet someone like John Doyle, it is right that they are named and shamed and that we were willing to use the Parliament's powers to compel him to give evidence. It is only right that that has been done across the chamber today.

The debate highlights the work of the Parliament's Public Audit Committee. I commend the excellent chairing of the committee by Paul Martin, who ensured that a fair, thorough and measured approach was taken to the volumes of information and figures brought forward. The inquiry showed the Parliament's Public Audit Committee at its best, doing the job that it is tasked to do. This Parliament is at its best when every member on every committee works together and we certainly did that on this occasion.

We also received the Linkston report, which was conducted as a review of the merger process at Coatbridge College. I thank the family of Francis McGeachie, who insisted that the committee should see the report, which highlighted that the arrogant approach pursued by the principal of the college allowed no duty of care to the rest of the staff. Tragically, depute principal Francis McGeachie took his own life during the merger process at Coatbridge College.

Even the college trade unions were described as going ballistic when they heard of the principal's pay-off, which was far in excess of anything they may ever have dreamed of.

The Public Audit Committee has been monitoring the college mergers, but we still do not have an accurate figure for the cost of the process, although £52 million was allocated for the purpose. We cannot monitor the promised improvements in the quality of education, as it seems that there are no baseline figures for comparison. The £50 million of savings that were promised are hard to find, although the Scottish funding council says that it is on track to achieve those savings.

An Audit Scotland report in 2012 on "Learning the lessons of public body mergers" was available

to guide organisations through the merger process. However, we have found serious issues relating to police reform; a huge funding gap in the Scottish Fire and Rescue Service; and college reform sometimes following worst rather than best practice.

The Auditor General described the section 22 report on Coatbridge as highlighting

"very serious failures of governance ... among the most serious that I have seen during my time as Auditor General."—[*Official Report, Public Audit Committee, 9 September 2015; c 11.*]

At the outset of the merger process, the Scottish Government and the Scottish funding council should have set out the parameters for severance payments. The information and guidance was there, but the Government and the SFC allowed colleges to go their own way. The committee's report asks that the Government looks again at the operation of the Scottish funding council and the effectiveness of its role. That is quite a stark recommendation, and I hope that we will hear back from Government on what its plans are.

It was that lack of rigour that allowed Mr Gray to present to the remuneration committee a severance package for John Doyle that was well over the level that was specified in the guidance. When the remuneration committee agreed the package, there was no agenda and no formal papers. John Doyle received written confirmation of the deal—and it was a deal—within 24 hours, yet the minutes of the meeting were not written up for nine months. It seems that the board of management at the college was not notified either, despite every member of the remuneration committee sitting on the board.

There is no doubt that information was withheld from the remuneration committee members in order to ensure that John Doyle got the package of more than £300,000, with no business case whatsoever to support it. Even the legal advice that was given was based on a lack of information, given that the lawyer was unaware of John Doyle's letter confirming his severance pay. While there was a public sector pay freeze, John Doyle gave his personal assistant a pay rise of 19 per cent on the basis of her communication skills. The college was out of control at that time.

The Public Audit Committee has carried out a rigorous piece of work on Coatbridge College and it is now for others to follow the process through. I agree with other members that John Doyle should pay back the additional lump sum that he received.

It is now 11 years since the Parliament set up the Office of the Scottish Charity Regulator. The evidence that the committee received pointed to the need for extended powers in order to deal with

the other John Doyles around Scotland, who think that public money can be exploited to benefit themselves rather than being used for the purpose of educating and training people and providing high-quality public services.

One of the most disappointing aspects of the inquiry and the report was the failure of the Scottish funding council to hold further education colleges to account. The funding council's lack of effectiveness and governance allowed for public money to be exploited at Coatbridge College, and it is the Scottish Government's responsibility to ensure that it now steps up to the mark and carries out the job that it is tasked to do.

There is a substantial amount of evidence in the committee's report, in addition to the documentation that we received, to enable Police Scotland to carry out an investigation, and I trust that the committee's recommendation in that respect will be fulfilled.

Finally, I hope that the investigation in Coatbridge will serve as a warning to all other institutions and other individuals in Scotland that, when scarce public money is wasted, they will receive a polite invitation to the Parliament's Public Audit Committee to account fully for their actions.

Enterprise Bill

17:29

The Presiding Officer (Tricia Marwick): The next item of business is consideration of motion S4M-15577, in the name of John Swinney, on the legislative consent motion on the Enterprise Bill, which is United Kingdom legislation.

Motion moved,

That the Parliament agrees that the relevant provisions of the Enterprise Bill, introduced in the House of Lords on 16 September 2015, relating to measures on the creation of a Small Business Commissioner and capping public sector exit payments, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.—[*John Swinney.*]

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

Decision Time

17:29

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

The first question is, that amendment S4M-15128.1, in the name of Maureen Watt, which seeks to amend motion S4M-15128, in the name of Anne McTaggart, on the Transplantation (Authorisation of Removal of Organs etc) (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP) Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)

Milne, Nanette (North East Scotland) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Swinney, John (Perthshire North) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 Campbell, Roderick (North East Fife) (SNP)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Rowley, Alex (Cowdenbeath) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (Ind)

The Presiding Officer: The result of the division is: For 59, Against 56, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S4M-15128, in the name of Anne McTaggart, on the Transplantation (Authorisation of Removal of Organs etc) (Scotland) Bill, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Ferguson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brennan, Lesley (North East Scotland) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rowley, Alex (Cowdenbeath) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Wilson, John (Central Scotland) (Ind)

Abstentions

Don, Nigel (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)

The Presiding Officer: The result of the division is: For 65, Against 48, Abstentions 2.

Motion, as amended, agreed to,

That the Parliament does not agree to the general principles of the Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill because it has serious concerns about the practical impact of the specific details in the bill that relate to organ donation rates and transplants; agrees the merits of developing a workable soft opt-out system for Scotland, and calls on the Scottish Government to commence work in preparation for a detailed consultation on further methods to increase organ donations and transplants in Scotland, including soft opt-out, as an early priority in the next parliamentary session, learning from the experiences in Wales, which is currently implementing its own opt-out legislation, and to consider bringing forward legislation as appropriate.

The Presiding Officer: The next question is, that motion S4M-15584, in the name of Paul Martin, on the overview of Scotland's colleges 2015, be agreed to.

Motion agreed to,

That the Parliament notes the conclusions and recommendations in the Public Audit Committee's 3rd Report 2015 (Session 4), *Report on Scotland's colleges 2015*, its 4th Report 2015 (Session 4), *Report on The 2012/13 audit of North Glasgow College: Governance and financial stewardship* and its 1st Report 2016 (Session 4), *Report on The 2013/14 audit of Coatbridge College: Governance of severance*.

The Presiding Officer: The next question is, that motion S4M-15577, in the name of John Swinney, on the legislative consent motion on the Enterprise Bill, which is United Kingdom legislation, be agreed to.

Motion agreed to,

That the Parliament agrees that the relevant provisions of the Enterprise Bill, introduced in the House of Lords on 16 September 2015, relating to measures on the creation of a Small Business Commissioner and capping public sector exit payments, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.

Broadband and Mobile Phone Coverage (Rural and Island Communities)

The Deputy Presiding Officer (John Scott):

The final item of business is a debate on motion S4M-15404, in the name of Tavish Scott, on broadband and mobile phone coverage in rural and island communities. The debate will be concluded without any question being put.

Motion debated,

That the Parliament considers that reliable and affordable broadband and mobile phone coverage is essential for businesses and households looking to access a range of services; understands that the current Digital Scotland Superfast Broadband programme has vast regional variations, with only 75% of premises in Orkney and 77% of premises in Shetland being reached by the end of 2016 compared with the 95% target across Scotland as a whole by March 2018; further understands that "not-spots" in mobile phone coverage, including 2G and 3G, are far more common in rural and island communities; considers that the full implementation of superfast broadband and universal mobile phone coverage can counter falling population in outlying areas while bringing significant economic benefits; believes that plugging the remaining gaps in coverage is likely to require a range of different technologies, and notes calls for the Scottish Government to work with partners to find solutions for households and businesses in harder-to-reach communities and prioritise investment in those places that fall below the average or have no access to broadband and mobile phone coverage

17:34

Tavish Scott (Shetland Islands) (LD): I thank members from across Parliament and the Deputy First Minister for their assistance in making this brief debate happen.

The crime drama "Shetland" is currently screening on TV on a Friday. Most of us at home are watching it to see whether we are in it, whether any of our friends are extras are in it, or even just to see whether our house is in it. For those of us who do not watch it, Dougie Henshall is often on his mobile, not just in Lerwick but out in the wilds of the islands. That is where the TV series very definitely becomes fiction. I am pleased to say that there have been no recent murders in Shetland; nor has mobile phone coverage reached all the islands.

Mobile phone coverage and fast broadband are linked. Many mobile phone companies see no economic case for improving coverage in Shetland. I know that that is the case across large chunks of our country. The situation will worsen as companies merge and competition diminishes. For example, much of Shetland is excluded from Vodafone's rural open sure signal project. Why? Because it needs a reliable, if modest, broadband service.

Last October, EE was awarded the contract for Airwave, the network that is used by the emergency services across Scotland and indeed across the United Kingdom. That contract could specify 4G across Scotland, which would mean better broadband on phones and tablets than people will get through the superfast broadband roll-out that is supported by the Scottish and UK Governments, Highlands and Islands Enterprise and British Telecom.

I ask the Deputy First Minister to ensure that the new emergency mobile phone system is specified as 4G not just in Shetland but right across Scotland because of the benefits that that would undoubtedly bring to many parts of the country. It is, I know, a UK Government responsibility, but I will very much support Mr Swinney and his Government if they are able to make that case. I say that because superfast broadband, like certain beer commercials, is not quite reaching the parts that it is meant to reach.

Last week, I received a letter from the Deputy First Minister about the digital Scotland superfast broadband programme. He wrote:

“Areas as far north as Lerwick in the Shetland Islands and as far south as Gretna in Dumfries and Galloway are now live thanks to the programme.”

As the Deputy First Minister knows, there is more to Shetland than just Lerwick. Shetlanders living in Unst, Walls or Northmavine are just plain fed up at having no idea when they will benefit from all the public money that is rightly being invested in superfast broadband.

In the islands, investment needs to be directed at providing high-speed broadband for the hardest to reach customers rather than chasing a flat percentage population target. I suspect that I am not the only constituency member who would like to see that approach. Will the Deputy First Minister agree with that approach and look at how his Government can best target the resources that are available?

A Uyeasound resident in Unst told me last week that she is unable to view online learning videos for the Scottish Fire and Rescue Service. I have a letter—no doubt many other rural members do as well—from the chief officer of the service, Alasdair Hay, saying that the service is desperate for new retained firefighters. However, Caroline Hunter in Unst cannot do her online fire training because the broadband is so woeful. That rather makes the point about the importance of broadband in providing emergency services that we all depend on.

Despite receiving a meagre 0.5Mbps, Caroline and other folk in Uyeasound are forced to pay the same as those who receive 20Mbps—such as here in the capital city of Scotland. They see that

as extremely iniquitous. I agree and I hope that the Deputy First Minister does too. Perhaps he can say tonight what Ofcom, the regulator, is doing about what seems to many across Scotland—and certainly in Shetland—to be a manifestly unfair situation.

An Aith father—rather more pointedly, perhaps, as I am a parent myself—said to me that a simple update to his son’s games console could exceed the household’s monthly broadband data allowance, given what they can currently access. For those of us with children, in an age of multi-device households—I do not know how many are in my home—that just does not cut it.

More needs to be done. Numerous constituents believe that they will not benefit from the broadband roll-out that is currently envisaged. The Northmavine Community Council cannot progress its community project as it is passed from pillar to post between BT, HIE and community broadband Scotland.

I asked the Scottish Parliament information centre to confirm how many of community broadband Scotland’s projects have been completed. It could not come back to me with an answer on that. It would be helpful if the Deputy First Minister could tell Parliament how those projects are coming along. I hope, too, that he would recognise that communities without any plan or date for broadband upgrades deserve not just answers but action and greater clarity from the Scottish Government, BT and HIE.

Shetland residents say that digital Scotland’s scheduled rollouts for their respective areas are heroically optimistic. One Stromfirth resident told me how his local exchange was listed as

“Coming soon between July and December 2015”.

Observant members will recognise that we are now in February 2016, and it has not come yet. Helpfully, the website now says that broadband is going to come soon between January and June of the year that we are now in. People are understandably frustrated when there is an expectation of progress and then it does not actually happen.

In that particular example, HIE and BT justify not providing a local broadband cabinet by saying that “it would only provide superfast speeds to a minority.”

I was a bit taken aback by that, because is that not the point? Why should the few be left behind? The whole point of investment in superfast broadband with public money is to help the areas in all our constituencies that currently cannot achieve it through market provision. Incidentally, HIE is unable to confirm whether my constituent in that case will receive coverage in any future phase.

Another Gott resident is a photographer. Her download speed is 0.39Mbps, so she struggles to send photos via email. HIE and BT have confirmed that she will not see the benefits of the roll-out due to her distance from the existing telephone exchange. I am sure that many colleagues will recognise that issue. No fibre cabinet is currently planned or coming soon in the area.

I reiterate my call for further investment in the areas of Shetland and elsewhere in Scotland that have poor or non-existent superfast broadband. I ask the Deputy First Minister to explain where and when we will see improvements to superfast broadband and who will be the 5 per cent who are left behind, because they are the ones who feel it the most at the moment. I hope that he will accept that his Government, HIE and BT must be more transparent with local people about if and when they will really see that improvement.

Fast internet is a service that many people take for granted, and I very much look forward to the day when we can do the same in Shetland and in all parts of Scotland. If the Deputy First Minister can provide my constituents with a route map to achieve that, he will have my full support.

17:41

Michael Russell (Argyll and Bute) (SNP): I commend Tavish Scott and congratulate him on securing the debate. He is right to stress that digital and physical communications are absolutely vital for all of us. For people who live in rural Scotland, especially rural island Scotland, they are essential.

There are some good things to be celebrated. The roll-out of the broadband project is continuing apace and people are getting a service in some places in Scotland. In my constituency, there are 3G signals via EE, but nothing from Vodafone or O2. Although I have been critical of Vodafone, it sometimes comes good. On Friday, I opened a new sure signal facility in the village of Ormsary in Kintyre and I am glad to say that there is a new sure signal facility operating in Easdale, which is positive.

The real problem with introducing the much-needed services in my constituency and elsewhere lies not with Vodafone or any of the other mobile companies; it lies with BT, because it provides the groundwork and the infrastructure that support all the rest. I want to focus on that, because it is no exaggeration to say that my constituents and many other constituents in Scotland have a major problem with BT. In the past 12 weeks, I have opened 39 new constituency cases complaining about BT, and they are only the tip of the iceberg. Indeed, I have

become so concerned that, some weeks ago, I emailed Brendan Dick, who is the head of BT in Scotland, to say that I think that there is a crisis in his organisation. I say it again today—there is a crisis in BT in Scotland in respect of how it delivers. As an organisation, it is not listening to its customers or to rural Scotland—it is not listening to the most vulnerable people in our society.

I want to start with the case of Mrs Ackroyd in Lochdon on the island of Mull. She is 79 and she lost her husband a few months ago. Seven weeks ago today, she lost her land-line. Every day, somebody has called BT about that problem. Nine times out of 10, she is promised a call back but it never comes. Her mobile signal is very patchy in Lochdon. As often happens in such cases, she has even been given specific times and dates for visits by engineers, but they pass by with no contact whatsoever. More worrying still, as happens right across Scotland, her alarm pendant is dependent on her land-line. She is still paying for that and relying on it, but it has not worked since 22 December last year. Her local councillor, Mary-Jean Devon, contacted me yesterday and said that she had watched a confident lady begin to lose her confidence because she is so worried about the lack of service. BT is letting that lady down.

I could go through a list of other people in my constituency whom BT has let down. In Bridge of Orchy, which suffered some damage just before Christmas, I had three vulnerable constituents who did not have their service restored quickly enough and who also received constant promises that were not kept.

Toward primary school—I should declare an interest as my wife is headteacher at the school—has gone for three weeks without an adequate land-line service, which is essential for a small rural primary school. The staff have been using their mobile phones and allowances to make amends.

On the island of Easdale, which I know Mr MacKenzie knows well, there are constant problems with land-lines and broadband. The same is true right across Argyll and Bute but the problem is not being treated seriously. It is a problem for individuals and for businesses. On the island of Mull, Duart castle, which is one of the main tourist attractions, has had four lines out for seven weeks with no action being taken. I was in Kintyre on Friday to look at the two wind farms that have been established by the community with Lithgow Energy Ltd. They pleaded with BT to get the service that they need to run those wind farms. It took almost a year and £40,000 to get anything approaching an adequate service.

There is a crisis in delivery, even when broadband is delivered. I have constituents who

pay the full price for superfast broadband, but because they are connected to fibre by copper, they do not get anything like the speeds that they have been promised and have contracted to get.

Damage is being done by the failure of BT—I have to put it as bluntly as that. The superfast broadband programme is fantastic. I supported it when I was in the Government and I support it now. It is making, and will make, a huge difference in the Highlands and Islands. However, it and the prospect for change are being let down by BT.

The Deputy First Minister is a man of great charm and persuasion. The next time he has Brendan Dick in to see him, perhaps he can say to him that his eminently reasonable friend on the back benches is getting a little bit fed up. Like me, my constituents just cannot take any more from BT. I hope that the Deputy First Minister will persuade Brendan Dick to get his organisation into a shape that can deliver for people now and for those who rely on building and developing those services for the future. That is essential; it must happen and Brendan Dick must listen.

17:47

Rhoda Grant (Highlands and Islands) (Lab): I congratulate Tavish Scott on securing the debate. It is a really important issue for Shetland and the whole of the Highlands and Islands.

In the first session of parliament, my colleague Maureen Macmillan started to campaign for access to broadband because she realised the implications of it for our communities. Peter Peacock took that campaign over when Maureen Macmillan stood down and I was happy to pick up the cudgel when he retired.

Our MPs in Westminster recently compared their constituencies' download speeds. The Western Isles was worst, with Ross, Skye and Lochaber at 647th out of 650 and Caithness, Sutherland and Easter Ross 640th. Add that to the statistics in Tavish Scott's motion and we see that the Highlands and Islands are extremely poorly served.

The Scottish Government's target of 95 per cent by 2017 does nothing to address the problem because it only needs to target urban areas to reach it. To make the target meaningful, it needs to be across much smaller units of population, even smaller than council areas, which tend to have urban and rural populations.

The digital Highlands and Islands project has made and will make a real difference. Without it, many more people would be outwith the reach of next-generation broadband. It will provide the backhaul that is required for mobile phone network operators.

However, that does not mean that we should simply say thank you and leave it at that: we still need to fight for 100 per cent coverage. Those who are the furthest from a connection have the most to gain. They are often the most disadvantaged as it stands, and access to next-generation broadband would redress some of that disadvantage. The same is true with mobile coverage; 2G, 3G and 4G also have the ability to work over terrain in which laying fibre is difficult. We must also look at mast sharing and roaming to give the best coverage to mobile data users.

We need to utilise all the technologies to ensure 100 per cent coverage. Access to next-generation broadband is no longer a luxury; it is essential. People need it to submit their common agricultural policy forms—in the event that the claims system is ever sorted out—and to apply for benefits. Remote communities have the most to gain from access to telehealth and telecare.

I recognise what Mike Russell said about help calls. I, too, had a constituent who have a help-call button whose phone line was cut off. I have spoken to BT about that and have suggested its having a vulnerable persons register, on which people with help-call devices would be registered so that they would be given priority in having their phone lines reconnected when there is a problem. I understand that BT is considering that. Organisations including Scottish Hydro Electric Transmission Ltd—SHETL—can make sure that vulnerable customers are reconnected quickly when there is a power cut, so BT should be able to do likewise.

There are businesses in my region that are looking to relocate because of their poor broadband connection; that is simply wrong. They are companies that value their communities and that want to remain there. In effect, they are being forced out.

The Government set up community broadband Scotland to help to provide last-mile solutions, but it provides only funding and advice. In order for people to qualify for help from community broadband Scotland, they need to know that they will not get next-generation broadband in the roll-out, and we do not know who will be covered. We need a definitive map of which areas will have coverage and which will not so that people can decide what they need to do to ensure that they get coverage in the future.

Communities that work with community broadband Scotland need to be able to develop solutions for themselves; they need to be able to organise themselves into community companies. That does not happen everywhere, because not all communities have the capacity to do that. That is often the case with communities that are closer to urban areas, which are less self-sufficient because

they depend on the urban areas for services. We need to consider how to address the issue: we need to set up co-operatives or social enterprises that will reach out to those communities and provide the services that they desperately need. The Government needs to take the lead in driving forward that work. It must ensure that there are no not-spots in Scotland, either for broadband or mobile phone coverage.

17:52

Mike MacKenzie (Highlands and Islands) (SNP): During Mr Russell's speech, it occurred to me that he is on Easdale almost more than I am these days, such is the effort that he puts into representing Argyll and Bute. I am often off on other islands—for example, Orkney—and I am very much looking forward to going to Shetland this weekend to experience again what Tavish Scott talked about.

In looking back over my whole adult life as an islander, I can think of nothing that has transformed the experience of island life more than the coming of the internet. I received the very first email ever to arrive on my home island of Easdale in 1992. Somehow, I knew that that was the start of something significant, and I printed out a copy and gave it to our local museum.

However, back then little did I know just how much the internet would transform our lives by connecting us with the rest of the world and providing access to knowledge and information that had hitherto been greatly restricted. Almost at a stroke, we were transformed from a backwater and granted fully fledged membership of the community of Scotland and the rest of the world.

Nor can I think of anything that has contributed more to reducing the regional inequality from which islanders have historically suffered than the internet. Little did I know back then that in taking the first steps in accessing this miraculous technology we were at the start of what was to become a race to stay connected at the same rate and level as the rest of the world. The innovation and progress of information technologies has been astounding. The range and quality of services that are increasingly consumed online is staggering. Even so, we have barely scratched the surface.

Participation in the modern economy demands good internet access—fixed and mobile. Very promising developments such as telehealth and telemedicine, fuel poverty initiatives such as smart metering and innovations such as smart houses all require good internet access. Such things can transform our lives and make public services far more effective and efficient than we are capable of making them at the moment.

To do that will require good internet access—well beyond that which we experience in the islands today. The irony is that we are actually losing the race. Increasing usage and demand mean that what was perfectly adequate connectivity a very few years ago is now hopelessly inadequate in both mobile and fixed-line services. That is the result of both market and regulatory failure. When coverage is available, it is still very patchy across the Highlands and Islands.

That is why I was absolutely delighted by the £127 million investment that the Scottish Government is making across the Highlands and Islands to provide the all-important fibre-optic backbone for high-speed broadband, which is the necessary first step in catching up and staying abreast of others in the race. I am also delighted that community broadband Scotland is committed to addressing the areas where fibre optic cables will not reach. Progress has been slower than hoped for, but I am very aware of the technological challenges and the sheer physical challenges involved in operating in such a hostile terrain and climate. However, I am very optimistic that we will see a sea change in improvement fairly soon.

To be fair, I am also pleased to note that the UK Government is working on a universal service obligation for 10Mbps. I note that it promises 95 per cent coverage by the end of 2017, but that is not good enough for our islands because inevitably they will always be in the 5 per cent that is left behind. The sleeping giant that is Ofcom has begun to waken to the issue, but it is not fully awake yet. I believe that the best way to deal with the situation is to provide proper and effective regulation, rather than Governments paying out to address market failure.

I note that the regulatory powers still reside with Westminster. However, I am sure that if they were here in this Parliament, we could address the issue properly.

The Deputy Presiding Officer: Due to the number of members who would like to speak in the debate, I am minded to accept a motion without notice under rule 8.14.3 to extend business beyond the normal time.

Motion moved,

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[Tavish Scott.]

Motion agreed to.

17:57

Alex Johnstone (North East Scotland) (Con): The challenge of providing high-quality mobile phone and broadband services in a country like Scotland is not one that should be underestimated. The geography of the country will

always bring about difficulties. However, if we look around the world, we find that such difficulties have been overcome effectively in other countries. My experience of alpine nations is that they tend to have a much higher quality of mobile phone signal and better performance even among the highest mountains and on top of those mountains. Indeed, I have been told by the BBC, so it must be true, that it is now possible to get a 4G signal on the summit of Mount Everest. If that can be achieved, then what can be achieved here in Scotland?

The fact is that the basic mobile service that is available over most of Scotland is very basic indeed. Personal experience indicates that there are difficulties even in the areas where there should not be. My home town has a Vodafone signal that is basic at best. On two occasions in the past year, it has been down for three weeks at a time. That is something that may be an advantage to an MSP who looks for a bit of peace at the weekends, but I can assure members that it is far less convenient for the doctor who regularly phones me to tell me that his signal has gone. Such examples make it clear that our problems are not simply in the most extreme peripheries of Scotland but exist in some form across the whole country.

When we come to broadband, the Deputy First Minister will not be unaware that I have complained to him many times about the quality of my broadband service. This is in a town where superfast broadband arrived a number of years ago in a blaze of publicity, only for us to be told that those of us who were connected directly to the exchange could not have it because we were not connected through a cabinet. I have spoken to a number of people about the problem, but I have never received an adequate answer that explains why it cannot be dealt with quickly and efficiently or why it has not been dealt with yet.

Many challenges face us, but we have a system in place that is beginning to address them. The problem is that the challenge and the resources that are being mobilised in order to overcome the difficulties are so great that we have some confusion about what needs to happen and when it will happen. It would be of great service to those who are aware of what has to happen if they could be told when the changes are likely to take place. Communication is vital, whether it is about the times and schedules for upgrades or simply direct communication with the sad constituents that Michael Russell talked about. It is much easier to accept that we have to wait for good things if we know that someone is working on them and there is a time when the services will be available. Sadly, that is not always the case.

I end by returning to the issue of rural mobile phone signals. It has to be made clear—I am sure that we all know this, and the Deputy First Minister will understand it only too well, as he comes from rural Perthshire—that we have now lost most of our phone boxes in rural areas and the mobile phone system is now a vital part of the safety system. When accidents happen in remote and rural areas or medical attention is required at short notice, the mobile phone is often the only way to deal with the situation.

Sadly, we do not have the universal coverage that we need. We need to look at all the available options to ensure that we can provide that coverage even in the most remote areas. Scotland deserves it. The work is being done, but we are not achieving results as quickly as we should.

The Deputy Presiding Officer: You must draw to a close, please.

Alex Johnstone: I therefore ask the minister to consider how we can make the resources that are available work more effectively for people right across Scotland.

18:02

Kenneth Gibson (Cunninghame North) (SNP): I, too, thank Tavish Scott for lodging his motion, which has enabled us to discuss this important issue. Of course, the Deputy First Minister does know about the issue, because the Finance Committee met in Pitlochry in his constituency on 18 January and the lack of rural broadband in Highland Perthshire was one of the big issues that was raised. I know that, if he did not already know about it, the Deputy First Minister took away the information that we heard that day.

In my constituency of Cunninghame North, we have the isles of Arran and Cumbrae, as well as rural areas where houses are scattered few and far between in mainland North Ayrshire. I am therefore acutely aware of the need for reliable and affordable rural broadband and mobile phone coverage. These days, there is an expectation bordering on an assumption that everyone will be able to access information online, complete a web form, email something and so on, so the minority who do not have access are at a considerable disadvantage. That is frustrating for individuals, and we need to make rural and island communities more competitive and appealing as places to live, work and do business.

In July 2015, Deloitte published a report—it was commissioned by the Scottish Futures Trust—that explored three scenarios for digitalisation in Scotland over the next few years. It concluded that, if Scotland becomes a world leader in digitalisation, it could see an increase in gross

domestic product of more than £13 billion by 2030. Even in the least optimistic scenario, the increase would be £4 billion. Furthermore, the report describes countless positive impacts of increased digitalisation on GDP per capita, employability, tax revenues, the environment and healthcare. I encourage anyone who is interested in the wider benefits of digitalisation to have a look at that report.

In March last year, the Deputy First Minister wrote to the UK Government asking it to implement a universal service obligation for broadband services to ensure that there is access to affordable, high-speed broadband for all in Scotland. In November, the Prime Minister announced that such an obligation would indeed be put in place. Although his planned obligation to provide every household with a 10Mbps broadband connection by May 2020 is less progressive than the up to 80Mbps that is aimed for in the digital roll-out, it is a step in the right direction.

The Scottish Government and partners have, of course, invested £410 million through the digital Scotland superfast broadband programme and I welcome the recently announced further investment by the Scottish Government of more than £130 million for Scotland's digital strategy, which will mostly support infrastructure to help towards meeting the target of 95 per cent of premises having access to next-generation broadband by March 2018. Tavish Scott mentioned that in his opening speech, of course. It is encouraging that the 85 per cent target for March 2016 has already been surpassed, but it is crucial to keep up the pace.

My constituents on Arran regularly report concerns about the reliability of their connections much in the way that Mike Russell's constituents express concerns. However, more than 1,400 premises in parts of Brodick, Lamlash, Shiskine and Whiting Bay in Arran now benefit from the new fibre optic network, and further coverage and roll-out on Arran are scheduled to take place this spring and summer. Originally, there would be coverage on 97 per cent of the island, with an area around Machrie omitted for topographical reasons. I continue to urge BT, which is delivering the Arran roll-out, to explore every option to ensure that Machrie will benefit from the network.

Properties in Machrie are connected via so-called exchange-only lines directly to the exchange, rather than through a green roadside cabinet, and it is more difficult to bring fibre to the properties that are served by those lines. However, that has been done before, as we have already heard, and I understand that it should happen in Machrie by the end of this year. I hope that it will.

Another problem area in my constituency is the small community of Burnhouse on the mainland. There, the challenge is its remoteness from the exchange, which means that residents are not yet able to access fibre broadband. Solutions are being explored to get Burnhouse upgraded, but that takes time that residents simply do not feel that they have.

I cannot stress enough how important it is that rural and island communities have access to reliable, fast broadband and mobile phone coverage. Significant progress is being made, but I will continue to press for all areas in my constituency to benefit from the digital broadband programme. Those who live in rural and island communities should not have to feel that they are running behind the rest of Scotland, and we must ensure that they have no reason to.

18:07

Liam McArthur (Orkney Islands) (LD): Like other members, I congratulate my colleague Tavish Scott on giving us an opportunity to debate the issue. The picture that he described very much reflects the picture in my Orkney constituency. If we replace Unst, Walls and Northmavine with Birsay, Rousay and North Ronaldsay, the picture is very much the same. Poor broadband and mobile coverage generates a large proportion of my mailbag on a weekly and monthly basis, as it does for Mike Russell.

The United Kingdom Government, the Scottish Government and its partners rightly deserve credit for the investment that is being made in the superfast broadband roll-out, but the figures suggest that, at the end of the process, 75 per cent of premises in my Orkney constituency will be covered, compared with 84 per cent across the Highlands and Islands and 95 per cent Scotland-wide. Perhaps there are reasons behind that, but I hope that the Deputy First Minister accepts that the priority for any future investment needs to be areas that continue to lag so far behind the national and regional averages. The digital divide that has opened up between rural and urban Scotland is now being reflected in a digital divide opening up in rural communities, and that is a source of real concern.

I listened to Mike Russell's concerns about BT and I have some sympathy with them, but I put on the record my gratitude for the efforts of many Openreach engineers, some of whom I have seen labouring away in ditches in a rain-soaked North Ronaldsay trying to address problems that were caused by lightning strikes on that island.

Michael Russell *rose*—

Liam McArthur: I cannot give way at the moment.

Mike Russell's points about the company's approach to customer services were well made. The picture on mobile coverage is very similar, too. I will illustrate those points in two ways, which look at the economic development impacts and service delivery.

On economic development, I have been struck by the extent to which the tourism sector has to adapt to the digital age. At a recent conference on that very issue that was organised by the Orkney tourism group, it was reflected that some people still go to Orkney to escape the digital age, but by and large expectations are changing. Holidaymakers research destinations and activities online, look for recommendations and bookings online, and interact with businesses ahead of arrival. Once they are there, they look to capture and share their experiences and images with friends, families and others who may be interested. It is not just about having wi-fi in your room, your self-catering cottage or your visitor destination, but about having access to reliable mobile coverage while on the move.

If that seems slightly frivolous, how about the effect on health service delivery? A 2012 report by Dr Andrew Inglis, a consultant working for the emergency retrieval team, which operates out of Glasgow, concluded that poor network coverage in rural areas

"results in an impaired service for patients and increased NHS costs."

Dr Inglis cited a report in *The BMJ*:

"Rural practitioners need to provide emergency care, and in some remote areas they may have to manage critically sick or injured patients for a number of hours before these patients can be transferred."

That certainly reflects the experience of Bernie Holbrooke, the nurse practitioner in North Ronaldsay, whom I met yesterday.

During our discussions about air ambulance service provision, the issue of mobile coverage kept coming up. It was pointed out that that helps to improve response times, allows initial assessment and information to be passed on ahead of the patient's arrival at hospital and provides support to community responders, or those first on the scene who may be lacking experience and knowledge but can be guided through the process. More routinely, it allows more successful management of patients with chronic conditions and can avoid unnecessary and arduous trips away from, in this case, North Ronaldsay, or even from Orkney, thereby improving patient care while reducing costs.

Those are just some of the advantages that high quality broadband and mobile coverage can provide. They show why such coverage is essential to communities in Orkney and why they

cannot afford to continue to languish at the back of the queue.

I again thank Tavish Scott for allowing the Parliament to shine a light on the issue and I very much look forward to the response of the Deputy First Minister, who is familiar with many of the circumstances in Orkney.

18:11

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): It is an absolutely immense privilege for each and every one of us to be elected as an MSP. This touches on the issue that we are debating tonight, but in my case, the particular privilege is that when I come to the Scottish Parliament, my broadband speed leaps by a factor of 800. Over the past 10 days, the median broadband speed at home has been 0.2Mbps. On Sunday, it took 40 minutes to book my railway ticket to journey to Parliament. That is not terribly good. My constituents are in a similar position.

The digital Scotland website tells us that exchange-only lines, to which reference has been made, are more prevalent in Aberdeenshire—Mr Johnstone should note that—and Dumfries and Galloway, just because of the history of how the telephone network was installed. However, let us not imagine that only rural areas are affected. Earlier, I was speaking to someone from Comely Bank, which is right in centre of Edinburgh, who is on an exchange-only line, too. Right across Scotland, exchange-only lines are a significant issue that denies people the ability to access services in the way that the majority are able to access them.

There is an economic value in ubiquity. On the day that everyone in Scotland is connected to a high-speed broadband connection, we should shut down all the communication methods that must continue in order to support low bandwidth connections—then we would save money centrally.

I have a solution. It is not a technological solution; it is a straightforward policy solution. The Scottish Government must install devices on its own internet connections that restrict the speed of those connections to the speed that prevails in the rural areas of Aberdeenshire, Shetland, Orkney, the Western Isles and Dumfries and Galloway. [*Interruption.*] I hear Mr Russell pleading that my list should include rural Argyll, too. If what I propose were to happen, I have a vague feeling that we might get things fixed.

Last year, my family had a pleasant holiday in Plockton, where we rented a cottage. I did not want to come home: the broadband speed was

running at 6Mbps—20 times the speed that it was running at when I left home in Banffshire.

My wife and my dentist are the greatest proponents of our getting proper access to high-speed broadband, mainly because my wife does not like the sound of my chewing the edge of my desk in frustration; I am sure that members can work out my dentist's concerns for my teeth.

The issue is not just broadband. Where I live, there is no mobile phone signal—2G, 1G, 3G or whatever the prevailing G is—and there is no Freeview access. I cannot even get satellite broadband, because the satellites, of which there are two, are not due south, so the angle of attack is 20.5° or 22° and the terrain stops me seeing them. I am not alone; people on that side of the hill cannot get satellite—not that it is as good as proper, fibre broadband.

I have costed the wholesale purchase of the fibre that would be needed to connect my house to the exchange, which is not that far away. It is £300. Well, I have got the 300 quid waiting.

18:15

Jean Urquhart (Highlands and Islands) (Ind):

I congratulate Tavish Scott on bringing this timely debate to the Parliament tonight.

Like other members, I welcome the Scottish Government's investment in delivering broadband to the rural and island communities that I represent.

Even in the almost five years that I have been a member of this Parliament, it seems that expectations and working practices have changed a great deal across the Highlands and Islands. There was a time when broadband was seen as a luxury, and superfast broadband was regarded as even more of a luxury, but now superfast broadband is a necessity of life, like water or a roof over one's head. Anyone who is contemplating running a small business in the rural areas that I represent, or even in the towns and more urban parts of the Highlands and Islands, simply cannot do so without superfast broadband. A mobile signal is also essential, as members have said.

I endorse Tavish Scott's request that we ascertain the success of community broadband Scotland projects. The BT website has a map that shows where we can have a BT presentation in our communities, but there are gaps. I hope that community broadband Scotland can plug the gaps, but it is not clear whether that is working. We often leave contact details for community broadband Scotland with community groups but hear little about the progress that is made thereafter.

I spent most of the summer recess on the islands, meeting social enterprises and community groups and associations. Broadband was the hot topic in every case. Last weekend, I was invited to meet a group of people in Elphin, who could not understand why the fibre cables would run through their community but would not be for their community. The issue needs to be addressed as a priority by us all, if we want a fairer Scotland.

Broadband is not just for business or for fun. More often than not, we are encouraged to do things online, whether we are talking about applications to the Department for Work and Pensions, payments for licences or applications for crofting support. Crofters are often the very people who have no access. Liam McArthur talked about Orkney, where superfast broadband does not reach 25 per cent of premises. It is essential that more priority is given to plugging the gaps in Orkney and elsewhere.

It is more than that, however. There is a real issue of democracy for this Parliament that I have talked about before. The cross-party group on crofting now has the facility in room Q1.02 to hold our meetings live online—people can dial in or come in on the internet. That is great for people from here, but the cross-party group on crofting does not attract crofters from central Edinburgh or central Glasgow. Its work is of interest to people who are in rural areas and who would like to access the discussion that is happening in Parliament. If we want to see real democracy working across the country, and if we believe what we say about wanting people to access the Parliament and its work, we need to see those things as relevant to the debate on broadband too.

18:20

Bruce Crawford (Stirling) (SNP): As is the normal practice, I congratulate Tavish Scott on bringing the debate to the chamber. The fact that there are so many people here taking part in the debate shows its real worth, so I thank Tavish Scott for securing it.

Would it not be great if we were talking this evening about what an exciting, fantastic, connected country Scotland is and how we are leading the world in our broadband and mobile coverage? Our tourism businesses would be able to put out online the excitement and dramatic value of the beauty that they represent, our farmers would be able to bid for the beasts that they see in the market online, our kids would be able to involve themselves in educational tools to help with social inclusion, telehealth could provide people with access to information in a way that is not possible at the moment, and people in rural and remote areas could overcome some of the

difficulties that are faced over transport by having great connectivity.

That is the vision that we should all be sharing, and the opportunities for us as a nation are utterly boundless if we can get it right. I am hugely excited by the potential, and because of that I am delighted with the extra money that is being put in by the Scottish Government and the UK Government to get us to where we need to be.

I am engaged with communities the length and breadth of my constituency, in every nook and cranny from Tyndrum to Mugdock and from Fallin and Cowie to the shores on the east of Loch Lomond, and there are many areas where broadband is working fantastically well, but there are also not-spots—which are described well in Tavish Scott's motion—across my constituency.

I want to thank digital Scotland for its sheer level of engagement with me, particularly through Duncan Nisbet. If anyone were to ask, Duncan would tell them that he has been more engaged with my constituency than with any other in the country, because I am never off the phone to the man. I know that he has a reception here this evening, which Stewart Stevenson is hosting. He is going a great job, but he is doing it with a workforce of two men and a dug, and he probably needs a bit mair support.

Likewise, Sean Marley from community broadband Scotland has been engaged with me in those communities as we look for new, bespoke solutions for every community that finds itself in a not-spot. That is one of the problems. As Rhoda Grant said, some communities need a bit more capacity, and there are fantastic people coming up with great solutions, particularly around how the wireless network can be used, but we need to be able to think of the long term and how sustainable that model is for all those communities that are working in different ways. I was pleased that the community broadband advisory group on Stirling Council recently agreed to carry out an audit of the not-spots across the Stirling area, so that it can get communities to work together to find solutions that help them.

That is all good and all the activity that is going on in communities is fantastic, but things could be sorted so much more quickly. The universal service obligation should have been there. We should not have been waiting till now to have that universal service obligation. It exists in Spain and in Finland. If we had the right to get access to the telephone in the past, so that anyone could pick up a telephone and use it, why do people in this modern day and age not have the right to have access to fast broadband speeds?

A structural problem exists. I heard Mike MacKenzie giving BT a walloping and I understand

that, but there is a structural problem because of the Chinese wall between Ofcom and the BT main company. The two are not allowed to talk to each other. The structure that has been put in place across the UK is ridiculous.

There are many technical aspects that I could go into, Presiding Officer, but I see you shaking your head to tell me that I do not have enough time to do that. I will finish by once again commending the great work that is being done across my community by people who are working hard under their own steam to make this work. Talking of steam, I wish that we no longer had a network for connectivity that comes from the steam age and that we could get into the modern age.

18:25

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): I thank Tavish Scott for lodging the motion and securing the debate. I reassure members that I understand entirely the significance of this issue and its importance to all communities in Scotland, particularly the rural and island communities that are the focus of Mr Scott's motion. That is the case not only because of my experience in representing Perth city, Perthshire and the rural parts of north Perthshire into the bargain, but because this is the issue on which I correspond the most with members of the Scottish Parliament, by far. Some of the usual suspects, who represent a significant part of my mailbag, are here tonight.

I understand the significance of the issue. Why? Because as a society we now live lives in which, in many respects, broadband is an essential service with regard to the way in which we undertake all our transactions and activities. At a recent meeting of the convention of the Highlands and Islands, the convener of Western Isles Council made the point that he viewed the roll-out of broadband to the homes and the communities of the Western Isles as of equal significance to the roll-out of mains electricity to those places in the 1950s. That rather puts the significance of the issue into perspective.

I want to reassure members of the importance that the Government attaches to this issue. That is why the Government has participated with the UK Government to fund a £410 million investment programme for the roll-out of the digital Scotland superfast broadband programme. Why is that important? Because, had the Government not done that, instead of 75 per cent of properties in Mr McArthur's constituency being able to access digital broadband, none would—that would have been the case in Mr Scott's constituency, too. Similarly, in Mr Crawford's constituency, only 57.5 per cent would have had access to broadband

rather than the 93.4 per cent that we anticipate under the programme. For completeness, in my constituency, 40.2 per cent of properties would have had access to broadband rather than the 90 per cent that are scheduled to have it.

Liam McArthur: The cabinet secretary is entirely justified in pointing out where that market failure needed to be addressed by public investment. However, does he accept that, given that a backbone has had to be constructed in order to allow people to build outwards, the priority from here on is to make up the ground in those areas that continue to fall below the regional or national average?

John Swinney: Mr McArthur makes a fair point. I am confident that the roll-out of superfast broadband will reach the targets that have been set. The 85 per cent coverage target that was set for March 2016 was reached six months ahead of schedule. I have confidence in the roll-out of the programme and I pay tribute to Highlands and Islands Enterprise, which has led on the programme, and to those who have worked on the programme, which has been carried out in partnership with BT. However, it is vital that members in the constituencies that are involved in this issue understand the priority that the Government attaches to ensuring that we complete this process for everyone in Scotland, not just people who will be covered by the programme that we have already commissioned.

My focus is on finding the solutions and using the resources that we have available to us to try to ensure that we can maximise coverage. Already, in the main programme that the Government is taking forward, we have generated a gainshare return of around £18 million. That means that £18 million of extra capacity beyond the existing plan is available to reach out to further properties, and we have phase 2 of the superfast broadband programme, which is valued at £42 million, which will also be added to the roll-out of the programme.

Mr Scott asked me about the extent of the involvement of community broadband Scotland, which is a crucial intervention to try to deliver projects that will not be serviced by the BT contract that the Government has commissioned. Community broadband Scotland has approved funding for 62 projects so far and is actively supporting a further 90 projects, comprising more than 19,000 premises across Scotland. Community broadband Scotland has gained momentum and is now delivering real impact in localities. Although I am satisfied that the resources that are available to community broadband Scotland are adequate to meet the demand that is being expressed, I reassure Parliament that if I feel that demand outstrips the

resources currently allocated, I will attach priority to finding new resources to add to those to ensure that we are able to roll out broadband to a broader range of communities than is currently envisaged under this process.

I understand the significance that members attach to mobile coverage. Although the Scottish Government has no regulatory responsibilities in that area, I have convened discussions with the four mobile network operators a number of times to encourage a partnership approach. The Government is looking at planning regulations and business rates issues and is encouraging local authorities to look at planning issues, in order to break down some of the obstacles that might exist in expanding capacity. I reassure Mr Scott that, in the negotiation of the UK-wide emergency services mobile communications programme, we are pressing for the programme to provide the added value of additional 4G connectivity as a consequence of the financial contribution that we will make to the programme, which will be mirrored by the UK Government.

Mr Russell, in his characteristically understated fashion, has been severely critical of BT. I will see BT on Thursday and will make the points that Mr Russell has made to me, although I am sure that BT will have heard those points. I invited BT, along with the mobile network operators, to come to the convention of the Highlands and Islands in Elgin a few months ago in order that the leaders of the public sector in the Highlands and Islands could make their point very directly to BT and the mobile network operators and ensure that they clearly understood the importance that we attach to digital connectivity. I repeatedly make the point to BT about the importance that must be attached to effective service, although Mr Russell's comments went beyond that to the issue of the active service that some members of the public experience.

On Ofcom, all that I could get past the Smith commission, of which Mr Scott and I were members, was for us to have more say in Ofcom. I cannot remember whether Mr Scott was an ally of mine on that issue. I am sure that he was an ally—he was always an ally in the Smith commission. The furthest that we could get the Smith commission to go was to say that Ofcom had to have a more direct relationship with the Scottish Government and that we should nominate a member to the board of Ofcom.

I place on record my appreciation to the chief executive of Ofcom, Sharon White, who has made extraordinary efforts to strengthen the dialogue with the Scottish Government. Just last week, I met Sharon White and Baroness Noakes, one of the board members of Ofcom, for one of a number of discussions—I have also met the chair of Ofcom within the past few months—to set out the

importance that the Government and Parliament attach to improving connectivity. I have every confidence that Ofcom has heard that message and is pursuing it in the exercise of its responsibilities, one of which will be to consider the issues in connection with the universal service obligation.

I hope that what I have said tonight to Parliament does justice to the importance of the issues that have been raised by members and by Mr Scott in his motion. I welcome the fact that members have been appreciative of the investment that we have made and the success of the programme to date. However, I want to make it absolutely clear to members the centrality that the Government attaches to resolving these issues to ensure that, whether for business, leisure or professional purposes, every citizen of our country is able to access digital connectivity in their homes and their localities and is well connected to the modern world.

Meeting closed at 18:34.

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