

**Conveners Group**  
**Meeting with the First Minister**  
**Wednesday 8 May 2019**

*Transcript prepared by the Scottish Parliament Official Report*

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## **CONVENERS GROUP**

### **CONVENER**

\*The Deputy Presiding Officer (Christine Grahame)

### **MEMBERS**

- \*Clare Adamson (Convener, Education and Skills Committee)
- \*Bruce Crawford (Convener, Finance and Constitution Committee)
- \*Bob Doris (Convener, Social Security Committee)
- \*James Dornan (Convener, Local Government and Communities Committee)
- \*Bill Kidd (Convener, Standards, Procedures and Public Appointments Committee)
- \*Johann Lamont (Convener, Public Petitions Committee)
- \*Gordon Lindhurst (Convener, Economy, Energy and Fair Work Committee)
- \*Lewis Macdonald (Convener, Health and Sport Committee)
- \*Ruth Maguire (Convener, Equalities and Human Rights Committee)
- \*Jenny Marra (Convener, Public Audit and Post-legislative Scrutiny Committee)
- \*Gillian Martin (Convener, Environment, Climate Change and Land Reform Committee)
- \*Joan McAlpine (Convener, Culture, Tourism, Europe and External Affairs Committee)
- \*Margaret Mitchell (Convener, Justice Committee)
- \*Edward Mountain (Convener, Rural Economy and Connectivity Committee)
- \*Graham Simpson (Convener, Delegated Powers and Law Reform Committee)

\*attended

### **THE FOLLOWING ALSO PARTICIPATED:**

The First Minister (Nicola Sturgeon)

### **CLERK TO THE CONVENERS GROUP**

Susan Duffy (Clerk)

### **LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Conveners Group

Wednesday 8 May 2019

*[The Deputy Presiding Officer opened the meeting at 12:02]*

**The Deputy Presiding Officer (Christine Grahame):** I am pleased to be convening the sixth meeting in this session between the Conveners Group and the First Minister. I welcome the First Minister, as well as everyone who has come to watch this meeting, which gives conveners the opportunity to question the First Minister about the programme for government from the perspective of the Parliament's committees. We have up to two hours for today's meeting, and I propose to allocate around six minutes for the exchange on each convener's questions. Given that lots of questions cut across the remits of committees, if other conveners want to ask a supplementary question from the perspective of their committee following a particular exchange, they should indicate that to me. We have allowed extra time for those exchanges. I have about 20 minutes in hand for the initial exchange and any supplementary questions.

We need to finish around 1.55 pm at the latest, as chamber business starts at 2 pm. If we have time after each convener has asked their questions, I am quite happy for conveners to ask any other questions that they might have.

First Minister, do you wish to make any opening remarks?

**The First Minister (Nicola Sturgeon):** No; I am happy to move straight to questions.

**The Deputy Presiding Officer:** We have grouped the questions. The first grouping concerns Brexit and Brexit-related issues. Graham Simpson, from the DPLR Committee, will ask the first question. He will be followed by Joan McAlpine, from the—what's that?

**Susan Duffy (Clerk):** The Culture, Tourism—

**The Deputy Presiding Officer:** She has got all the names abbreviated in my notes. "CTEER"—I have no idea what that stands for. The culture, tourism and something else committee. There we are. You have to lead me by the nose in these things.

12:04

**Graham Simpson (Convener, Delegated Powers and Law Reform Committee):** Good afternoon, First Minister. DPLR stands for delegated powers and law reform.

**The First Minister:** That is in my briefing.

**Graham Simpson:** We deal with every piece of legislation—they all come through our committee. We do not take political views on them. We are not a political committee; we are merely a technical committee. Obviously, we have a bit of a workload. I should say at the outset that I thank your Minister for Parliamentary Business and Veterans, Graeme Dey, for the level of communication that he has brought to the job. That has been useful, and I think that all conveners would agree with that.

By my reckoning—according to some correspondence that we have received from Mr Dey—12 Scottish Government bills are being introduced this year, seven of which are still to be introduced. Added to that, 17 bills are already on the go. That is quite a programme. On top of that, there is the bill that you announced recently that will deal with the framework for a Scottish independence referendum. In the chamber, I asked whether you thought that introducing that bill would have a knock-on effect on the other pieces of legislation. I will ask that question again because, in the chamber, your response was basically, "You will manage." I have no doubt that we will manage, but I am interested to see whether anything is going to give.

**The First Minister:** I begin by recognising the workload on all committees, and particularly on the Delegated Powers and Law Reform Committee. The standard workload has, obviously, been added to in recent times as a result of the impact of Brexit and the subordinate legislation that requires to be considered in that regard. I put on record my thanks to the committee for all of that. I am also pleased to hear that the communication between Graeme Dey and your committee is good and positive, as I hope it is for all committees.

As I said in the chamber, we anticipate that we will introduce the framework bill this month. We do not intend that to displace or delay any other bills. Obviously, Graeme Dey will continue to discuss the timing, sequencing and day-to-day management of bills with committee conveners as appropriate, but we do not propose that any other bill will have to slip because of that one.

**Graham Simpson:** Are you absolutely confident that that will not be the case, or is that just your wish?

**The First Minister:** I am confident that there is no requirement for any other part of the legislative programme to slip. Often, when I come before the Conveners Group, I hear concerns expressed about the legislative burden on committees—I have heard that in particular from the Justice Committee in recent years—and, from time to time, committees have expressed concern about the fact that that burden might have an impact on the non-legislative work. We take all of that into account. I make absolutely no apology for the fact that we have a full legislative programme. All the legislation is merited. We do not introduce legislation for no reason.

I am confident of what I have told you. With any legislative programme, changes happen during the year for a variety of circumstances—in the last period, those circumstances have largely involved Brexit. We need to ensure that that dialogue continues, so that committees and the Government have a mutual understanding of each other's needs and priorities and how we collectively manage those. However, as I said, I am confident of what I have just said to you.

**Graham Simpson:** And your plan is to launch that bill this month.

**The First Minister:** As members know, the pre-introduction arrangements that have to be gone into with any bill will always have to be taken into account. However, as I said in the chamber two weeks ago, the plan is for this bill to be introduced in May. In the chamber, I said "next month" and that is the month that we are in now.

## Culture, Tourism, Europe and External Affairs Committee

12:08

**Joan McAlpine (Convener, Culture, Tourism, Europe and External Affairs Committee):** My committee has recently been taking evidence on the trade agreements that the United Kingdom Government has signed or is seeking to sign in order to replicate deals that Scotland already benefits from through membership of the European Union. Those are sometimes called roll-over agreements, but my committee is aware that there is no such legal concept as the roll-over agreement and that some of the agreements that the UK Government has signed differ considerably in terms of coverage from the agreements that the EU already has. To what extent has the Scottish Government been involved in discussions with the UK Government on the content of the proposed agreements, prior to the UK Government formally signing them?

**The First Minister:** This is an important question that focuses on a particular aspect of Brexit planning. The context of this is that the UK Government is working through a trade agreement continuity programme in order to—to use the phrase that you used—roll over trade agreements that are currently in place between the EU and different countries that the UK will have to deal with.

If the withdrawal agreement had been passed, the EU would have asked those countries to roll over the agreements but, in the absence of that, the UK is having a number of bilateral discussions. My information is that, of the 40 or so agreements that fall into that category, nine have been signed so far, so that is an on-going programme of work.

To go to the heart of your question—I will be as diplomatic as I possibly can be, and, obviously, I am known for my diplomacy—that issue is one of many aspects of Brexit planning where the involvement of and dialogue with the Scottish Government and devolved Administrations generally have been woefully inadequate. As you rightly say, there has always been an understanding that, in the process of trying to replicate those agreements, changes may be made to their scope or detailed content, and those changes may well impact on areas of devolved responsibility. My expectation, both for those agreements and for new trade agreements, if we have them in future, is that the Scottish Government and, probably more importantly, the Scottish Parliament will have a formal role in scrutinising, commenting on and influencing their detail. That is not unusual in other countries where there are devolved or federal arrangements.

That has not been the reality in the experience so far on the issue. Drafts of the agreements have not been shared with the Scottish Government and we have not had the opportunity to comment in detail. By and large, the involvement has been by way of updates from the UK Government. Often, those updates are given after the event, so the UK Government is telling us things that have already happened rather than giving us the opportunity to influence what will happen. That is one of many areas where the experience has been frustrating. Given the job of the Scottish Government and, if I may say so, the job of the Scottish Parliament and its committees to properly scrutinise work that has a big impact on our responsibilities, the situation has just not been what we would expect it to be.

**Joan McAlpine:** That answer reflects my committee's experience. In fact, my committee learned about the agreements only when they were passed to us by a House of Lords committee that had been given them by the UK Government. I believe that the House of Lords committee got them before the Scottish Government did. Clearly, there is a problem there.

My committee is aware that geographical indicators and state aid are areas of disagreement between the Scottish and UK Governments with regard to the extent to which those policy areas are devolved or reserved. Given the significance of those issues to devolved competences and Scottish interests more widely, can you provide us with an update on whether progress has been made? In particular, state aid impacts on our ability to provide Government support to vital infrastructure projects and Scottish companies, for example.

**The First Minister:** You rightly cite state aid and geographical indicators, and there are a number of other areas where there is not an alignment of view between the Scottish and UK Governments as to whether matters are devolved or reserved. In my view, those areas are either clearly devolved or they have such an impact on devolved responsibilities that the Scottish Government and Scottish Parliament should have a significant role in determining policy. Discussions on that are on-going. We have not reached final definitive conclusions on all those matters. There is frustration that our views on those matters are not being taken as seriously as they should be. Obviously, I do not speak for the Welsh Government and I would not try to do so but, in general, it would voice the same concern as I am voicing now.

The issue speaks to a wider and deeper concern that I have about the future, which I voiced in my statement to Parliament a couple of weeks ago. It is that, over the next period, for the

first time in the 20 years of this institution, there is a risk that devolution will go into reverse. That does not necessarily mean a wholesale removal of powers; it could be an interpretation of the Scotland Act 1998 and the reserved-devolved split so that, where there is any doubt, instead of there being almost a presumption that a kind of subsidiarity principle is in play—although I would not say that that has always worked perfectly or as we would have wanted it to—things will be interpreted as tightly as possible in order to say that they are reserved. We are already starting to detect that, and it will lead to creeping centralisation.

On trade deals in particular, the desire on the part of the UK Government to impose uniformity—even in areas that are devolved—will fuel such an approach. That is a big concern for the Scottish Government and it should be a massive concern for the Scottish Parliament. When that approach is coupled with, as we have seen, the UK Government's willingness to override the consent of this Parliament, then, even before we get into debates about having greater powers or independence, lots of alarm bells should be ringing about the future of the current devolved settlement. That should be of concern to all members of this Parliament.

## Finance and Constitution Committee

12:15

**Bruce Crawford (Convener, Finance and Constitution Committee):** My question is a follow-up to your opening exchange and your response to Joan McAlpine. As you know, the current devolution settlement that is set out in the Scotland Act 1998 is based on a clear distinction between reserved and non-reserved powers. Given Brexit, does the way in which devolution is set out in that legislation remain robust enough? Do there need to be changes?

**The First Minister:** There need to be substantial and fundamental changes. Again, I do not need to look into a crystal ball to answer that question, because we can draw on our experience of the past couple of years, which is irrespective of our differing views on the future of this Parliament.

The devolution settlement had stood the test of time. The Sewel convention, for example, had stood the test of time, but suddenly it no longer does. On the first substantive occasion in which the Scottish and UK Governments' views were opposed, the UK Government disregarded the convention and rode roughshod over the consent provisions of this Parliament. Another example is the situation with the European Union (Withdrawal) Act 2018, which was passed by the UK Parliament despite our refusal to consent to it. That legislation contains provisions that will reduce the competence of the Scottish Parliament. A lot of that was played out in the Supreme Court decision on our UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill.

We have also had instances in which the accepted financial arrangements that came about as a result of the fiscal framework have suddenly not counted for anything. There is the payment that the UK Government made to the Democratic Unionist Party, so that the DUP would be in coalition with it, to consider in that regard, too.

That is the experience. As I have just said to Joan McAlpine, all that should make us very wary about the future. Conventions such as the Sewel convention do not mean anything if the UK Government respects them only when it suits it to do so. The same is true of the financial arrangements that govern the budgetary situation. There is a need for a fundamental look at all that.

Again, I stress that I am not talking about the wider debates about having greater powers or independence for the Scottish Parliament—I am talking about how the current settlement works. In

my view, even before we get into those wider debates, that area is ripe for reform.

**Bruce Crawford:** At this morning's Finance and Constitution Committee meeting, we heard from Derek Mackay, the finance secretary, that he was minded to consider asking for the assignation of VAT to be delayed. In summary, that is due to the complexity and volatility of the assignation of VAT on the basis of estimates and not outturn data. He told us that there was a very real risk to the Scottish budget as a result of that complexity and volatility—it could potentially amount to many millions of pounds.

The finance secretary said that he was considering whether, given Brexit, the prospect of full devolution of VAT rather than the assignation of VAT might be a better option. Given that committee discussions can be a bit limited, will you say a bit more about the Scottish Government's position on that?

**The First Minister:** I am happy to. I know that the finance secretary was discussing that issue with the committee this morning. The Scottish Government is, very deliberately, thinking hard and carefully about the matter, and the committee's views will be helpful to us in reaching a final conclusion.

We want as many powers as possible to lie with the Scottish Parliament. The current proposal on VAT does not devolve any power over VAT to this Parliament—the decisions on the rates and the levels of VAT will remain reserved. The proposal is simply about assigning a proportion of the VAT revenues to the Scottish Government budget, with consequent reductions in the block grant funding.

The concern comes from the methodology that is being proposed. It was never intended that any real outturn data should guide the decision; it is based on estimates. In normal times, that would give rise to concerns, but in a time of such instability, largely because of Brexit, the Scottish Government's judgment is that proceeding on that basis could result in a significant hit to the Scottish budget. That is why we have been so open with the committee about the risk and about what the options are.

I stress that the issue is not about the Scottish Government not taking on or postponing a power; it is about a way of calculating the Scottish budget that has enormous risk attached to it. Is it sensible to calculate the budget using the proposed methodology at a time when there is so much volatility in relation to some of the factors that drive the calculation?

Some of the opposition to the full devolution of powers over VAT resulted from European Union rules on the matter. However, if the UK leaves the European Union—although, obviously, I do not



want Brexit to happen—that will open up the discussion about whether, instead of a VAT assignment, we should have proper devolution of powers over VAT. We might want to discuss that matter in the period ahead.

We are being open and frank with the committee and the wider Parliament about our fundamental and profound concerns about the implications for the Scottish budget. We will listen carefully to the committee's views as we decide on the best way forward.

## Equalities and Human Rights Committee

12:21

**Ruth Maguire (Convener, Equalities and Human Rights Committee):** The UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill provided for the retention of the Charter of Fundamental Human Rights post-Brexit. Given that that is no longer possible as a consequence of the Supreme Court's ruling, what are you doing to ensure not just that human rights protections are maintained but that they continue to keep pace with those of the European Union?

**The First Minister:** We are determined to do everything within our power to ensure that there is no erosion of human rights protections as a result of Brexit. The advisory group that we asked to look at such issues recommended three principles, to which we have signed up and will adhere. First, there should be no regression; secondly, we should try to keep pace with new European developments; and, thirdly, Scotland should always seek to be a leader in human rights through the decisions that we take. Those are the principles that will guide what we do.

The fact that, as it stands, the EU Charter of Fundamental Human Rights will not be part of domestic law is a matter of concern, because such rights have an impact on each and every one of us. That is a concrete example of our power to enshrine something in law being taken away from the Parliament without our consent, which should add to our concern about the matter. In the light of the Supreme Court's decision, Mike Russell has had discussions with all parties about the future of the continuity bill. That has been made clear.

We will ask the new national human rights task force, whose establishment I announced in December, to consider how we best enshrine the principles and values of the EU charter in Scots law. That will help us to ensure that the importance of the charter is addressed in the new human rights framework that the advisory group has recommended. We remain committed to having the charter reflected in Scots law one way or another.

**Ruth Maguire:** Will you provide a little more clarification on the establishment, structure and membership of the task force? Do you have any other information that you can share with us?

**The First Minister:** Work is under way to establish the task force, which was one of the key recommendations that the advisory group made. We are making final decisions on structure and membership, and we will make announcements on

those in, I hope, the fairly near future. We will keep Parliament fully up to date with developments as they take place.

We are very conscious that a number of the recommendations that the Equalities and Human Rights Committee has made—in relation to how we monitor our performance against international treaties, for example—are very similar to, or overlap with, the advisory group's recommendations. Therefore, it will be important, in the fullness of time, for there to be good dialogue and engagement between the committee and the task force, so it is important that we think through all the issues properly at this stage.

**Ruth Maguire:** Finally, and staying on the subject of human rights, I would welcome hearing your views on how such rights could be more clearly articulated in the budget process. Embedding human rights at the policy formulation stage is important for giving people positive outcomes in their lives. What work is being undertaken in that area, and how do you see human rights interacting with equalities in the budget and its associated tools?

**The First Minister:** I am very committed to seeing equalities and a human rights approach being firmly embedded in our policy making and our budgetary decisions, otherwise we will not achieve what we want to do.

The Scottish Government's outcomes-based approach, which is encapsulated in the national performance framework, is key to that and also underpins the budget process. The equality budget advisory group plays a key role, has been involved in shaping the budget process for a number of years and is currently developing mechanisms to integrate human rights analysis alongside equality considerations. The Scottish Human Rights Commission is represented on that advisory group, and I know that there was a recent meeting of the Parliament's Equalities and Human Rights Committee, the advisory group and the commission to explore the practical challenges that must now be addressed. There has been broad agreement, but the challenge now is to ensure that the practical arrangements support that and lead to the outcomes that we want to see. The work of the committee that you convene is crucial to getting that process right.

## Standards, Procedures and Public Appointments Committee

12:26

**Bill Kidd (Convener, Standards, Procedures and Public Appointments Committee):** Is the microphone turned on?

**The Deputy Presiding Officer:** I certainly hope so. Are you turned on?

**Bruce Crawford:** He has just turned it off.

**The Deputy Presiding Officer:** You have just turned it off. So much for procedures. [*Laughter.*]

**Bill Kidd:** The Standards, Procedures and Public Appointment Committee will consider the proposed electoral franchise bill when it is introduced. The Scottish Government's programme for government states that the proposed bill

"will include provisions to extend the franchise for Scottish Parliament and Local Government elections to protect the franchise for EU citizens."

To whom do you plan to extend the franchise and how will that be done?

**The First Minister:** As I hope has been clear, the Scottish Government is determined to protect the position and the franchise of EU citizens who are in Scotland just now. I will try to put in simple terms what the electoral franchise bill will do in that regard. Right now, only British, qualifying Commonwealth, Irish and EU citizens who are resident in Scotland can vote in Scottish Parliament and local government elections. The bill proposes that the franchise for devolved elections—the only ones for which we have the power to legislate—should be open to everyone who is legally resident in Scotland, regardless of which country they come from. That will certainly help to protect EU citizens' right to vote, but it will also help to broaden the right to vote to some extent. It will mean that citizens of all countries, provided that they are legally resident in Scotland, will be able to vote in Scottish Parliament and local government elections and will be able to register to vote in the usual way.

**Bill Kidd:** We do not know what will happen on Brexit—the situation seems to change from day to day—but once it has been agreed, do you hope to be able to provide more comfort for citizens who live here in Scotland but originate from EU countries, so that we can ensure that the franchise is as wide and legitimate as possible?

**The First Minister:** We can give that comfort now, as far as devolved elections are concerned. That is not the only aim of the electoral franchise bill, but it is one. We are not in direct control of

elections that remain the responsibility of the UK Government, but I certainly hope that it will take similar action.

More generally, I still think that the way in which EU citizens are being treated is appalling. The Scottish Government was one of many different groups that argued for the fee for settled status to be dropped. I am glad that it was, but for EU citizens, many of whom have seen Scotland and the UK as their home for many years, to be forced to go through any kind of bureaucratic process is a retrograde step.

12:30

All of that, of course, is compounded by the fact that it is not just a good thing in principle that we attract people from other countries to come and live here, as well as encouraging Scottish people, particularly young people, to experience Europe and the world; Scotland has a driving imperative to continue to attract people to come here because of our demographics. The population statistics that were published last week or the week before underline that. I think that this is a matter of regret in principle but also for practical reasons.

**Bill Kidd:** I think that that gives a lot of comfort. Thank you, First Minister.

**The Deputy Presiding Officer:** The next two questions are budget related. They will be asked by Lewis Macdonald, convener of the Health and Sport Committee, and Margaret Mitchell.

## Health and Sport Committee

12:30

**Lewis Macdonald (Convener, Health and Sport Committee):** The Government published the medium-term financial framework for health and social care a few months ago, setting out the financial picture across Scotland and, looking towards 2024, indicating that there will be a need to save £1.7 billion over that period within the budget. In its pre-budget report for the current year, the Health and Sport Committee asked how that would apply at health board level, and the Government's response was that work was being done with health boards to look at medium and longer-term financial planning both for individual boards and on a regional level. What progress has been made with that work? Will the regional and local medium-term financial plans be made public?

**The First Minister:** First, I should say that, as I think you know and everybody knows, the medium-term financial plan for the national health service exists in the context of rising health budgets. We made a commitment to increase the health budget by £2 billion over the current session of Parliament, and we have seen increases year on year. Health spending is now at record levels, and that is right. However, none of that is to say that life is easy for those who manage budgets in the health service—it is not.

The savings targets are about greater efficiency in our health service, and they are also about spending money better. The integration of health and social care is an example. It is about delivering better care, but it is also about using health resources better.

The work is on-going with health boards. Jeane Freeman has announced the change to how we deal with health boards in terms of annual budgeting—having three-year budget planning and allowing health boards to carry forward the variance will give health boards a lot more flexibility.

On your question about whether the plans will be made public, we have given a commitment to be transparent about all of this. I know that your committee is now given much more regular information—if it is not quite real time, it is more real time—on health boards' spend against budgeted estimates. We will be very happy and keen to share that information with the Health and Sport Committee and with Parliament more widely.

**Lewis Macdonald:** My next question is on the brokerage system—in other words, the system of Government loans to health boards that are unable to balance their books year by year. The latest figure, which is from the end of February,

suggests that there was £70 million of brokerage for the financial year 2018-19. Is it possible to say yet what the final tally of brokerage for that financial year will be? Also, is the Government confident that the boards that received brokerage in that year will be able to balance their books over the three years, as is now required?

**The First Minister:** I do not think that I have that figure. I will check whether it is available yet, and if it is, I will make sure that you get it. It may be that it is not available yet given the end-of-year processes that are involved.

We know that four NHS boards required brokerage in 2018-19: NHS Ayrshire and Arran, NHS Borders, NHS Highland and NHS Tayside. We expect health boards to manage their budgets within the three-year cycle and they can utilise the financial flexibility of a 1 per cent under or overspend provided that they deliver overall break-even by 2022. A couple of boards have already indicated plans to use the flexibility in the current financial year, 2019-20.

Obviously, we will continue to work closely with health boards in relation to their financial planning and performance against it. In some ways, brokerage is seen as negative, and I can understand why that is the case. We had brokerage for certain health boards when I was health secretary and, in some respects, I see it as positive, because it shows the relationship that we have between health boards and Government in Scotland. We seek to help health boards manage their finances so that there is no impact on patient care. Although the new arrangements put that on a slightly different footing, that close dialogue and relationship will continue to be important.

**Lewis Macdonald:** We still await the final budget plans for each of our integration authorities for the coming financial year. Are those plans complete and can that information now be made public?

**The First Minister:** The information will be made public as soon as it can be. We are continuing to step up efforts to ensure that the aims of integration, which everybody supports, are properly translated into the positive changes that communities and patients need. The ministerial strategic group for health and community care, which has been instrumental in helping to guide that process, published its final report in February. Collectively, integration authorities are now responsible for managing almost £9 billion, so the area is an increasingly important part of overall budgeting in our health service. Therefore, transparency and the need for your committee and Parliament generally to understand that budget are as important as they are with the whole health budget.

## Justice Committee

12:36

**Margaret Mitchell (Convener, Justice Committee):** In the Justice Committee's stage 1 reports on the Domestic Abuse (Scotland) Bill and the Management of Offenders (Scotland) Bill, the committee unanimously agreed that there was a need for those bills to be implemented effectively and with appropriate resources. The former Cabinet Secretary for Justice agreed to look at the financial support necessary to ensure that the legislation on domestic abuse and coercive and controlling behaviour is effectively resourced and implemented, and the current cabinet secretary acknowledged that the roll-out of home detention curfew under the Management of Offenders (Scotland) Bill will not work without the necessary resources. Despite that, the Scottish Government's 2019-20 budget contains a real-terms cut for criminal justice social work, a real-terms cut in funding for electronic monitoring and a 50 per cent cut in the budget for intensive support packages. Does the First Minister accept that her Government's decision not to back policies with the necessary resources not only undermines the policy objectives of those important bills but, more worryingly still, seriously undermines the Parliament's scrutiny process?

**The First Minister:** I do not accept that. There are always on-going discussions with committees and the different agencies that will be involved in relation to any bill. For example, with the Domestic Abuse (Scotland) Bill, which is now a flagship piece of legislation of which I think everyone in the Parliament is proud, resources were made available for awareness raising and training. With Humza Yousaf, I visited a Scottish Women's Aid centre in the east end of Glasgow just before that legislation took effect to see for myself the work that Scottish Women's Aid was leading on the issue.

We want all bills to be implemented effectively. Every bill comes with a financial memorandum, and committees carry out a lot of scrutiny of those financial memorandums. As we go through our budgetary process year in and year out, we keep those things under review.

On the Management of Offenders (Scotland) Bill, there is a lot to suggest that we are making strides in the right direction in terms of performance. That is about prevention and trying to use community sentences to keep offenders out of prison where that is appropriate and unless they need to be in prison. The prison population remains very high, so we need to continue to do that work and ensure that we spend resource there.

We will look to make those decisions. I do not need to tell anybody round this table that budgetary decisions year on year are incredibly difficult. We work hard to protect the budgets that Parliament collectively thinks are important. The reason why we have taken some of the tax decisions that we have taken, which I know have not been supported by everybody in the Parliament, has been to protect the budgets that are important, and that is what we will continue to do.

**Margaret Mitchell:** Awareness training is one thing, but it is fundamental to the implementation of both bills that criminal justice social work is adequately resourced.

I turn to the lack of capital funding available to the police, which means that ageing policing vehicles are not being replaced and the estate is not being properly maintained. That has been well documented, with some press coverage ridiculing the situation. What does the First Minister intend to do to rectify that situation and ensure that the police have the necessary resources that they require—and deserve—to enforce the law and protect the public?

**The First Minister:** In the budget for this financial year, the Scottish Police Authority's capital budget increased by 52 per cent. Therefore, the first thing that we are doing is to increase the budget that the police have available to them. That increase is to support further improvements to police information and communications technology, including improved mobile technology.

Since 2015, Police Scotland has invested more than £21 million in capital investment in its estate and £28 million in revenue spend on planned maintenance and repair. Police Scotland is clear that its fleet maintenance team does a good job—more than 96 per cent of its fleet is on the road.

We will continue to work closely with the Scottish Police Authority and Police Scotland to look at their future capital requirements. I do not have every budget line in front of me, but I hazard a guess that not every budget went up by 52 per cent this year. That is a recognition of the need to ensure that we invest in Police Scotland's capital requirements as well as protect the revenue budget—as we made a commitment to do for the entirety of this session of Parliament—which will deliver £100 million extra in revenue funding for the police over the period until 2020-21.

I am not trying to get political; these are not political sessions. However, Margaret Mitchell's party called for us not to take certain tax decisions, which would have removed £600 million from the Scottish budget. These are difficult decisions.

What I have just said shows that we are putting money where we consider the priorities lie.

**Margaret Mitchell:** Unfortunately, the response that the First Minister has just given seems to suggest "What crisis?" On a daily basis, the Scottish Police Federation is saying that the police do not have the resources, that police vehicles are not up to scratch and that police are having to close some of their estate. Will she reconsider her response?

**The First Minister:** I have just said that we have substantially increased Police Scotland's capital budget and we will continue to discuss with the police their capital requirements. Our budget is not infinite. We have to make very difficult budgetary decisions because of the overall climate and the pressures on our budget—we know where they emanate from. We make those decisions and we stand by them. We discuss where the balance of those decisions lies with the police service, the health service and local authorities. If the UK Government agreed to refund the £125 million of VAT that was paid by the police between 2013 and 2018, the police would have more money at their disposal. Perhaps that is something that Margaret Mitchell can join us in asking it to do.

**Margaret Mitchell:** Only if the money is allocated to the police, First Minister.

**The First Minister:** I will make a deal with Margaret Mitchell now. If she persuades the Tory Government in Westminster to give us the money, I will agree to give it all to the police.

**The Deputy Presiding Officer:** I will move on. I am supposed to be chairing this meeting; sometimes I am and sometimes I am not.

## Education and Skills Committee

12:43

**Clare Adamson (Convener, Education and Skills Committee):** First Minister, the Government has, vociferously, made its commitment to the United Nations Convention on the Rights of the Child and has said that it wants the convention to be embedded in civic life and legislation in Scotland.

One of the areas of concern for the Education and Skills Committee has been the experience in our schools of young people with additional support needs. We have taken sometimes harrowing and sometimes disturbing evidence from families whom the current system seems to have failed or for whom it has been problematic. What difference will a rights-based approach to education make for those young people?

**The First Minister:** We will shortly publish a consultation on exactly how we will go about the incorporation of the UN convention. Our plan is for that legislation to be passed within this session of Parliament, and I think that there is very broad-based support for it. It is very complex, given that it ranges across almost all areas of responsibility, and there are complexities around the split between devolved and reserved responsibilities. I therefore do not underestimate the complexity of the exercise, but it is important.

12:45

As for the impact of incorporation, it is really important that we see it as a way of making positive change where it is required. Anything like such a move will fail if all it does is result in court cases, with failures taken into the court process. However, the legislation provides a real opportunity, as a catalyst, to drive change across the whole area of our responsibilities.

With regard to additional support for learning, a rights-based approach is particularly important for any group in society that is more vulnerable than the population in general. Given the work of the Education and Skills Committee, you will know that we have been carrying out substantial work on additional support for learning. In March, we published for schools and local authorities a package of support for continued implementation of ASL. There was new guidance, and new research was published that gathered the views of children and parents on their experiences. All of that has been complemented by an Education Scotland training resource.

All of that work is important, and the education secretary has also committed to reviewing the implementation of additional support for learning,

including the issue of where children learn. After all, we want children to learn in places that most suit their own needs and circumstances.

**Clare Adamson:** I absolutely agree that the last thing that we want is a series of court cases. However, according to evidence that the committee took from Professor Sheila Riddell, in some local authorities 35 per cent of children have been identified as having additional support needs, but less than 0.3 per cent of the total school population has a statutory co-ordinated support plan. She said:

“Unless parents and children have the statutory support plan, they have no means of challenging local authority provision or of making use of the tribunal, in many cases.”—[*Official Report, Education and Skills Committee*, 27 February 2019; c 3.]

At the same meeting, May Dunsmuir of the First-tier Tribunal for Scotland said that some of the most successful cases at tribunal had received advocacy support provided by the Scottish Government. Obviously, we want the situation to improve, but how do you see parents, carers and young people being educated in the use of advocacy to ensure that they are aware of their rights and how to exercise them?

**The First Minister:** I have, like everyone, experience in my constituency case load as well as experience in my role as health secretary of the power of advocacy, and I am a huge and very committed supporter of advocacy for those who often cannot make their voice heard without it. I am certainly not going to sit here and say that we get advocacy right in all areas of policy where it is appropriate, and we need to continue to look at how we better support it.

The evidence taken by your committee underlines the importance of a rights-based approach. You do not want people to have to rely on enforcing those rights, but having that approach in place is often what drives improvements. The ability to enforce rights is a safety net that people should always have.

As a brief final comment, I do not want to give the impression that we think that incorporation of the UN Convention on the Rights of the Child is some sort of magic solution that means that people suddenly do not have to do anything else. The processes that we have discussed are ongoing, and we have to continue to prioritise them as we do the work on incorporation.

## Social Security Committee

12:48

**Bob Doris (Convener, Social Security Committee):** The Scottish Government will take on executive competence for all benefits being devolved to the Parliament on 1 April 2020, but I want to ask specifically about disability assistance. The cabinet secretary Shirley-Anne Somerville has pledged that no one will be subject to a Department for Work and Pensions face-to-face reassessment for disability benefits from early 2021, when the Scottish Government will launch new claims for our replacement for personal independence payments. That will require the DWP to identify Scottish PIP claimants who are approaching a PIP reassessment to ensure that they are transferred securely and timeously to the new Social Security Scotland system. First Minister, how confident are you that we are on track to achieve that and that any face-to-face assessment will be an assessment for Scottish disability assistance rather than a United Kingdom PIP reassessment?

**The First Minister:** First, let me reiterate the commitment that Shirley-Anne Somerville has given. Our intention is that, from that period in 2021 when we will take responsibility for new claimants, no individual who is already on the benefit and is coming up for a review or reassessment will have to undergo an assessment under the current arrangements.

Obviously, as with all aspects of the devolution of welfare benefits, we have to work very closely with the DWP. In many aspects, we depend on its doing certain things—that has been the case throughout. We are not taking a system wholesale and devolving it to Scotland; we are unpicking lots of the DWP's existing systems, and that makes things more complicated. Generally, although there will be frustrations and disagreements from time to time, we have a good working relationship with the DWP, and we are determined to ensure that the commitment that has been given will be delivered.

**Bob Doris:** One of the key aims of the new disability assistance assessments in Scotland is to ensure that disabled people are not needlessly called to face-to-face assessments to clear information that is available or to allow a pause for determination to be made. Can you provide information that suggests that that ambition will be realised? How many Scottish working-age disability assistance claimants do you expect will no longer be called to needless face-to-face reassessments or assessments?

**The First Minister:** I am not sure that I have that precise figure, but I can get it for you.

We do not want people to have to undergo face-to-face assessments that they do not need to undergo, and we do not want people to have to be assessed by private companies. The assessments will be in-house ones by Social Security Scotland. We are undertaking a huge amount of work to ensure that we can meet the timetable that we have set and that the assessment processes will be ready in time for delivery. The cabinet secretary will make an announcement tomorrow, I think, that a contract to support the design of assessments for the new system has been awarded. That will look at the design of the assessment centre network across Scotland and will include close working with users to consider what major improvements to the current system are necessary.

Once the Scottish system is up and running, the assessments will be carried out by Social Security Scotland and fully supported by public sector health professionals. The system will give people a lot more choice and flexibility in their assessments, including in relation to times and locations that suit them, with the option of home visits for people if they need them.

We have already made a lot of progress in identifying improvements so that we have what we describe as a people-centred service. We want to ensure that that work continues so that we deliver on our commitments.

**Bob Doris:** Finally, the majority of the Social Security Committee called on the UK Government to reverse pension credit changes that would mean that mixed-age couples would lose out to the tune of around £7,000 a year. The committee also unanimously agreed to urge the UK Government at least to delay the changes by six months, given that 40 per cent of people fail to claim their pension credit in the first place. How can the Scottish Government ensure that benefit uptake improves even if it does not have the powers to reverse those cuts?

**The First Minister:** We, too, are concerned about the pension credit change, and we have written to the UK Government to outline our opposition to it. We asked to see the impact assessment that the DWP carried out on the policy, and we were told by the minister responsible that there was no impact assessment. The DWP just published some ad hoc statistics, which showed that a lot of people will potentially be affected—in some cases, to the tune of £7,000.

This is not a new issue in respect of benefits that we are not responsible for. We often work hard with other agencies—Citizens Advice Scotland, for example—to encourage people to

apply for and take up their entitlement to benefits. That becomes more important as such changes are made.

## Economy, Energy and Fair Work Committee

12:54

**Gordon Lindhurst (Convener, Economy, Energy and Fair Work Committee):** First Minister, you will be aware that the Economy, Energy and Fair Work Committee has been looking at the Burntisland Fabrications situation. The programme for government states that the Scottish Government will

“work to ensure that businesses reap the onshore benefits of offshore generation.”

The committee heard from the unions and BiFab that, no matter how competitive Scotland-based companies are in their bids for offshore renewables work, they will not win contracts if they are undercut by loss-making state-owned companies in other parts of Europe or elsewhere in the world. Do you agree with that? If so, what does the Scottish Government intend to do about it?

**The First Minister:** I certainly strongly share the unions’ concern. In the chamber, I have been frank that we are not doing as well as we should be doing or want to do at winning the supply chain benefits from major renewables projects, many of which are offshore. As you will probably know, Derek Mackay convened a summit last Thursday involving the unions, the UK Government and industry to look at what more we can do.

In summarising the position, I do not want to oversimplify matters, but there are two main concerns. The first is the one that you have cited. Companies such as DF Barnes, which now owns BiFab, have a very clear view that foreign yards are making bids that are so low that they could not possibly be profitable, which gives rise to the concern that there is a hidden subsidy from Governments in other countries. We have had discussions with the UK Government about how we can understand the situation better, so that, if needs be, we can raise any concerns with the European Commission. That work is on-going.

The second concern is whether we can do more. In that regard, there are questions for the UK Government that are related to contracts for difference, and there are questions for the Scottish Government that are related to licensing and Crown Estate arrangements. We need to ask whether we can do more to mandate Scottish or UK content in the supply chain.

We are looking at all those issues. I know that there was fairly positive feedback from those who were at last week’s summit. We are working very hard on both elements to make sure that, in an



open and competitive way, we are winning as much of the work for Scottish companies such as BiFab as we can.

**Gordon Lindhurst:** On what can be done, the committee heard that the BiFab yard in Methil is leased to the company by Scottish Enterprise. Is the Government willing to put in investment to make that yard a world-leading facility and to ensure that Scotland's port and yard infrastructure is the best that it can be?

**The First Minister:** I met DF Barnes not that long ago, and I have met it on previous occasions. We discuss all those issues on an on-going basis. The Scottish Government is, of course, a shareholder in BiFab. We do not involve ourselves in the company's operational decisions, but, because of the support that we have already given both to save it from going into administration and for the buy-out by the new company, we also have a financial interest on behalf of the taxpayer.

I do not want to put words into anybody else's mouth—and if DF Barnes was sitting here, it might say something different—but I do not think that the investment issues at the yard were the key issues of concern in relation to the recent unsuccessful contract bids, although there are clearly views, which the unions have expressed, about the need for investment in the Methil yard. We will continue to look at the Scottish Government's role in the yard, although, as I have said, we have already made available significant financial support.

**Gordon Lindhurst:** The last time that you were before the Conveners Group, I asked about the Government's plans for a publicly owned energy company, which the programme for government indicates will be delivered by 2021. We are now into May, yet although the policy was announced more than 18 months ago, I understand that no business plan has been published. There still appears to be little detail about how the company will operate or who will operate it. Have you seen a draft business plan? When will it be made public? What is your latest thinking on the policy?

**The First Minister:** On the on-going work in this area—work is on-going on most things—we published the independent strategic outline case, which I think that your committee looked at in detail. The work to develop the OBC is on-going and not yet complete. I have not seen the final version of it yet. The OBC will assess the detailed options for the company. We have already held two engagement events in order to get input from key stakeholders.

The OBC will be published in time to support a public consultation later this year. I will make sure that your committee is advised once the timescales are firmed up.

## Environment, Climate Change and Land Reform Committee

13:00

**Gillian Martin (Convener, Environment, Climate Change and Land Reform Committee):** First Minister, following your recent declaration of a climate emergency and the adoption of the Committee on Climate Change's recommended target of net zero emissions by 2045, will you set out how the Scottish Government intends to deliver a climate change plan within six months of royal assent being given to the Climate Change (Emissions Reduction Targets) (Scotland) Bill, as recommended by my committee?

**The First Minister:** That was recommended by your committee, and I confirmed in the chamber last week that we will abide by that recommendation. We plan to publish an updated climate change plan within six months of royal assent. That involves a lot of work and has a lot of resource implications, but I have made it clear publicly and within the organisation of the Scottish Government that it is a priority piece of work for us. During the summer, we will do some public engagement to inform the updating of the plan. We will look to take views from the public, communities, businesses and industry more generally about what we, in Scotland, need to do to deliver the policies that will allow us to meet the increased scale of ambition that we set out last week in response to the Committee on Climate Change.

At First Minister's question time last week, I said that that will involve our looking across the whole range of our responsibilities. Yesterday, we took a difficult decision on our air departure tax policy. Despite all the positive arguments that can be made—and that we have made—for that policy, it is now not in alignment with that increased ambition. There will be difficult decisions for not just the Scottish Government but all Governments, and it is important that we make those decisions openly and frankly. Governments not just here but elsewhere will succeed in that regard only if we involve the public centrally in the process, because it involves not just changes of Government policy but behaviour change on the part of every individual, business and organisation the length and breadth of the country.

**Gillian Martin:** As you said, tackling climate change cuts across pretty much all Government portfolios. What will you do to ensure that each cabinet secretary, minister and Government department takes ownership of climate change in the context of their portfolio?

**The First Minister:** We are very firm that, although we have a cabinet secretary for the environment and climate change, it is not just her responsibility, because the issue impacts across every area of responsibility. I think that all Governments have to take a similar view. Formally within the Scottish Government, that cross-cutting work is brought together in the Cabinet sub-committee on climate change, which was established specifically to ensure that we have a cross-cutting approach. We regularly discuss the issues in Cabinet as a whole, and it is fair to say that every cabinet secretary understands the impact on their area of work, which will often be very difficult. Like Governments everywhere, we can get better at cross-cutting approaches and joined-up working, but the Scottish Government already does very well in understanding that this is a cross-Government challenge.

**Gillian Martin:** It is not just a cross-portfolio challenge; it is also about collaboration and co-operation between Governments in these islands. Of course, the UK Government has not yet made a pronouncement on its view of the targets that it has been set by the Committee on Climate Change. How might the UK Government's decisions impact on our ability to meet our ambition in Scotland?

**The First Minister:** Last week's Committee on Climate Change report is explicit on that. For anybody with an interest, the report is worth reading, because it is clear that, although we can do a lot to meet our targets through our powers and responsibilities, we will not be able to do everything that we need to do without the UK Government also agreeing to the target that has been recommended for it, which is a slightly slower move to net zero than has been recommended for Scotland.

Roseanna Cunningham is writing—she has probably already done so—to the relevant UK Government minister, asking for a meeting to discuss the issue. I hope that the UK Government commits to the target of net zero emissions by 2050 as soon as possible and to the specific things that the Committee on Climate Change said that it had to do to deliver on its target and allow us to deliver on ours.

The Committee on Climate Change mentioned three specific areas. The first was carbon capture, which the UK Government has completely failed to get any momentum behind—it must up its game on carbon capture. Secondly, the committee said that the UK needs to bring forward its target date of 2040 for the move to electric and low-carbon vehicles. Our target date is 2032, so the UK Government needs to be more ambitious in its target. The third area related to the decarbonisation of the gas grid, and it stands to

reason that the Scottish Government cannot make that change unilaterally. Those are the areas in which the UK Government needs to take real action. A good starting point would be for it to do what we have done and say that it accepts the recommendations of the UK Committee on Climate Change.

## Public Audit and Post-legislative Scrutiny Committee

13:05

**Jenny Marra (Convener, Public Audit and Post-legislative Scrutiny Committee):** As the First Minister will know, the Public Audit and Post-legislative Scrutiny Committee's job is to follow the public pound. Over the past year or so, the committee has become increasingly concerned about the lack of data that is collected by the Scottish Government. The Government is making decisions on millions of pounds of expenditure without having the basic data to inform those decisions. As you know better than anyone, we need good data to plan where money should be spent and where savings can be made—and, crucially, to determine whether policies are making a difference.

First Minister, you will have been as concerned as the committee and I were following our taking evidence, a few months ago, from the Auditor General for Scotland on children's mental health. She found that the Scottish Government did not know the total amount of money that we are spending on children's mental health. The Government does not hold data on the reasons for the rejection of referrals to child and adolescent mental health services, which is a concern for all parliamentarians. Crucially, your Government does not have any data on how many children get better or on the outcomes of your policy. Clearly, Dame Denise Coia's work on children's mental health is very important. However, the Auditor General's report identified information gaps at Government level. The Auditor General has the same concerns about the lack of data to inform the Government's policies on early learning and childcare and on self-directed support.

The Parliament is moving to using a new budget process that is based on outcomes—that work is being led very ably by Bruce Crawford—but how can we do that job properly, given that the Scottish Government does not collect basic data to allow you and us to make good policy decisions for our citizens?

**The First Minister:** I genuinely think that this is an important area. However, it is not fair to say that the Scottish Government does not collect data, because we collect acres of data. Some people say that we put too many burdens on people in the public sector to collect data, which takes away from their ability to do their front-line jobs.

It is really important that we collect the right data to inform the development of policy and to help us to monitor the performance of policy, and that we

take action to fill the gaps in data. The work of the Public Audit and Post-legislative Scrutiny Committee and the Auditor General is important in that regard.

Jenny Marra mentioned mental health. We have already asked NHS boards to provide the Information Services Division, which publishes the key statistics on waiting times, with more detailed information on patients who are waiting for or receiving treatment through CAMHS.

We will work actively to ensure that we have good data and the right data to inform the judgments that require to be made. Our requirements are not set in stone. Often, over time, we are required to change the datasets that we look at so that they are kept up to date. Nevertheless, I will not sit here and say that there are never any gaps in data or areas in which we need to gather better data. We are committed to gathering that data when we need to do so.

**Jenny Marra:** Thank you for your answer, First Minister, which seems to be that we can always do better in collecting data. However, in her reports that have come in front of the committee, the Auditor General has been clear that the data is inadequate to inform the policy decisions that you are taking and for the amount of money that you are spending as a result of those decisions.

The Auditor General said that the Government did not set out how it would evaluate the success of its policy on early learning and childcare, that the Government did no economic modelling and that there was no information on the likely economic impact of the expansion of the policy. The Auditor General concluded:

"There is no evidence"—

none at all—

"that additional investment has improved the quality of ELC services".

That policy was a significant investment for your Government, and, in your answer to me, I think you said that we could always do better on data. I agree. You can always tinker and collect better data, but the data that has been collected on children's mental health is different in every health board—it is not shared across health boards, and that is nothing new. Why has progress not been made on this? Would you consider a Government data strategy on new policy and outcomes?

**The First Minister:** On the last point, I am happy to consider any proposals that come forward, so I will take that proposal away and your committee—or you, as the convener—might want to carry out some engagement work on exactly what you would want to see in that kind of strategy.

You have mentioned both CAMHS and early years services. I do not have the Auditor General's report on early years services in front of me, although obviously I read it when it was published. Some of what she said was about what she would have considered data or economic modelling to inform a decision to agree a particular policy.

We decided, as a Government—meaning we could put it in our election manifesto—that we wanted to significantly increase the state-funded element of childcare because of the benefits that we believe it brings to young people. I think that political parties and Governments are entitled to do that.

**Jenny Marra:** But that is exactly my point. You say that you believe it will bring benefits, but there is no hard evidence.

**The First Minister:** There is a robust governance programme around the implementation of the early years policy, which Maree Todd talks about regularly.

We are absolutely of the view that we need to have the data and the evidence—which will be different in different policy areas—to allow us to assess policies that we invest large amounts of money in. When the Auditor General publishes reports, we accept the recommendations and we work to put in place what she calls for. The health boards were not collecting consistent data on CAMHS, which is why we are now working with health boards to make sure that the data that ISD is gathering is both consistent and detailed enough for the judgments around performance to be made.

There will often be tensions in the debate. I—as, I am sure, you do—speak to front-line professionals in the health service and in other parts of the public sector, who tell me that they feel overburdened by the need to collect data. We must get that balance right. Often, as well as closing data gaps and gathering the right data, we need to look at whether we are gathering data that we do not need, which is not particularly helpful.

In some respects—you convene the PAPLS Committee, so I am sure that you feel like this sometimes as well—the amount of data that comes across my desk on a daily and weekly basis is enormous. There is no lack of data out there. I am not saying that there is not a lack of data for particular issues and particular policy areas, but there is generally no lack of data. We need to be looking at whether we are gathering the right data and whether there are gaps or inconsistencies in how we do that. There is a willingness to work with your committee as well as with Audit Scotland on that.

**The Deputy Presiding Officer:** I will move on to the next committee now, but there will be time

at the end for everybody to come back in. There is plenty of time—I just want to give everybody their space at the beginning.

## Rural Economy and Connectivity Committee

13:13

**Edward Mountain (Convener, Rural Economy and Connectivity Committee):** Good afternoon, First Minister. You have been clear, throughout this parliamentary session, that it is your intention to make sure that all properties across Scotland get superfast broadband by the end of this parliamentary session. However, some of your ministers are rowing back on that commitment, suggesting that it will not be delivered until well into the next parliamentary session. Can you confirm that it is still the intention to deliver it by the end of this parliamentary session?

**The First Minister:** That is the commitment that we have made, and that is what we are working on. We are in the midst of a procurement process right now, and we intend to conclude that process later this year. Obviously, the detail of roll-out and the timescales attached to that can be set out with real clarity and definition only when that procurement process is concluded, but the commitment that we have made is very clear.

As an aside, I should say that it is, strictly speaking, a reserved matter, but with the R100 project—

**Edward Mountain:** First Minister—

**The Deputy Presiding Officer:** Let the First Minister finish, Mr Mountain. You will get back in—there is plenty of time.

13:15

**The First Minister:** The R100 project is an investment of £600 million. We are absolutely committed to getting next-generation superfast broadband to 100 per cent of residential and business premises.

If you look at the latest thinkbroadband statistics, you will see that 93.5 per cent of premises in Scotland already have superfast broadband, which is up from under 60 per cent in 2014. A lot of work is being done and there is a lot of progress, but the job will not be finished until we reach that 100 per cent target.

**Edward Mountain:** First Minister, I think that the procurement process was supposed to be completed in February this year and that the contracts were going to be announced later in April. We now hear that they might not be announced until after the summer. When those contracts are announced—I ask you to let me know when that will be—will the information include their delivery time to the public?

**The First Minister:** That is my expectation, yes. R100 is a complex project, which is why it is costing £600 million to complete the final bit of the journey. You know as well as I do the geography and topography of our country, and we want to have a robust procurement process so that we get maximum value for taxpayers' money. We will take the time that needs to be taken to ensure that we get that robustness.

It is entirely your right to do so, but you rolled your eyes at me when I talked about the reserved/devolved split. The commitment goes way beyond that of any other part of the UK, and when we deliver on it—as we will—Scotland will have superfast broadband access that is way in excess of that in any other part of the UK. Given the importance of the project to people in every corner of the country, and given the scale of the investment, it is worth making sure that we get it right.

**Edward Mountain:** I did not roll my eyes because I think that the programme lacks ambition. I totally support what you are trying to do. However, given the committee's point of view, I am trying to understand whether it will be delivered on time.

Under the R100 project, some people will not get fibre or a terrestrial connection to their house. There is real concern about that, and the committee has had no confirmation that those people will be offered the same broadband to their houses by satellite or microwave that the people on terrestrial lines will be given. Can you give an assurance that those people will not be left behind? It is really important for those people and for the committee to know that.

**The First Minister:** Yes. Our commitment is to 100 per cent superfast access. You are absolutely right. For a small number of people—although the number will not matter to those individuals for whom this is important—there will not necessarily be fibre to their premises. We are looking at what the options are—you will know as well as I do that technology in this area is advancing all the time—for that small number of people who will require different solutions. However, our absolute commitment is to 100 per cent superfast broadband at 30Mbps, which can be compared with the more partial commitment to 10Mbps in the rest of the UK.

I take your point and your assurance that you are fully behind the ambition of the programme. That is very welcome. It is complex and difficult, but we are absolutely determined to do it, and I am sure that your committee will scrutinise us at every step of the way.

**Edward Mountain:** Will that be delivered at the same price?

**The First Minister:** I am not trying to dodge your question. We are in the middle of a procurement process, and some of the questions that you are asking me will flow from the conclusion of that. However, all the detail will be available for your committee to scrutinise as we go through the process.

**The Deputy Presiding Officer:** I call James Dornan, the convener of the Local Government and Communities Committee, to be followed by Johann Lamont, who has been very patient.

**Johann Lamont (Convener, Public Petitions Committee):** That is so like me.

**The Deputy Presiding Officer:** It is very like you, Ms Lamont.

## Local Government and Communities Committee

13:18

**James Dornan (Convener, Local Government and Communities Committee):** Good afternoon, First Minister. Will you give us some information on the timing of the local governance review and an update on the key challenges that are emerging from the consultation phase?

**The First Minister:** The first phase of the engagement as part of the review concluded just before Christmas. Some 4,000 people took part, and 40 public sector partners submitted proposals for alternative governance arrangements. To summarise, there was a lot of consensus that change and improvement are needed in local government. There was less consensus about exactly what such change should look like, which is why it is intended that the next phase of the process should go into the detail of potential options.

In February, ministers met Convention of Scottish Local Authorities leaders to discuss the ideas that had emerged from the first phase and to look at the next one. Aileen Campbell, who is the lead cabinet secretary on the matter, will shortly set out, with COSLA, the next steps for the review process, including the timetable for any legislative action that will flow from it. I know that she would be very keen to work with your committee on the detail of that.

**James Dornan:** I appreciate that answer, and I accept that the second stage is forthcoming, but at this stage have you an idea of the extent and the range of any anticipated legislation? Should we expect there to be minimal change or a more fundamental rethink of local government structure?

**The First Minister:** It would be premature for me to set out, before the next stage of the engagement takes place, the specific changes that we anticipate. A range of views emerged in the first phase, but there was no coalescing around a particular model. It is also important that the matter is not decided by the Scottish Government and then what we might call “done to” local government. COSLA and local government are the Scottish Government’s key partners in the process, which we are taking forward together. Much as I would like to be able to sit here and say, “Here’s the model that will go into legislation and that we will be talking about”, it is important to allow the next phase of the engagement to take place, and for more concrete proposals to flow from it.

**James Dornan:** I look forward to hearing about the model in due course.

What plans does the Scottish Government have to strengthen local democracy and encourage local authorities to engage further with communities about local decision making and how it feeds into the work that you expect to come out of local government?

**The First Minister:** A lot of local councils are doing that work already. For example, I know that, in the area that we both represent, Glasgow City Council is doing very positive work on participatory budgeting. I encourage it, and other councils that are doing likewise, to continue with that. The Scottish Government currently has a number of proposals to give councils more powers on certain aspects of revenue raising. Some of those are controversial, such as the proposals on a workplace parking levy, which is very relevant to our earlier discussion on climate change, and a transient visitor levy. Such proposals are not about the Scottish Government telling local government what to do or not do; they are about empowering local authorities to make decisions that are right for their areas. I think that most people in local government would say that, in recent years, that has not been happening far or fast enough, and that there is an appetite for it to continue.

## Public Petitions Committee

13:22

**Johann Lamont (Convener, Public Petitions Committee):** First Minister, we have had this conversation before. You will know that the Public Petitions Committee deals with issues that are as widely varied as the views of the people who submit the petitions. If we were to consider the themes that underlie them, we could say that they are often driven by concerns about a policy of the Government or of a public body. However, just as often, the concern is about a gap between what that policy is supposed to be and the lived reality of individual people, families and communities.

For example, the committee is dealing with a petition that highlights concerns about the implications of the general practitioner settlement for rural and island practices. What equality impact assessment did the Scottish Government make of the settlement before it was implemented and—this question is perhaps more relevant to the petition—what island proofing or rural proofing was done on the policy?

**The First Minister:** I will ask the Cabinet Secretary for Health and Sport to write to the committee on the specifics of that, if she has not already done so, and to say whether a formal equality impact assessment was done.

The GP settlement involved the Scottish Government reaching agreement with the British Medical Association following a ballot of practitioners on our proposal, one of the central commitments of which was to ensure that no rural GP would lose income. As a result, the new contract has been very strongly supported by the BMA, which represents GPs. However, I do not dismiss rural GPs' concerns, and we will continue to listen and try to address and respond to those as firmly as possible. I am not sure what stage the petition that is before the committee has reached but, as it does with all petitions, the Scottish Government will look carefully at the evidence that has been given and any outcomes from the petition.

**Johann Lamont:** I cannot overstate the importance of the petition to the petitioners and the people around them. They make a very compelling case. We will be hearing from the cabinet secretary tomorrow, so we will be afforded the opportunity to pursue the matter further.

However, I point out that the turnout in the ballot was only 39 per cent. I know that 70 per cent of those people voted to support the settlement, but that just exposes the very process issue that I am trying to examine with you. The figures might look like the endorsement of a particular policy, but if

you did an equality impact assessment to see how it affected individual groups or areas, you might discover something very different. Overall, people might be content, but—and I am talking about all policies here—the situation might actually be different in rural and island communities.

Your Government has committed to island proofing as part of the islands agenda, but I assume that it is also comfortable with expanding that to include rural proofing. What does that look like as far as this issue is concerned? Are you saying that you do not know whether a rural impact assessment was done? If you do not know, do you think that such an assessment should have been carried out? In fact, that question goes to the heart of all policy, because I assume that good policy starts with testing the consequences of something before you actually say, “This is what we’re going to do.”

**The First Minister:** In general, I agree with the premise of your question. One of the things that all Governments must consider and be open-minded to—and this is where the Parliament’s Public Petitions Committee plays an important role—is the relationship between policy and the intentions behind it, and experience on the ground.

For reasons that I will come on to, what we are talking about here is slightly different from a Government consultation on a policy. I will get you the information on the assessments that were carried out—

**Johann Lamont:** With respect, if a settlement is being offered on the Government’s behalf, you will need to be satisfied, as a Government, that it will have a fair and equitable outcome before you sign up to it.

**The First Minister:** As we routinely do, and as I have said, I will provide you with information about exactly what assessments were done. I think that that will be more helpful than anything else that I can do right now.

On the general point, the proposal was negotiated between the Government and the BMA, and it was the BMA that put it out to a ballot. On the turnout figures and such like, the ballot was carried out by an external professional organisation; it was not a Government consultation, and I cannot comment on the arrangements that the BMA has for increasing or promoting increased turnout.

More generally, if there were overwhelming opposition to such a contract, I would have expected to see that in the ballot. Among those who voted, there was an overwhelming endorsement, although we recognise and accept the particular concerns that have been expressed by rural GPs.

On your question about island and rural proofing, I am, again, happy to give the matter more consideration and to give you a fuller and more considered answer. The commitment to island proofing comes from the Islands (Scotland) Act 2018, which went through Parliament and provides a statutory underpinning to what we have agreed to do in that respect. If there is a way in which we can broaden that to include more rural proofing, I am very happy to give it consideration. In making such decisions, perhaps we can draw on some of the experiences that have been highlighted and the evidence that has been given as a result of the petition.

**Johann Lamont:** I appreciate that you are not going to go over the detail of a particular settlement, but the fact is that the settlement was negotiated on your Government’s behalf. Being committed to effective equality impact assessments and effective rural and island proofing means applying that commitment to all policy, and just because there is a majority for a policy, that does not necessarily mean that it will not have a disproportionate effect on a particular group whose voice is not so strong.

According to the evidence that we have had, it is rural GPs who are expressing these concerns; they are not engaging with the process that was set up and they have resigned from the short-life working group. Moreover, the evidence that we have been given suggests that not only is the settlement causing problems for rural GPs, because of the way in which practices are set up in remote and rural areas and the fact that they cannot rely on teams coming in, but it is taking money out of poorer urban areas and putting it into more prosperous areas instead. That is partly because a lot of the money follows older people, who, certainly in my own city, are more likely to be living in more prosperous areas.

I have probably gone on slightly too long, but I seek your assurance that, as far as all policy is concerned, you start with equality impact assessments and island and rural proofing. After all, it is difficult to sign up to a commitment on equality if that is not the mindset of the people who are working up policy on your behalf.

13:30

**The First Minister:** I do not disagree with that. For the sake of clarity, I am simply saying that I will provide you with the details of the different assessments and work that was done on the Government’s proposal and how that developed as a negotiation developed.

On the GP contract, we will continue to listen to the views of rural GPs, which have been expressed through the petition and in other ways.



You have raised broader concerns than just rural ones. It is not just about the Scottish Government saying that it does not agree with those concerns; the BMA, which represents GPs, says that it does not agree with them. Although I am sure that the BMA wants improvements in all sorts of areas, it has said that the settlement and the contract are good. Therefore, it is not simply a matter of the Scottish Government saying one thing and the profession saying the other; the profession overall supported the contract, and the BMA has disagreed with some of the concerns that have been raised.

**Johann Lamont:** With respect, I think that you are making my point for me. We know that, historically, organisations that represent groups have not necessarily represented groups within those groups.

**The Deputy Presiding Officer:** I want to be fair to everybody, and you have had well over your time. I will allow other members to ask supplementary questions. You can come in at the end. I have time in hand, so I want to go back to everybody around the table.

## Supplementary Questions

13:31

**Margaret Mitchell:** First Minister, it is often stated that a society is judged by its treatment of its most vulnerable members. With that in mind, the Justice Committee has carried out work on elder abuse. Do you agree that there is a potential gap in the legislative framework to tackle that issue? I will follow on from Jenny Marra's line of questioning and give you a specific example. Do you consider that the issue of witnesses having difficulty collecting data from various agencies—including Police Scotland, which told the committee that it was unable to provide any data on the number of offences against the elderly—requires to be addressed?

**The First Minister:** We have welcomed the work that the Justice Committee has done in that area. As we know, elder abuse can take many different forms, but it is devastating for the victim when it happens.

The criminal law has a role to play, and the issue is relevant to the review of hate crime legislation that is already under way. In that review, we have consulted on a new statutory age aggravation that would cover any criminal offence that was motivated by hostility towards someone on the basis of their age.

The hate crime bill will be introduced shortly, and we have looked at wider changes to the law, such as with a vulnerability aggravation. A new offence of elder abuse will also be considered. The possibility of a specific offence may help in holding perpetrators to account.

I am sorry for going on for so long, but the Adult Support and Protection (Scotland) Act 2007 is also relevant. That act provides a range of protection measures, so it is not part of the criminal law. We are currently reviewing that legislation alongside the mental health and adults with incapacity legislation.

The work that the Justice Committee has done has helped to shine a light on a lot in that area, and it will help us to make decisions as we move forward.

**Margaret Mitchell:** I think that the problem is that age abuse is not a hate crime per se. The difficulty seems to come when there is an attempt to identify the age at which elder abuse could start. The committee is considering whether we could treat the issue in the same way that we treated the domestic abuse and coercive and controlling behaviour legislation, which is gender neutral but which still manages to tackle gender issues. If we had the same principle for elder

abuse, we could still have the offence of controlling or coercive behaviour in which age is a factor, and the lack of a definitive age at which elder abuse starts would not stop the legislation going through.

**The First Minister:** The hate crime consultation might already have taken account of some of that evidence, but if it has not, I am happy to look at that. My immediate response is that, as the committee has already set out, there will be a number of complexities in how such an approach would work in practice, but that is not to say that we should not look at taking it. I do not want to go much further than that today without giving the issue greater consideration, but I am happy to get the Cabinet Secretary for Justice to look at it and come back to the committee on it.

**Margaret Mitchell:** I would appreciate it if you could come back to the committee on that vexing issue.

**Lewis Macdonald:** I will come back to the funding issues and transparency. The First Minister talked about brokerage as reflecting Government support for health boards and delivering patient care but it clearly raises a question about the transparency of funding across the board. We can see that brokerage and one-off payments affect the distribution of funding. Over the years, the First Minister has answered many questions on the application of NRAC—the NHS Scotland resource allocation funding formula. In the past, everyone agreed that it was a transparent measure—whether boards received more or less than NRAC suggested that they should. Does it remain transparent when the additional funding streams come into play? A new aspect is that, where there is funding to integration authorities, which has a social care element, the local government funding formula is taken into account. That seems to mix the methods of providing funding in that context. What are your thoughts on that?

**The First Minister:** First, I had hoped that my days of having to give detailed explanations of NRAC were behind me but, clearly, they are not. Integration is a perfect example; as we change how services are delivered, the traditional funding arrangements and transparency and scrutiny around them have to change and keep pace with that change. With integration, that is work in progress and it is important that we continue to make that progress. People would probably say that, in the past, there has not been perfect transparency around health service budgets but we have the same transparency for integration authorities as we do for looking at health budgets alone.

On the subject of brokerage, to some extent, you are right; it is outside of that normal

arrangement. The new arrangements that Jeane Freeman has announced will help, because they will put it on to a much more formal footing. Different reasons will give rise to the need for brokerage, but if a health board ever found itself in a situation in which it needed that help, and, for reasons of NRAC compatibility, the Government decided not to give it, I suspect that most members would say that we should.

Those things will not necessarily ever be perfect. That comes from the kind of relationship that we have between Government and health boards in Scotland. However, through the different strands of work that we touched on earlier, the information that has now been provided to your committee, the medium-term financial framework and the arrangements around three-year budgeting and flexibility for health boards, we need to continue to make them as transparent and open to scrutiny as possible. We will continue to do that.

**Bruce Crawford:** First Minister, my committee has also been undertaking some work on earnings and pay policy. One of the factors that is coming through in evidence is that, over the past couple of years in particular, earnings growth in Scotland has not kept pace with growth in the rest of the UK. Two main factors are the downturn in the oil industry and the London effect, which exacerbates the position. Given the correlation between earnings and growth and the requirement in the fiscal framework for growth in Scotland and the UK to be at least equal—if it is not, we either lose out or gain—what more can the Scottish Government do to encourage earnings growth as well as general growth in the economy?

To make that even more complicated, does your declaration of a climate emergency provide the opportunity to consider how we go about business in Scotland to help drive growth levels for the future and therefore ensure that the Scottish budget is protected under the fiscal framework?

That is a big question.

**The Deputy Presiding Officer:** It was. I got lost, although I am sure that the First Minister did not.

**The First Minister:** It is an important question. I thought that NRAC was difficult to explain, but you have just given me a greater challenge, Mr Crawford, which is to try to explain the operation of the fiscal framework. I will spare you that—you can probably explain it as well as I can.

You are right about the factors that drive the fiscal framework and therefore the block grant adjustment every year. We pay close attention to all that data and evidence. You alluded to the fact that, often, considering Scotland versus UK comparisons reveals a more complex picture

underneath, because London and the south-east often skew the picture for the whole of the UK.

On earnings, we are seeing lots of much more positive data as we come out of the impact of the oil price crash. On economic growth, this morning's data on productivity in Scotland is positive when compared with the figures for the UK, as well as being positive in its own right. All of that feeds into the data on earnings. We put a lot of emphasis on the living wage campaign and trying to use the levers at our disposal to lift up those on low pay, because that helps as well.

First and foremost, earnings levels are important because of their impact on individuals and families, but how all of that plays into the increasingly complex way in which the Parliament is funded is very important as well. We are keen to continue to work with your committee to try to understand those drivers and ensure that we are doing everything that we can to influence the situation.

**Bob Doris:** The Social Security Committee has recently finished taking evidence on how the social security system at Scottish, UK and local authority level can best support those in housing need. We have still to undertake our deliberations on that, but one interesting thing that emerged related to a suggestion of the homelessness and rough sleeping action group in relation to housing the homeless in temporary accommodation. The group suggested that the money in the system is perhaps not used as meaningfully as it could be and that if housing benefit moneys in that area were put into an overall pot of cash, we could do something really meaningful on the issue.

The committee has still to take a view on that, but I thought that this was an appropriate forum in which to raise the issue because it is a concern for not only the Social Security Committee. We have Bruce Crawford here, and there is a concern for the Finance and Constitution Committee about the prudent use of public funds. We have the Local Government and Communities Committee convenor here, and there are key issues for that committee. The matter is also relevant to the Health and Sport Committee and the Education and Skills Committee, whose conveners are here, too. Given the outcomes across all the indicators, there is a need for cross-party and cross-committee working if we are to reform the area. My interest is of course the best use of social security moneys to protect vulnerable people and get better outcomes.

Can you give us any information on that, First Minister? More importantly, can you give a commitment that you will seek to work across parties and committees on the devolution of those housing benefit moneys or an agreement with the UK Government on how those moneys could be

used more imaginatively to support people in need?

**The First Minister:** We will provide whatever information we can to inform your deliberations on that, if you tell us what would be helpful. On the point about devolution or agreement, I would prefer devolution. It would be much easier to be innovative and flexible if we had control, but we would also try to reach agreement if we thought that that was necessary.

More generally, I am absolutely certain that the totality of the public resource that is used to tackle homelessness and support people in housing right now could be used better if it was used more coherently. The work of the homelessness and rough sleeping action group is hugely important in driving some of our policy change, such as some of the work that we are doing on the housing first approach.

However, as with any area of policy, the more preventative that you can make the spend, the more impact it will have. Particularly around homelessness—although the issue is not unique to that area—too much of the money is spent reactively rather than proactively and preventatively.

You make the point that that is not something that any one Government department—or, given our current constitutional arrangement, any one Government—can solve on its own. We must look at the issue across the piece. Following on from the work of the task force, we are keen to do that.

13:45

**Jenny Marra:** Another issue that cuts across the public sector and which the Public Audit and Post-legislative Scrutiny Committee is concerned about is that of severance pay. Recently, we have seen huge golden handshakes in the Scottish Police Authority and big pay-outs in health boards. Those sums often reward failure, at the taxpayers' expense.

Derek Mackay has promised to send the Public Audit and Post-legislative Scrutiny Committee the Scottish Government's new policy on severance pay in the public sector, and we patiently await that. Today, however, I would like to ask you what principles you would like to underpin such a policy at Government level. Will you be looking for a cap on severance pay? Do you think that it is acceptable that taxpayers' money is spent on huge golden handshakes that, often, reward failure?

**The First Minister:** I encourage you to be a little bit more patient on the policy. Decisions on that are in the final phase, so I hope that that will be shared with your committee soon. Some of the

detail that you are asking me for around caps and so on will be addressed in that.

With regard to principles, failure should not be rewarded. That should be a key guiding principle. However, there will be different circumstances and different types of severance payment, and a judgment will sometimes—not often—be made that it is better for the public purse to settle a dispute with a member of staff than to go through a process that might end up costing the public purse a lot more. Those judgments will often be sensitive and difficult, but it is important that they are able to be taken.

As a general principle, we should not be rewarding failure and we should not be giving people the ability to walk out of one public sector job with a massive payment and walk back into another one shortly afterwards. I know that those are the kind of issues that are of huge interest not only to your committee but to taxpayers in general, and they are relevant to the work that Derek Mackay is doing on the policy.

**The Deputy Presiding Officer:** That brings us to the end of our questions—*[Interruption.]* Just in time for your cough to take over, First Minister. It has been a long session for you, and I thank you for your time.

Do you wish to make any closing remarks?

**The First Minister:** I will quit while I am ahead.

**The Deputy Presiding Officer:** Is that your closing remark?

**The First Minister:** Sorry, I should have said thank you very much for all of your questions, and, where I have given a commitment to provide follow-up information, we will do that directly with the committees concerned.

**The Deputy Presiding Officer:** I did not think that you wanted the quote to be, “I will quit while I am ahead.”

**The First Minister:** It is not a bad quote to end on.

**The Deputy Presiding Officer:** I thank all the conveners. I found the meeting interesting. I think that the format today was better than that of previous meetings, but we can talk about that later.

I remind everyone that we agreed to have biannual meetings with the First Minister, so the next one will be in October.

*Meeting closed at 13:48.*

