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Scottish Parliament

Tuesday 25 August 2020

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

Time for Reflection

The Presiding Officer (Ken Macintosh): Good afternoon. The first item of business is time for reflection, and our leader today is the Rev Fraser Macnaughton, the minister of St Magnus Cathedral, Kirkwall, Orkney. I invite the Rev Fraser to speak.

The Rev Fraser Macnaughton (St Magnus Cathedral, Orkney): I got a new parlour game for my birthday, which coincided with lockdown. It is called “Wordsmithery” and is a combo of charades and “Who’s in the Bag?”, determining the vocabularic competence of the players. You can maybe guess from the end of that last sentence that I am keen on words.

Words come in numerous forms, languages and sounds—I think that the words rose and rows have eleven different meanings—not to mention accents and dialect. For a Weegie living in Orkney, that has taken a while to get a handle on. Then, when it comes to grammar—well, let’s not go there.

The late, great Ronnie Barker was, of course, a genius when it came to playing with words. The special bag that we have in St Magnus Cathedral for the spent night lights that people place on the stand is labelled “Fork ‘andles”—just one of the memorable Barkerisms that folk grew up with but which transcends generations.

All through my ministry, I have attempted to avoid being sucked into religious words. After centuries of handling and mishandling, most religious words have become so shopworn that nobody is much interested any more. However, there is one word—there may be others—that bucks the trend. Grace, for some reason, mysteriously, still has some of the bloom left. That is even more true of its derivatives, such as gracious and graceful.

Grace is something that we can never get but can only be given. There is no way to earn it or deserve it or bring it about, any more than we can deserve the taste of raspberries and cream or earn good looks or bring about our own birth.

A good sleep is grace and so are good dreams—but we cannot try to have a good dream. The smell of rain is grace. Somebody loving us is grace. Loving somebody is grace. Have you ever tried to love somebody?

The grace of God, however the word “God” is understood, could mean something like: “Here is your life. You might never have been, but you are, because the party wouldn’t have been complete without you. Here is the world. Beautiful and terrible things will happen. Don’t be afraid. I am with you. Nothing can ever separate us. It’s for you I created the universe. I love you.”

There is only one catch—[*Interruption.*]

The Presiding Officer: Colleagues, I will pause for a second to see whether we can get the Rev Macnaughton back.

We recorded him earlier. No, he is live. Can you hear me? I can see that you can hear us. It is typical that we managed to lose the last words of your thoughtful contribution on words. I also apologise for confusing your first name and your surname. You are the Rev Macnaughton, not the Rev Fraser.

We lost the signal just before you finished. I wonder whether you could pick up before the last paragraph of your thoughtful contribution. You are still on mute. Can you unmute yourself?

The Rev Fraser Macnaughton: How is that?

The Presiding Officer: That is perfect. [*Applause.*]

The Rev Fraser Macnaughton: Okay.

The Presiding Officer: That is a round of applause from the chamber.

The Rev Fraser Macnaughton: The grace of God, however the word “God” is understood, could mean something like: “Here is your life. You might never have been, but you are, because the party wouldn’t have been complete without you. Here is the world. Beautiful and terrible things will happen. Don’t be afraid. I am with you. Nothing can ever separate us. It’s for you I created the universe. I love you.”

There is only one catch. Like any other gift, the gift of grace can be ours only if we will recognise it and accept it.

The Presiding Officer: Thank you. You can add “perseverance” to your list of words this week.

Business Motion

14:07

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-22527, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a change to today's business, which is to move decision time.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Tuesday 25 August 2020—

delete 5.00 pm Decision Time

and insert 6.30 pm Decision Time—[*Graeme Dey*]

Motion agreed to.

Topical Question Time

14:07

Masks (World Health Organization Guidance)

1. **Ross Greer (West Scotland) (Green):** To ask the Scottish Government what its response is to the latest World Health Organization guidance that young people over the age of 12 should wear a mask to help prevent transmission of Covid-19. (S5T-02332)

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): In the light of the latest scientific and public health advice, including the World Health Organization guidelines, the Scottish Government has, after discussion with the education recovery group, updated the advice on the use of face coverings in secondary schools and on school transport. Unless specific exemptions apply, face coverings should now be worn in secondary schools by adults and pupils in corridors and confined communal areas where physical distancing is difficult to maintain. Face coverings should be worn also by all children aged five and over on dedicated school transport, in line with the guidance for public transport. The guidance on school reopening will be revisited to reflect that latest advice.

Ross Greer: I thank the cabinet secretary for that answer and I welcome today's announcement, although I am unsure why it could not have come before schools reopened, rather than two weeks into term. I accept that, were masks to be worn in class, there are legitimate issues with communication and learning, but the Government's rationale for not including classrooms in the guidance appears to be that there is greater scope for social distancing there. That is not what pupils and teachers are telling me, which is no surprise, given that classrooms are no bigger than they were in March. What is the cabinet secretary's message to teachers and pupils who cannot socially distance in their classrooms?

John Swinney: The reason why the guidance has been issued today is that the public health advice has changed. That was not the public health advice that we had when schools returned three weeks ago.

The rationale for our approach to classrooms, for which we are not recommending that face coverings should be utilised, is that, in the World Health Organization guidelines, there is to be a clear balancing of the public health benefits versus the potential for undermining education and learning. In such matters, there is a sensitive

balance to be constructed and considered in that respect.

In response to Mr Greer's question, I say that the guidance from the education recovery group is very clear: in a classroom setting, teachers should be exercising physical distancing of 2m from pupils to minimise the risk of transmission of the virus. However, if individuals wish to wear face coverings, they should be free to do so at any stage in the school day.

Ross Greer: The National Deaf Children's Society, among others, has been calling for the increased use of clear face masks, which will now be particularly important in schools, for not only staff, but other pupils, so that those with hearing impairments and other additional access needs are not socially excluded. Will the Government ensure that clear face coverings will be made available to all schools for staff and pupils, if they require them?

John Swinney: Mr Greer makes a valid point. That is why we have encouraged schools to specifically look at the circumstances of individual children and young people, and make sure that their needs are properly taken into account in the planning for the delivery of education in the very different environment in which we are now having to operate.

Jamie Greene (West Scotland) (Con): I will give the Government the opportunity to clear up any potential confusion around the guidance. The language that is being used by ministers, as reported in the media, is "non-mandatory but obligatory guidance", or words to that effect. Which is it? Is it guidelines that the Government would like schools to follow or mandatory regulations that schools must follow? There is an important difference between the two. If the guidance is not compulsory, does that mean that schools can choose whether to implement it? If the guidance is mandatory, who will enforce it, and who will provide the personal protective equipment?

John Swinney: Let me try to navigate my way through the issue, because I appreciate its complexity.

The guidance that is being set out today is to be applied in all secondary schools in Scotland without question, and the guidance specifies how it is to be applied. In communal areas and on school transport, the guidelines should be followed. There will be exceptions, for example for health reasons, including those that Mr Greer has just raised. There will also be circumstances in which young people might be concerned about face coverings. We are trying to create an approach that is consistent with the wider approach in Scottish education of encouraging

compliance and working with individuals to secure their compliance, rather than having mandatory guidance that has legal force, which, frankly, would be alien to many aspects of the normal working of our schools. That approach is being taken to ensure that individuals can follow the guidance that is being set out by the Government in a fashion that is consistent with the way in which our schools habitually operate.

I hope that my answer gives Mr Greene the clarity that he seeks. We are trying to work with schools to make sure that they are as safe as possible for children, young people and staff.

Clare Adamson (Motherwell and Wishaw) (SNP): I thank the cabinet secretary for that answer, as my main concern is the issue of exemptions on health grounds for young people. I was concerned to see photographs from a school in my Motherwell and Wishaw constituency in the press last week. Given the change of direction, what comfort can parents and young people take from the guidance to make them feel safer?

John Swinney: It is important that we consider this move, along with the other mitigations that are part of the guidance that has already been published. In the guidance, we set out the importance of physical distancing in schools, and the importance of hand hygiene, cleaning regimes and following cough etiquette in all circumstances. We are adding an additional layer of protection through the wearing of face coverings in the circumstances that I have set out in my answer to Mr Greer's question. There will, of course, be exemptions for young people who are unable to comply with the approach. However, the approach is designed to take every measure, based on the available public health advice, to make our schools as safe as they can be.

Iain Gray (East Lothian) (Lab): The WHO's advice on face coverings in schools has changed, but its advice on testing is long standing. Why can we not complement the use of face coverings in schools with the routine testing of staff, as the GMB trade union has argued?

John Swinney: I announced in Parliament about two weeks ago that it is possible for staff to secure testing when they are concerned about Covid. A direct employer portal enables staff to access the testing, whatever their role happens to be in school.

Beatrice Wishart (Shetland Islands) (LD): Last week, I made the case for extending the guidance on face coverings. The Government's guidance was one step behind, so schools were forced to take the initiative themselves. I am glad that the education secretary has now progressed the issue. Most pupils are already familiar with wearing face coverings in public places. Is the

Government advising that face coverings should be worn as soon as possible, even though the guidance will not come into effect until next Monday?

John Swinney: I encourage the wearing of face coverings by young people as soon as practicable. Beatrice Wishart makes the fair point that we are all accustomed to wearing face coverings in a variety of public settings, so there will be familiarity with the practice. I certainly encourage individuals to take that action as soon as possible, and certainly before 31 August.

Mark McDonald (Aberdeen Donside) (Ind): I welcome this morning's clarification from the cabinet secretary that children and young people with autism—I highlight my interest as a parent of an autistic child—will be exempt from wearing face coverings. How prescriptive does he expect the list of exemptions to be, given the plethora of conditions that might make it difficult for young people to wear face coverings? What steps will be taken to ensure that there is awareness of the exemptions, so that young people are not singled out for not wearing them and subjected to bullying?

John Swinney: Fundamentally, I think that it is important that schools, which know their pupils well, are able to exercise the judgment that will enable appropriate exemptions to be applied to the pupils who require to have them. That is best served by judgments in school, rather than by a prescriptive list from the Government.

The second question was about how young people with exemptions are treated. That is a sensitive issue. Mark McDonald raises the danger of young people being singled out or targeted because they are not wearing face coverings. We have to work in schools, which our educators are doing at all times, to create an atmosphere of mutual respect for individuals, so that the difference in circumstances that they face can be properly respected in how they participate in schools, because we want our schools to be safe and inclusive places for all children and young people in Scotland.

Delayed Discharge into Care Homes

2. **Emma Harper (South Scotland) (SNP):** To ask the Scottish Government whether it will provide an update on delayed discharge into care homes. (S5T-02346)

The Cabinet Secretary for Health and Sport (Jeane Freeman): The latest published information from Public Health Scotland indicates that 357 patients who encountered delay in their discharge were discharged to care homes during June 2020, which is 32 per cent of the total discharges that month. The remaining 68 per cent

were discharged back to their own homes. That compares with 33 per cent of delayed discharges going to a care home in June 2019.

Hospitals and care homes are taking three key steps whenever a patient is discharged from hospital. First, a patient should be tested 48 hours before discharge. Secondly, they should be isolated for 14 days on arrival in the care home, regardless of the test result. Finally, at all times a thorough risk assessment should be undertaken prior to discharge, to ensure that the care home is able to provide the care required, including having suitable physical space for isolating individuals and having staff available for the delivery of care and support to the resident.

Last week, as members might recall, I commissioned Public Health Scotland to produce validated statistics on patients who were tested prior to discharge, and on the outcome and date of the test. That information will include how many were discharged while still considered to be infectious and the rationale for that decision.

Emma Harper: How does the number of delayed discharges compare to the number prior to the pandemic?

Jeane Freeman: The number of delayed discharges has reduced significantly over the past few months. The June census, which is the latest published, validated census, showed 808 delayed discharges for any reason or duration, compared with 1,627 in February 2020 and 1,442 in June 2019. Nearly a third of all those that were delayed this June were complex cases, including people who lacked capacity and were awaiting a court-appointed guardian.

Emma Harper: The cabinet secretary will be well aware that the winter season always sees an increase in hospital admissions, and I know that work is currently being undertaken to strengthen the resilience of our Scottish health service. What forecasting work is being done to balance the transfer of care and mitigate the impact of that on our health and social care sectors?

Jeane Freeman: A number of steps are being undertaken as part of what would be normal winter planning but are this year increased in their significance because we are still in the middle of a pandemic. They include the significant expansion of the flu vaccination programme.

With regard to our health boards' work, another step is health board mobilisation plans, which the boards were asked to produce to take us through to the end of March 2021. Those plans have to have been developed in consultation with the local health and social care partnerships, which include our local authorities, so that we can also see what additional capacity either needs to continue, particularly in terms of care at home, or needs to

be brought in, as we make those estimates. The overall objective is to treat people as close to home as possible, so part of that effort also includes scaling up—where it is clinically safe to do so—the hospital at home initiative, which has been so successfully undertaken by NHS Lanarkshire over many years.

Neil Findlay (Lothian) (Lab): To follow up on the revelations by the *Sunday Post* and *The Courier* at the weekend, if the decisions that were made in March and April to discharge all those hundreds of patients who were untested or Covid positive were based on the clinical needs of patients, why were those same patients not discharged in February or December or January, when they were likely to have become delayed discharge cases?

Jeane Freeman: I will make two points in answer to Mr Findlay's question.

First, the point of commissioning Public Health Scotland to do the work that I have just outlined is to make the data that it produces, which will cover all our health boards, really clear. As Mr Findlay knows, the *Sunday Post* article was able to deal with only some returns from some of our health boards. Part of the objective of the Public Health Scotland work is to identify not only patients who were discharged who had had a positive Covid test, but the date on which they had that test. That information determines whether they were infectious at the point of discharge. When we have those numbers, which I hope that we will have by the end of next month, that data will of course be published, and then we can have further discussions with colleagues on the issues that they want to raise.

On Mr Findlay's other point, I remind members that, on 17 March, I said in the chamber:

"We are also working closely with the Convention of Scottish Local Authorities, health and social care partnerships and chief officers to get a rapid reduction in delayed discharges. I have set a goal of reducing those by at least 400 by the end of this month."—[*Official Report*, 17 March 2020; c 7.]

That was part of a statement to the Parliament that outlined our understanding and expectation at the time of the number of potential hospital cases that would have to be dealt with because of Covid-19. Our modelling said that we needed to create space in our hospitals and additional intensive care space to deal with the demand. That was all part of that work.

It has long been a policy of the Government to reduce delayed discharges, and colleagues from across the chamber have agreed with that. In the period that we are talking about, the health and social care partnerships, supported by the health boards, put additional focus on working through

the obstacles that were in the way of discharge. However, that does not contradict the fact that it is always a clinical decision that determines whether someone is ready to be discharged and that a multidisciplinary risk assessment is carried out to agree where they should be discharged to.

Colin Beattie (Midlothian North and Musselburgh) (SNP): Following the reports on the issue from the Queen's Nursing Institute, is the cabinet secretary aware of whether there have been issues related to delayed discharge early in the pandemic in other parts of the United Kingdom?

Jeane Freeman: Yes, there have been. In the regular four-nations calls that I take part in with my colleague health ministers in Wales and Northern Ireland and the Secretary of State for Health and Social Care, Matt Hancock, we regularly discuss the common challenges to us all in responding to the pandemic. Those challenges have included ensuring that our NHS was prepared, introducing additional resources—in Scotland, that was done through the NHS Louisa Jordan hospital—the issues around personal protective equipment, which have been rehearsed in the chamber many times, and of course the situation with delayed discharges. We discussed the care and support that were needed to ensure that we had the right care-at-home services, as well as the approach that was taken in care homes. In common with those three other countries, we have developed our understanding as the understanding of the virus has developed, and we have developed our guidance and actions accordingly.

Alison Johnstone (Lothian) (Green): On Sunday, a letter was published from the cabinet secretary and COSLA's health spokesman to Scotland's health and social care partnerships. The letter revealed that the director general of health and social care set a target to reduce delayed discharges by 900 by the end of April. Does the cabinet secretary consider that that letter constitutes an intervention by Government in decisions that would otherwise have been taken purely by clinicians in consultation with social work colleagues? What consideration was given to the impact that urging the partnerships to meet the target might have?

Jeane Freeman: No, I do not think that there is any contradiction whatsoever in our approach. I mentioned what I said in the chamber on 17 March. On 1 April, I said that we had

"reduced the numbers of delayed discharges in our hospitals by 500."

I went on:

"We will continue to work towards a further reduction of 500 over the month of April."—[*Official Report*, 1 April 2020; c 85.]

There is no contradiction in the Government or indeed any Opposition party having a policy to reduce delayed discharges on the ground that we all know about and accept—that it is positively harmful for people, particularly older people, to stay in hospital for longer than is clinically required—and saying that the final decision about whether someone is ready to be discharged is a clinical decision that is to be taken patient by patient, as it should be, or that the decision about where they will be discharged to and the care and support that they require involves a multidisciplinary risk assessment that is undertaken by social work, the clinicians and the resident or their family, or both.

There is no contradiction in that at all, so that letter is not some blinding revelation; it is simply the Government enacting a policy decision. The decisions about who is discharged, when, and to where remain clinical and multidisciplinary decisions, as they have always been.

Willie Rennie (North East Fife) (LD): Big questions are still outstanding, on: the advice on asymptomatic transmission; the value of testing all the way through the pandemic; the number of positive patients who were sent or moved to care homes; and the isolation arrangements in care homes. All of those are big questions. Do they not lead the health secretary to the conclusion that we need an early public inquiry?

Jeane Freeman: Mr Rennie is right that all those issues require big decisions and need to be scrutinised thoroughly. As the First Minister and I have said more than once, we know that there will need to be a public inquiry into the entire handling of the pandemic in Scotland—I expect that there will be inquiries elsewhere, too. When the time is right, we will say what we believe the remit of the public inquiry should be, and it will get under way.

Right now, we are still in the middle of a pandemic. We have outbreaks, clusters of cases, testing challenges and a flu vaccine expansion programme, and we still have to remobilise the NHS while it does all that additional work. This is not the point for us to take our focus away from that job—which, at the end of the day, is about saving lives—in order to set up a public inquiry and direct all officials into that area of work.

The work that we do now is important. The public inquiry will also be important. When the time is right, we will have that public inquiry.

Monica Lennon (Central Scotland) (Lab): It is unfair to let social workers and clinicians take the blame for what happened. We have all seen the letter, so I give the cabinet secretary another opportunity to now admit that it was the Government's policy that led to so many untested and infectious patients being cleared out of

hospitals and placed into Scotland's care homes. Will she admit that?

Jeane Freeman: Nobody—not me, the First Minister or any other member of the Government—is suggesting that clinicians, care home workers, social workers or even patients themselves are somehow to blame for what happened. *[Interruption.]* No, I am explaining to Ms Lennon how delayed discharge works in any circumstances, including in a pandemic.

First of all, the lead clinician for a patient—a patient—determines that the patient is ready to be discharged, because they need no more treatment in the hospital setting. A multidisciplinary assessment is then undertaken to determine the best place for the individual to be discharged to. One of the great improvements that we have seen during the pandemic is the widespread adoption across our health and social care partnerships of work on such assessment beginning much earlier than the point at which the clinician decides that a patient should be discharged.

I am not in the business of blaming anyone at all. I have always been clear that I am accountable for the decisions that I have taken. I believe that it is right to hold a public inquiry at the right time. Right now, I am focused on doing the best possible job that I can to ensure that citizens, patients, residents and our staff across the NHS are given the resources that they need and are kept as safe as possible.

Brian Whittle (South Scotland) (Con): I keep hearing the phrase “clinical decision”. The reality is that a clinical decision is about the health of the patient and the patient's ability to leave hospital; it is not about the impact of Covid on a care home. We heard today that the Care Inspectorate was not involved in the decision-making process, so who was looking after the care homes when the legislation was brought to the Parliament?

Jeane Freeman: The care home looks after the care home in relation to—let me be very clear—deciding whether it wishes to take a person. That is the care home's decision. Some care homes closed their doors to new admissions, and some still do. We ask them to do so if they have a positive case but, in those early days, care homes did that themselves, because they are independent providers. As Mr Whittle knows, some care homes are run by the private sector, some are run by the third sector and some are run by local authorities.

They make those decisions. However, the work of determining whether the care home in question has the right nursing and physical capacity to keep a new admission isolated from day 1, as the guidance specifies, is undertaken by the multidisciplinary team, which will of course talk to

that care home about whether it can meet the resident's requirements.

I tell Mr Whittle that that is how it works. It is not rocket science—it is really straightforward. I know that he knows that, so I am not quite sure what point he is trying to make. He knows as well as I do the process that is gone through—there are many care homes in the constituency that I represent and which he covers as part of his responsibilities, so he knows exactly how the system works with East Ayrshire Council and the local health and social care partnership.

We know how the system works: it continues to work as it always has done. The idea that there was some secret target is nonsense; I have just read out from the record—twice—what I previously said we were going to do.

Cancer Services

3. **Monica Lennon (Central Scotland) (Lab):**

To ask the Scottish Government what action it is taking to ensure that patients have timely access to cancer services, and when cancer surgery will be restored to full capacity across all national health service boards. (S5T-02339)

The Cabinet Secretary for Health and Sport (Jeane Freeman): From the outset of our response to the pandemic, we prioritised emergency and urgent care, including cancer services, which have remained in place throughout the pandemic. Although some treatment plans have changed to minimise individual risk, cancer surgery in Scotland is currently operating close to pre-Covid levels, and the service is looking to increase what it is doing.

The framework for the recovery of cancer surgery, which I published in June, was clear on how cancer surgery would be prioritised across Scotland. Provision is supported through the utilisation of private sector capacity and the NHS Golden Jubilee. Cancer wait time performances for quarter 1 include 96 per cent meeting the 31-day target and 84.7 per cent meeting the 62-day standard. Further management information that we currently hold will be validated and published later in September.

Health boards are now working on local mobilisation plans to ensure timely access to services, including those relating to cancer. Last week, I announced a new national plan for cancer services, to be published in the autumn, which will ensure that patients continue to have swift access to treatment and care.

Monica Lennon: I thank the cabinet secretary for her response, and I note from today's update that the Scottish Government has indeed published a refreshed framework for the recovery of cancer surgery. I also note that the reference to

60 per cent capacity has now been removed, which is a welcome change. We are all grateful to those healthcare workers who were able to keep emergency cancer services running.

However, we know that there was a postcode lottery in cancer provision before Covid, and things were not exactly going brilliantly before the pandemic hit. Can I get a guarantee from the cabinet secretary today that cancer surgeries will not be reduced? Can we get a date for when they will be restored to full capacity in all health boards?

Jeane Freeman: Cancer surgeries will not be reduced. With regard to the date that Ms Lennon is—entirely reasonably—seeking, my answer is that when we have the validated management information, that will tell me what percentage of the pre-Covid level our current surgery capacity is at. It is more than 60 per cent—I know that for sure. I will then be able to decide, based on what boards and the cancer teams tell me, how long I think that it will be before we get to 100 per cent capacity. At that point, in September, I will be happy to write to the member and to bring the matter back to the chamber if colleagues wish me to do so.

Monica Lennon: I welcome the cabinet secretary's offer of a written update, but I think that the whole chamber would appreciate the opportunity to ask questions and get a fuller statement on the matter.

Today, in response to the statistics published by Public Health Scotland, Macmillan Cancer Support has said that it is "extremely" concerned, and it has reminded us that waiting for a cancer diagnosis, or to hear whether you have a life-threatening illness, is one of the worst experiences that anyone can have in their life. Can the cabinet secretary provide an update on how many people have missed out on cancer screenings as a result of lockdown measures so far? What is the cabinet secretary's message for anyone who is at home and is worried because their appointment or treatment has been delayed? We all have constituents in that situation. What can the cabinet secretary say to reassure them?

Jeane Freeman: I completely understand what Macmillan Cancer Support is saying. The new national plan for cancer services that is being developed, which I will publish in the autumn, is being worked through with key stakeholders such as Macmillan and Cancer Research UK, which have such a great deal of expertise and of understanding about how patients feel and what they need and want.

I do not have the number of people who missed screening with me. Rather than make an approximation, I am happy to send it to Ms Lennon

immediately after these questions. She will know that we have restarted screening services, with cervical screening beginning on the week of 13 July and breast screening having resumed from 3 August. Boards have also resumed bowel screening colonoscopies and appointments.

My advice to individual patients would always be to speak to the clinical lead of their cancer team, who is best able to advise them about their particular situation and how the team is progressing in its work. That failing, individuals can of course write to me, and we can assist them as best we can, but the starting point is those with the expertise and the knowledge of the individual patient and their case. That will be the clinical lead for their team or, in some instances, the specialist nurse.

David Torrance (Kirkcaldy) (SNP): Can the cabinet secretary provide an update on the framework for recovery from cancer surgery? How will that tie in with the overall objectives of the Scottish Government's cancer strategy?

Jeane Freeman: It will tie in with our objectives under the cancer strategy. The framework makes it clear that patients are treated and listed for surgery in order of clinical priority in exactly the same way across all of NHS Scotland. The point of that is to ensure that there is equity of access based on that assessment of clinical priority. Our boards are expected to work together to ensure that patients are offered the earliest available appointment. In some instances, that might mean that patients will not be treated in their local board area, or they will perhaps be treated in their board area but not in the nearest hospital setting to where they live. In those circumstances, we will ensure that support is provided to the patient and their family if they have to move any distance from where they would normally expect to receive treatment.

The national cancer treatment response group is overseeing all of that and is ensuring that the framework is being implemented. The framework, the national plan for cancer services and our overall cancer strategy—which Mr Torrance referred to—will be brought together, and we will ensure that they align. The objective here is to restart and increase the delivery of all those services as quickly as we can. As members would expect, and as I know they will agree, treating cancer is one of our most important priorities.

The Presiding Officer (Ken Macintosh): My apologies to the three members who were not called.

Neil Findlay: On a point of order, Presiding Officer. Have you had a request for the Cabinet Secretary for Health and Sport to make a statement on the issues raised in question 2?

What happened in our care homes is a national scandal and we have to get to the bottom of it. We have to hold the Government to account for decisions that it made. Can you advise whether there has been a request for a statement? Has the cabinet secretary advised whether she will come and take more questions on this very important issue?

The Presiding Officer: I thank Mr Findlay for the point of order. That issue was raised at the Parliamentary Bureau earlier today. The business managers agreed to return to the subject following today's topical questions. Business managers will consult with me later today, and Parliament will be kept informed as to whether the Government will come back with a statement on the matter.

Ferguson Marine

The Deputy Presiding Officer (Lewis Macdonald): The next item of business is a statement by Fiona Hyslop on Ferguson Marine. The cabinet secretary will take questions at the end of her statement, so there should be no interventions or interruptions.

14:45

The Cabinet Secretary for Economy, Fair Work and Culture (Fiona Hyslop): Presiding Officer, I will make a statement on progress at Ferguson Marine shipyard in Port Glasgow.

In response to the Covid pandemic and to protect public health, Ferguson Marine implemented robust measures and delivered a managed shutdown of the yard on 27 March 2020, which involved a move to home working where possible. In line with Scottish Government guidelines, Ferguson Marine began the site preparation phase of restart during the week of 1 June. The yard resumed outdoor working on 8 June and the launch of the air cushion barge was used to pilot physical distancing controls with a team of 32 people.

Work on the ferries resumed on 29 June with a similar-sized team. The team has since been increased, using staggered start times, to around 130 people, which is approximately 50 per cent of the workforce. The team is supported by a skeleton crew of supervision and technical staff, with other employees working from home where possible. Although no work was possible at the yard, extensive work was being done from employees' homes, notably on design, as the Ferguson team is working closely with engineers from International Contract Engineering on the detailed design of the ferries. That work continues.

Projects that are critical to turn around the business also continue to progress. Those include finance and budgeting systems, implementation of the materials requirements planning system and the new quality management system, all of which are making good progress. The Covid-19 safety measures that allowed a return to work at the yard could only have been implemented with trade union support, and I am pleased to record that the trade unions were happy to agree that robust safety standards were in place. Nonetheless, all employees who can work from home will continue to do so unless they have been specifically identified as being essential to be on site.

I recognise the disproportionate impact that Covid-19 has had on Greenock and Inverclyde, and I am committed to ensuring that all decisions on the Ferguson Marine restart take account of not only the need to keep the workforce safe but the

needs of the wider region. I also recognise the importance of the 350 jobs that Ferguson's provides—jobs that are essential to Inverclyde. Across Scotland, Ferguson's supports a further 350 jobs through its supply chain—that is a total of 700 jobs. Critical among those are the 26 apprenticeship opportunities that the yard offers; they are critical for the youngsters themselves and for the future of shipbuilding at Ferguson's and in Scotland.

The yard has done everything possible to limit the impact of the closure on the delivery of the two Scottish Government-funded ferries under construction. Significant progress has been made in planning and design and projects underpinning the turnaround of the business.

Regarding progress on vessels 801 and 802, I am pleased to report that, despite the Covid emergency, the Glen Sannox entered dry dock on 10 August. The vessel had very heavy marine growth on the hull due to the time spent at the quayside, and I can report that 42 tonnes of mussels were removed from the hull of the vessel. A major risk factor was the condition of the hull paintwork, but despite the heavy marine growth a joint survey with the owners concluded that the paintwork is in good condition. The main work for the dry dock has now commenced; the bulbous bow has been removed and replaced and the starboard door is being installed. I am pleased to be able to place before the Parliament an updated report on the schedule for delivery and associated costs.

To date, the Covid response has left the yard either closed or on restricted working for nearly six months. The estimated cost related to the Covid lockdown is £3.3 million, which will be treated as an exceptional item and not a project cost. That cost comprises £1.6 million of payroll costs—in other words, staff wages—and £1.7 million of facilities costs, which are in effect the cost of the yard.

The cost of the project to deliver the ferries is unchanged at £110.3 million. Within that envelope, there has been an increase in the cost of electrical installation, which has been offset by savings elsewhere and a reduction in the contingency. The delivery of the Glen Sannox is now planned for a date in the range of April 2022 to June 2022. The delivery of 802 is now planned for December 2022 to February 2023.

Beyond the work on the vessels, significant progress has been made on building a more robust business at the yard. Good progress has been made in rebuilding the morale of the workforce, and communications with the workforce have improved. There has never been any question about the quality of the workforce, and I would like to thank all the members of the

workforce for all their efforts to get the yard back to work.

The yard is addressing a number of legacy issues. Planning and work sequencing have been upgraded. Further improvements in design control and the supply chain will allow many of the barriers to effective working to be removed. We expect physical distancing policies to have an effect on productivity, but we anticipate that that will improve as the yard adapts to the new working practices.

I am pleased to report that several key vacancies have been filled by permanent appointments that will reinforce the professionalism that Tim Hair, the turnaround director, brings to the job.

I have appointed a new board of directors to the business. The new board will provide the leadership that is required to take the yard into the future. Members of the board bring the diverse range of skills and experience that is needed to support the turnaround of the business and completion of the ferries.

Key to the future is ensuring that there is direct workforce representation to the board. The workforce voice must be heard and listened to, and the workforce must be actively involved in discussions on how that can best be achieved. I have asked the board to establish a workforce liaison committee, which will be made up of a cross-section of the workforce. The committee is designed to engage with the board and to encourage the workforce to engage more effectively across the different areas of the company. Trades union representatives can attend each board meeting to address the board on any issues on which they feel that it is necessary for them to do so. They will be accompanied by the chair of the workforce liaison committee. That will be a standing item on the agenda. The board's commitment to fair work practices is central to the successful turnaround and future sustainability of the yard.

The future of the yard goes beyond the completion of hulls 801 and 802, and management capacity is being built to enable a focus on winning new work. Ferguson Marine has received approaches to bid for work, which is an encouraging sign that market confidence in the yard is starting to return to where it should be. The yard's approach to winning work will be based on its strengths and capabilities, targeting vessels that are sufficiently complex to optimise capacity and the skills of the workforce.

The Scottish ministers are exploring the potential benefits and challenges around the direct award to Ferguson's of future contracts for Scottish Government vessels. A direct award is

not a given, for a number of complex legal, financial and structural reasons. We are investigating what might be possible, but we are clear that demonstrating improved efficiency and completing the turnaround that we initiated last year will be key to the yard securing work, public sector or otherwise.

The year has been hugely challenging for the business. In line with what has happened to much economic activity across Europe, the Covid pandemic has essentially closed the yard for six months. Despite that interruption to business, much has been achieved. The turnaround director has significantly strengthened the senior management team, I have appointed a new board to help to drive the business forward, trades union representatives have direct access to the board and a workers liaison committee is being set up. Vessel design has progressed significantly, and the dry-dock inspection of 801 demonstrated that the paintwork is sound.

Work to complete the ferries can now proceed at full speed, and I believe that we can look to the future of Ferguson's with confidence.

The Deputy Presiding Officer: The cabinet secretary will take questions on the issues raised in her statement. I intend to allow around 20 minutes for questions, after which we will move to the next item of business. It would be helpful if members who wish to ask a question would press their request-to-speak buttons.

Graham Simpson (Central Scotland) (Con): I thank the cabinet secretary for advance sight of her statement, which does not take us much further on. It does not tell us much that is new. We still know that the cost of the ferry debacle is around three times what was originally forecast. The ferries will be five years late. It is a shambles. I understand that Covid-19 has had an impact; of course it has. I also express my thanks to the workforce at Ferguson's. They deserve thanks from us all. But this is a shambles.

The statement is interesting for what it says, but it is also interesting for what it does not say. It does not say anything about the costs mentioned in a story that appeared over the weekend. That story suggested that when the former Cabinet Secretary for Finance granted a £30 million loan to Ferguson Marine he knew that the shipyard was in financial difficulties and that the loan would create a path to nationalisation. The Parliament, however, was told that the purpose of the loan was to help the shipyard to diversify.

What did the Government know when Ferguson Marine was given that loan? What did it know about the company's financial position when that loan was granted?

Fiona Hyslop: I thank the member for praising the workforce. It does not help that workforce to hear what is happening at the yard being denigrated.

The enquiry that is taking place in the Parliament will address what happened and many of the issues that Graham Simpson has raised. My job as the economy secretary responsible for Ferguson's is to make sure that the company is in a position to complete the ferries, to secure the yard and, most importantly, to secure the future of the 350 workers at the yard and the 350 workers who are part of the supply chain.

Those who know me and have worked with me as a cabinet secretary know that I will be as open and as detailed as I can, as will the Government. The information that the *Herald* newspaper had is not new. It is not a revelation. The Parliament had that information back in December, in the detailed report published by the Government to give that information. If the member wants more information about the loan, I refer him to paragraph 137 of the written statement that the Government provided to the Parliament and to its committee on 12 August.

It is not unusual for Governments to look at support for businesses, either in the form of an unsecured loan, as for the £15 million, or as a secured loan, as for £30 million. The information about those two loans was supplied to the Finance and Constitution Committee on, as I recall, 24 April 2018 and 27 June 2018. The committee could decide whether it wanted to know whether those loans were secured or unsecured.

I return to the update that I provided. The turnaround director that we appointed has produced a response and an update to the Parliament to ensure that we know about the route forward for the two ferries and the improvements that are taking place at the yard. Those improvements will give us the satisfaction of delivering the ferries, which would never have been produced under the Conservatives, who wanted to have the vessels built in South Korea.

My job is to make sure that the yard has a future. It will have a stronger future if the Parliament gets behind and supports the workforce, and the future work that we want to secure for the yard.

Colin Smyth (South Scotland) (Lab): I thank the cabinet secretary for advance sight of her statement.

The ferry fiasco strikes at the very heart of this Government's incompetence. Contracts for the two ferries were signed in 2015, and the First Minister told us then that there was a fixed price of £97 million for delivery in 2018. More than four years later, in December 2019, we were told that the additional cost to complete the two ferries—

over and above what had already been spent—was estimated to be between £110.3 million and £114.3 million, with delivery of one ferry by the end of 2021 and the second by October 2022.

Today, we are told that there are further costs of £3.3 million, albeit that they are Covid related, with delivery dates now as late as June 2022 for one ferry and February 2023 for the second. Those costs are Covid related, but the overall price tag has doubled since the contract was signed, and it is nearly five years late.

For the benefit of any doubt, will the cabinet secretary confirm the total bill for the two ferries—not the additional costs but the total cost? Who does she believe is to blame for this fiasco? We know that it is not the workforce, who should be on the board and not just attending the board meetings. Does the Government take any responsibility whatsoever for this scandal?

Fiona Hyslop: I thank the member for his support for the workforce. My responsibility is to come to Parliament with an update. We have had a Covid interruption. The matter has been of interest to the Parliament and it continues to be so. It is important that we know what the changes are. There have undoubtedly been changes because the yard was closed because of Covid. I do not think that the accusation that the Government is responsible for the disruption is accurate or needed.

I have gone through the changes and reflected the significant improvements that have taken place in the past six months, since the previous update was provided to the Parliament, and that is what I am reporting on today. We will let the committee hold its inquiry into the past; I am looking at where the yard is today but also—and most importantly—at where it can be tomorrow.

The member asked about the figures. As I indicated, the build figures have not changed since the update six months ago. There have been some increases for electrification, but they have been offset by savings that have been made elsewhere.

Given the project management in particular, but also other things that have been introduced by the turnaround director, I am confident that we can make sure that the ferries are delivered. The most important thing is to support the communities that are reliant on the ferries. I share the member's frustration given that those communities wanted the ferries to be delivered earlier.

We understand that there have been disputes between CMAL and FMEL. There were issues and concerns as far back as February 2016. For example, the quarterly report from CMAL to Transport Scotland for February to April 2016 shows that, even then, there was a delay of seven

weeks to the hull structure drawings by FMEL. That involved the bulbous hull that has now been replaced, as I reported in the update. That is a significant development. Graham Simpson obviously does not know much about shipbuilding if he does not realise that the changes and developments that have been taking place in the dry dock over the past six months are significant and are important to the completion of the ferry.

Let us get behind the workforce. I am sure that Mr Smyth wants to do that, but let us give them confidence that they have this Parliament behind them.

Stuart McMillan (Greenock and Inverclyde) (SNP): I thank the cabinet secretary for her statement and I reiterate the thanks of my community and my constituents for saving the yard and the jobs in my community. Given what the Tories and the Labour Party are saying today, they seem to think that it is a waste of money.

In her statement, the cabinet secretary spoke about the 26 apprentices. Can she provide further information on any further apprenticeship schemes that the yard will be considering for the future?

Fiona Hyslop: One of my first appointments as economy secretary was to visit the yard in February, just before the lockdown. I was extremely impressed by the confidence that the trade union representatives and the workforce have in the apprentices and the future of the yard, and by their support.

The yard set out to recruit 24 apprentices this year in several of the trades in the shipyard. The calibre of the candidates was excellent and the yard has expanded the programme to add two extra apprentices on a technician route that is intended to take them into the engineering department at the end of their apprenticeships. That brings the total to 26, as I mentioned in my statement. Next year, the yard hopes to be able to expand the programme to offer graduate apprenticeships.

Murdo Fraser (Mid Scotland and Fife) (Con): Jim McColl, who is still an economic adviser to the Scottish Government, has predicted that the total cost of delivering the two ferries will exceed £300 million. If he is proved right, will the cabinet secretary resign?

Fiona Hyslop: I am not sure that predictions will be as accurate as the well-meaning Mr McColl may have set out. It is nowhere near where we are. It is an exaggeration, and it is wrong to try to impose a prediction when I have just made a statement to members that talked about efficiencies and said that, despite the pressures, the yard is focused and is on a mission to complete those ferries in a far more efficient and

productive manner than had been the case previously.

As I am sure those who have visited the yard know, project management was an issue. Work that was done on the basis of the concept design rather than the basic detailed design will have cost money. We all know that the cost had increased. We can see the reasons for that, for example building on concept design rather than the basic design, as we have seen in relation to the need to replace the bulbous bow. The ordering and sequencing of some of the project in the past will have cost money.

That is not the way forward. As I have set out, the way forward is shown in the update report, which members have received and can study. It has shown the improvements that have taken place, even in the past six months, as a result of the implementation of the plans that were put forward by the turnaround director. I have confidence in that, as I hope the Parliament can. I understand the scepticism, because of what has gone before, but my job is to make sure that the plans can go forward, with confidence.

Kenneth Gibson (Cunninghame North) (SNP): I welcome the cabinet secretary's update. Had the Tory internal market been in place, Ferguson Marine—and, indeed, Prestwick airport—would no longer be in business, due to the loss to the Parliament of state aid powers.

My constituents are keen to know not just when the Glen Sannox will be delivered, but when it will begin to serve the Ardrossan to Brodick route. Will the cabinet secretary advise?

Fiona Hyslop: The delivery of the MV Glen Sannox is planned for between April and June 2022. It will sail on the Ardrossan to Brodick route. As members know, that will relieve pressure elsewhere. It is important that we support that development—I know the importance of reliable ferries, including for tourism, which we need to get back on track.

We need to make sure that we have the ferries delivered on time, and not to forget that, although the work supports the yard and the jobs to which I referred, the purpose of the ferries is to support our island communities. I want to make sure that Arran, whose very vibrant economy is based on tourism, can return to that, with the support of the new ferry, and with the other support which has been taken forward by Fergus Ewing and the Scottish tourism recovery task force.

Rhoda Grant (Highlands and Islands) (Lab): The workforce has already been badly let down by the Scottish Government. Will the cabinet secretary guarantee to protect the jobs and apprenticeships that she talked about in her statement? In the interests of transparency, will

she also come clean on the total cost of the ferries and, given the length of time that communities have had to wait for those, will she now start planning the renewal of the rest of the fleet?

Fiona Hyslop: That is a very important question. My colleague Paul Wheelhouse is looking at the development of future ferry services. That is important for going forward and looking to the future.

I have given the update on costs. The cost envelope has not changed, so we will be holding the yard to account on that.

On Rhoda Grant's points on jobs, there has been an increase in the number of people who are employed at the yard, as detailed in the update report which I have published today—again, that should give confidence that there is a future there.

On skills, I reported the view of the yard that it wants to increase the number of apprentices—in particular, of graduate apprentices.

I hope that those explanations will reassure the member. I appreciate her question.

John Finnie (Highlands and Islands) (Green): I thank the cabinet secretary for early sight of her statement. However, to my constituents, who await many replacement ferries, it is just more words. I appreciate of course the efforts of the workforce.

In preparation for the Rural Economy and Connectivity Committee work on the issue tomorrow, the Scottish Parliament information centre produced a briefing, which states:

“It is worth noting that the loans provided by the Scottish Government to Ferguson Marine were not contractually linked to the ferry contract, as Scottish Ministers were not a party to the vessels contract or directly involved in the contract dispute”.

We are also told that CMAL did not know. However, ministers are responsible and accountable for public money in governance. The political oversight is the flaw in this whole sorry saga. Given that the delivery milestones were clearly not met, where was the loan funding spent?

Fiona Hyslop: On the first set of loan funding, I refer the member, if he has not had a chance to read it—I am sure that all members of the REC Committee will have read it—to the written statement that was published on 12 August and sent to the committee. Paragraphs 137 and onwards of that statement talk about the commercial loans. The first commercial loans were to provide working capital to ensure that, as an account managed company, Ferguson's had support for the continued work. He will also know, having studied this, that there were serious issues about cash flow for the company. Paragraphs 139

and 140 set out what the different loans were for. The second loan was to ensure the stabilisation of the company and the development of the yard, and to enable the diversification into other contracts and markets that we would want to see. The full explanation that the member seeks is in the written statement that was provided to the committee. I remind members that my statement today is about the future and what has happened in the past six months but, obviously, there is the on-going committee inquiry, to which the member has referred.

Willie Rennie (North East Fife) (LD): I am sure that the minister accepts that it is reasonable to ask questions about what is now a four-year delay to two ferries and the impact on long-suffering passengers. The Government orchestrated the ownership of the yard on two separate occasions. I know that the minister does not want to look back, but what lessons has she learned for the future from this episode of construction being over budget and delayed, and passengers waiting even longer?

Fiona Hyslop: I absolutely agree that there are lessons to be learned. That is why we welcome the inquiry that is taking place, which will look at the situation and how it developed.

Coming into post at this stage, I can reflect on some of the issues. Certainly there are issues around governance, and I am sure that the committee will make recommendations on that as part of its inquiry. I concluded that, given the public nature of Ferguson Marine (Port Glasgow), it needs governance of the nature of a board. I have appointed that board since coming into post and its members are in place.

Many members, particularly REC Committee members, have visited the yard and have seen that some of the work has been out of sequence. I referred previously to issues such as build being produced potentially to meet milestones and therefore cash-flow payments—we know that cash flow has been an issue. Doing that on conceptual design, not on basic detailed design, is also an issue that should be looked at. There are undoubtedly a number of issues to be considered, but I hope that, as I said in my update report, we can focus on where the yard goes next.

Accountability is what the Parliament is about, and if the inquiry can give perspective and make recommendations on some areas, there will be lessons learned. However, what is most important is that we reflect on the fact that we have saved the yard and the jobs, and we are making sure that the ferries will be built. In other circumstances, had we taken different decisions, there would be no yard or jobs and those ferries would still not have been built.

Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP): As the cabinet secretary appreciates, the delays to vessel 802 at Ferguson's have been a source of frustration, if I may put it so understatedly as that, to my constituents in Harris and Uist. The vessel will be very welcome indeed, although as the cabinet secretary will appreciate, the vessel not of herself solve CalMac's capacity problems. Can the cabinet secretary say more about the Government's ferry procurement intentions beyond the two vessels currently being built at Ferguson's?

Fiona Hyslop: I understand that my colleague Paul Wheelhouse will say more about that to the committee tomorrow, which the member will clearly have an interest in. We obviously know about the impact on communities of the delays in delivering the ferries, which I have referenced previously, and on the CalMac crews operating the existing fleet. That is a point that Mr Wheelhouse discussed with the unions last week. We continue to mitigate that impact with investment in fleet resilience. The member will be aware that the funds that we have made available have been reported on several times already to the Parliament. I reiterate that CMAL continues its search on the open market for any second-hand tonnage that might become available.

In addition, we are progressing with further investment plans on fleet replacement—the new Islay vessel is expected to go to tender early next year—and work is on-going on the vessel replacement and deployment plan, for which Mr Wheelhouse is responsible, as I said.

Jamie Greene (West Scotland) (Con): The reality is that Scotland needs at least a dozen new vessels to service our island communities. Given that the first two new vessels are already nearly five years late, how confident can our island communities be that the Government will deliver on a pipeline of new ferries? Since the Scottish National Party Government took ownership of the yard, how many new contracts has it signed?

Fiona Hyslop: The yard has delivered on the ferries and vessels on which it has been contracted to deliver. As I said in my statement, it has also been approached for new work. On the demand for new vessels, Paul Wheelhouse is taking that issue forward as part of the vessel replacement and deployment plan, as I said.

As far as lessons are concerned, an issue that has come through loud and clear in all the evidence that I have seen is standardisation, which would help in relation to future procurement of vessels.

There are issues to do with whether we can embark on direct procurement. Throughout this period, we have been consistent in ensuring that,

whatever the shape or form of the yard's ownership, we are state aid compliant. The need for that applies to publicly owned companies as it does to other ownership models.

The member makes an important point: as part of our plans for the future, we need to make sure that we have the ferries that are required. Lessons that we can learn from the past, such as lessons on standardised design, will help.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): The cabinet secretary knows that, under previous management, materials were stored off site in poor conditions, in an unmanned location. Will she say how the relocation of stock is going and whether the inventory and new stock control procedures are in place?

Fiona Hyslop: The member is reflecting on the serious concerns that there were before about the state of the inventory and where it was being held. An inspection of the inventory started prior to the Covid lockdown, but it was considered that the inspection was not essential during that period. It has now restarted—I provided information about that in my update today. It is important that the inventory is secured in an improved state and that there is better stock control than there was previously.

The systemised project management approach will help in the delivery. The efficiency changes that I mentioned are set out in detail in the update report that was published today.

Neil Bibby (West Scotland) (Lab): This is a long-running saga, and a lesson that we should already have learned is that meaningful engagement with the workforce has been key to the transition to public ownership and to making progress with the vessels.

The interim board had worker representation, and GMB Scotland was disappointed that the cabinet secretary's first act was to remove worker representation from the board. A workforce liaison committee is a blatant attempt to get round union representation. Have the cabinet secretary's proposals for the board been negotiated with the recognised trade unions, or is the Government simply imposing its preferred way for workers to be represented? Are not the workers entitled to full board membership and to decide who represents them on the board?

Fiona Hyslop: I think that the member is confusing the project review board with the board of governance that I have established. The project review board was brought in to ensure that we could plot the way forward so that there was a plan for when the turnaround director made the changes about which I have just updated the Parliament. The trade unions have been very supportive of the approach of the turnaround

director and what has happened over the past six months.

On 9 July, I spoke to local trade union representatives and the GMB to explain the process of what will happen with the new board of governance and its terms. If trade union members were to be members of the board, they would have the associated fiduciary responsibilities and liabilities. Trade union representatives, as endorsed by the local workforce, will attend each meeting of the board to raise any issues that they want to raise. That is in addition to the workforce liaison committee, which will embrace a wider group of workers at the yard, not only those that are on the workforce of the yard itself. Depending on the choices that the workforce makes, those two groups might be made up of the same people.

I will continue that productive relationship with the workforce, and I hope that, in explaining the difference between the project review board and the board of governance, I have given the member a satisfactory answer to his enquiry.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): As someone who project directed his first multimillion pound project—one of many—some 40 years ago, I note that inadequate project management appears to have been a primary factor leading to the commercial failure at Ferguson Marine. What steps can be taken to minimise the chance of such difficulties arising again, and what lessons in project management are there for other civil engineering projects, and other engineering products in general, that are placed by the Government?

Fiona Hyslop: The on-going committee inquiry will consider different issues, including project management. The member is correct to draw attention to that. Ferguson has contracted a team of specialist planners from Alliance Project Controls to upgrade its planning systems. It has introduced proper project planning controls into the work of the Ferguson team. Significant progress has been made and the yard will implement the new planning regime in September 2020. The introduction of project management systems is well under way, and credible monthly reports are now being produced. Ferguson has extensive process improvement work under way.

There are seven disparate systems required to run the business, and the system integration task is a major challenge. A head of business improvement has been appointed to lead the implementation of the inventory control system that I referred to in answer to Maureen Watt's question. That is another key change project. Process mapping is under way; that is designed to provide an effective quality management system with clear and understandable business processes.

I am sure that all Scottish businesses could learn lessons from Ferguson's approach and what it has managed to do in the past few months.

Business Motion

15:23

The Presiding Officer (Ken Macintosh): The next item of business is consideration of business motion S5M-22515, in the name of Graeme Dey, on behalf of the Parliamentary Bureau, setting out a stage 3 timetable for the Children (Scotland) Bill.

Motion moved,

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

Groups 1 to 4: 1 hour 10 minutes

Groups 5 to 7: 2 hours 5 minutes

Groups 8 to 11: 2 hours 40 minutes.—[*Graeme Dey*].

Motion agreed to.

Bruce Crawford (Stirling) (SNP): On a point of order, Presiding Officer. I fully recognise that we have been discussing very important matters in the last moments. However, for the purposes of understanding what the likely conclusion time will be this evening, I note that business is now running over 30 minutes behind what the expected timings were. Can I take it that we will not now conclude business before 19:00?

The Presiding Officer: Mr Crawford, it is difficult to know at what time we will conclude. I allowed topical questions to run on today, both because there was a huge amount of interest and also partly to resolve the need for a statement on the subject of care homes. I am sure that members will appreciate that.

Although we were timetabled for an 18:30 decision time, our expectation was that we would run slightly under. Therefore, although we are now behind schedule, there is still a prospect of finishing at 18:30. I will be honest with you—it is up to members and ministers, because how long this item of business lasts depends on the length of their contributions. We should still aim for a 18:30 decision time, rather than 19:00.

Children (Scotland) Bill: Stage 3

15:25

The Presiding Officer (Ken Macintosh): The next item of business is stage 3 proceedings on the Children (Scotland) Bill. Members should have before them the bill as amended at stage 2, the marshalled list and the groupings. For the first division of the afternoon, the division bell will sound and proceedings will be suspended for a short technical break of five minutes or possibly slightly longer. That is the only technical break that we will have today; there will be no technical break at decision time.

The period of voting for the first division will be 30 seconds. It will be one minute for the first division in any grouping after that, but 30 seconds for most divisions.

Members should now refer to the marshalled list.

Section 1—Proceedings under Children (Scotland) Act 1995

The Presiding Officer: Group 1 is on the voice of the child. Amendment 8, in the name of the minister, is grouped with amendments 35, 12 to 16, 31 and 48.

The Minister for Community Safety (Ash Denham): The amendments in my name seek to strengthen the bill to ensure that the child's views are heard in family court cases and children's hearings. That is one of the key aims of the bill.

The amendments do two things. First, they reinstate the requirement that children must be given an opportunity to express their views in relevant proceedings. That requirement was included in the bill on introduction but was partially replaced at stage 2 with a requirement for a decision maker only to seek to make reasonable arrangements for a child to express his or her views.

Secondly, the amendments ensure that, when a child's views are sought, the child's preferred method of giving their views is to be used unless it is not reasonable to do so or the child has not expressed a preferred method of giving their views. The amendments cover family court cases and other proceedings under the Children (Scotland) Act 1995, children's hearings, exclusion order proceedings and permanence and adoption cases.

I return to a point about exceptions that I made at stage 2. The Scottish Government believes that the majority of children are capable of forming a view on issues that affect them, but we recognise that that will not be true in every circumstance. For

that reason, the bill provides that a decision maker is not required to seek or have regard to the view of a child if they are satisfied that the child is not capable of forming a view. However, the Government does not expect that exception to be used frequently.

There is also an exception to the requirement to take the child's views in the child's preferred manner, because it may not be feasible in some circumstances to use the child's preferred method of giving their views. I would expect that exception also to be used infrequently.

I have recently published a paper on the ways in which a child can give their views, and I have committed, in the family justice modernisation strategy, to produce guidance for parties on going to court. That guidance will include information on the range of ways in which a child can give their views. We will need to reflect on how the strategy and the guidance are working in practice, so I welcome amendment 48, in the name of Liam McArthur, which requires a review of the impact of the act after five years. I ask members to agree to that amendment.

I am, however, unable to support amendment 35, in the name of Alex Cole-Hamilton. Amendment 35 would require a person who does not have parental rights and responsibilities but who is making a decision to safeguard the health, development or welfare of a child to seek and take account of the child's views on maintaining personal relationships with family members. Even if the decision was unrelated to contact and residence—if it was about something like consent to a medical procedure—I cannot imagine that that is what the member intended. The bill makes provision requiring the views of the child to be considered in a variety of contexts, so it is entirely unclear why the member is seeking to make a change in that specific context only. Doing so would create inconsistency with the rest of the bill and inconsistency for children in how their views were obtained.

I reassure the member that the bill allows the views of children to be taken into account in a wide range of circumstances and that, where relevant to the decision or to the case in question, the child's views of their wider family relationships will be sought and taken into account as part of the process. In addition, the bill requires the court, when making an order under section 11(1) of the 1995 act, to have regard to the effect on the child's important non-parental relationships. Therefore, I ask the member not to press amendment 35.

I move amendment 8.

15:30

Alex Cole-Hamilton (Edinburgh Western) (LD): At stage 2, as the minister and members of the committee will recall, I did not move my amendments that sought to maintain the child's right to maintain personal relationships with the child's lineal ancestors. My constituents Gordon and Shonia-Maree Mason have done a lot of work on the rights of children to maintain contact with their grandparents. They and I listened to the arguments that were raised against the stage 2 amendments, including, notably, the argument that the bill does not specify grandparents in particular, as that would exclude other relationships, and the argument that the right of a child to have contact with their grandparents would have substantially the same implications as the right of a grandparent to have contact with their grandchildren.

We have taken those arguments into account and I have lodged an amendment to section 6 of the 1995 act, which is entitled "Views of children". That section has already been amended at stage 2 of the bill. The proposed amendment clearly focuses on the child. It focuses on the maintenance of personal relationships with family members and is thus not restrictive. It makes no mention of grandparents and therefore cannot be construed as giving rights to grandparents, and it states that the action has to be practicable and in the best interests of the child.

Familial relationships can be beneficial to the child's health, development and welfare—issues that are included in section 1 of the 1995 act, which is entitled "Parental responsibilities". Section 6 of the 1995 act says that a parent must have regard to any views expressed by the child, and the amendment is intended to cover all situations in which the child wishes to express a view on familial relationships. Under the amendment, the child could, therefore, express a view at any time, even when their parents' relationship was continuing and there was no referral to court proceedings under, say, section 11 of the 1995 act—in relation to which, uniquely, the family law unit this month issued a memorandum on the subject of children giving views.

That is one crucial and distinctive point of the amendment. A parent or parents in an on-going relationship who, through spite or a grudge or another non-justifiable reason, would not allow a child to maintain personal relations with a particular family member or members would still have to have regard to the views expressed by the child when the maintenance of such relationships was not against the best interests of the child. It is all about the views of the child—and only the child—at any time.

I have listened to the arguments of the minister, and I will listen to the views of Parliament. If there

is not a majority for the measure today, I will withdraw the amendment. However, it is an argument that I will seek to return to in this place.

Liam McArthur (Orkney Islands) (LD): As I have done throughout the committee stages of the bill, I begin by declaring an interest in that my wife is a director of Relationships Scotland Orkney. That is perhaps less relevant to this set of amendments, but I thought that it would be helpful to have it on the record at the outset.

At stage 2, I was pleased to get support from the committee for my amendment to create a duty on the Scottish ministers to ensure the availability of child advocacy services in section 11 cases. That followed powerful evidence that was heard by the committee about the need to strengthen the so-called infrastructure for taking children's views. In their written submission, Dr Morrison, Dr Friskney and Professor Tisdall argued:

"The strongest and most consistent request from children and young people in Scotland, who have been involved in contested contact proceedings, it to have a child support worker. Without addressing this now, children's participation throughout the legal process risks being dealt with inconsistently, on an ad hoc basis and thus marginalised. We recommend provision be put into primary legislation, with the ability to then link developments to other advocacy roles."

That amendment was passed, but I held off pressing another amendment relating to a proposed review of children's ability to participate in the decision-making process. Of course, reviewing legislation to check that it actually does what it is intended to do is generally a good and sensible precaution. However, given the concerns that have been expressed about the resourcing of the provisions in the bill, I think that there is a particular need to provide some reassurance to stakeholders that such a review will take place and will look specifically at whether it has facilitated the participation of children in decisions that are made about their future.

As Scottish Women's Aid said ahead of stage 2, monitoring and review of the bill's implementation is required to ensure that children's rights are realised in practice. There was support for that at stage 2, although some concerns were expressed by the minister about the proposed three-year period—as opposed to a five-year period—in my amendment. I have reflected further on that and, although I remain a little concerned that five years opens up the risk of an entire session of Parliament coming and going before any assessment is made, I believe that amendment 48 provides safeguards against that happening. It is perhaps not perfect, but I am confident that colleagues in the next parliamentary session can and will keep ministers' feet to the fire. In the meantime, I am grateful to the minister and her officials for their engagement on that issue.

Liam Kerr (North East Scotland) (Con): I remind members that I am a practising solicitor and hold current practising certificates with the Law Society of Scotland and the Law Society of England and Wales.

With the exception of amendment 35, we will vote for all the amendments in group 1. Amendment 35 is clearly well intentioned, as were Alex Cole-Hamilton's amendments throughout stage 2. However, I am not persuaded that, in reality, it would serve a child's interests in the way that the member believes that it would. First, a key pillar of the bill is that it seeks to improve a child's opportunities to provide their own views whenever possible. My concern is that, by emphasising the importance of the child's views on their

"personal relations with family members",

amendment 35 risks positioning those views as being more important than any other views that the child might wish to express. My second concern is that, as with other amendments at stage 2, I am not convinced that amendment 35 is necessary, given that section 12 of the bill already includes reference to consideration of the child's "relationships with other people".

Given those points, it appears that, at best, amendment 35 is unnecessary and, at worst, it risks creating what Children 1st and Scottish Women's Aid described as

"an inappropriate 'hierarchy' of views"

that any given child might like to express. Therefore, I encourage Alex Cole-Hamilton to withdraw amendment 35. If he does not, we shall vote against amendment 35 but for the other amendments in the group.

James Kelly (Glasgow) (Lab): Scottish Labour will support all the amendments in group 1.

The Government amendments, lodged by Ash Denham, build on amendments that I lodged at stage 2 in order to give voice to the child's views in a court hearing. The bill, as originally drafted, was a bit loose. The stage 2 and 3 amendments give more consistency, ensure that a child's view can be heard and give weight to the mechanism that enables the child to express that view. Therefore, the amendments improve the bill overall.

With regard to Alex Cole-Hamilton's amendment 35, throughout the process, some campaigners have argued for presumptions in favour of grandparents and shared parenting. I have not supported that approach throughout, but I recognise that the argument that Alex Cole-Hamilton makes in amendment 35 about the child's views on which family members they wish to maintain contact with. We also support Liam McArthur's amendment 48, because we believe

that a review of children's participation is essential. Five years is a reasonable timescale.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I support the Government's amendments 8 and 12 to 16 and Liam McArthur's amendment 48. As a member of the Justice Committee, I was clear from the get-go that the bill's purpose was to put the interests and views of the child at the centre. The minister has listened to concerns that were raised in the committee, and most of the amendments tighten the bill up and—I hope—make it better legislation.

Alex Cole-Hamilton's amendment 35 is well placed. We heard evidence on the issue during committee meetings. However, the minister's amendments supersede it and take away any concerns that there might have been in that area, so I respectfully ask him not to press amendment 35.

John Finnie (Highlands and Islands) (Green): I join other members in supporting all the amendments in the group, except for Mr Cole-Hamilton's amendment 35, for many of the reasons that have been outlined. I recognise that refinement of the amendment has taken place between stages 2 and 3, but I align myself with the Scottish Women's Aid and Children 1st briefing that has been alluded to, which speaks of the danger of establishing an "inappropriate hierarchy", not least because, as the briefing tells us, many children have

"important relationships with other people outside their families"

and the amendment does not define a "family member". It is important that all the views of the child are taken on board, and for that reason we will not support amendment 35.

Ash Denham: The bill already makes provision for the views of the child to be sought in a range of contexts, and it requires the court to take account of "the child's important relationships" with people other than parents. That provision has been specifically designed so that it includes people such as grandparents. Alex Cole-Hamilton and I have discussed the issue at length, and I have no doubt that his proposal is well intentioned. However, I do not think that amendment 35 does what Alex Cole-Hamilton thinks it does. Therefore, I recommend that members do not support amendment 35. I note that that seems to be the consensus that has emerged during the debate.

Amendment 8 agreed to.

Amendment 35 not moved.

The Presiding Officer: Group 2 is on matters to be considered in making an order under section 11(1) of the Children (Scotland) Act 1995.

Amendment 9, in the name of Rhoda Grant, is grouped with amendments 10, 11 and 26.

Rhoda Grant (Highlands and Islands) (Lab): Amendment 9 is a technical amendment, which would remove a definition that is no longer required in the bill.

Amendment 10 would amend new section 11ZA(3)(e) of the 1995 act. Instead of providing that the court should have regard to

"the effect of the fact that two or more persons would be required to co-operate with one another with regard to matters affecting the child",

the section would instead require it to have regard to

"whether it is, or would be, appropriate for an order to require that two or more persons co-operate with one another with regard to matters affecting the child."

The amendments relate to the protections under new section 11ZA, ensuring that, when making an order under section 11(1) of the 1995 act in the context of domestic abuse, the court must have regard to the impact of making an order requiring two or more persons to co-operate. My reason for promoting the amendments is that domestic abuse can continue to be perpetrated through the use of contact. The court must consider that before asking a survivor to co-operate with an abuser.

Amendment 11 would remove the definition of "person" in new section 11ZA(5), for the purposes of section 11ZA(3)(e). The effect of removing the definition is to require the court to consider whether it is appropriate to require any persons to co-operate with one another as part of an order under section 11 of the 1995 act, rather than consider only co-operation between the types of person mentioned in the definition. That would reflect that the parties to the case who are required by the order to co-operate may not necessarily be the parents. Removal of the definition of "person" in the context of amendment 11 would ensure wider judicial scrutiny of the order's impact, beyond actions involving only those who are parents of the child in question, or who have parental rights and responsibilities.

We know from those using our specialist domestic abuse services that contact arrangements with family members such as grandparents can often be exploited by perpetrators of domestic abuse to further their abuse. Therefore, placing a duty on the courts to consider the appropriateness of co-operation beyond parents, in order to ensure that children and non-abusing parents are kept safe, would increase the protection afforded to survivors of domestic abuse.

I move amendment 9.

Liam McArthur: Amendment 26 seeks to make equally shared parenting the starting basis for custody orders, but it would not prevent courts from then deciding on the most appropriate split based on the circumstances of each case and, crucially, the best interests of the child.

The intention of amendment 26, which mirrors an amendment that I lodged at stage 2, is certainly not to make shared parenting mandatory; rather, it would require the court to start with that option if one of the parents requests it, before going on to consider any reasons why a different pattern is better for the child or children in question.

I remain firmly of the view that the legislation should do nothing that might dilute the primacy of the best interests of the child in any decisions that are taken on residency and access or on other considerations. I do not understand how requiring the courts to work from the presumption set out in amendment 26 would do that, as the court would still be free to reject that option, either immediately or in due course, depending on the circumstances and facts relevant to the case. Moreover, the presumption of shared parenting is one that exists in other countries that share our determination to prioritise the child's best interests.

15:45

My amendment reflects the general benefits for children of shared parenting shown by international research, be that in terms of their social and psychological wellbeing, educational attainment or the avoidance of adverse experiences.

Of course such shared arrangements may not be practical or desirable, but given how rarely courts appear to rule in favour of an equal split in parenting responsibilities, it seems reasonable to ask whether there is already a presumption inherent in the system.

John Finnie: The member will be aware of the position that was adopted in relation to other matters in which it would be unhelpful to have a list. Is what he seeks to do not just part of a list? If we are acting exclusively in the best interests of the child, there would be no need to include that provision, because what applies will already depend on what is in their best interests.

Liam McArthur: John Finnie is right to point to the evidence that we took and some of the considerations that we weighed up during stages 1 and 2.

As I said, given how rarely courts appear to rule in favour of an equal split of parenting responsibility, it seems reasonable to ask whether there are already presumptions in the system that have a bearing. If that is the case, we should

acknowledge that, and satisfy ourselves as to whether that is any less detrimental to the principle of acting in a child's best interests than starting from a presumption of shared parenting.

I am sure that, over recent weeks, we have all been contacted by constituents and others wanting to share the details of the fallout from their relationship breakdowns. None of that is pleasant—it can often be heartbreaking—but nor is it a matter on which we can safely take a definitive view. We cannot be sure that we have all the facts. Therefore, it must be left to the courts, supported by expert advice, with access to all the facts, to make a determination in the best interests of the child. However, why should those facts not be applied after starting from a presumption of shared parenting?

Society quite rightly expects relationships to be based on a more joined and shared parenting model than may have been the case in the past. That recognises not least the benefits to the child or children that come from such an approach. Why should it not be that we work from a similar starting point in the event of that relationship breaking down? Amendment 26 would allow that to happen.

Liam Kerr: I am happy to vote for all the amendments in the group, with the exception of Liam McArthur's amendment 26.

Again, I understand the motivation behind the amendment—of course we do—and the scenarios that Mr McArthur sets out. However, the welfare of the child is the key consideration. Therefore, in decisions regarding parental responsibilities, the only criterion should be what is in the best interests of that child. Having carefully listened to Mr McArthur's comments, I know that he gets that. However, acting in the best interests of the child is the thread that weaves through the bill. The committee heard from representatives of Yello!, who said:

"Adults always seem to be given more priority than children, even though it is all supposed to be about the child. We hope that this Bill will change that."

I worry that amendment 26 will move us away from that basic premise.

I also note the submissions from Children 1st and Scottish Women's Aid, which are strongly opposed to amendment 26.

For those reasons, I will vote against the amendment.

James Kelly: I support Rhoda Grant's sensible amendments, which would bring more consistency to the bill as amended at stage 2. I, too, oppose Liam McArthur's amendment 26. I understand why he lodged it. However, the issue for me is that, when having regard to a shared parenting order,

what he proposes would potentially override the views of the child and what is best for them. We will not support the amendment.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I do not support amendment 26, because I consider that it could have adverse consequences for child safety.

In an ideal world, it is preferable for a child to have a happy relationship with both parents, where possible. However, we do not live in an ideal world, and including the provision in the bill would be unwise and possibly dangerous for a number of children.

All research on the matter suggests that a presumption of shared parenting in any high-conflict case is likely to be harmful to the child. A large number of contact cases that end up in court concern reports of domestic abuse, and even those that do not are still likely to be high-conflict cases, given the very fact that the court is involved.

The amendment proposes residence on an “equal basis” as the default solution in every case, unless otherwise agreed. I believe that that would cut across the rights of the child, and I do not believe that it would be in their best interest. We heard powerful evidence in committee from children on their experience of imposed contact, which was harrowing and distressing. Amendment 26 would mean that, on request from any parent, even one who might not be a party to a case, the court must consider ordering residence on an equal basis.

Of course parents should have an equal part in a child’s life, but we cannot prescribe a one-size-fits-all approach, which is the effect that the amendment would have. Every circumstance is different, and child protection is far too important to take risks with.

John Mason (Glasgow Shettleston) (SNP): I want to express my sympathy for Liam McArthur’s amendment 26. Over the years, I have had many constituents and, in fact, others from outwith my constituency, one of whom worked at the Scottish Parliament at the time—mainly fathers, but occasionally mothers—tell me their story about how the courts had decided, and the children decided, that the children should have contact with both parents, but that contact had not actually happened.

It seems to me that there has been an imbalance in the court system. Although I have not been heavily involved in the bill, I believe that something has to change. I look to the minister to give us a reassurance that we are moving forward, that we will continue to move forward after the bill is passed and that we will see more cases where

both parents have real input in the lives of their children.

Ash Denham: I support amendments 9, 10 and 11, and I am grateful to Rhoda Grant for the constructive engagement that we have had on the subject. Those amendments make technical changes to the provisions that she inserted at stage 2.

Where the court is considering making an order that requires two or more persons to co-operate, amendment 10 will require the court to consider

“whether it is, or would be, appropriate”

to require co-operation. That is wider than sections 11(7D) and (7E) of the 1995 act, and new section 11ZA(3) of that act, which was added at stage 2 of the bill. It meets one of the aims of the bill, which is to

“further protect victims of domestic abuse”,

including children.

Turning to amendment 26 in the name of Liam McArthur, I reassure members that my view is that both parents should be fully involved in a child’s upbringing, as long as that is in the best interests of the child concerned. Currently, parents can ask the court for residence on an equal basis, and a decision will be made in which the welfare of the child is paramount, taking into consideration the views of the child, and with full consideration being given to arguments for and against shared parenting in the particular circumstances of the case.

Amendment 26 proposes residence on an equal basis where requested as the starting point for the court to work from. In my view, that cuts across the approach of the 1995 act, which encourages the court to arrive at a solution that best promotes the welfare of each child, according to their individual circumstances.

The amendment refers only to parents. Although most cases of this nature are between parents, they do not have to be; for example, grandparents may apply for an order. Amendment 26 does not take account of the full range of circumstances that exist in these types of cases. It does not address the stage in the proceedings at which any request must be made, whether the parent requires to be a party to the proceedings or whether it might be open to parents to make repeated requests. In the absence of any attempt to govern the procedure by which such requests might be made, there is a considerable risk of delay in court proceedings with issues arising at a late stage.

A section 11 case might be about contact or about administration of a child’s property and not about residence. Therefore, it might not be

appropriate for the court to consider residence in every case, as the court might not have the information necessary to allow it to decide on such questions. The courts already apply a general principle that it will be normally beneficial for children to have an on-going relationship with both parents. The bill strengthens this position by requiring the court to consider in every case the effect of an order on the involvement of the child's parents in bringing the child up.

I do not consider that amendment 26 is desirable. It cuts across the general principle of section 11 of the 1995 act that the welfare of the child is the paramount consideration. Given those reasons, I ask Liam McArthur not to move amendment 26.

Rhoda Grant: Members will all have dealt with cases in which contact has been used to perpetrate abuse, with disastrous consequences for the abused partner and their children. Even when the child is not abused, their experience of abuse is an adverse childhood experience that impacts on their mental health and self-esteem and damages their life chances. Therefore, there should be a presumption against contact of any kind with an abusive partner when we are looking at child contact.

I will press amendment 9, and I urge Liam McArthur not to move his amendment 26.

Amendment 9 agreed to.

Amendments 10 and 11 moved—[Rhoda Grant]—and agreed to.

Amendments 12 and 13 moved—[Ash Denham]—and agreed to.

Section 1A—Disclosure of information

The Presiding Officer: Group 3 is on the disclosure of information. Amendment 36, in the name of Liam McArthur, is grouped with amendment 46.

Liam McArthur: Amendment 36 and my more substantive amendment 46 respond to concerns that were raised with the committee at stage 1 that, at present, intimate and highly sensitive information that is shared by a child with a third sector organisation can be drawn into court proceedings. That appears to happen even when sharing such information goes against the interests of the child in question, and often without the child even knowing. It is not hard to see how that could fundamentally undermine the trust and confidence of children who engage with third-party organisations at a time when they are feeling vulnerable.

At stage 2, I successfully moved an amendment to address the concern, as did the minister. I am grateful to Ash Denham and her officials for the

constructive way in which they have engaged with me since stage 2 to tidy up the provisions and make further necessary changes. The area is sensitive, and I recognise the concerns that the Government had in relation to my amendment at stage 2, notably around the use of the term “paramount consideration” and even some potential ambiguity over which child was being referred to.

I believe that my amendment 46 addresses those concerns, while retaining the core principles and protection that I and other committee colleagues sought to have enshrined in the bill. In particular, those are the inclusion of specific reference to

“the best interests of the child as a primary consideration”,

which is in line with the United Nations Convention on the Rights of the Child, and ensuring that a child has the opportunity to express their views to the court, which then needs to take those views into account when decisions are made about sharing their information.

In response to those who are anxious about the potential impact on the rights of others involved in any court process, I repeat the assurance from Children 1st and Scottish Women's Aid that the changes

“will not prevent information from being shared where it is proportionate and relevant to the court.”

They went on:

“Indeed, our organisations strongly believe that proportionate and relevant information-sharing is in a child's best interests to keep them safe and ensure the courts are equipped with all the details at their disposal to make informed decisions.”

I thank committee colleagues, the minister and of course Children 1st and Scottish Women's Aid for helping to get us to this point. I hope that the changes will give children the confidence that they need and should have in their conversations with third sector organisations, which often take place at times of real vulnerability.

I move amendment 36.

Liam Kerr: We will vote against both amendments in the group. Amendment 36 is a function of amendment 46, so I will deal with the latter in depth. Our vote against amendment 46 will be based on a semantic point, which may be much more than that. The language used in the amendment is about considering the child's “best interests”, as opposed to their welfare.

16:00

My understanding of this area of law is that what is referred to in, for example, the Children's Hearings (Scotland) Act 2011 and the Adoption

and Children (Scotland) Act 2007, what is commonly understood and what has had cases decided around it is the welfare of the child. Hitherto, welfare has been the touchstone, so why the change of language? I am grateful to Mr McArthur for his confirmation that the reason relates to the fact that the UNCRC talks about the best interests of the child, to which I shall return.

In any event, we risk importing new terminology without debate, scrutiny and test. Perhaps I am making a mere semantic point. There might be no difference between the best interests and the welfare of a child but, if that is right, we should not introduce new wording. We should stick with the current wording, because a change at least opens the door to the argument. That cannot be desirable.

On the other hand, what if the terms mean something different? What if “best interests” and the “welfare of a child” are different in law and in practice? We need to be very careful to understand what those changes would mean on a practical level before codifying that in black-letter law.

The safest path is to vote against amendments 36 and 46. I plead, as further authority, that minister Maree Todd confirmed on 4 May that the Government still intends to introduce the UNCRC bill this year. No doubt there will be consultation on the bill and, I presume, on the meaning of “best interests”. Let us take the precautionary principle and wait until then. I shall vote against amendment 46.

Ash Denham: I support amendments 36 and 46. I am grateful to Liam McArthur for the constructive engagement that we have had on the subject, and I am pleased that a consensus position has been reached. I hope that members will join me in supporting the amendments today.

Two competing amendments were lodged to the bill at stage 2. Amendments 36 and 46 remedy the issue by removing sections 1A and 13A from the bill and inserting a new section in their place. The amendments retain elements from, and improve on, each of the sections that were added to the bill at stage 2.

Amendment 46 provides that when the court

“has to decide whether a person should have access to anything in which private information about a child is recorded”,

it

“must regard the best interests of the child as a primary consideration.”

As Mr Kerr noted, the references to “best interests” and “primary consideration” reflect the language of article 3.1 of the UNCRC and the approach that is taken in general comment 15.

The use of the words “primary consideration”, as is proposed, achieves a more appropriate balance of rights than was achieved by section 1A.

The amendments go further than section 13A by requiring that the views of the child should be sought using the manner that is preferred by the child. I appreciate that there might be some cases in which that will not be possible in the best interests of the child, although I expect the exemptions to be used only infrequently.

The amendments offer wider protection than was offered by section 1A, which appeared to protect only the child at the centre of the section 11 proceedings. I reassure members that I am already progressing work to ensure that children are informed of how the information that they disclose to a child welfare reporter might be used. Earlier this summer, I shared with key stakeholders a draft of the guidance for children on speaking to child welfare reporters. Once I have a finalised version of the guidance, I will publish it and make it available to children and young people.

I hope that members will join me in supporting amendments 36 and 46, which constitute an important protection for the rights of children whose private information may be used in contact and residence proceedings.

Liam McArthur: I thank the minister for her support and her explanation of the basis for it. I thank Liam Kerr for his comments and for engaging in debate on my amendments. I would never accuse him of semantics. To some extent, the language that is used in my amendments is similar to the language that was used in the amendment that I lodged at stage 2. I do not recall his concerns being raised at that stage. The minister has set out the consistency of approach that has been taken. It is difficult to see how a child’s best interests would not be observed by any measure that adhered to the child’s welfare. The language is embedded in the UNCRC.

I take the point that a fuller integration of the UNCRC into Scots law is proposed, but that is not a justification for kicking the can down the road where there is an opportunity to embed the provision in this bill. Those who gave evidence to the committee were clear about the importance of doing so, not least—as I said earlier—to safeguard the confidence of children and young people in, and their engagement with, third sector organisations at a time of real vulnerability for them. For those reasons, I will press amendment 36.

The Presiding Officer: The question is, that amendment 36 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. As this is the first division of the afternoon, I will suspend proceedings and we will have a short technical break, not only to summon members to the chamber, but to ensure that members who are participating online are on board the system in order to vote.

16:05

Meeting suspended.

16:15

On resuming—

The Presiding Officer: Colleagues, we are going to resume proceedings. We are on group 3, on disclosure of information, and Liam McArthur has moved amendment 36. Members indicated that there will be a division.

The question is, that amendment 36 be agreed to. Members may cast their votes now, and they should refresh their screens if they are logged out.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)

Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

Abstentions

McDonald, Mark (Aberdeen Donside) (Ind)

The Presiding Officer: The result of the division is: For 86, Against 30, Abstentions 1.

Amendment 36 agreed to.

The Minister for Europe and International Development (Jenny Gilruth): On a point of order, Presiding Officer. I was not able to vote.

The Presiding Officer: Can you indicate to the chamber which way you were going to vote?

Jenny Gilruth: For the amendment.

The Presiding Officer: The vote was overwhelming in favour, but Jenny Gilruth's vote has now been noted for the record.

The Minister for Mental Health (Clare Haughey): On a point of order, Presiding Officer. I was not able to vote either.

The Presiding Officer: Would you like to indicate which way you were going to vote?

Clare Haughey: I was going to vote in favour of the amendment.

The Presiding Officer: Clare Haughey also voted yes.

Stuart McMillan (Greenock and Inverclyde) (SNP): On a point of order, Presiding Officer.

Members: Oh!

The Presiding Officer: It is important at this stage. Let us hear Mr McMillan, please.

Stuart McMillan: It is the same situation for me. I would have voted for the amendment.

The Presiding Officer: Thank you. That has also been noted for the record.

From now on, we will not have a technical break unless there is widespread disapproval and people are not able to vote. It is important that members keep their screens open and refreshed; if the window goes away, members should log back in and refresh the screen, and it should come back on again. Members have the code and should be able to vote; it is now up to members to be able to use the system.

I will also add for the record that Rachael Hamilton, who has been joining us remotely, was

unable to vote, and she wanted to vote against the amendment.

Section 2—Proceedings under Adoption and Children (Scotland) Act 2007

Amendments 14 and 15 moved—[Ash Denham]—and agreed to.

Section 3—Proceedings under Children's Hearings (Scotland) Act 2011

Amendment 16 moved—[Ash Denham]—and agreed to.

After section 4

The Presiding Officer: Group 4 is on vulnerable witnesses and vulnerable parties. Amendment 37, in the name of the minister, is grouped with amendments 38 and 39.

Ash Denham: Amendments 37 to 39 seek to provide further protection to vulnerable parties in evidential and non-evidential hearings in particular child welfare hearings, and to vulnerable witnesses when a case under section 11 of the 1995 act reaches proof.

When a person is deemed to be a vulnerable witness by virtue of section 11B of the Vulnerable Witnesses (Scotland) Act 2004 as inserted by section 4 of the bill, amendment 37 will require the court, before the proof or any other hearing at which the witness is to give evidence, to make an order authorising the use of a special measure or to make an order that the witness is to give evidence without the benefit of a special measure. That will ensure that consideration of special measures does not depend on the party lodging a vulnerable witness application or the court considering the matter of its own volition.

A party may be deemed to be a vulnerable witness if there is in force a non-harassment order, an interdict or any similar order or remedy that has been granted by a court that prohibits certain conduct towards the person by a party to the proceedings; if a "relevant offence" has been committed against the person and a party to the proceedings has been convicted of committing it; or if a party to the proceedings is being prosecuted for committing a "relevant offence" against the person.

Where a party would meet the criteria to be deemed to be a vulnerable witness if they were to give evidence, amendment 38 will require the court to order the use of any special measure that the party requests, or to order the use of a special measure that the court considers appropriate and explain why the preferred method is not being used, or give reasons for not ordering the use of special measures. Special measures can include

the use of screens, giving evidence by live videolink and having a support attending with a party.

Amendment 39 is a consequential amendment to remove the now superfluous reference to

“in relation to a party”

from the vulnerable party provisions.

If amendments 37 to 39 are agreed to, I propose to work with stakeholders such as Scottish Women’s Aid in preparing a policy paper for the Scottish Civil Justice Council’s family law committee on any changes to court rules that might be necessary. The amendments build on provisions in sections 4 and 5 of the bill in relation to prohibition of personal conduct of a case and vulnerable parties in child welfare hearings. I hope that members across the chamber will agree with me that it is important to ensure that vulnerable parties and witnesses are protected.

I move amendment 37.

Amendment 37 agreed to.

Section 7—Vulnerable parties

Amendments 38 and 39 moved—[Ash Denham]—and agreed to.

Section 8—Establishment of register

The Presiding Officer: Group 5 is on child welfare reporters: qualifications and experience. Amendment 40, in the name of Liam McArthur, is grouped with amendments 1 and 2.

Liam McArthur: Amendment 40, which again reflects an amendment that I lodged at stage 2, would ensure that the role of child welfare reporter is carried out by appropriately qualified and registered social workers, reflecting practice in other parts of the United Kingdom.

I am aware of the suggestion that my lodging of amendment 40 might constitute a conflict of interests, because of my wife’s role with Relationships Scotland Orkney. I fail to see how that is the case any more than it might be a conflict of interests for those with connections to the legal profession to oppose my amendment, but I am happy to remind the chamber of that interest nonetheless.

As colleagues will be aware, at present the vast majority—around 90 per cent—of child welfare reports are carried out by lawyers. As I acknowledged at stage 2, there are many lawyers who have built up a wealth of experience in this area, and I have no doubt that they bring a range of skills and expertise to the task, not least in the gathering of evidence, and an understanding of the court process.

However, assessing a child’s welfare is complex and requires different skills. As the Scottish Association of Social Workers highlights,

“Children who are the subject of Child Welfare Reports are often the silent victims of their parents’ acrimony and inability to reach agreement about their future wellbeing, safety and security through the rest of their childhood. They will have listened to their parents argue, they will have wanted the arguing to stop, they will often have divided loyalties with both parents whom they love but may be frightened to say so, and they have often learnt that being silent is the way to cope ... The skills that are needed in helping children talk and for their views to be heard are complex and take time to develop; particularly understanding the dynamics that happen in families and between adults and children.”

The association concludes:

“We are concerned that children involved in this process are currently not getting the support they need to help them understand the court process and decisions, and are assessed by professionals who do not have the qualifications required to do this sensibly whilst also being aware of complex issues such as domestic abuse, substance misuse, trauma, parenting capacity and parental influence.”

That point is reinforced by Andrew Smith QC in a briefing circulated ahead of our debate, in which he says:

“Being a lawyer does not make you good at investigations, especially where children are involved. In fact, I suppose it is arguable that it should disqualify you, as the job of a lawyer is to plead a case from one side or the other and not to be neutral ... the most important thing from everyone’s point of view is that any person appointed to carry out a report is properly trained in child reviewing; that their reports are transparent as to why findings are reached and fact-based; that their decisions can be reviewed if necessary by complaint; and that they can be removed from the register of approved reporters for failings.”

I recognise that such a dramatic change from what is in place at present is difficult to conceive. I understand the reaction of lawyers, who may feel that amendment 40 devalues their skills or questions their motives. I certainly do neither.

I appreciate the concerns that have been expressed about how, in practice, the new burden on the social work profession might be shouldered without creating any delays in the process that could prove damaging to the welfare of a young child. Yet, can we honestly say that, if we were constructing a system from first principles and with the intention of putting the welfare of the child at the centre of that process, we would envisage such a role being taken on by lawyers rather than by those with a background in social work?

I have little expectation that amendment 40 will gain support. I have sought to manage any expectations about that. However, the issue demands consideration by the Parliament and I look forward to hearing the views of colleagues and of the minister.

I move amendment 40.

Neil Findlay (Lothian) (Lab): I will listen carefully to what the minister has to say in response to the amendments in my name before I decide whether to press them.

A child welfare reporter can be a stranger to a child. They are often paid to carry out the role, and may only have met the child or family once. The reporter, despite their training, may not have any real experience of dealing with children, except in that role.

A child is unlikely to speak to a complete stranger about a perhaps complex and potentially frightening relationship with one of their parents. There should be a system of professional welfare reporting, carried out by those who have worked with children and who fully know the law concerning children's rights. That could be a children's rights officer or another named professional. A constituent of mine who brought a petition on the subject to Parliament believes that solicitors should not be the people to perform the role.

Regarding amendment 2, I think that it is important that those who have experienced the worst, and the best, of the system should have the opportunity to shape any changes to it. We must consider the changes from the perspective of the people who are involved in the system, particularly children and their parents.

Children are at the centre of the system of contact. Therefore, changes must be made with their interests at heart. The views of young people can be overlooked, and we must not allow that to happen in the bill. Children can express a view about what they do or do not like, or about what upsets or scares them. Adults who have experienced trauma or domestic abuse at the hands of a partner who is party to a court order must also be able to shape the bill and any related regulations.

All that amendment 1 seeks to do is to ensure that that happens and that, for the sake of all who use it, the system is as user friendly and child friendly as possible.

16:30

Liam Kerr: We will vote against all the amendments in the group.

I will deal with amendments 1 and 2 briefly. We understand that a full consultation on child welfare reporters is planned and imminent. No doubt the minister will speak to that, but the most recent reference to the matter that I could find is a letter of 21 May 2020 from the minister, in which it is dealt with over several pages.

The substantive point that I want to make is about amendment 40, which provides that only a social worker may be appointed as a child welfare reporter. The amendment has attracted many representations, which I have taken time to consider. I understand the point that is being made and I listened carefully to Mr McArthur's representations, but I am persuaded to vote against the amendment for several reasons.

First, I am concerned about the implications for resources and the capacity of local authorities. What impact might the approach have on timescales, progression and the impact of the work that social workers do? I am led to believe that sheriffs frequently request reports to be completed within a very short timescale, which I worry could be difficult for social workers with a heavy workload.

On that point, I note that we have been told in representations that about 90 per cent of child welfare reporters are lawyers. It would be very difficult if we lost that pool of expertise by limiting the role to social workers.

I also note the Law Society's point that a sheriff already has the power to call for a social work report in a child welfare case. It argues that what is proposed in the amendment could reduce the sheriff's options. My feeling is that it is consistent with the "welfare of the child" ethos to ensure that the sheriff has the most options available to them to suit individual circumstances.

I understand that the consultation on the bill did not mention restricting qualification for the role to social workers only; rather, it mentioned the intention to regulate the solicitors and other registered people who undertake the duties nationally, and standardise the qualification. I would be very reluctant to legislate in the area without hearing representations on the matter.

Social Work Scotland provided a considered submission yesterday, in which it says that it opposes amendment 40. I find that particularly persuasive, not least given its point that no detailed analysis has been done to ascertain whether the proposal is viable. On that basis, we will vote against the amendment.

Rona Mackay: I rise to speak against amendment 40. It would be far too prescriptive and, to be frank, unrealistic for all child welfare reporters to be social workers. It is true that, currently, 90 per cent of welfare reporters are lawyers, and that needs to be addressed, but to agree to the amendment would be to shift the balance entirely in the other direction and would be out of proportion with what is required and achievable.

The Government believes in getting the right balance of lawyers and non-lawyers through child-

focused training for all who undertake the role, regardless of their professional background. The key aim is for reporters to have the necessary skills and experience. I know of many family court lawyers who have a wonderful understanding of working with children and are incredibly skilled. We do not want to lose that.

Some social workers may not have all the necessary qualifications and experience of engaging with young people. In addition, there is the question of capacity within the resources of social work and the pressure that would be caused on an already overworked profession.

The amendment is not supported by Social Work Scotland, the Family Law Association, Scottish Women's Aid, Children 1st, the Children and Young People's Commissioner Scotland, Shared Parenting Scotland or the Scottish Courts and Tribunals Service.

I support a system of enhanced training for people from a wide variety of professional backgrounds who engage with children, which is what the Government proposes.

James Kelly: I will speak against amendment 40, in the name of Liam McArthur. I support amendments 1 and 2, in the name of Neil Findlay.

The starting position in the debate on the current group of amendments on the role of child welfare reporters must be that we need to ensure that there is an adequate pool of suitably qualified individuals to best service children's needs. Regrettably, amendment 40 would limit that pool and reduce the number of people who were available. There would be significant resource implications if the amendment was agreed to.

I place particular weight on the submission that we received yesterday from Social Work Scotland, which opposes amendment 40. I do not think that the amendment is helpful.

The approach that Neil Findlay adopts in amendments 1 and 2 is a more prudent one, in that it acknowledges the importance of opening up the role to suitable individuals and, as he said in his speech, those with lived experience. We need to get the right people who are ready to serve the child. Restricting the role only to social workers would have an adverse effect, so Scottish Labour opposes amendment 40 and supports amendments 1 and 2.

John Finnie: Likewise, Scottish Green members will not support amendment 40.

The debate has been useful. It would be wrong to characterise it as social workers versus lawyers. I have met representatives of both groups, and the Justice Committee had the pleasure of hearing from Yello!, the group of young survivors, which reported—I am sure that this will be repeated

again and again—that their words were not only misunderstood, but led to the group being misrepresented.

I do not think that registration is sufficient in itself. I declare an interest, in that family members are, or have been, social workers. Undoubtedly, social workers will have the qualifications but, as others have said, some may not have the experience. For instance, I cannot imagine that a social worker who has spent an entire career dealing with adults and criminal justice would necessarily have that level of engagement—although I am not saying that they would not—but this is about listening, and understanding child development.

The development of regulations is the means by which all those people should have their input, so that the proper people, whoever they may be, are in place.

We will not support Neil Findlay's amendment 1, but will support his amendment 2, because it is pertinent to have regard to issues such as domestic abuse and court-ordered contact, not least because of the pernicious impact that coercive control and behaviour can have on getting the correct information from a child, however talented someone is.

Fulton MacGregor: I have quite a lot of sympathy with Liam McArthur's amendment 40, but I think that the bill takes us in the right direction. The point came up quite a lot in committee that we should make sure that more social workers do reports, rather than that all reports should be done by social workers. I think that that point has been made.

I also draw members' attention to my entry in the register of interests.

The idea behind amendment 40 is right, but there are quite a lot of unanswered questions. Would it be every sort of social worker, or, as I think Rona Mackay suggested, would it be more likely to be child protection social workers? What pressure would that put on social work resources? It is telling that Social Work Scotland has said that it does not agree with the amendment.

We need to look at turning the tide a wee bit, to have more social workers—but not solely social workers—doing the welfare reports. Some lawyers are very good, and have spent their careers dedicated to the field and training in it.

Unfortunately, therefore, I cannot support the amendment, but I thank Liam McArthur for giving it the airing that it has received at stages 2 and 3, and for putting social work on such a forward footing in the bill. I have a lot of sympathy with the amendment.

I also have a lot of sympathy with Neil Findlay's amendments 1 and 2, which represent a commonsense approach to things that should be done. My view, however, is that those things should be arranged through practice. For example, if a child welfare reporter does not know the child, they should do at least an introductory visit, possibly two. Those are practice issues for social work departments, legal departments and others, and I therefore think that they are not required in the bill.

Ash Denham: The Scottish Government does not support many amendments in group 5.

Amendment 40, in the name of Liam MacArthur, would allow only social workers who were registered with the Scottish Social Services Council to be child welfare reporters. My officials have spoken to a number of key organisations that have expressed concern about the amendment.

Around 90 per cent of child welfare reporters are lawyers and I remain unconvinced that there is a justification for limiting that role to social workers. In my view, the most important factor for any child welfare reporter is that they meet the required standards in training and qualifications, regardless of their professional background.

Amendment 40 would also exclude child psychologists, child psychiatrists and other family support workers—who may have the necessary qualifications and experience to be a child welfare reporter—unless they were also social workers.

It would also exclude retired social workers, who may also have the required skills to act as a child welfare reporter. It is also not clear whether the social work sector has the capacity to take the role on. Capacity issues could lead to delays in producing child welfare reports, which could, in turn, delay the case overall. That would not be in the best interests of the child concerned.

I am, however, keen to encourage more non-lawyers to become child welfare reporters, as diversity of experience in the role of child welfare reporter would be beneficial to the process. I give the member my assurance that those considerations will be taken into account as the regulations on child welfare reporters are developed.

As regards amendment 1, in the name of Neil Findlay, an identical amendment was not supported by the Justice Committee at stage 2 and it remains unclear to me what the amendment is intended to do. If a person has the requisite skills and experience to be included on the register of child welfare reporters, then they can be included on that register. I am not clear how the person's professional knowledge of a particular child can be relevant to the question whether a

person could be registered as a child welfare reporter generally.

I take the member's point that a professional who has already worked with a child may be well placed to write a child welfare report in relation to that child, although it should not be overlooked that there might also be cases in which the child or other members of the family might have a strong preference that somebody new is brought in to do that. The issue that the legislation is dealing with is not who will write a report in relation to a specific child but who can be registered to be a child welfare reporter. It would obviously be unworkable to have a system under which, in effect, there would be a separate register of child welfare reporters for every child in relation to whom a child welfare report might ever need to be produced.

For the reasons outlined, I remain unable to support amendment 1 and urge members to reject it.

Regarding amendment 2, however, I see the point that Neil Findlay is making. When consulting on draft regulations, any Government will of course need to ensure that people with lived experience of court-ordered contact and domestic abuse give us their valuable insights. I am therefore happy to support amendment 2.

The Presiding Officer: I call Liam McArthur to wind up and to press or withdraw amendment 40.

Liam McArthur: I thank all colleagues for their contributions to the debate. Liam Kerr indicated that amendment 40 attracted many representations, which I think was delphically put. Clearly, a primary concern was resourcing and capacity, although it is fair to say, as I did at stage 2, that the proposal would not be confined to social workers in council social work departments. Evidence from elsewhere in the UK suggests that the delays that have been referred to were not necessarily experienced. In terms of the original consultation on the proposal, questions have been raised about the extent of the engagement from those in the social work sector, at the earliest stages in the bill's development.

Both Rona Mackay and James Kelly drew on points in relation to capacity and made the important point that, however the amendment lands, we need to extend the pool of suitably qualified professionals that are available to the court to produce the reports. Fulton McGregor made the point that that needs to include a greater level of social work engagement.

I thank John Finnie particularly for reminding members that what is proposed is not about pitting social workers against lawyers; they bring different skill sets and they are both tremendously valued. However, I have to note that, given the positions taken by Social Work Scotland and the Scottish

Association of Social Work, it appears that there is a disagreement between those two elements of the same sector.

John Finnie: I commend the social work representatives for coming forward, as that is what those in a workplace-representative body should do, and Social Work Scotland's position is perhaps disappointing. Does the member consider that, given that we hope to move to a barnahus model, a wider range of people could be involved, including police officers?

Liam McArthur: John Finnie makes an entirely fair point. There is a tendency for us to focus on the legislation in front of us, but he is right that if we are to properly move towards a barnahus model, we will need to draw on a wider range of suitably qualified and trained professionals. It has been valuable that we have aired and debated the issues in the chamber and not simply at committee. However, on the basis of the responses to the amendment, I will not press it.

Amendment 40, by agreement, withdrawn.

Amendment 1 moved—[Neil Findlay].

The Presiding Officer: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. This will be a one-minute division. I do not intend to suspend proceedings. If you have difficulty voting, put your hand up and try to refresh your screen and log back in; it is as simple as that and there is plenty of time to do so in one minute. Similarly, if members who are voting online have difficulties, please indicate that online. Members may now vote on amendment 1. *[Interruption.]* Give it a chance.

Put your hand up if you cannot vote.

I will temporarily suspend the meeting.

16:45

Meeting suspended.

16:54

On resuming—

The Presiding Officer: Apologies for the short suspension. We think that we have resolved the technical difficulty. We were in the middle of a division on amendment 1. Members may cast their votes now.

For

Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)

Boyack, Sarah (Lothian) (Lab)
Fee, Mary (West Scotland) (Lab)
Findlay, Neil (Lothian) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Johnson, Daniel (Edinburgh Southern) (Lab)
Kelly, James (Glasgow) (Lab)
Lamont, Johann (Glasgow) (Lab)
Lennon, Monica (Central Scotland) (Lab)
Leonard, Richard (Central Scotland) (Lab)
Macdonald, Lewis (North East Scotland) (Lab)
McDonald, Mark (Aberdeen Donside) (Ind)
McNeill, Pauline (Glasgow) (Lab)
Rowley, Alex (Mid Scotland and Fife) (Lab)
Sarwar, Anas (Glasgow) (Lab)
Smith, Elaine (Central Scotland) (Lab)
Smyth, Colin (South Scotland) (Lab)
Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Motherwell and Wishaw) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Arthur, Tom (Renfrewshire South) (SNP)
Balfour, Jeremy (Lothian) (Con)
Ballantyne, Michelle (South Scotland) (Con)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Bowman, Bill (North East Scotland) (Con)
Briggs, Miles (Lothian) (Con)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burnett, Alexander (Aberdeenshire West) (Con)
Cameron, Donald (Highlands and Islands) (Con)
Campbell, Aileen (Clydesdale) (SNP)
Carlaw, Jackson (Eastwood) (Con)
Carson, Finlay (Galloway and West Dumfries) (Con)
Chapman, Peter (North East Scotland) (Con)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Cole-Hamilton, Alex (Edinburgh Western) (LD)
Constance, Angela (Almond Valley) (SNP)
Corry, Maurice (West Scotland) (Con)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
Davidson, Ruth (Edinburgh Central) (Con)
Denham, Ash (Edinburgh Eastern) (SNP)
Dey, Graeme (Angus South) (SNP)
Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Green)
FitzPatrick, Joe (Dundee City West) (SNP)
Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
Golden, Maurice (West Scotland) (Con)
Gougeon, Mairi (Angus North and Mearns) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Greene, Jamie (West Scotland) (Con)
Greer, Ross (West Scotland) (Green)
Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)

Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 23, Against 98, Abstentions 0.

Amendment 1 disagreed to.

Amendment 2 moved—[Neil Findlay].

The Presiding Officer: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)

Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lindhurst, Gordon (Lothian) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)
 Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 91, Against 29, Abstentions 0.

Amendment 2 agreed to.

Section 9—Regulation of provision of contact services

The Presiding Officer: Group 6 is on the regulation of contact services. Amendment 3, in the name of Neil Findlay, is grouped with amendments 4, 5, 17, 18, 19, 41, 6, 42, 7 and 20.

Neil Findlay: I will try and not get carried away with the excitement of winning a vote.

The amendments deal with the regulation of contact centres. No parent should ever have to

leave a child at a centre while fearing for the child's wellbeing and where staff do not take responsibility for the child because the parent who is having contact is deemed responsible. Many children are there because there is genuine fear of harm to the child or the resident parent, and yet the resident parent is asked to sign a form to say that they will leave the child and, if they do not, they will be reported to the court and the court may find them in contempt. That happened to a constituent of mine, and it has to stop.

Who, in such a scenario, calms the fearful child if the resident parent is not there? Is it a stranger to the child? Is it a parent whom the child may well be frightened of? That could be very upsetting and damaging to the child in the long term. The contact centre must be responsible for the health, safety, welfare and wellbeing of the child when on its premises. Buildings must be up to an acceptable safety standard and there must be closed-circuit television in rooms. There should be panic rooms and panic alarms. Indoor and outdoor play areas must be safe. There should be easy access and exit, and much more. All of that should be part of the centre's responsibilities.

17:00

Further, the staff who have contact with or supervise children must be trained and hold recognised qualifications in relation to matters relating to children, their welfare and wellbeing. That does not mean that a plumber attending the centre to unblock a toilet must have a qualification in child welfare, but the person who is overseeing activity or supervising contact must have one.

We need to ensure that the system of contact centres is well run and carries the confidence of parents, children and the public. The state orders contact via court orders. We all accept that that contact must take place in a safe environment for children and those impacted by the court order. The interests of children must be at the centre, and financial considerations, however important, must be a secondary concern.

It is in everyone's interest that such a system should be publicly run and publicly accountable. We have one chance to make this work and we should ensure that it is run as a public service, with an ethos and management reflecting that. We are reforming the system of contact centres, which is already a tendered system. We are reforming it because of the failings within it, yet we are going to repeat that failure by putting the service out to tender again. That is a wrong move. Having a publicly run and accountable service has to be the way forward. It is a vital area of children's welfare. The issue is not just about funding; it is about the whole ethos underpinning the system. As I said,

we are at this stage only because of the failings of the existing system, and amendment 7 will put contact centres on a robust foundation. I hope that all my amendments in this group will be supported.

I move amendment 3.

Ash Denham: Amendments 3 and 4, in the name of Neil Findlay, are in the same terms as amendments that he lodged at stage 2. I still cannot support them, because I remain unclear about what responsibilities they are trying to impose on contact centres. As I stated at stage 2, as a Parliament, we simply cannot make people or organisations subject to vague and unspecified legal duties. That would be bad law making, so, if Mr Findlay presses these amendments today—I hope that he will not—I urge members not to support them.

Amendment 5, which is also in the name of Neil Findlay, would require contact centre regulations to include provision for staff to be trained and to hold recognised professional qualifications in relation to issues concerning children. I agree that staff working in contact centres should have the right professional qualifications, including in recognising behaviours related to domestic abuse and coercive control and associated behaviours in children. However, as I have discussed with the member, the bill already provides for training and qualifications for contact centre staff to be set down in regulations, which is what his amendment calls for, too. As those regulations are developed, I would be happy to discuss these matters again with Neil Findlay, but I cannot support that amendment, because it is unnecessary—as I have said, the bill already provides that the regulations are to set out qualifications for contact centre staff, so it adds nothing.

Neil Findlay: It is good of the minister to offer to have discussions with me about future regulations. However, given that I am not standing at the next election and the minister has said that it will take three years for the system to be brought in, I might not be around for those discussions.

Members: Aw!

Ash Denham: I can hear that the chamber is entirely sad that Neil Findlay will not be around in the next session of Parliament. However, it is a genuine offer. We have already spoken about amendments that the member brought forward at stage 2. I have tried to support the member when I can, and I have accepted one of his amendments today. However, I cannot support the amendments in this group. The approach that I have taken involves consulting on the regulations, the training and the standard of accommodation, all of which will be covered in a new duty. Until now, contact centres have not been regulated, so that is a huge step forward. In the next few months, while Mr

Findlay is still a member of the Parliament, the offer is there for him to discuss these issues with me. I am happy to do that.

Amendments 17 to 19 in my name make minor adjustments for readability to wording about contact centre risk assessments that was added at stage 2 by an amendment from Neil Findlay.

Amendment 41, in the name of Bob Doris, seeks to encourage contact centres to comply with “their duties under the Equality Act 2010”,

in particular, in relation to duties

“to make reasonable adjustments to premises”

for disabled people.

I recognise the seriousness of that issue and the concerns that Bob Doris has voiced. I want to ensure that children who need one have access to a contact centre and that all contact is facilitated safely, so I am happy to support that amendment.

Amendment 6 is similar to, but not the same as, amendment 2, which we have already debated. Amendment 2 calls for consultation with people with lived experience of court-ordered contact and domestic abuse. As I said with regard to amendment 2, I agree with Neil Findlay that we need to ensure that, when we consult, people with relevant lived experience give us their views, so I was happy to support that amendment. However, I cannot support amendment 6, because it is drafted differently from amendment 2; it requires ministers to consult before “implementing” or “reviewing” regulations and it is unclear what that would mean for us in practice. A duty to consult, as part of carrying out a statutory review of legislation, is not unknown, but the requirement in that amendment is not linked to a statutory review, so it is ambiguous about when ministers are to be treated as reviewing regulations.

The concept of implementing is even more vague. Implementation is an on-going process, so when does the duty to consult about it start and when would it stop? It would be unclear when ministers are complying or not complying with that legal requirement. I was content to support amendment 2, because it was clear about what consultation was required and when. Unfortunately, amendment 6 is not clear, so I cannot support it.

Amendment 42 makes a minor adjustment to the power in section 9 of the bill; it is technical in nature.

Amendment 7, in the name of Neil Findlay, would require regulated contact centres to be

“publicly provided and accountable to the Scottish Ministers”.

As I said at stage 2, I am unclear about what that is supposed to cover. I am aware of concerns that contact centres should be publicly funded in the longer term and I point to amendment 30, which was agreed to at stage 2. It allows Scottish ministers to enter into arrangements for the provision of contact services; that ensures that centres are sustainably funded and subject to Government oversight and monitoring. That is in addition to the oversight and monitoring provided for by the bill's system of regulation of contact service providers. Therefore, the bill already provides for public funding of contact centres. I assume that the reference in Mr Findlay's amendment to centres being "publicly provided" is supposed to mean public funding, but I do not know and that is the problem with the amendment—I cannot support it, because I do not understand the effect that it would have in practice.

Amendment 20 places a duty on solicitors to refer their clients to a "regulated" contact centre. At stage 2, James Kelly lodged amendment 52 on that, which required that all referrals to a contact centre must be to a regulated centre. I agree with the intention behind Mr Kelly's amendments, but I had concerns around how a duty of that nature could be enforced in relation to individual parents who self-refer. However, I agreed to consider further Mr Kelly's amendment in advance of stage 3. Amendment 20 will ensure that all court and solicitor referrals to contact centres are to regulated centres. Failure by a solicitor to comply with that duty

"may be treated as professional misconduct or unsatisfactory professional conduct"

and dealt with through the normal professional regulation processes on that basis.

John Finnie: It is our intention to support amendment 20, but I wonder whether the insertion of that provision has caused an unwitting offence to the legal profession. There is already guidance on how the legal profession should conduct itself. Will the minister reflect on whether that provision was heavy-handed?

Ash Denham: In developing that amendment, I consulted all my officials and the Law Society of Scotland. The duty has been drafted in that way because I am unwilling to put into law something that I cannot enforce.

Presiding Officer, I have finished speaking on the amendments in the group.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): In speaking to amendment 41, I thank the minister for her constructive approach. At stages 1 and 2, I raised concerns about disability access to child contact centres. A constituent of mine has faced a two-year ordeal to

secure a contact centre with an appropriate toilet facility—with a hoist—to enable him to see his child, who has cerebral palsy.

I thank my office staff for their persistence in pursuing the matter with the contact centre, which I understand is now fully adapted. However, it should never have taken so long, and other contact centres were similarly unsuitable. That is why I sought with an amendment at stage 2 to specify in the bill the minimum standards of accommodation with regard to disability access. The Government position was that such detail was best left to regulation, which would be consulted on. The minister also believed that my stage 2 amendment would duplicate existing duties and enforcement mechanisms. To be blunt, those existing duties did not deliver for my constituent anyway, and duplicating a duty that is not currently working may not have delivered change.

My amendment 41 will therefore take a different approach. The regulator, once appointed, will have the explicit power to issue reports

"on any failure, or possible failure, by a contact service provider to comply with the provider's duties under the Equality Act 2010, and in particular any duty to make reasonable adjustments to premises in order to facilitate their use by disabled people".

I hope that the provision will move beyond the existing legal duties that unregulated contact centres currently do not adhere to in the absence of enforceable minimum standards, an inspection regime or complaints mechanism. The bill will deliver such elements, and, through my amendment, we would also have a clear focus on disability access and a mechanism to report on contact centres that do not make reasonable adjustments.

I thank the minister for agreeing a workable solution, and I thank my constituent who, by sharing their experience, will hopefully secure for years to come improved access to child contact centres for those with disabilities.

Liam Kerr: We will not support amendments 3 to 7 in the name of Neil Findlay. Rather than take up time, I will simply say that it is for the reasons that were set out by the minister.

I will focus my comments on amendment 20, which is a good amendment. We will support it, and there is no problem with solicitors being required to refer people to regulated services. That aspect is supportable—no problem. However, the issue that I ask the minister to think about is the one that John Finnie quite rightly raised in his intervention. The concern comes from proposed subsection (2), relating to professional misconduct, and the issue is the background law. Section 34 of the Solicitors (Scotland) Act 1980 provides that

“If any solicitor fails to comply with any rule made under”

section 34,

“that failure may be treated as professional misconduct or unsatisfactory professional conduct.”

Practice rule B1.4.1 for solicitors is clear that a solicitor’s fundamental duty to act in the best interests of clients is subordinate to the solicitor’s duty to comply with the law. If amendment 20 is agreed to as drafted, there will be a legal requirement for the solicitor to send a person to a regulated contact centre. A failure to do so will be a breach of the practice rules, which will be treated as professional misconduct; therefore, there is a pre-existing, underlying obligation, such that subsection (2) is unnecessary.

The statute book must always be considered holistically, and we should not be adding to it with repetition of a provision that is already contained in legislation that governs the regulation of solicitors. We will vote in favour of amendment 20—let me make that absolutely clear—but, in an ideal world, there might be a manuscript amendment, perhaps with the consent of the Presiding Officer, which could rectify the issue. I will leave that to the minister to come back on.

James Kelly: I support all the amendments in this group. The regulation of contact centres was a theme in the committee’s evidence sessions on the bill, and it featured heavily in the stage 1 debate.

The main issue that the amendments seek to address is the protection of the child, by ensuring that if a child is left at a contact centre, they will be in a safe environment. As part of that, there must be clear responsibility and accountability of those who are in charge and running the contact centres, who have a duty of care to a child in that situation. Allied to that, it is important that people have appropriate qualifications in order to carry out such duties. Bob Doris’s points about disabled access were valid and they need to be addressed.

All those points strengthen the fact that referrals must be made to a regulated contact centre. I welcome the minister’s work in response to my amendment at stage 2, and for stipulating that referrals by solicitors must be made to regulated contact centres. We heard a lot of strong evidence on the issues around that. I think that that is why the new section to be inserted by amendment 20 states that it is a misconduct issue if the referral is not made to such a centre.

I support all the amendments in the group, and I particularly welcome the work that the minister has done on amendment 20.

The Presiding Officer: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. *[Interruption.]* We are again having difficulty with the wi-fi. We will suspend temporarily, and then rerun the vote.

17:16

Meeting suspended.

17:20

On resuming—

The Presiding Officer: We are ready to go now. In case members are unclear, I am going to run the vote on amendment 3, in the name of Neil Findlay, again. Members may vote now.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)

Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine)

(SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 23, Against 98, Abstentions 0.

Amendment 3 disagreed to.

Amendment 4 moved—[Neil Findlay].

The Presiding Officer: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (SNP)

Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine)

(SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 22, Against 99, Abstentions 0.

Amendment 4 disagreed to.

Amendment 5 moved—[Neil Findlay].

The Presiding Officer: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wightman, Andy (Lothian) (Green)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)

Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)

Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 28, Against 93, Abstentions 0.

Amendment 5 disagreed to.

Amendments 17 to 19 moved—[Ash Denham]—and agreed to.

Amendment 41 moved—[Bob Doris]—and agreed to.

Amendment 6 moved—[Neil Findlay].

The Presiding Officer: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McNeill, Pauline (Glasgow) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)

Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)

Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 33, Against 86, Abstentions 0.

Amendment 6 disagreed to.

Amendment 42 moved—[Ash Denham]—and agreed to.

Amendment 7 moved—[Neil Findlay].

The Presiding Officer: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 McNeill, Pauline (Glasgow) (Lab)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wightman, Andy (Lothian) (Green)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)

Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lindhurst, Gordon (Lothian) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)

Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 28, Against 92, Abstentions 0.

Amendment 7 disagreed to.

After section 9

Amendment 20 moved—[Ash Denham]—and agreed to.

The Presiding Officer: Before we move to group 7, we will take a short comfort break. I ask members to come back to the chamber for 17:40.

17:30

Meeting suspended.

17:43

On resuming—

Section 10—Promotion of contact between looked after children and siblings

The Presiding Officer: Group 7 is on the promotion of contact between children and others. Amendment 43, in the name of Rona Mackay, is grouped with amendments 22, 44 and 45.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Amendment 43 is very straightforward. It is purely about terminology. I was astonished to see such archaic language as “half-blood” and “whole-blood” in 21st century legislation when describing family relationships. I lodged an amendment on this at stage 2, but I did not move it at the time, because the minister agreed that she and her officials would work with me to agree on more appropriate terminology. I am pleased that that has happened, and we now have a much better form of words.

The new form of words that amendment 44 introduces to replace “half-blood” and “whole-blood” is

“two people are siblings if they have at least one parent in common”.

In my view, that is a far more realistic way to reflect family relationships in 2020 and seems

much less offensive than “half-blood” and “whole-blood”.

17:45

Amendment 45 relates to contact with people with whom the child has an attachment. Studies have shown that children form attachments with those who have a significant caring presence in their lives. Attachments are of course crucial for the healthy development of young people. Those people can be

“a relevant person in relation to the child ... a sibling”

or

“any other person with whom the child has resided and with whom the child has an ongoing relationship”.

That relates back to amendment 44, which states that

“two people are siblings if they have at least one parent in common”.

Sibling contact, where appropriate and without risk, is crucial to maintain. During stage 1, we had enormously powerful evidence of that from a care-experienced youngster who was estranged from his sibling and had limited supervised contact. That heaped trauma on top of trauma for him, and it had to be addressed. It is important that amendment 45 also impacts positively on adoptive parents, who are, in every sense, legal parents and guardians. The new definition will help to cement relationships in extended families.

I hope that my amendments help to bring the meaning and terminology of the legislation up to date, to reflect modern family relationships without any blurring of the lines when it comes to contact and role models in a child’s life.

I move amendment 43.

Liam McArthur: I start by welcoming Rona Mackay’s amendments in this group. The issue of sibling contact, as Rona Mackay indicated, was the focus of perhaps the most emotional and powerful evidence session that the committee held on the bill, and I pay tribute to Oisín King for his personal testimony. Time will tell whether the proposed changes go far enough, but I certainly welcome them and I thank Rona Mackay for her efforts on that important issue.

Amendment 22, in my name, is again a reprise of an amendment that I moved at stage 2, on which I was supported by Jeremy Balfour and Fulton MacGregor. As I said at stage 2,

“foster care allows children to develop valuable relationships. Keeping in touch with the people they love and trust is important for children and young people as they move through or even out of the care system.”—[*Official Report, Justice Committee, 23 June 2020; c 55.*]

However, it is also the case that, for many, the relationships that they develop with their foster carers are not prioritised or supported. In some cases, children and foster carers are even prevented from maintaining contact due to the outdated belief that children must break their attachments in order to make new ones.

As I said earlier, I absolutely accept the centrality of taking decisions in the best interests of the child, but it seems perverse to abruptly end supportive relationships, which can only risk leaving a child feeling abandoned or rejected and perhaps less able to form those relationships in future. That seems to run wholly counter to the principles of the bill. From my discussions with the minister, I recognise that making changes to the bill could be problematic. It may therefore be more appropriate to address in guidance the concerns that have been raised by the Fostering Network and foster carers.

I am grateful to the minister for sharing with me the draft guidance that has already been prepared. I know from my discussions with the Fostering Network that it believes that that will be a very positive step in the right direction. I note in particular, the acknowledgment in the draft guidance that

“a child’s needs, including their emotional wellbeing, are the paramount consideration and relationships with former caregivers should be maintained wherever appropriate and for as long as is appropriate, tailored to the needs of the child.”

It also states that

“Keeping in touch after a child moves family should, if appropriate, be routinely considered part of the responsibility of a carer, and carers must be supported by professionals to carry this out as required.”

I appreciate that further consultation on the draft guidance will need to take place, but I very much welcome the strides that have been made and, on that basis, will not move amendment 22.

I conclude by recording my thanks to the Fostering Network for its efforts in highlighting the issue and to foster carers for the invaluable work they do, which may not always get the recognition that it deserves.

Liam Kerr: We will support the amendments in the group bar amendment 22. Rona Mackay’s points are well made and I associate myself with Liam McArthur’s thoughts on her amendments. My issue with amendment 22 is similar to my comments earlier, and I am pleased to note that Mr McArthur will not move it, but I understand why he lodged it.

Ash Denham: I am grateful to Rona Mackay for lodging amendments 43, 44 and 45, the need for which to modernise the language that is used in the bill with reference to siblings was highlighted to

the Justice Committee and at stage 2. The amendments ensure that the sibling contact duties that are created by the bill will extend to half-siblings but use accessible and modern language in doing so. Instead of referring to blood, they refer to having

“at least one parent in common.”

The word “parent” encompasses biological parents, adoptive parents and those who are deemed to be parents through the law of assisted reproduction. The amendments do not change the situation of children who are not siblings but who have a sibling-like relationship, who will continue to be included within the duties.

I appreciate Liam McArthur’s reasons for lodging amendment 22. I fully understand that maintaining a child’s link with people who are important to them can be beneficial to them as they grow and develop. For that reason, my officials are engaging with stakeholders to strengthen the guidance in this area, which has already been shared in draft with key organisations for their feedback and comment. I consider that, in this instance, guidance is the best way to support children in this area, given the need for a sensitive and nuanced approach to supporting such important relationships, and I note that Mr McArthur has decided not to move amendment 22.

Amendment 43 agreed to.

Amendment 22 not moved.

Amendment 44 moved—[Rona Mackay]—and agreed to.

Section 10A—Duty to consider contact when making etc compulsory supervision order

Amendment 45 moved—[Rona Mackay]—and agreed to.

Section 11A—Alternative methods of dispute resolution

The Presiding Officer: Group 8 is on alternative methods of dispute resolution. Amendment 24, in the name of the minister, is grouped with amendments 25, 32 and 33.

Ash Denham: The amendments in this group seek to remove and replace sections 11A and 11B, on funding for alternative dispute resolution, which were added to the bill at stage 2. The new provisions will achieve the policy aims of sections 11A and 11B, but they address issues that might have caused problems in practice.

I appreciate the engagement that I have had with Margaret Mitchell on the amendments. I know that alternative dispute resolution is a subject that has been of great interest to her for many years.

Amendment 32 will require the Scottish ministers to assist people to meet the costs of alternative dispute resolution. The Scottish Government recognises the valuable role that ADR, including mediation, can play. One of the key aims of the bill is to ensure that the voice of the child at the centre of any dispute is heard. It is important that, if parties decide to use ADR, the voice of the child is not lost. Therefore, amendment 32 insists that public funding will be available only for those ADR processes that take on board the views of the child to at least the same extent as a court is required to do. We have already discussed what the bill says about those requirements for courts.

Amendment 33 will place a duty on the Scottish ministers to establish a pilot scheme, under which parties to court proceedings will be required to attend awareness meetings on alternative dispute resolution processes. I make it clear that such meetings are not themselves a form of ADR but are an opportunity for the parties to learn about the availability of alternatives to court.

Amendment 33 makes it clear that cases in which there has been domestic abuse are not to be taken under the pilot scheme; I am sure that members will agree that that would not be appropriate. I also commit to working with organisations that support victims of domestic abuse when I establish the pilot.

It is also very important for the pilot to be properly evaluated. I would expect any evaluation to look at statistics on the number of parties who attended the awareness meetings, as well as the outcome in those cases. The evaluation process will include interviews with people who have participated in the pilot and with ADR providers.

I move amendment 24.

Margaret Mitchell (Central Scotland) (Con): I am pleased to speak in support of the amendments in this group that deal with alternative methods of dispute resolution. I thank the minister for working with me to ensure that the amendments in my name that were passed at stage 2, which provide for a mediation pilot scheme and for legal aid funding, are improved.

Amendments 32 and 33 allow for greater flexibility for ministers to provide financial assistance to parties seeking to use alternative dispute resolution. For example, it could allow the Scottish Legal Aid Board to make grant payments to relevant bodies for the provision of ADR, helping to increase the availability of services and providing value for money.

The amendments also ensure that there is a clause in the mediation process stipulating that the voice of the child or young person is heard when decisions that affect them are taken. That has

been achieved by including the duty to evaluate the pilot and to analyse the outcomes for children at the centre of the dispute.

I know that Relationships Scotland and CALM Scotland have previously approached the Scottish Government about the implementation of a similar pilot scheme. I hope that the Scottish Government will draw on those organisations' expertise in designing and implementing the pilot.

I hope that the amendments will help to lead to the early resolution of disputes, will allow for more bespoke and family-focused solutions and will prevent children from experiencing the stress and trauma of court, especially as it is widely recognised that, as the Justice Committee heard from stakeholders during stage 1, courts are rarely the best place to resolve family disputes.

James Kelly: I support the amendments in the group. Scottish Women's Aid and Children 1st raised some issues about protection for victims of domestic abuse. The pilot is the correct way to go. I support the minister's assurance that she will work with Scottish Women's Aid and Children 1st to ensure that their concerns are addressed. I also pay tribute to Margaret Mitchell for the work that she has done on this and as convener of the Justice Committee.

Liam McArthur: I echo James Kelly's comments. I moved similar amendments on ADR at stage 2. I am grateful to Margaret Mitchell for her collaborative work with the Government. The concerns that James Kelly referred to needed to be addressed and we are now in a far better position. I thank them and I confirm our support.

Amendment 24 agreed to.

Section 11B—Mandatory mediation information meeting

Amendment 25 moved—[Ash Denham]—and agreed to.

Section 12—Factors to be considered before making order

Amendment 26 not moved.

Section 13A—Duty to consider child welfare when allowing access to information

Amendment 46 moved—[Liam McArthur].

The Presiding Officer: The question is, that amendment 46 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division on amendment 46, in the name of Liam McArthur. That will be a one-minute division. Members may cast their votes.

My apologies, colleagues. There are too many members who are unable to vote. I will temporarily suspend proceedings and rerun the vote.

17:59

Meeting suspended.

18:04

On resuming—

The Presiding Officer: We will proceed with the division on amendment 46. This will be a one-minute division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)

MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rowley, Alex (Mid Scotland and Fife) (Lab)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

Against

Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Corry, Maurice (West Scotland) (Con)
 Davidson, Ruth (Edinburgh Central) (Con)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Golden, Maurice (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Mason, Tom (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Tomkins, Adam (Glasgow) (Con)

Wells, Annie (Glasgow) (Con)
 Whittle, Brian (South Scotland) (Con)

The Presiding Officer: The result of the division is: For 89, Against 29, Abstentions 0.

Amendment 46 agreed to.

Section 15A—Duty to ensure availability of child advocacy services

The Presiding Officer: Group 9 is on the duty to ensure availability of child advocacy services. Amendment 27, in the name of Ash Denham, is grouped with amendments 28 to 30.

Ash Denham: The amendments in group 9 make minor and technical adjustments to the provision that was agreed at stage 2 that places a duty on the Scottish ministers to make child advocacy services available. Put simply, they move the place at which the bill will insert text into the 1995 act, for a better fit with that act's structure, and they make a technical correction to the way in which section 11 cases are described.

I move amendment 27.

Amendment 27 agreed to.

Amendments 28 to 30 moved—[Ash Denham]—and agreed to.

Section 16—Failure to obey order

Amendment 31 moved—[Ash Denham]—and agreed to.

After section 16

Amendments 32 and 33 moved—[Ash Denham]—and agreed to.

The Presiding Officer: Group 10 is on the duty to ensure system of redress. Amendment 47, in the name of John Finnie, is the only amendment in the group.

John Finnie: I do not think that anyone doubts that the bill is a positive step forward in acknowledging children's rights and that it is a further step in enhancing compliance with the United Nations Convention on the Rights of the Child.

As we have heard, parliamentarians are very familiar with the concept that children's views are not always heard in disputes about contact. It is certainly the view of Scottish Women's Aid, Children 1st, the Children and Young People's Commissioner Scotland and others that children must be active participants, not casual observers, in decisions about their future.

The problems that have been alluded to are partly the result of our adversarial legal system, which deals with disputes about contact as being between adults and tries to keep children out of

the dispute, in which children rarely have any legal status and in which their rights risk being at the discretion and behest of adults—be they parents or court personnel.

All too often, children's experiences are disempowering and distressing as cases proceed through the legal system. The bill's real progress on children's participation rights—the fundamental change that the bill drives—is the presumption that a child has the capacity to express a view. The bill requires the court to explain its decision. It places a duty on the Scottish ministers to ensure the availability of child advocacy services—which, children consistently tell us, would help most.

At the moment, there is a process for appeals, but it is, of course, designed by and for adults, and it is not accessible to children. It requires a parent to raise an appeal on behalf of the child or a child to become party to the dispute and to access legal aid for their own independent representation. However, becoming party to the dispute is not an easy task for a child, especially when their access to legal aid depends on parental income and when the child may be expressing views that are contrary to those of a parent.

Without an accessible system of redress, children struggle to claim their rights to participate in major decisions that affect their lives. If a child has not been given the choice to give their views, they currently find it very hard to reverse that decision. If a court report is written about a child, the child has no way to disagree with what it says—and research has shown that some children felt that their views were misrepresented or that their substance had changed in the reporting to the court. One child from whom we heard at the Justice Committee urged those tasked with taking children's views to think about what they were writing, because they had changed what the child had said.

Of course, without an accessible mechanism for redress, children cannot challenge that. My amendment 47 has the potential to bolster children's rights further, making them both real and accessible to children. If amendment 47 is agreed to, it will require the Scottish ministers to introduce a system of redress for children, should children feel that their participation rights have been breached.

The amendment requires the Scottish ministers to make regulations, without being prescriptive about the contents,

“as they consider necessary and expedient to establish an effective, child-sensitive redress scheme.”

For that to be meaningful, there will have to be engagement, not least with young people. I hope that the adoption of best practice—a rights-based approach to all proceedings—means that the

provision in amendment 47 would rarely be used. However, I believe that it is, nonetheless, necessary.

Subsection (3) of the section that amendment 47 would introduce talks about where

“actions have been taken for the purpose of securing the child's best interests.”

This is therefore not about a blanket approach or a grievance approach, as decisions will have to be taken that children will inevitably not agree with; it is about an evidence-based, rights-based approach to all decisions, and it will complement the other provisions in the bill.

Members will note that Scottish Women's Aid, Children 1st, the Children and Young People's Commissioner Scotland and others have endorsed the approach that is taken in amendment 47 and that it is cited in the widely circulated blog by academics Fiona Morrison and Kay Tisdall. It is clear that the proposal in amendment 47 would afford children's participation rights greater status. As is stated in the UN Committee on the Rights of the Child's general comment 5 on the implementation of rights:

“For rights to have meaning, effective remedies must be available to redress violations.”

Amendment 47 has the potential to make children's rights real in disputes about contact and to take us a step closer to—

Liam Kerr: I know that Mr Finnie is winding up, but this is the first time that we have seen the amendment. Why did he not introduce such an amendment earlier in the bill process?

John Finnie: I think that the amendment is a reasonable intervention to make, and I was not approached to make it. All the organisations that pay attention to our bill have regard to how things formulate as we go through, and it is clear to all those eminent people, such as the children's commissioner, that there is a gap in the bill that amendment 47 would fill. As I said earlier, the issue is not that there is not a system of appeal at the moment; the issue is that it is adult focused. If we are to make the bill entirely child focused and move towards UNCRC compliance, amendment 47 is the way to do it.

Neil Findlay: I am trying to be helpful to Mr Finnie. The argument that Liam Kerr put forward is a red herring, because we are allowed to lodge amendments at any stage. In addition, during a bill process earlier in the year, Murdo Fraser introduced an entire member's bill at stage 3 to be inserted into the legislation, but we heard no complaints from Mr Kerr at that point.

John Finnie: I hear what Mr Findlay says, but I do not want to get involved in a dispute about anything other than the merits of amendment 47—

that is what is important here. Significant people who have regard for a rights-based approach for children have commended amendment 47, and I commend it to members for their support.

I move amendment 47.

Liam Kerr: I am sympathetic to what Mr Finnie is trying to do with amendment 47, and I listened carefully to what he said. In my intervention, I was not objecting to amendment 47 but making what I think is an important point about when we introduce amendments. I accept that amendment 47 is looking to address what appears to be a gap in the bill, and, because of the amendment's emphasis on achieving the best outcome for the child, I support its intentions. My concern is that it is a significant amendment to be introducing at this stage.

I will keep my remarks on the amendment brief. I do not see a definition in it of "redress", and I do not think that any consultation has been done on the amendment previously. One of the representations that we received in favour of amendment 47 says that, if the Scottish Government were to meet effectively the obligations that the amendment would impose, it would need to work out how such a system would operate and it would have to involve young people. There is a whole lot of work to be done here.

Amendments of such an extent need to be subject to more consultation and scrutiny than is allowed when an amendment is lodged at this stage. I am afraid that, at this stage, my objections to amendment 47 stand.

18:15

James Kelly: I support amendment 47, which is important because, although the bill is good and has been welcomed by members across the Parliament, if we pass it without agreeing to amendment 47 it will fall short of the UNCRC standards in relation to a system of redress.

Ash Denham: I point out to the member, for clarity, that a requirement for child-friendly redress is not in the UNCRC itself; it is in general comment 5.

James Kelly: The point remains that the bill should provide for a system of redress, and the Parliament would fail in its obligations if it did not take a serious look at and agree to amendment 47.

Liam Kerr: Mr Kelly makes an important point. Deep down, I would like amendment 47 to be agreed to. However, we have not scrutinised it. We have not taken the time—as we would normally do at stage 2—to take a step back and

really examine the legislation that we are passing. That is why I have such a concern.

James Kelly: If we accept the arguments that the member and the minister are making, we are simply putting our heads in the sand and missing an opportunity to do our best to serve the children whom the bill sets out to look after.

I support amendment 47. It has the support of Scottish Women's Aid, Children 1st and the children's commissioner. There is substantial support for the proposed approach, and its inclusion in the bill at stage 3 would complete the bill and make it a lot more comprehensive. I urge members to support amendment 47.

Ash Denham: I appreciate the concerns that John Finnie has expressed. I agree with him that, if a child or young person has concerns about how their court case has been handled, those concerns need to be taken seriously and listened to. Ensuring that the views of the child are heard is a key aim of the bill.

However, I am unable to support amendment 47. It comes very late in the day, as Liam Kerr said, and we have not had the opportunity to consider it earlier in the bill process. The matter was not raised in the stage 2 debates, and a number of issues need to be clarified through consultation and parliamentary debate before such an amendment finds its way on to the statute book.

For a start, it is not clear from amendment 47 what a redress scheme would entail. What does the member think is appropriate redress if a child feels that their views have not been heard in a contact or residence case? Is it financial compensation? Is it a complaints mechanism with an apology? Does it involve reopening the decision? How does that sit alongside existing appeal processes, which amendment 47 would not affect, and the ability to vary the order?

John Finnie: I will cover a lot of those points when I sum up, but such matters are all to be flushed out in the regulations. If the concerns are being taken seriously, does the minister take issue with what I said about there being very much an adult-based approach at the moment? We are talking about a system of appeal. We can call it "redress"; the term is in common parlance—but I will come back to that. How are children's concerns being taken seriously at the moment, when adults predominate in the system?

Ash Denham: That is a good point, but the point that I am trying to make is that amendment 47 does not define "redress" or provide clarity. It is all very well for the member to say that matters can be worked out in the regulations, but we are talking about an entirely new scheme, so I do not think that that would be appropriate.

On the member's point about whether children's concerns are being taken seriously and whether what we have at the moment is child friendly, I agree with him that it is not. That is why we are including child-friendly complaint mechanisms in the bill. I will talk about those in a moment. I take the member's point; however, we are addressing that issue with this bill.

The extent to which a redress scheme might cut across existing remedies if a child is unhappy about the procedure or the outcome of the court order would need to be considered very carefully. A child can already apply to the court to vary the order, and there are organisations—such as Clan Childlaw and the Scottish Child Law Centre—that provide representation for children.

A curator ad litem could be appointed to represent a younger child's interests, and we propose to regulate them similarly to the way in which child welfare reporters are regulated. I reassure the member and the chamber that the Government is doing work in that area. As we have discussed today, the bill will improve the ways in which children can effectively participate in section 11 cases. The Government has shared with key stakeholders guidance for children on child welfare reporters. That includes information about how a child can complain and about the conduct of a child welfare reporter, which, I believe, addresses one of the points that Mr Finnie made in his opening remarks.

The Scottish Government has plans for the regulation of child welfare reporters to ensure that there is a child-friendly complaints mechanism. I would be very happy to discuss that further with the member, and I reassure him, again, that that will be part of a full public consultation and that the eligibility criteria and standards for child welfare reporters will be part of that.

The Scottish Government will ensure that, once regulated, there is also a child-friendly complaints mechanism in place for contact centres. It will also ensure that the body that is appointed to oversee the contact centre can act on any complaints that are raised.

Section 16, which covers failure to comply with an order, will mean that if, for example, a child refuses to have contact with a parent, the court will be required to investigate the reasons for that. Section 15 requires the court to explain decisions to a child in child-friendly language as well. Section 15A requires the Scottish ministers to establish "child advocacy services" as they see necessary to facilitate participation.

Members have already voted on Liam McArthur's amendment 48, which requires the effectiveness of the bill's provisions in facilitating children's participation to be reviewed in five

years. That requirement for a review will ensure that any future Government will look again to see whether the reforms have worked out, and, if it finds that further improvements need to be made, it will be able to provide a prompt evidence base for starting to look seriously at the matter in a considered way.

Given the uncertainties that I have laid out about amendment 47—including what it would mean in practice, and given the work that is already under way to enhance children's rights—I ask members to reject the amendment.

John Finnie: I thank all those who have participated in the debate. I agree with a lot of what has been said. There is a lack of definition and there has been no consultation on the regulations, but that is precisely why subsection (4) of the section that amendment 47 would introduce refers to the regulations under subsection (1) being "subject to the affirmative procedure". There is no doubt that there would be scrutiny, and there is no doubt that there is a gap.

Of course, there is a whole load of work to be done—the minister would be wrong to construe anything that I have said as meaning otherwise. As I said, the bill is a great step forward. Nonetheless, although I accept what the minister has said about the child-friendly system, the reality is that significant children's charities and, importantly, the children's commissioner, have identified a gap. I hope that I was correct in saying that general comment 1 of the UNCRC is the source of the reference that I made to the shortcomings.

I do not doubt that the issue will be revisited at some future point. During this meeting, we have talked about the barnahus model, the progress that is going to be made and the child-centred approach that will be taken, but the present system has a gap. This is an opportunity to fill it, and I hope that members will take that opportunity by voting for the amendment.

The Presiding Officer: The question is, that amendment 47 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. I encourage members to refresh their screens. If there is any difficulty, log out and log in again to refresh your screen, and that should bring the page up again.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)

Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McNeill, Pauline (Glasgow) (Lab)
 Rennie, Willie (North East Fife) (LD)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smyth, Colin (South Scotland) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bowman, Bill (North East Scotland) (Con)
 Briggs, Miles (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Forbes, Kate (Skye, Lochaber and Badenoch) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)
 Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Greene, Jamie (West Scotland) (Con)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire) (Con)
 Harper, Emma (South Scotland) (SNP)
 Haughey, Clare (Rutherglen) (SNP)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Scott, John (Ayr) (Con)
 Simpson, Graham (Central Scotland) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the division is: For 31, Against 86, Abstentions 0.

Amendment 47 disagreed to.

The Presiding Officer: I am conscious of the fact that decision time is scheduled for half past 6 and we are almost there. I am, therefore, minded to accept a motion without notice to move decision time to 7 o'clock. Business managers have consulted, and we have agreed to shorten the debate following the amendment stage.

Motion moved,

That, under Rule 11.2.4, Decision Time be moved to 7.00 pm.—[*Graeme Dey*]

Motion agreed to.

Before section 17

The Presiding Officer: Group 11 is on children's hearings: opportunity to participate.

Amendment 34, in the name of the minister, is the only amendment in the group.

18:30

Ash Denham: Amendment 34 will have a positive impact on children and young people who are cared for away from home. It will enable an individual to participate in a children's hearing when they are not a "relevant person" but meet criteria as a qualifying sibling or relative.

The provisions, together with revised procedural rules, will allow such individuals certain rights, such as to be notified of a hearing, to be provided with paperwork that is relevant to them and to be able to attend and be represented. The detail on those rights will be set out in rules, which will be consulted on.

The provisions do not allow for a sibling's right of appeal against the hearing's decision. The United Kingdom Supreme Court, in the cases of *ABC v Principal Reporter* and *XY v Principal Reporter* in June this year, made it clear that the system is already flexible and is capable of being operated compliantly with the European convention on human rights for siblings. I hope that members agree that an appeal right would be disadvantageous overall, both to the child at the centre and to their siblings. Court proceedings are not the most appropriate forum for disputes over how long brothers and sisters should see each other for. That is better discussed in the less formal children's hearings environment.

Instead, the amendment introduces review provisions that will have the effect of allowing a qualifying sibling or relative to request a further children's hearing as long as three months have passed since the making of a compulsory supervision order in respect of the child. That will allow the hearing to keep the relationship between the child and their siblings under close review if needed, and it will permit quick adjustments to be made to measures in the child's legal order. The child at the centre of the hearing and the relevant persons already have that review provision.

The independent care review made clear in its report "The Promise" that to be notified of children's hearings and have an opportunity to participate meaningfully in decisions that affect them is crucial to brothers and sisters. I am delighted to be able to use the bill as a means to achieve that during the first year of the implementation of the promise.

I move amendment 34.

Amendment 34 agreed to.

Amendment 48 moved—[Liam McArthur]—and agreed to.

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

There will be a short pause before we move on to the stage 3 debate.

Children (Scotland) Bill

18:34

The Deputy Presiding Officer (Linda Fabiani): I ask members to stop the private chatter and take their places.

The next item of business is a debate on motion S5M-22505, in the name of Ash Denham, on the Children (Scotland) Bill. I call the minister to speak to and move the motion. Minister, you have up to six minutes.

The Minister for Community Safety (Ash Denham): I am delighted to open the debate at this final stage of the bill, which seeks to improve our family courts and children's hearings. I thank the Justice Committee for its careful examination of the bill and for its considered stage 1 report. I also thank parliamentary staff for their support in that process, and I commend them for rising to the challenges of Covid-19 and putting in place new processes that have enabled scrutiny of the bill to continue during the public health emergency.

Many stakeholders and individuals took the time to provide evidence on the bill to the Justice Committee. The amount of evidence that the committee received and the number of responses to our consultation in 2018 show that reforming the family courts is an important issue for many people. However, let me be clear: our work on improving the family courts is far from complete. There is much left to do, and we will do it as quickly as we can in the current circumstances.

Neil Findlay (Lothian) (Lab): I also thank those who have contributed to the bill. Does the minister acknowledge that, had it not been for my constituent Emma McDonald bringing the petition to the Public Petitions Committee, it is unlikely that some of the reforms that we see today would have come through?

Ash Denham: I thank all stakeholders who engaged with the process for their considered comments, many of which have made their way into the final version of the bill.

The Children (Scotland) Act 1995 is the key legislation on contact, residence and other parental responsibilities and rights. The Children (Scotland) Bill builds on that act.

One of my key aims for the bill was to ensure that the voice of the child is heard. Ultimately, the best interests of the child are the paramount consideration in any contact or residence case. The bill as introduced—and as amended at stage 2 and, today, at stage 3—further the rights of children to participate in proceedings.

The presumption that a child aged 12 or over is mature enough to give their views has been replaced with a presumption that, subject to extremely limited exceptions, all children are capable of giving their views. In addition, under the bill, the courts will be required to provide children with an explanation of their decisions. The courts will also be required to seek the views of children if an order has not been complied with. Those are radical changes that will make the process more child friendly.

It is important that, when children give their views, they know what to expect and what will happen to their information. I am pleased to have worked with Liam McArthur and other stakeholders on amendments to the bill in relation to protecting children's private information. We have prepared draft guidance for children and young people on speaking to a child welfare reporter. We have sent the draft to key stakeholders for comment, and I look forward to finalising that important guidance over the coming months.

The bill also takes important steps forward for looked-after children and their brothers and sisters. The bill requires local authorities to promote contact between a child and their brothers and sisters, just as they must promote contact with parents if that is possible. In recognition of the consultation responses from children and young people and the organisations that support them, those duties extend beyond biological brothers and sisters to people who are unrelated to the child but with whom they have built a relationship that has the character of that of a sibling.

In my stage 3 amendments, I put forward new provisions for qualifying siblings and close relatives of a child to be at the centre of a children's hearing, so that they have the opportunity to meaningfully participate in proceedings. The aim is to ensure that those who are closest to the child can be supported to give their views in those important proceedings when they wish to do so.

The bill also further protects victims of domestic abuse by ensuring that they are protected in child welfare hearings and by introducing a prohibition on personal conduct of a case if a party has committed a relevant criminal offence.

As I said, the bill is only the start of the process of reforming family courts. Implementation of the bill will take time, but I will endeavour to commence sections as soon as possible. Some sections will require significant consultation, such as the provisions on establishing a register of child welfare reporters and the regulation of contact centres. Other sections may be capable of commencement at a slightly quicker pace.

I appreciate that, for many people experiencing the family court process, it is important that the changes are made as quickly as possible. I promise to take forward work on implementation as quickly as we can, given the challenges of Covid-19 and Brexit, and I hope that stakeholders will continue to engage with my officials as they progress the implementation work.

In addition to the bill, the family justice modernisation strategy includes a number of areas for further work that do not require primary legislation, including guidance for parties going to court and alternatives to the court process. A number of the bill's provisions and some areas of the family justice modernisation strategy work require court rules, and my officials will work to develop policy papers on them for the family law committee of the Scottish Civil Justice Council.

The bill is a significant change in improving family courts. However, it is only a starting point. Implementation of the bill and the family justice modernisation strategy will be the next step.

I move,

That the Parliament agrees that the Children (Scotland) Bill be passed.

18:42

Liam Kerr (North East Scotland) (Con): I remind members that I am a practising solicitor holding certificates with the Law Society of England and Wales and the Law Society of Scotland.

In opening for the Conservatives in the debate on the Children (Scotland) Bill, I confirm that we will vote in favour of passing the bill at decision time.

The bill's stated aims are to ensure that the views of the child are heard in contact and residence cases; to protect victims of domestic abuse and their children; to ensure that the best interests of the child are at the centre of contact and residence cases; and to ensure compliance with the United Nations Convention on the Rights of the Child, which I think that we have achieved.

The process to get to this stage has been long, productive and collaborative. It has been good to work on a cross-party basis on so many of the issues. It is notable that, throughout the consultation, evidence taking and amendment stages, we have moved from a strong start to a finished product that I think that we can all be proud of. That has been possible only because of those who gave written and oral evidence throughout the process. With reference to today's proceedings, that applies especially to the many organisations and individuals who provided us with informed and informative briefings on

amendments and the bill overall. Those have been hugely helpful; as colleagues and those viewing our proceedings will have noted this afternoon, they certainly helped to clarify my thoughts on various amendments, and no doubt those of colleagues across the chamber.

At stage 1, I said:

"The power of evidence that was given by the witnesses certainly helped to remind me of the deep responsibility that we all share to get this right."—[*Official Report*, 27 May 2020; c 49.]

I believe that we have got it right, and I hope that, throughout the passage of the bill, including today, the debate has enabled all the contributors to feel that they have been listened to. I think that we have all been listening: the fact that so many amendments have been proposed and agreed to suggests that that is the case. I know that several votes today were swung by the quality of the submissions that we have been given, and by the quality of the contributions that we have heard this afternoon.

In particular, I remember an unlikely alliance arising following the stage 1 debate, when Neil Findlay and I asked the minister to remove the word "practicable" from section 10, on the basis of some extraordinary testimony from CELCIS, Who Cares? Scotland and Oisín King, among others. To her credit, the minister met us after the debate and lodged an amendment. On a similar note, Rona Mackay's amendment on the term "whole-blood", which I had indicated during the evidence taking that I was also concerned with, was also agreed to.

However, having struck that note of consensus, I will gently and briefly make a point about amendments. By way of example, I cite John Finnie's amendment 47, which we debated at the end of stage 3 and which I consider was a key amendment. Although I know that it is perfectly permissible to lodge novel amendments at stage 3, I do not think that it is prudent to do so. I do not like it, because there is a risk of ending up with bad or incomplete law. Clan Childlaw notes that although the amendment would be a step in the right direction, it did not seem to include a right of appeal. Had the amendment been lodged earlier, we might have dealt with that issue.

John Finnie (Highlands and Islands) (Green): Does the member not see the danger in what he is saying? I want to steer discussions so that they are about the merits of individual amendments. There is a real danger in saying that an amendment should not be lodged at stage 3, particularly given our unicameral set-up.

Liam Kerr: I am grateful for the intervention. I am not saying that members should not lodge amendments at stage 3, although I will refer to the

unicameral set-up to which he refers. There is a process, and because we have a unicameral set-up, the importance of stages 1 and 2 is elevated such that, when we have issues that are as important as the one in the stage 3 amendment that he lodged, they must be tested at stage 2, subjected to evidence taking and fully considered.

Neil Findlay: Can we take it from that response that that will become a point of principle for Mr Kerr and the Conservatives, and that if anyone lodges an amendment at stage 3, they will object to and oppose it, because it has not gone through that scrutiny process? I think that Mr Kerr must make himself very clear on that issue.

The Deputy Presiding Officer: I ask that you answer that and then wind up, Mr Kerr.

Liam Kerr: I think that Mr Findlay is well aware that I will consider everything on its merits. I stick to the point that I made to Mr Finnie: how this Parliament is set up merits our looking at issues in full detail at stage 2.

In conclusion—*[Interruption.]* We are very late, Mr Findlay, and the Presiding Officer is not terribly chuffed. *[Interruption.]*

The Deputy Presiding Officer: I can confirm that the Presiding Officer is not terribly chuffed. Please wind up, Mr Kerr.

Liam Kerr: I came to the bill from a standing start—I had not done anything in the family courts, except for gaining some second-hand personal experience, since the start of my legal career two decades ago. By working together on the bill, politicians from all parties have been able to contribute to a piece of legislation that I really believe will better protect the interests of children in the Scottish legal system and ensure that they are able to contribute to it, whenever they wish to do so.

Inevitably, different parties have different viewpoints and interests and will consider that the bill leans too far in certain directions or not far enough in others. For legislation of this kind, the best solution is always to be found through an approach that allows compromise. It is precisely thanks to that compromise that I believe that the bill will achieve its intended purpose. We will vote for it at decision time.

The Deputy Presiding Officer: I draw members' attention to it being unlikely that decision time will be at 7 o'clock, even if speeches are drastically cut.

18:47

James Kelly (Glasgow) (Lab): I will bear that in mind, Presiding Officer, and will try to curtail my remarks.

Scottish Labour will support the bill at decision time. The number of expressions of interest, the number of briefings that we have received and the number of representations from stakeholders throughout the three stages of the bill are a mark of its importance.

The bill was introduced primarily because it was recognised that the current legislation was not adequate in representing children. It brings in key reforms, including doing away with the presumption that a child must be older than 12 to have a view. The importance of the need for that change came across powerfully at committee.

It is important to ensure that, in the court setting, the voice of the child is placed as a priority. That element has been strengthened through amendments to the bill. Protection for vulnerable witnesses is another important addition.

One big area that we concentrated on throughout the debate and which featured today is child contact centres. It is clear from the evidence that we received and from representations from members that there are real issues with contact centres. I hope that when this legislation is implemented, it will—*[Interruption.]*

The Deputy Presiding Officer: Excuse me, but it is terribly noisy in the back row.

Please continue, Mr Kelly.

James Kelly: The bill will strengthen the position of regulated contact centres. It will ensure the safety of children in contact centres and it properly sets out the responsibilities and accountability of those who are responsible for those children.

I believe that this is an important piece of legislation. There has been strong engagement from stakeholders and genuine working on the issues across parties, which I think sets a good example for legislation in future. It is strong legislation, and I hope that it will serve the interests of the child well.

18:50

John Finnie (Highlands and Islands) (Green): Like others, I thank everyone who has been involved in the process, including those who have given evidence and parliamentary staff for their assistance. It is very clear that a lot of consideration has gone into the bill, as we have heard from everyone. The amount of engagement is a credit to the minister. Clearly, one cannot engage early enough.

It is clear that we want to make good legislation and we want to address concerns that have been articulated by members across the chamber, who

are familiar with them from personal experiences and through the constituency mailbag.

There was a series of amendments relating to the voice of the child. The voice of the child will be listened to differently now, because there will not be an arbitrary cut-off point at which someone says, "You are now in a position to express your views on your entire life". The issue is also about the quality of people who are taking those views, of course. I look forward to the on-going engagement on child welfare reporters, because that will be absolutely pivotal in this process.

Often problems come about because people are misunderstood and not listened to. I make no apology for mentioning for maybe the third time the survivors' group Yello! telling us—I will put my specs on, to make sure that I get this right—about a child who said:

"Think about what you are writing. You changed what I said."

Someone's future was going to be shaped by a misunderstanding—it was probably that, rather than a misrepresentation.

I appreciate, and the minister has alluded to the fact, that there is a family justice modernisation strategy and that there will be on-going review. Many of the issues that we have touched on in the debate, such as those relating to grandparents, foster parents and estranged siblings, are brought together if the interests of the child are at the forefront of all the deliberations.

For me, one of the important aspects of the legislation is the requirement for the court to explain its decisions to the child in a way that a child can understand. As I said when I was speaking on amendment 47, the approach is often to keep the children out of it—that is a phrase that we have all heard—even though the children are front and centre of the most important decisions that affect them.

As my colleague James Kelly said, the work on this bill could well be a model of how to do things: with a lot of engagement and a lot of consensus. I look forward to the continued development of legislation that brings children's rights to the forefront, and to the Scottish Government moving for full incorporation of the UN Convention on the Rights of the Child.

In the meantime, I thank the minister for her engagement on the bill. It is a good bit of legislation. As I think that Liam Kerr said, it started off okay, but it is better for the energy that has gone into it.

18:53

Liam McArthur (Orkney Islands) (LD): Having participated remotely in stages 1 and 2 of the bill,

it is nice for me to be in the chamber to take part in stage 3 proceedings. I join colleagues in thanking all those who helped us in our scrutiny by giving evidence, as well as committee clerks, the Scottish Parliament information centre and those who helped make remote involvement possible.

Scottish Liberal Democrats will support the bill. We recognise that in cases where a relationship breakdown turns out to be difficult or traumatic, it is invariably the child or children involved who pay the heaviest price. We recognise, too, the importance of ensuring that any decisions that are taken in those circumstances are based on what is in the best interest of the child.

For that to happen, the child's views must be clearly heard and taken into account, and the bill will help to ensure that that happens more consistently and meaningfully. At the same time, we know that children often confide in third-party organisations and provide highly personal information that they are reluctant to see shared more widely. At present, that information can be shared without consent or indeed even consultation. I am therefore pleased that Parliament has supported the safeguards that I proposed, working with the minister, that will mean that that should happen only after the child's views are taken into consideration and where it is proportionate.

It is also encouraging that, at stage 2, the committee backed amendments that I lodged guaranteeing the child access to advocacy support. That is fundamental if we are to have any hope of achieving the bill's principal aims. As Dr Morrison and her colleagues told the committee,

"The strongest and most consistent request from children and young people in Scotland, who have been involved in contested contact proceedings, is to have a child support worker."

Questions remain over the resources that have been allocated to underpin the legislation, particularly in the context of what witnesses referred to as the infrastructure for taking children's views. That is why it is important that Parliament has put in place a review process that will, among other things, allow an assessment to be made as to whether children's rights are realised in practice.

Another area where I must credit the minister and her officials for their constructive engagement is in relation to the issue of foster carers. The revised guidance provides reassurance that a range of relationships that are important to a child have more chance of being supported. In that context, I welcome the moves that have been made in relation to maintaining sibling contact, where appropriate, and strengthening the grandparents charter.

On expanding support for alternative dispute resolution, the regulation of child contact centres and other provisions, the bill moves us in the right direction. It has been a collaborative process, although of course there have been areas of disagreement. My amendment that would have limited the preparation of welfare reports to registered social workers excited some controversy, which is never necessarily a bad thing. That may have been a move too far for most, but it was good to have a chance to debate the issue. I acknowledge the bill's aim of drawing on a wider pool of skills and expertise.

On the question of a presumption of shared parenting, I recognise the opposition to such a move, although I think that Parliament will have to return to that issue in due course.

For now, I thank those who have been involved in the scrutiny, and I confirm that the Liberal Democrats will vote for the bill at decision time.

The Deputy Presiding Officer: We move to the open debate.

18:57

Rona Mackay (Strathkelvin and Bearsden) (SNP): The bill is about giving children a voice, and I am happy to have been involved in working on what I believe is an excellent and much-needed bill. As the deputy convener of the Justice Committee, I thank the clerks, the bill team, the excellent witnesses and the third sector organisations that helped us to get the bill into the good shape that it is finally in. I thank the minister, Ash Denham, for all her work on the bill and for working with members from across the chamber. I know that, from the outset, she put her heart and soul into getting it right. I also thank the former convener of the Justice Committee, Margaret Mitchell, for all the work that she put into this hugely important bill.

I can say confidently that all the amendments that were lodged at stages 2 and 3 from members from across the chamber, whether or not they were ultimately agreed to, were submitted with good intention and with the best interests of children at their core.

A widely supported aspect is the removal of the presumption in the Children (Scotland) Act 1995 that only a child aged 12 or over is capable of forming a view. The removal of that presumption through the bill will give children a voice in a justice system that is designed for and by adults. For years, adults have underestimated the ability of children to express their views, the validity of their voices and the need for them to be listened to. I am delighted that that has finally come to an end through the bill.

I am also pleased about the regulation of contact centres. One of the most memorable parts of our journey in getting the bill to stage 3 was the evidence that the committee heard in private from young people from Yello!, which was an expert group advising the improving justice in child contact project. They had experience of being ordered to attend such centres, and their accounts were powerful and moving. One by one, we heard of the traumatic and unhappy experiences of court-ordered contact in which the young people had felt powerless to express what they really wanted. I was in awe of their bravery in telling their stories to a room full of adults. They have helped to shape the bill so that future generations will not have to endure their experience.

Sibling contact is vital and entirely in line with the recommendations in the care review, so I am delighted that amendments relating to that issue were agreed to. A huge part of the bill deals with statutory factors relating to risk and abuse. As ever, it is important to recognise the enormous contribution that third sector organisations such as Scottish Women's Aid, Children 1st, the Children and Young People's Commissioner Scotland and many others have made in shaping the bill. Those professionals are at the front edge of child protection and welfare, and their input is vital and invaluable. Theorising is fine, but there is no substitute for the daily experience of protecting and making life better for children and young people. If the bill helps to do that, we should all be proud to pass it at decision time today.

19:00

James Kelly: I will make three points in summing up. In his opening speech, Liam Kerr pointed to the strong interaction that there has been on the bill. I place on record my thanks to stakeholders, all the witnesses who gave evidence to the Justice Committee, the Government minister and all the MSPs who played an important part in the process that has resulted in a good bill, which will be passed by the Parliament shortly. That will be welcomed by all.

My second point is that, as the minister said, the bill being passed is, in effect, only the start of the process. The real test will be ensuring that all the good speeches and amendments come good in practice. There is an important role to be played in ensuring that guidance is strong enough, and we will have to monitor that closely. Although some of the issues that came up in evidence and in the chamber have been addressed, we must consider how children interact with the courts and the experience of children in contact centres. We will also have to monitor the register of child welfare reporters and whether that reporting process

improves by better responding to the needs of children who come forward. That is important.

My final point is about the debate about lodging amendments at stage 3, which relates to John Finnie's amendment 47. Of course, it is best for the parliamentary process if members lodge amendments and make suggestions as early as possible. However, we are failing in our duty as parliamentarians if, when someone raises a substantial issue at stage 3, we do not engage with or vote for an amendment on the basis that it has been lodged late in the process.

The reality is that the Government has a substantial number of MSPs, so getting an Opposition party amendment agreed to requires the support of all Opposition parties. That is a strong safeguard to ensure that any amendment that is agreed to is not lax. I accept that members should lodge amendments earlier in the process in order to allow scrutiny, but if a gap is identified at stage 3, as was identified by John Finnie and other stakeholders, we should address it.

The bill is a good piece of legislation. However, as the minister said, this is only the start of the journey. Let us hope that the bill is a platform to better serve the interests of children in Scotland.

19:03

Margaret Mitchell (Central Scotland) (Con): I thank all those who took the time to give evidence on the bill. I pay tribute to the Justice Committee clerks and broadcasting staff for their hard work that enabled members to agree to the stage 1 report and dispose of the stage 2 amendments virtually. I also thank all the clerks with whom I have worked over the past four years for their support and assistance, and I wish Adam Tomkins well in his new role.

The bill focuses on, among other issues, one of the most contentious aspects of family law—namely, agreeing contact arrangements for children when their parents decide to live apart and separation is not amicable. Those children and young people are often the innocent bystanders, who suffer collateral damage and are frequently hopelessly conflicted. I feared, therefore, that the discussion with key stakeholders and the wider public debate during the scrutiny process might end up being acrimonious, but the opposite has proved to be the case. Why? Quite simply, it is because the bill concentrates on the interests of children and young people and, crucially, ensures that their voices are heard.

Furthermore, during the scrutiny process the bill has been improved through the removal of age limits in relation to a child being deemed mature enough to give a view. Provisions on the voice of

the child have been strengthened by making it clear that children and young people must be able to express their views in the manner that they prefer.

Section 16, on investigations into breaches of court orders, now explicitly requires “the child’s views” to be sought. The bill also includes vital confidentiality provisions, to avoid young people’s trust being undermined and ensure that the best interests of the child must now be the “primary consideration” in considering the disclosure of information—including, for example, young people’s diaries.

However, it must be stressed that legislation alone will not ensure that the voice of the child or young person is heard or that contact centres will be able to continue to play their vital role, without adequate allocation of resources.

I turn now to the amendments on alternative dispute resolution. As a result of those amendments, the bill now provides for a viable mechanism to fund a pilot scheme to raise awareness of mediation as a possible alternative to court action. Mediation and early resolution help to prevent views from becoming entrenched, and reduce trauma. More than that, in the midst of a dispute about contact, young people frequently—and irrationally—blame themselves, believing that they have somehow contributed to the break-up of the family. Through mediation, those feelings and other misunderstandings can be addressed.

The amendments that have been passed ensure that the text of the bill confirms that the child’s voice will be heard and bespoke, family-focused solutions to parenting disputes will be put in place. However, merely signposting people to where they can find out more about mediation will not be sufficient to encourage parents even to explore the option. It was for that reason that the committee unanimously agreed that mandatory mediation information meetings should be piloted, with an exception in the case of domestic abuse.

The Children (Scotland) Bill represents a significant step in ensuring that children and young people’s wellbeing is at the centre of proceedings that concern their future when parents separate, and the Scottish Conservatives will take much pleasure in voting in favour of it this evening.

19:07

Ash Denham: I thank those members who contributed to the debate on the bill, and I put on record my thanks to the bill team for their hard work and unstinting support of me as we developed the legislation. The debate has shown that improving the family courts remains an important issue for a number of members, and I hope that the bill will be the start of the process of

making those improvements. I will address a few of the comments from members.

Liam Kerr and a number of other members highlighted the quality of evidence that was given by those with lived experience, and how that evidence has shaped what has ended up in the bill. That included the evidence on contact centres and domestic abuse, and on Liam McArthur's amendments on confidentiality of information. That is how it should be, and I thank Liam Kerr for his comments on the collaborative nature of the process.

John Finnie said that the voice of the child is going to be listened to differently now, and he noted the "pivotal" nature of the regulation of child welfare reporters. That point was brought to life in evidence to the committee—which John Finnie cited—from a child who said that what had appeared in a child welfare report was not what they had said. I agree on the pivotal nature of that step forward. Rona Mackay also mentioned the voice of the child in her contribution, and commented that the bill gives children a voice in a justice system that is designed for adults.

James Kelly spoke about child contact centres and emphasised how welcome the regulation of those centres would be in order to ensure the safety of children who attend them. He said that the bill is an important piece of legislation, and I agree with him whole-heartedly on that.

Rona Mackay highlighted the evidence to the committee from young people on their experiences of child contact, and how that evidence has shaped what has ultimately ended up in the legislation. I worked hard to incorporate suggestions from the committee and external stakeholders on how to improve the bill. I have worked with members across the chamber, wherever I could, on areas of concern to them.

The policy that underpins a bill is a bit like a snapshot—a moment in time. We know what we want it to look like, and we line it up as best we can. I know that this is not the end of the road for family law, but it is a step forward, and a significant one at that.

The bill puts children's views at the centre, and children can give their views in a manner that they prefer. Then, important decisions about what is happening to them will be communicated to them in child-friendly language.

The bill also includes measures to deliver proper participation to brothers and sisters in children's hearings cases. Victims of domestic abuse will be further protected, as those who are convicted of domestic abuse will now be prohibited from representing themselves in court. Child welfare reporters will have to meet standards of training and experience. For the first time, contact centres

will be regulated, and they will have to meet minimum standards of accommodation and staff training.

With the child at the centre, the Children (Scotland) Bill allows a child's voice to be heard at a key moment—at a time when their life might have just been turned upside down and they are worried about what is going to happen to them in the future. It is very important that we listen to what they have to say.

When I met children who had gone through the family court system, one girl said to me, memorably:

"No one is listening to me."

This evening, I can say to her and to all the children in Scotland who are going through the family courts at the moment or who will go through them in the future: I listened, the Scottish Government listened, and the Parliament has listened.

The Presiding Officer (Ken Macintosh): That concludes our debate on the Children (Scotland) Bill. We will shortly come to a vote on the bill. I ask all members to open their voting app if they have not already done so, ensuring that they have refreshed the page. We will not vote just yet but, if members could do that now, we will hopefully be ready when we come to the vote. When you open the app, you should see no vote currently open.

Parliamentary Bureau Motion

19:12

The Presiding Officer (Ken Macintosh): The next item of business is consideration of Parliamentary Bureau motion S5M-22528, on approval of a Scottish statutory instrument. I invite Graeme Dey, on behalf of the Parliamentary Bureau, to move the motion.

Motion moved,

That the Parliament agrees that the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/188) be approved.—[*Graeme Dey*]

Decision Time

19:13

The Presiding Officer (Ken Macintosh): I hope that members will now have opened their apps. [*Interruption.*] Patience, Mr Halcro Johnston. Before we come to the vote, we should ensure that everybody has opened their voting app. Is anybody here still waiting for their page to show? It should indicate that no vote is currently open. If anyone does not have that page, they should raise their hand.

No one has indicated that that is the case, which is excellent. Hopefully it is all working online.

The first question is, that motion S5M-22505, in the name of Ash Denham, on the Children (Scotland) Bill, be agreed to. Are we agreed?

Members: Yes.

The Presiding Officer: We will move to a vote, as this is for an act.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Motherwell and Wishaw) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Arthur, Tom (Renfrewshire South) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Balfour, Jeremy (Lothian) (Con)
 Ballantyne, Michelle (South Scotland) (Con)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Bowman, Bill (North East Scotland) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burnett, Alexander (Aberdeenshire West) (Con)
 Cameron, Donald (Highlands and Islands) (Con)
 Campbell, Aileen (Clydesdale) (SNP)
 Carlaw, Jackson (Eastwood) (Con)
 Carson, Finlay (Galloway and West Dumfries) (Con)
 Chapman, Peter (North East Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Cole-Hamilton, Alex (Edinburgh Western) (LD)
 Constance, Angela (Almond Valley) (SNP)
 Corry, Maurice (West Scotland) (Con)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Edinburgh Central) (Con)
 Denham, Ash (Edinburgh Eastern) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Doris, Bob (Glasgow Maryhill and Springburn) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Ewing, Annabelle (Cowdenbeath) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Green)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Freeman, Jeane (Carrick, Cumnock and Doon Valley) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gilruth, Jenny (Mid Fife and Glenrothes) (SNP)

Golden, Maurice (West Scotland) (Con)
 Gougeon, Mairi (Angus North and Mearns) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and
 Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Greene, Jamie (West Scotland) (Con)
 Greer, Ross (West Scotland) (Green)
 Griffin, Mark (Central Scotland) (Lab)
 Hamilton, Rachael (Ettrick, Roxburgh and Berwickshire)
 (Con)
 Harper, Emma (South Scotland) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Haughey, Clare (Rutherglen) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Johnson, Daniel (Edinburgh Southern) (Lab)
 Halcro Johnston, Jamie (Highlands and Islands) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Glasgow) (Lab)
 Kerr, Liam (North East Scotland) (Con)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow) (Lab)
 Lennon, Monica (Central Scotland) (Lab)
 Leonard, Richard (Central Scotland) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lockhart, Dean (Mid Scotland and Fife) (Con)
 Lyle, Richard (Uddingston and Bellshill) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Macpherson, Ben (Edinburgh Northern and Leith) (SNP)
 Maguire, Ruth (Cunninghame South) (SNP)
 Martin, Gillian (Aberdeenshire East) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Mason, Tom (North East Scotland) (Con)
 Matheson, Michael (Falkirk West) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McDonald, Mark (Aberdeen Donside) (Ind)
 McKee, Ivan (Glasgow Provan) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse)
 (SNP)
 McMillan, Stuart (Greenock and Inverclyde) (SNP)
 McNeill, Pauline (Glasgow) (Lab)
 Mitchell, Margaret (Central Scotland) (Con)
 Mundell, Oliver (Dumfriesshire) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Rennie, Willie (North East Fife) (LD)
 Robison, Shona (Dundee City East) (SNP)
 Ross, Gail (Caithness, Sutherland and Ross) (SNP)
 Rumbles, Mike (North East Scotland) (LD)
 Ruskell, Mark (Mid Scotland and Fife) (Green)
 Sarwar, Anas (Glasgow) (Lab)
 Smith, Elaine (Central Scotland) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Smyth, Colin (South Scotland) (Lab)
 Somerville, Shirley-Anne (Dunfermline) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Alexander (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Todd, Maree (Highlands and Islands) (SNP)
 Tomkins, Adam (Glasgow) (Con)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine)
 (SNP)
 Wells, Annie (Glasgow) (Con)
 Wheelhouse, Paul (South Scotland) (SNP)

White, Sandra (Glasgow Kelvin) (SNP)
 Whittle, Brian (South Scotland) (Con)
 Wightman, Andy (Lothian) (Green)
 Wishart, Beatrice (Shetland Islands) (LD)
 Yousaf, Humza (Glasgow Pollok) (SNP)

The Presiding Officer: The result of the
 division is: For 113, Against 0, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the Children (Scotland)
 Bill be passed.

The Presiding Officer: As the motion is agreed
 to, the Children (Scotland) Bill is passed.
 [Applause.]

The final question is, that motion S5M-22528, in
 the name of Graeme Dey, on approval of a
 Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the Social Care Staff
 Support Fund (Coronavirus) (Scotland) Regulations 2020
 (SSI 2020/188) be approved.

Meeting closed at 19:15.

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

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