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AITHISG OIFIGEIL

Justice Committee

Tuesday 12 March 2019

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

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JUSTICE COMMITTEE
9th Meeting 2019, Session 5

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

COMMITTEE MEMBERS

*John Finnie (Highlands and Islands) (Green)
*Jenny Gilruth (Mid Fife and Glenrothes) (SNP)
*Daniel Johnson (Edinburgh Southern) (Lab)
*Liam Kerr (North East Scotland) (Con)
*Fulton MacGregor (Coatbridge and Chryston) (SNP)
*Liam McArthur (Orkney Islands) (LD)
*Shona Robison (Dundee City East) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Humza Yousaf (Cabinet Secretary for Justice)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Justice Committee

Tuesday 12 March 2019

[The Convener opened the meeting at 10:00]

Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill: Stage 2

The Convener (Margaret Mitchell): Good morning, and welcome to the Justice Committee's ninth meeting in 2019. No apologies have been received.

Agenda item 1 is stage 2 of the Vulnerable Witnesses (Criminal Evidence) (Scotland) Bill. I ask members to refer to their copy of the bill and to the marshalled list of amendments and groupings for this item.

I welcome the Cabinet Secretary for Justice, Humza Yousaf, and his officials.

Section 1—Child witnesses in certain solemn cases

The Convener: Amendment 1, in the name of the cabinet secretary, is in a group on its own.

The Cabinet Secretary for Justice (Humza Yousaf): Good morning, convener and committee.

At the heart of the bill is the reform to require pre-recording, in the first instance, to have to take place for certain categories of child witness in the most serious cases. The new rule in favour of pre-recording is subject only to some narrowly drawn exceptions.

The substantial change that the reform, if passed, will bring about cannot be overestimated. That has been recognised by the committee with its support for a phased approach to implementation. I am very grateful for the committee's understanding and consideration on that point and on the need to ensure that the reforms are commenced in an appropriate and managed way that does not overwhelm the system. For that reason, the list of offences is intended to capture only the most serious cases. The bill also includes a power to add to, otherwise amend or remove the list of offences, although I accept that it may be some time before it is appropriate to use that power. I was interested to hear the committee's views on the list as it is set out in the bill, particularly its views on whether the offences that are listed strike the right balance.

In the committee's stage 1 report, I read with interest its views and the views of stakeholders who also raised the issue, including the Scottish Children's Reporter Administration, Children 1st, Scottish Women's Aid, Barnardo's Scotland and the ASSIST—advocacy, support, safety, information and services together—service at Community Safety Glasgow. I am grateful to those stakeholders for taking the time to set out their position on that important provision. In particular, powerful evidence was heard that giving evidence in domestic abuse cases can be particularly distressing for children. I found that testimony very persuasive. I also listened carefully to the stage 1 debate, during which members expressed their opinions on why domestic abuse should be added to the list of offences that the rule applies to in solemn cases. I found many of the committee members' reasons for inclusion compelling and was convinced that the provision is an addition that will really strengthen the reforms in the bill.

However, as I indicated in the stage 1 debate, I had to be sure of the implications of widening the remit of the pre-recording rule. That could not be done lightly, as any widening of the rule's remit is likely to have major practical and financial implications, and I am grateful that members showed that they understood why it was appropriate to carry out further work. Since the stage 1 evidence sessions, my officials have carried out a detailed appraisal of the impact of such an amendment and have consulted justice stakeholders including the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunals Service, to ensure that the implications have been given due consideration.

There is no denying that such an amendment could have substantial resource implications for the justice sector. I remember Daniel Johnson specifically making a request during the debate for the number of High Court and sheriff and jury cases that might involve a child witness. We have projected that the number of cases involving a domestic abuse offence in which a child may be called is likely to be approximately 43 High Court cases a year and around 203 sheriff and jury cases a year. That is only a rough estimate, though—there might be even more. Furthermore, we need to see what effect the new domestic abuse offence will have on case numbers over the coming years. Indeed, it is very relevant that the committee is considering this amendment today, as it is less than three weeks since the commencement of the Domestic Abuse (Scotland) Act 2018.

Despite those significant implications, it is important that we take progressive action to improve the experience of child witnesses in domestic abuse solemn cases. This provision is an ambitious step, but, as I say, many members here today have put forward a compelling case for its inclusion. Once again, I put on record my thanks to all of you for raising the issue and to all

the stakeholders who contributed, and I thank the committee for recommending a significant and very important addition to the bill.

I am pleased to move amendment 1.

Liam McArthur (Orkney Islands) (LD): I thank the cabinet secretary for his comments. He has fairly summed up the conclusion that the committee reached. We all recognise the resource implications and pressures that amendments such as amendment 1 might place on the justice system. I am interested in getting a better understanding of where the pressures are likely to fall and what additional resources the Government may need to put in place to ensure that there are no knock-on implications for other cases. However, I welcome the move that the cabinet secretary has made in lodging amendment 1, and I will certainly support it.

Daniel Johnson (Edinburgh Southern) (Lab): I echo Liam McArthur's comments. During the stage 1 debate, there was considerable discussion of the merits of extending the provisions in the bill to the summary procedure. We are all mindful of the need not to overwhelm the system by going too far too quickly. However, with that in mind, and given that the measures could be used under the summary procedure, has the cabinet secretary given any consideration to possible non-legislative measures the use of which might be encouraged where appropriate? That applies to domestic abuse cases, in particular, but also to any case in which vulnerable witnesses give evidence under the summary procedure.

John Finnie (Highlands and Islands) (Green): I welcome amendment 1. To make a general comment, I know the frustration that Opposition MSPs often feel in respect of legislation that is introduced by the Government and what is sometimes felt to be a not particularly positive response to stage 1 reports. However, this is a good example of the process working. That is not intended in any way as a criticism of the Government. The fact that the cabinet secretary talked about the implications and the on-going consultation, which is important, shows that we can make a recommendation that can have wider implications. I welcome amendment 1 and will support it.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I welcome the amendment. I give credit to the cabinet secretary and the Government for taking on board what stakeholders and the committee said at stage 1. It is an absolutely fantastic amendment.

I ask the cabinet secretary, in summing up, to say whether the research that his officials have done has highlighted anything on the number of children who might become witnesses compared to what the situation would be if the legislation was not in place.

The Convener: We all welcome the fact that the cabinet secretary has taken account of our recommendation in the stage 1 report. The committee considered the issue and all members agreed that the provisions should be extended to domestic abuse cases that are dealt with under the solemn procedure, as a way of addressing the issue but not impacting on the phased approach, the aim of which is to get it right at every stage.

The cabinet secretary talked about a projection of 43 High Court cases and 203 sheriff and jury cases, but there is no guarantee that child witnesses would be involved, so it will be interesting to hear his comments in answer to Fulton MacGregor's question.

Humza Yousaf: I thank members for their comments and feedback. I do not have all the detail on the research behind the numbers that I quoted of 43 cases in the High Court and 203 sheriff and jury cases. However, I can come back to the committee with some detail if members are interested. It is important to say that the figures are projections and estimates rather than exact figures and that there is an important caveat relating to the new domestic abuse offence.

The estimated cost—again, I add the caveat that it is estimated—of adding domestic abuse to the list of offences in solemn cases could increase the recurring cost of the bill by up to approximately £1.3 million per year. It is clear, from the financial memorandum, that the reforms will be expensive to implement. However, they are important, as the committee and stakeholders have said, so the costs can be justified.

If the bill is passed, we will continue to monitor the financial implications of the changes, and we will engage fully with our justice sector partners—in particular, with the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunals Service—on their funding requirements. The financial requirements that arise from the bill will be considered in the next spending review.

Liam McArthur: That is a helpful clarification. I accept that it might be difficult to put precise figures on it, but can the cabinet secretary assure the committee that, ahead of stage 3, we will see a revised financial memorandum that firms up the figures as far as possible?

Humza Yousaf: Yes. I will be happy to explore that. We will have to look at the financial implications of any amendments that are agreed to at stage 2, which will affect the financial memorandum.

I do not have anything to add to the points that Daniel Johnson made other than that he is

absolutely right. The special measures that we have put in place are perhaps not being used to their fullest at the moment. A lot of work has to be done to encourage the use of those measures, particularly for the most vulnerable. I am happy to take the conversation with Daniel Johnson offline—or to continue it formally with the committee, if members wish—in seeking what more can be done through non-legislative measures to ensure that the use of special measures is greater than is currently the case.

Amendment 1 agreed to.

The Convener: Amendment 2, in the name of the cabinet secretary, is grouped with amendment 5.

Humza Yousaf: The amendments in this group are both of a technical nature. I will not lie—I had to ask my officials to go over the technical detail a couple of times so that I could fully grasp it.

Amendment 2 is a technical amendment to ensure that two sets of provisions that are contained in the bill function properly in relation to each other. They are the new rule in favour of pre-recording and the simplified notification procedure for standard special measures.

Section 271D of the Criminal Procedure (Scotland) Act 1995 enables the court at any time, up to and including when a vulnerable witness is giving evidence, to review the arrangements for the giving of that evidence at the request of any party to the proceedings or of the court's own accord. The bill modifies the review provision for cases in which the new pre-recording requirement applies. The modifications are necessary so that the exercise of any review in such cases is applied consistently with the pre-recording requirement.

The bill also modifies section 271D of the 1995 act to allow the court to review the arrangements for taking a vulnerable witness's evidence when the arrangements were the result of the new simplified procedure for requesting standard special measures administratively and were not authorised by a court order. That is what subsection (4A), which is referred to in amendment 2, does.

However, the simplified notification procedure does not apply in cases to which the new pre-recording requirement applies. That is because taking evidence on commission requires a judge or sheriff to be appointed as commissioner, a commission hearing to be set and a ground rules hearing to be set and conducted, which are matters that need to be dealt with through court orders.

I am proposing a simple technical amendment to remove the modification of the review provisions that relates to the simplified notification procedure from the modified version of section 271D of the 1995 act, which will apply to cases that fall within the new pre-recording requirement.

Amendment 5 addresses an anomaly in the bill as introduced. As the committee is aware, even though standard special measures are an automatic entitlement for children and deemed vulnerable witnesses, the sheriff or judge still has to authorise the use of those measures. That is required even though the other party cannot object.

Section 6 simplifies the procedure for seeking standard special measures for child witnesses or deemed vulnerable witnesses. I am grateful to the committee for welcoming the reforms to streamline the process in its stage 1 report. The policy intent was always that the simplified procedure should be available for all child witnesses who are entitled to standard special measures. That would have included the child accused, but, inadvertently, the bill did not contain appropriate technical modifications to facilitate that. The standard special measures for the child accused are a live television link and a supporter, but the measures do not include screens. Amendment 5 provides for appropriate technical adjustments, to ensure that, in the future, the same administrative procedure for requesting standard special measures can apply seamlessly to a child accused as to other child and deemed vulnerable witnesses.

10:15

The bill does not apply the pre-recording rule to the child accused, as that would raise complex issues about interaction with the accused's right to silence. There is, however, no justification in procedure terms for treating a child accused's application for standard special measures any differently from that of any other child witness in a situation outside the new rule. We consider that simplifying the procedure for standard special measures should also benefit a child accused. It would, of course, still be for the defence to consult their client on the most appropriate special measure if they chose to give evidence.

I move amendment 2.

Amendment 2 agreed to.

The Convener: Amendment 3, in the name of the cabinet secretary, is in a group on its own.

Humza Yousaf: In any legislation proposing reforms to our criminal justice system, it is important that we strike the right balance. The intention behind the bill is—in the interests of justice—to support vulnerable witnesses better by reducing the potential impact on them and helping them to give their best evidence, but we are clear

that that can and must be done while securing the right to a fair trial.

I have been keen to emphasise that it is not our intention that the bill's provisions should limit or prevent cross-examination. We do not consider that the bill does that or that it affects the necessary safeguards. It simply, but importantly, requires that the evidence of many more of our most vulnerable witnesses be pre-recorded in advance of trial. However, I listened to the concern that was expressed during stage 1 by many important voices in the legal sector that the bill's reforms could potentially enable the use of a prior statement as a witness's only evidence in circumstances in which another party wishes to cross-examine that witness. That could potentially have the effect of, for example, preventing a defence representative from questioning the witness.

The committee rightly raised that concern in its stage 1 report and asked what steps the Scottish Government intends to take to address them. Although we do not agree with the view that was expressed on the effect that the bill's provisions could have in that regard, it is clear that the concern is genuine and that we need to do what we can to allay it.

We considered that the best approach would be to put the matter beyond doubt in the bill. We could have added a clarifying provision confirming that none of the bill's provisions would preclude the right of the other party to cross-examine the witness, but that approach could have had an unintended consequence, as the right to cross-examine is not and has not needed to be set out in legislation. It has always been accepted that cross-examination is needed for a fair trial, so such an amendment could have cast doubt on other areas where the right to cross-examine has simply been assumed and nothing explicit has been said about preserving it. Amendment 3 proposes a slightly different approach, but one that we consider would have the same effect. It would create an appropriate mechanism that parties could use to require a commission to be held in cases in which the court had originally decided to admit a prior statement as the witness's sole evidence.

The amendment would enable any party to the proceedings to have the court authorise the holding of a commission. For example, a party to the proceedings could have a commission set up for them to conduct their cross-examination of the witness when a child had already given their evidence in the form of a prior statement and further evidence came to light at a later stage. The remedy is to enable a party who needs to cross-examine the child witness to seek a review of the order authorising the use of that special measure of prior statement alone and to request a commission hearing. The amendment would require the court to authorise evidence taking by commissioner, which would enable the child to be cross-examined.

I am grateful to all those who gave evidence in writing on the issue and to the committee for its consideration of the matter. It is important that we continue to have wide support for the pre-recording rule, and amendment 3 should give the necessary reassurance to deal with the concerns that have been raised. Indeed, we consulted representatives of the Faculty of Advocates, who confirmed that the faculty is content with the amendment.

I move amendment 3.

Amendment 3 agreed to.

Section 1, as amended, agreed to.

Sections 2 to 4 agreed to.

Section 5—Taking evidence by commissioner

The Convener: Amendment 4, in the name of Liam Kerr, is in a group on its own.

Liam Kerr (North East Scotland) (Con): Amendment 4 makes it clear that the commissioner has power to take steps to protect vulnerable witnesses

"after the conclusion of proceedings".

Its effect is that where a special measure is presided over by a commissioner, the commissioner must consider whether the witness will participate in the proceedings more effectively if they are assured of protection after the conclusion of the proceedings.

The justice system must recognise that although the formal process of giving evidence might be over when proceedings conclude, victims and other vulnerable witnesses might require further protection and support afterwards. Amendment 4 would add to the powers that are available to commissioners if they deem that the steps could reasonably be taken; it would not mandate action or place an overly burdensome duty on them.

Since lodging amendment 4, I have received Lady Dorrian's very helpful comments on it and other proposed amendments. If the cabinet secretary is minded to oppose amendment 4, I ask that, in replying, he set out what work the victims task force is doing to support and protect vulnerable witnesses after the conclusion of proceedings, as far as their mental and physical wellbeing is concerned.

I move amendment 4.

Daniel Johnson: Amendment 4 is interesting, in that while there is broad agreement that the bill's provisions on taking evidence by commissioner are measured and reasonable, there are concerns about whether some go far enough towards proactively seeking assurances that vulnerable witnesses will be supported through the process in the way that they need to be, and that they will have continuity of contact. I very much bear in mind what Lady Dorrian has said, but question marks remain over whether the requirements should be made more proactive rather than passive.

Therefore, I will not support amendment 4. I will abstain, in the hope that the Government will consider the possibility of improving some of those provisions.

Liam McArthur: I am grateful to Liam Kerr for setting out the purpose behind amendment 4. He is absolutely right about the concerns that we heard throughout stage 1, about what Daniel Johnson has referred to as continuity of contact. However, Lady Dorrian has made a very important point about the suitability of such an amendment for a bill of this type. Therefore, while I will listen very carefully to what the cabinet secretary says on the work of the victims task force—that is probably where the issue would be best addressed, as it needs to be—I cannot, for the reasons that Lady Dorrian set out, support amendment 4 as it stands.

John Finnie: I have a great deal of sympathy with what Liam Kerr has said. However, I adopt the same position as Liam McArthur. It is quite evident that a lot of support is provided throughout the process, from engagement with the police and social work services to during the court proceedings. However, from my casework I have seen that that support can tail off. In some communities, in particular geographical areas, there can also be a lasting legacy. Therefore I, too, will be very keen to hear what the cabinet secretary says about the victims task force.

Fulton MacGregor: Like others, I will not support amendment 4, although I have some sympathy with its aims. At stage 1, I raised the case of a child witness, in which there had been a perceived lack of support. However, I do not think that the issue should be put into legislation by means of the bill; it is more a matter for practice. Having listened to the cabinet secretary's remarks in summing up the stage 1 debate, I feel that the matter will be progressed.

The Convener: I, too, very much welcome the fact that Liam Kerr has lodged amendment 4. The fact that there is support for witnesses and their families prior to their enduring trial but not afterwards, when there can be repercussions for them, is a real issue. I know that the cabinet secretary recognises that, especially in closed communities and rural settings. I am therefore pleased that the lodging of amendment 4 has allowed him to respond to that issue.

Humza Yousaf: I thank Liam Kerr for raising the issue and for lodging amendment 4. The Government will resist the amendment, for the reasons that other members have mentioned. However, like other members, we appreciate the intent behind the amendment.

On 8 January, when the issue was raised by the convener, I said that we often talk about throughcare for prisoners. Early on in my role as Cabinet Secretary for Justice, it struck me that it is important that we also consider throughcare for victims and others. From my engagement with victims—I do not doubt that committee members have engaged with victims, too—and as John Finnie will also know, from his experience in his previous role, I know that victims often feel, if they have needed to go through a really difficult ordeal, that the level of support that is available to them tails off at the end of a trial. That is not the end of the experience for victims by any stretch of the imagination. There can be shock when victims receive, for example, a letter that tells them that the person who committed the crime will have their first grant of temporary release or will have a parole hearing. Such a letter can come a number of years after a trial takes place, so the need for support is vital.

I acknowledge the points that the convener and John Finnie made about the real issues in relation to witnesses from closed communities, as well as the differences between rural and urban settings.

A lot of the work that we have done on supporting victims is underpinned by the Victims and Witnesses (Scotland) Act 2014, which includes the right of a victim to protection during and, importantly, after a criminal investigation. There is also the requirement for the police to carry out an individual assessment of a victim's needs by considering a variety of factors, including the risk of repeat victimisation and intimidation. Those rights are set out in the victims code. However, members are absolutely right in that one of the core remits of the victims task force will be to look at that issue, in order to improve support, advice and information for victims and witnesses of a crime at all stages of the criminal justice system, including the trial process. The work will include looking at the information and support that are available to child and vulnerable witnesses.

The victims task force will look at how we can improve end-to-end support for victims and witnesses throughout the criminal justice system and beyond. That will include ensuring that victims and witnesses feel safe from any threat of harassment, victimisation or intimidation—for

example, after the conclusion of a trial or when an offender is due to be released from prison, bearing in mind that that could be years after the initial trial takes place.

A key focus for the victims task force will be to drive forward work to develop a new victim-centred or single-point-of-contact approach to supporting victims and witnesses at every stage, because many victims have told us that retelling their story is a retraumatising experience for them.

The work will be led by Victim Support Scotland, in collaboration with task force members. A report setting out further details of the victim-centred approach will be published this spring. We can ensure that the report is sent to the convener, for her to distribute to the committee more widely.

I will not restate the objections to amendment 4, because Lady Dorrian, whom many members have referenced, can articulate them far better than I can. Although everyone—including Lady Dorrian, through her letter—recognises the good intent behind the amendment, the bill is not the right place for it. Indeed, it would not necessarily be in the courts' remit to look at end-to-end support. That said, I reiterate that, although I do not support it, Liam Kerr's amendment raises some very important issues. I hope that I have given him and the wider committee real assurances that a core part of the victims task force will be to look at the issue.

Liam Kerr: I am grateful to all members for their persuasive arguments. As the cabinet secretary rightly pointed out, we can all agree with the principle behind my amendment. In that regard, I was pleased to hear the cabinet secretary's reassurances, and I hope that we will see evidence of the victims task force taking on the issue. Lady Dorrian's argument is, of course, well reasoned and persuasive. For all those reasons, unless the committee is particularly minded to vote on it, I will withdraw amendment 4.

Amendment 4, by agreement, withdrawn.

10:30

The Convener: Amendment 6, in my name, is in a group on its own.

Amendment 6 seeks to amend the bill to ensure that parties who are involved in the taking of evidence by commission must comply with training requirements relating to the questioning of vulnerable people. It follows the evidence that the committee heard about the importance of, and need for, appropriate training for all who are involved in the process of taking evidence by commissioner. As well as being provided to judges and sheriffs, such training should be provided to prosecution and defence solicitors and advocates who are involved in ground rules hearings and the subsequent commission. Amendment 6 has been lodged as a probing amendment to facilitate a discussion about what would be required to ensure that appropriate training takes place.

In addition to her formal evidence, the committee has received from Lady Dorrian very helpful new comments that explain, for example, that the training could not and should not be regulated

"through Court rules in an Act of Adjournal",

because that would interfere with section 24 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, which governs the rights of audience of qualified practitioners. Furthermore, in Lady Dorrian's view, the introduction of such a provision would have far-reaching consequences for Scots legal practice. More significantly in the context of the bill, it would be contrary to the collaborative process that was adopted by the evidence and procedure review group,

"in which the professions were fully invested and were willing participants".

For the purposes of today's discussion, and in order to focus on the best possible training measures, it should be recognised and accepted that the Scottish ministers will be responsible for the determination and delivery of such measures. In this area, the committee's evidence highlighted the importance of ensuring that the training process is tailored to individual needs. Children 1st stated that in order to ensure that witness questioning is carried out appropriately,

"all professionals involved in forensic interviewing of children"

should have

"the skills and knowledge to sensitively elicit the best evidence"

without retraumatising the witness. Children 1st, Social Work Scotland, Police Scotland, NHS Education for Scotland's psychology directorate and Victim Support Scotland all emphasised the need for the training to be trauma informed and sufficiently resourced, and I would be grateful if the cabinet secretary would address both of those crucially important points.

Finally, academic research has suggested that to improve the quality of investigative interviewing of children, it would be best practice to adopt the National Institute of Child Health and Human Development protocol training system rather than continue with the traditional structural focus of the model that is used in Scotland. I would therefore be grateful if the cabinet secretary would comment on that protocol and its key recommendations, which are that recording interviews is the best way to preserve evidence and that it should be

explained to children before the substantive interview phase of communication that they are in control of the interview and that, if they do not know the answer to the question or do not understand it, they should say so. In addition, suggestibility and misleading questions should be avoided. An unconnected topic practice interview would help to establish a rapport with the child and would provide the opportunity to practise open-ended prompts such as "Describe how or where" and so on. Monitoring and assessment of training should be carried out periodically well in advance of, say, a two-year deadline for review, to allow improvements to be factored in as the training progresses.

I look forward to hearing the comments of the cabinet secretary and other members on those proposals.

I move amendment 6.

John Finnie: I have a great deal of sympathy with what the convener said. We recently visited the Court of Session to see the training available. I have often been critical of the training that is delivered and its relevance, particularly in relation to this aspect. The issue is challenging, for the reasons that the convener has laid out in detail about leading questions and the like.

We know, from the committee's visit there, about all the factors that are considered in Norway regarding the appropriateness of engagement with children at different levels, ages and abilities. The issue is complex and important, and training needs to be a foundation stone if the bill is to be successful.

There is a "however" coming, I am afraid. Lady Dorrian has laid out the reasons why the bill is not the vehicle in which to deal with the issue. It still has to be picked up, though, so I will listen intently to what the cabinet secretary has to say.

Daniel Johnson: I thank the convener for lodging this probing amendment, which gets to the heart of the fundamentally important point about the way in which children are questioned and their evidence is obtained. Although the measures in the bill are welcome, their success will come down to the way in which advocates and judges put questions to children. The convener's point about the need to monitor and encourage best practice was extremely well made. Given the proposals in other amendments to have reviews, I wonder whether lodging at stage 3 an amendment to introduce a provision to monitor and promote best practice might be a way of taking the issue forward. I welcome both the raising of the issue and the sentiment, and hope that the amendment leads to further developments at stage 3.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I agree with the previous comments. The amendment is well intentioned, but, for the reasons that Lady Dorrian outlined, I do not think that it is practical. Training is really important and has to be at the top of the agenda, so I look forward to the cabinet secretary's remarks.

Liam McArthur: We have all lodged probing amendments to bills in the past. This one serves the useful function of underscoring the issue that came through loud and clear, not only from the visit to Norway but from other evidence that the committee took, which said that the bill will only be as good as the way that it is delivered by well-trained professionals. The amendment provides an opportunity for the cabinet secretary to underscore that point and set out measures to ensure that such training takes place as the bill is rolled out.

Humza Yousaf: I agree with the sentiment that members have expressed. It is important that any questioning of vulnerable witnesses is carried out to the highest standard, and training is a key element in achieving that. I therefore welcome the convener's probing amendment, which has raised the issue and allowed us to focus on the important role that training has in the questioning of witnesses. Unfortunately, we cannot support it; we will resist it for the good reasons that have been mentioned by Lady Dorrian and committee members.

The most recent meeting of the victims task force was hosted by the Judicial Institute for Scotland, which is the agency tasked with training judges and sheriffs. That gives further reassurance that the victims task force is looking at training as a live issue. Training for judges and sheriffs is for the Judicial Institute, and training requirements for solicitors and advocates are for their professional bodies. The inclusion of training requirements in an act of adjournal would therefore be unprecedented and, as Lady Dorrian has said, inappropriate, as it would cut across the professional regulatory responsibilities of the Faculty of Advocates and the Law Society of Scotland. I know that that is not the convener's intention. It is not for the court or the Lord President to determine what training is appropriate for advocates or solicitors, or to certify an appropriate provider.

Amendment 6 might undermine the principle that once a practitioner has the right of audience, the court cannot refuse to hear him or her. It might also cut across the role of the Lord Advocate as the independent head of the system of criminal prosecution. As you will be aware, the Lord Advocate is the prosecutor in all High Court trials; advocate deputes appear by reason of the commission that he gives them, and it is a matter for the Lord Advocate to decide to whom he gives such a commission. The amendment might

constrain him in cases involving evidence before a commissioner, but again I do not believe that to be the convener's intention in lodging this amendment.

None of my comments should be taken to suggest that I do not agree on the importance of training in this area, but I consider that that can be dealt with in a more appropriate and effective way. One area where it might be addressed is in the High Court practice note that came into effect on 8 May 2017 and which provides extensive guidelines for practitioners for the taking of evidence by commissioner. It also directs practitioners to the advocate's gateway website, which provides helpful guidance on how to ask appropriate questions depending on the age of a child or young person.

There is also a supplementary practice note that will come into effect in April, which contains further detail about the submission of questions in writing in advance and sets out a protocol for the general approach to be taken. The protocol was agreed by the Crown, the Faculty of Advocates and the Law Society of Scotland, and the greater use of that procedure will help to ensure that questioning is appropriate. Perhaps the four issues that the convener has well articulated can be examined when the practice note comes into effect in April, but we can take away what the convener has said and have those conversations with the Crown, the Faculty of Advocates and the Law Society of Scotland to ensure that those principles are reflected in the note. That would be a more appropriate way of addressing the issue and would ensure that we did not undermine the important role of organisations whose remit covers the training of judges and lawyers.

On the point about trauma-informed training on which the convener has rightly pressed the Government, it is a hugely important issue, and the 2018-19 programme for government includes a commitment to developing an adversity and trauma-informed workforce. We have announced £1.35 million to launch a national trauma training programme to support the Scottish workforce in responding to psychological trauma, and that will be in line with the first knowledge and skills framework for the Scottish workforce, "Transforming Psychological Trauma", which was published last year by the Scottish Government and NHS Education for Scotland. I hope that that gives the convener some reassurance, but I would also add that in its first couple of meetings the victims task force has often talked about the need for a trauma-informed approach to the criminal justice system.

The Convener: Can you address the specific point about resources? All the people whose views I have read out and the people from whom we took evidence very much sought an assurance that the training would be sufficiently resourced.

At the same time, can you explain how, on an on-going basis, you will know and be assured that the training is happening? How is the quality or effectiveness of that training monitored at present?

Humza Yousaf: As far as training is concerned, we have regular discussions with the Scottish Courts and Tribunals Service and various agencies, and I have related to them what the Judicial Institute for Scotland has said. It is up to them to determine the appropriate training for judges and sheriffs, but we often work closely with them, particularly when new legislation is coming into force. For example, there has been extensive training for judges and sheriffs in relation to the domestic abuse legislation, and that, of course, comes with resource implications. If the Judicial Institute feels that there is a need for more training for sheriffs and judges, it can make that representation to the Government.

As for our overview of the situation, I am always very aware that the Government has to respect the independence of our judges and sheriffs. We can, of course, be involved in this kind of activity, but we must do so only when appropriate, and it is certainly not something that we would set out in primary legislation.

For example, the Scottish Government hosted a round-table meeting in February this year for NHS Education for Scotland, the Law Society of Scotland, the Faculty of Advocates, academics and other stakeholders from the legal profession to discuss opportunities to develop bespoke trauma-informed training resources for solicitors to count towards continuous professional development. It is important that training is developed practically like that, rather than there being an inflexible approach via legislation. I hope that hearing that we have regular dialogue with the Judicial Institute for Scotland on resources and training needs provides an element of comfort.

10:45

The Convener: The cabinet secretary will appreciate that the training aspect—the content of the training and the effectiveness of questioning—will be key to the success of the bill's provisions. Amendment 6 has been helpful as a probing amendment in ruling out an act of adjournal as a way of taking matters forward. However, there remains the question of the NICHD protocol, which has very sensible suggestions regarding, for example, explaining to a child that they do not have to feel under pressure to answer questions, that they can say that they do not understand and can ask for more explanation and that they can simply say that they do not know, if that is the

case. It is about avoiding suggestibility and misleading questions and having more practice in open-ended questions, which are all germane to getting the best evidence and moving towards the forensic interview. A practice interview, even on an unrelated topic, could also be helpful in practising techniques and establishing rapport in order to put the child at ease. Crucially, there should be monitoring and assessment of the training to see whether it is effective, rather than just stating that trainees have done their training and that is it.

Is the cabinet secretary prepared to meet me to discuss the matter a bit further to see whether we could add anything to the bill at stage 3 that could ensure that the very best training is carried out?

Humza Yousaf: Yes, of course. I am very happy to meet and explain my views on the issue. The four points that the convener articulated are eminently sensible. However, the caveat is that I suspect that the Crown Office, the Faculty of Advocates and the Law Society of Scotland would be much better placed to judge whether there would be any unintended consequences of what is suggested. It is important to explore that in further detail with those stakeholders. I am happy to meet the convener, but she might also want to touch base with those stakeholders to get their views on the issue.

The Convener: That is very helpful, and I appreciate that it would also be important to meet those stakeholders. I propose to withdraw amendment 6.

Amendment 6, by agreement, withdrawn.

The Convener: Amendment 7, in my name, is grouped with amendment 8.

The bill is silent on the issue of additional commission hearings, but it was confirmed at stage 1 that, if new evidence emerged, a further commission hearing could take place. I therefore lodged amendment 7, which is a probing amendment, to provide the committee with the opportunity to discuss the issue.

The amendment proposes that, where an additional commission hearing with a witness is required, the court must meet a test for the taking of new evidence of there being a

"compelling reason for doing so."

Academic research and the 1989 Pigot report recommended the pre-recorded capture of evidence to ensure that children should not be revictimised by having to give evidence all over again in court. The same principle should apply to additional commission hearings.

The additional comments by the Lord Justice Clerk, Lady Dorrian, are extremely helpful here. She pointed out that although there might be some advantage in setting out a new process to allow the holding of a further commission hearing, there would also be significant risks. For example, if the bill had such a provision, experience suggests that, in practice, applications for a commission hearing would rapidly become a routine occurrence. That would undermine two of the bill's central objectives: to minimise the uncertainty as to when a witness might have to appear; and to avoid repeat appearances.

It is the judiciary's view that there is already sufficient flexibility in the current court procedures to allow for such follow-up hearings, if required. It would be helpful to have on the record the cabinet secretary's understanding of the legal basis for the taking place of multiple commissions, where necessary and appropriate.

In its stage 1 evidence, the committee heard that there has been no instance in which new circumstances have arisen that gave cause for a second commission hearing. Given that, and given Lady Dorrian's comments, does the cabinet secretary agree that it is not necessary or desirable for the bill to provide for additional commissions?

Amendment 8, which is also in my name, provides for a review of the bill's impact, focusing on

"the taking of evidence from child witnesses by commissioner on multiple occasions in relation to the same proceedings".

The review would have to be carried out up to two years after the bill receives royal assent, and the Government would be allowed a year to respond.

Although amendment 8 provides for the review to be carried out up to two years after royal assent, it is important to stress that, given the proposed phased approach to adults, it might be sensible to carry out the review to establish effectiveness before the two-year deadline. I would be grateful for the cabinet secretary's view on whether the review provision should be in the bill.

I move amendment 7.

John Finnie: I do not support the proposed approach. The evidence from Norway is that if we get a robust system first time around, there will be no such requirement.

However, you have raised a valid point, convener. As is always the case with justice issues, there is a tension between the rights of the complainer and the rights of the accused. I am reassured by the very clear statement from Lady Dorrian that the judiciary's view is that, if a further accusation were to come forward, there would be sufficient flexibility in current court procedures to deal with that. The bill as it stands meets the

requirements of both the complainer and the accused.

Fulton MacGregor: Like John Finnie, I do not support amendment 7. We heard from various witnesses that we need to limit the number of times that a child is retraumatised—the convener raised that issue. An important point is that nothing in the bill prevents a second commission from taking place if the circumstances require it. We need to trust the practitioners who work with the children involved to make those judgments.

Humza Yousaf: I thank the convener for amendment 7, on the power to hold a second commission, and amendment 8, on a review of the impact on child witnesses who give evidence on multiple occasions in the same proceedings.

On amendment 7, it is helpful to have the opportunity to consider whether specific provision is required to enable a second commission to take place. It is an important point, so this has been a valuable discussion.

The policy intent is clear. We do not want multiple commissions, as that would remove the main benefit for the child or vulnerable witness of pre-recording their evidence. It would also delay the point at which the experience would be over and done with and the witness could attempt to move on with their life.

However, it is necessary to have a procedure for allowing another commission to happen in the rare circumstances in which there is a need to recall a witness for further questioning. I note from the stage 1 report and the comments of many members of the committee that it is accepted that we need to limit the impact of further questioning. It is right to seek clarification on whether a specific provision is required or the current legislative framework will suffice.

In the Scottish Government's response to the committee's stage 1 report, we advised that we would consider further whether a specific provision in the bill on second commissions would be helpful, but it is still our view that it is unnecessary.

As has been mentioned, Lady Dorrian, the Lord Justice Clerk, has written to the committee to advise that the judiciary's view is that

"there is already sufficient flexibility within current court procedures to allow for a follow-up hearing if it is required."

She helpfully highlighted the risks in setting out a new process to allow the holding of a further commission hearing. In particular, if there was an explicit procedure in the bill, such applications would become routine, which

"would undermine two of the central objectives of the Bill".

The very existence of a separate procedure could encourage applications for further commissions. That is at the heart of the issue that concerns me most about setting out a separate procedure.

The convener asked about our legal understanding of the position. We align ourselves with what Lady Dorrian said—we believe that a second commission could be done by review under section 271D of the 1995 act and that more than one vulnerable witness notice can be submitted under section 271A of the 1995 act, so there are already mechanisms that the court could use to order a second commission if that was necessary.

Amendment 8 focuses on reviewing the bill's impact and specifically the impact on child witnesses who have had to give evidence on multiple occasions in relation to the same proceedings. Of course I understand the rationale and the good intention behind the amendment, and I agree with the principle that these important reforms should be evaluated.

As we set out in the implementation plan, which I sent to the committee on 7 January, monitoring and evaluation are integral to ensuring that the commencement and roll-out of the bill are undertaken in a managed and effective way. However, there are a number of issues that mean that I cannot support amendment 8.

The first issue concerns timing. The amendment would require a review process to commence two years after royal assent, which we expect would be in approximately June 2021. Under the implementation plan, we expect in those two years to conclude the first six-month evaluation of the operation of the provisions in the High Court. It would not make sense to embark on another evaluation so soon after that, particularly given that the new rule would not yet have been rolled out to sheriff and jury cases.

The second issue is about inflexibility. I accept the convener's point that, if a child witness has given evidence on multiple occasions in relation to the same proceedings, that is an important factor that we must consider. However, to create an entirely new process to focus appraisal on that one issue might be disproportionate, particularly given that, as Lady Dorrian pointed out, there has not yet been an instance where new circumstances have arisen to give cause for a second commission hearing.

In any evaluation, there should be close monitoring of a range of other matters, such as the volume of commissions and the types of cases, as well as how commissions are working operationally, to ensure that the reforms are having the desired effect and to inform decisions about the next stage of the roll-out. Furthermore, we would want to evaluate not just the bill's impact

but aspects of the broader system, such as the High Court practice note.

Thirdly, the amendment would require consultation with "vulnerable witnesses" when the report is prepared. It is important to hear the voices of the people we seek to support, but the matter is clearly sensitive, and I am concerned that a statutory obligation could not only be ineffective but have unintended consequences for the people we seek to protect—for example, they might have to retell their stories.

All that considered, I see merit in potentially having a review provision in the bill, which I intend to comment on in the debate on the next group. However, a review that focuses on multiple commissions, which are unlikely to be numerous, is not the preferred approach.

Convener, I hope that my comments have given sufficient reassurance on second commissions to enable you not to press amendment 7 or move amendment 8.

The Convener: As I said at the outset, amendment 7 is a probing amendment. I think that it has been useful to get on record the cabinet secretary's view, which concurs with the judiciary's view, that there is sufficient flexibility in the current court procedures to allow such follow-up hearings, if they are required, without setting that out in the bill, and that setting it out in the bill would be undesirable and would only encourage applications, which would not be helpful.

11:00

It has also been useful to hear the cabinet secretary's comments establishing that there would be an evaluation after six months, which is roughly the time when we would want to think about commissions and other aspects of the bill.

I think that it has been helpful to put that discussion on the record. In light of that, I seek the committee's permission to withdraw amendment 7.

Amendment 7 withdrawn.

Section 5 agreed to.

After section 5

Amendment 8 not moved.

Sections 6 to 8 agreed to.

After section 8

The Convener: Amendment 9, in the name of Liam McArthur—I am sorry, I mean Liam Kerr. Were you panicking there, Mr McArthur?

Liam McArthur: Amendment immediately withdrawn. [*Laughter*.]

The Convener: Amendment 9, in the name of Liam Kerr, is grouped with amendment 10.

Liam Kerr: Throughout stage 1, the Scottish Government made the point, rightly, that these reforms must be progressed slowly in order that careful monitoring can take place throughout implementation with regard to different groups of vulnerable witnesses in various types of proceedings. The cabinet secretary has just made clear his view that any review must be wide and all-encompassing. I agree, which is why amendment 9 would place the requirement to review the operation of the act on a more formal basis and include it in the legislation.

The report that is envisaged by amendment 9 would enable the committee and the Parliament to scrutinise the reforms closely and receive all the information that they require to do so. When the cabinet secretary decides to halt or progress a particular phase or extension, the report would give the public confidence that there is an evidence base behind such a move and ensure that the cabinet secretary is accountable for that decision.

If the cabinet secretary is minded to speak against the amendment—he has indicated that he intends to comment in depth on amendments 9 and 10—I would be grateful for suggestions about how the Government proposes either to share the progress and results of extension with the committee or to move to such an outcome at stage 3.

I move amendment 9.

The Convener: Amendment 10 is another probing amendment, which focuses on the principle of moving to the barnahus model. The amendment specifically seeks to ensure that, after the bill has received royal assent, there will be a review of the progress that has been made by the Government and Government agencies towards implementing the principles of a Scottish version of the barnahus model.

The committee has been clear that it wants to see how the collecting of information has evolved and what progress has been made towards the one forensic interview and barnahus-type model before the end of this parliamentary session. I would be grateful to hear the cabinet secretary's view on how that objective can be realised.

Daniel Johnson: I welcome both amendments in the group. As a general principle, I think that the idea of embedding the requirement for a review of a piece of legislation in that legislation itself often makes sense. It makes particular sense in this case, given what the bill seeks to do with regard to the change in the way in which evidence is gathered and the experience of the courts, which is, ultimately, the intention of the bill. Reviewing

whether that effect has been achieved, and whether there are further steps that could be taken following implementation, makes a great deal of sense.

With that in mind, I think that amendment 9, in the name of Liam Kerr, is well framed and broadly stated in looking at the effect of the legislation in general. It is not prescriptive and gives flexibility with regard to the contents of the review, and it requires ministers to respond with consideration to the key agencies and actors involved in the operation of the legislation. My only concern is that a period of three years might be a little too short, for the reasons that the cabinet secretary set out in his response to the previous group of amendments, but that could easily be remedied and other considerations taken into account at stage 3.

I urge members to support amendment 9, as I will if the member chooses to press it.

Shona Robison (Dundee City East) (SNP): I have sympathy with the sentiments behind amendments 9 and 10. Boiling them down, I think that they represent an attempt to ensure that progress is made and that the Government has a timeframe for demonstrating progress on important measures, particularly the shift to the barnahus model, that have been supported by all committee members.

However, my question is whether this is the only way of achieving that aim. We will have to hear what the cabinet secretary says, but if the intention behind the amendments can be achieved in a different way that does not require to be set out in the bill, I would be sympathetic to such a move. The most important thing is that we achieve progress towards an end that the committee has unanimously agreed on.

Fulton MacGregor: I welcome amendment 10 as a probing amendment. At stage 1, many of us pointed out that the infrastructure is already in place; police and social work already conduct joint investigative interviews, and the health services are already involved in assessments. It might be relatively straightforward to put in place a pilot for a one-stop-shop barnahus approach, and I will be interested in hearing what the cabinet secretary says about that. I think that that issue, too, was raised at stage 1. Although I will not vote for amendment 10 at this stage, I welcome it as a probing amendment.

Rona Mackay: Again, I think that amendment 9 is well intentioned, but I am worried about the retraumatising aspects of it. For that reason, I cannot support it.

As for amendment 10, I am happy that the issue has been brought up, and I look forward to hearing the cabinet secretary's views on the matter. As Shona Robison said, everyone is very supportive of Scotland moving to the barnahus model, and I look forward to hearing from the cabinet secretary whether that could be done without putting prescriptive provisions in the bill.

Humza Yousaf: I thank the convener and committee members for their remarks, and I thank Liam Kerr and the convener for raising the issue of the monitoring and evaluation of the legislation by lodging amendments 9 and 10. I understand the rationale behind the amendments, and I very much agree with the principle that these important reforms should be evaluated.

As I said a moment ago, the implementation plan, which I sent to the committee on 7 January, has monitoring and evaluation as an integral part of the bill's phased introduction. It is crucial that commencement and roll-out of the bill's provisions are undertaken in a managed and effective way to ensure that the intended benefits are delivered to the individuals involved in these most serious of cases. We have included dates for only the first three phases in the draft implementation plan, because we must ensure that there is a suitable period of evaluation and monitoring before moving to the next stage of implementation. I intend to update the committee on that monitoring work after it has been completed for each phase and on what that evaluation means for moving to the next planned stage.

We need to retain flexibility in the timing of the evaluations, so it would not be appropriate to set that out in primary legislation. However, that is different from having an overarching provision in the bill to review and report to the Scottish Parliament on how the new pre-recording rule is working in practice. I understand that that is the intention behind Liam Kerr's amendment and I can see the merits of such a provision. I am very much minded in favour of such an addition to the bill. Unfortunately, there are issues in relation to amendment 9 that mean that I cannot support it at this time.

Daniel Johnson: Will the cabinet secretary clarify whether he would accept the amendment if it did not have a set timeframe or had a longer timeframe? How long a timeframe would he accept?

Humza Yousaf: There are several issues with the amendment, in addition to the timing, which I was about to discuss. I suggest that I work with Liam Kerr and other members who are interested in the overarching review to see whether we could come back with a proposal at stage 3. I would not object to Daniel Johnson taking part in those conversations. I agree with the sentiment in principle, although there are other issues.

The drafting of the review provision suggests that any report on the impact of the act would focus on the support and information that are provided to vulnerable witnesses and would detail any new proposals from ministers in relation to that. Although I agree that monitoring and reviewing such information and support are important, I do not think that the proposed report on the operation of the act is an appropriate vehicle for such a review. As the bill does not propose any reforms on providing information to vulnerable witnesses, a statement on the impact of the legislation on such issues is likely to be very limited.

By highlighting the issue in his amendment, Liam Kerr has raised a vital matter. A key focus for the victims task force is the development of a victim-centred approach, which will include consideration of the support and information materials that are made available to all victims and witnesses. That approach, led by the task force, will enable a comprehensive review of information and support. We must ensure that the statutory review is timed to be as effective as possible, after those reforms have had a real chance to make the difference that we all believe they will.

It might be better to start the review three years from the date of commencement of the first phase of the roll-out of the pre-recording rule, rather than from royal assent. I emphasise that any statutory review would be in addition to our monitoring of each phase of the roll-out, on which we would update the committee.

In the previous group, I explained why I think that the amendments' reference to consultation with vulnerable witnesses poses problems. However, although the amendment does not quite have the effect that I think is intended, it is a very constructive proposal. As I said, if Liam Kerr is willing not to press amendment 9, I would be happy to work with him and other members on an amendment to the bill at stage 3 to include a provision on a formal review of the act.

On amendment 10, I thank the convener for highlighting the importance of working towards ensuring that children's evidence is taken in a child-centred setting, where children can access the wraparound care and support that they need. I am aware of the committee's deep and sincere interest in the barnahus concept. A Scottish version of the barnahus concept is the best way to achieve that aim; as I said in the chamber on 5 February, that is the intended outcome of the Scottish Government's work on the matter. I can fully understand why the committee is keen to ensure that progress is made and the evidence that the committee has gathered will inform our future work.

However, the issue for consideration today is whether amendment 10, although well meaning, would actually have the effect that is intended. In 2015, the Scottish Courts and Tribunals Service's evidence and procedure review produced a comprehensive review of the process and identified clear areas for action. That was a detailed process, which took place over several years. I am not convinced that a Government-led review considering the same areas is necessary or appropriate at this time. Furthermore, introducing a requirement for another wide-ranging review of the process for taking evidence from children would inevitably divert resources from making progress on that important work.

In order to meet the requirement in amendment 10, any review would be focused on the way in which evidence is taken. Although that is an important part of the barnahus model, the concept is so much more than the type of accommodation in which evidence is recorded, although that is a vital element. It is about wraparound care and providing services that truly address trauma and promote recovery to vulnerable child victims at the earliest opportunity.

11:15

To perform a thorough, systematic review, work would need to begin in this parliamentary session, so the resource that we intend to commit to scoping how the barnahus model could work in Scotland and the development of Scottish-specific standards might have to be diverted to undertake another review of the evidence-taking process, which has already been done. That would be on top of the review into the operation of the act, which, with respect to Liam Kerr's amendment 9, I have said should be added to this legislation. Although I understand that the amendment is considered to be a way to ensure that progress is made, I do not consider that such a review is the best way to do that, particularly as the report from the review would not be required until the next parliamentary session.

We are committed to working with stakeholders to consider how the concept would work in Scotland, which is why we have asked Healthcare Improvement Scotland and the Care Inspectorate to develop Scottish-specific standards for barnahus that are based on best practice from Nordic countries. That work will involve extensive consultation, including with health boards, children's services, the third sector and justice partners, so it would be informed directly by children and young people's evidence and their thoughts.

I do not believe that amendment 10 would be the best way of achieving that truly child-centred, trauma-informed response. The work that we are

beginning on the barnahus concept in Scotland will do that. Instead of supporting the amendment, I am happy to commit today to providing a formal report to Parliament on progress that has been made on barnahus. I also reiterate the undertaking that was made in my letter to the committee of 12 December and in the stage 1 debate on 5 February to keep Parliament updated on progress in developing a Scottish approach to barnahus.

I hope that my comments will reassure members of my commitment in this area and that we will have the opportunity to work together on how to best ensure that progress is made in developing a Scottish approach to barnahus. I reiterate that I consider that that is most likely to be achieved by focusing on making progress rather than by committing to yet another review. I ask for amendment 9 not to be pressed.

Liam Kerr: I am grateful to members for their thoughts; it has been an interesting discussion. In particular, I take Daniel Johnson's point, which succinctly summarised many of my views in lodging the amendment in the first place.

I am interested in the point that three years from royal assent is too soon, and I hear the cabinet secretary's points on the implementation plan and on general timing and drafting. I think that the committee will agree that it is crucial that we get this right, and I welcome the cabinet secretary's offer to work with us to ensure that outcome before stage 3.

On that basis, if the committee will indulge me, I will withdraw the amendment.

Amendment 9, by agreement, withdrawn.

Amendment 10 not moved.

Section 9—Consequential amendments

Amendment 5 moved—[Humza Yousaf]—and agreed to.

Section 9, as amended, agreed to.

Sections 10 to 12 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I thank the cabinet secretary and his officials for attending.

Our next meeting is on Tuesday 19 March, and we now move into private session.

11:19

Meeting continued in private until 12:14.

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