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Scottish Parliament

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

Time for Reflection

The Presiding Officer (Ken Macintosh): Good afternoon. The first item of business is time for reflection. Our time for reflection leader is Imam Habibur Rahman of the Dunfermline central mosque and Islamic centre.

Imam Habibur Rahman (Dunfermline Central Mosque and Islamic Centre): It is with great honour that I stand before you at the Scottish Parliament, as I see our Parliament as a progressive one that listens to its people and delivers policies that foster equality and equity for all.

We live in a world that has transformed so much in the past 30 years, with technology pushing us further in our ability to develop as a human species. As humans embrace this new age of modernity, we face the paradox of man: fixated on the world of tomorrow, yet forgetting the lessons of yesterday, which leads to the state we find ourselves in today.

With the advancement of our civilisation through technological innovation and the fruition of futuristic concepts, it is necessary to reflect and understand the identity of who we indeed are and what we represent. It is paramount that we should often pause and take time to reflect on what we can be and where we are going, as it is one's reflection that illustrates the vision for excellence.

The question is, how often do we reflect? Moreover, even upon that reflection, how often are we asking ourselves the right questions?

God has blessed us with the power of intellect to reflect on the connection and values that we share with our fellow human beings. We still see the greed of personal gain and hateful rhetoric against one another. We make these intellectual advancements, yet we struggle and fail to fathom the understanding of what humanity is—a shared reality despite our external and internal differences.

We develop advanced weapons to protect ourselves and to maintain order, supposedly, yet they are used to destroy the lives of communities. The recent horrific attack on the Tree of Life synagogue is one such example among many other ills still taking place in society. To those affected, we offer our sincere condolences and support as one human race.

We live in this bubble as the superior creation of God, yet we still cannot solve the on-going problems of war, greed, corruption, extremism, poverty, discrimination and neglect. However, the answer to those problems has been there all along in the form of humanity. We see the very best and worst of who we are in times of crisis and how we come together as communities and take care of one another.

I ask you this: have we progressed? Let us reflect.

Topical Question Time

14:03

Young Offenders (Protections)

1. Angus MacDonald (Falkirk East) (SNP): To ask the Scottish Government what protections it has put in place for young offenders in custody. (S5T-01326)

The Cabinet Secretary for Justice (Humza Yousaf): The Scottish Prison Service recognises the importance of providing a safe and secure environment for young people in custody. That is delivered through various policies and practices, including appropriate assessment on entry into custody and programmes for managing those at risk.

In addition, the Government has worked hard to keep children out of the criminal justice system. The whole-system approach for young people who offend has been rolled out across Scotland since 2011 and aims to tackle the causes of offending and support young people to change behaviour. Through early intervention and diversion from prosecution, the approach's intention is to avoid young people entering the criminal justice system unless absolutely necessary.

The youth justice strategy promotes advancing the whole-system approach and improving life chances, including supporting under-18s while in custody and planning their transition back into the community.

Over the past decade, the shift towards prevention has seen positive changes in youth justice, including a reduction in the number of under-18s held in custody.

I am aware, through recent cases, of concerns that have been raised about mental health provision in Her Majesty's Young Offenders Institution Polmont. Any death of a young person is a tragedy for the individual and their family. As with any death in custody, there will be a mandatory fatal accident inquiry. However, I am determined that appropriate early actions are taken to ensure the safety and wellbeing of young people in custody.

Angus MacDonald: I thank the cabinet secretary for that answer and share the thoughts that he expressed for the family of William Lindsay, whose case is truly a tragedy. Our hearts also go out to Katie Allan's family and to other families who have experienced similar tragedies.

Aside from the protections that have been outlined, what range of support is available to young people who end up in Scotland's criminal justice system? In light of the tragic cases that

have been reported in the media in recent weeks, will the cabinet secretary look closely at whether existing provision is sufficient?

Humza Yousaf: Let me once again express on record our sympathies and condolences to the families of both William Lindsay, also known as William Brown, and Katie Allan. I met Katie's parents, Linda and Stuart, along with their legal representative, Aamer Anwar, just before this topical question time. There is no doubt that they have questions to which they want the answers immediately. They understand that there is an FAI process and they have questions about that process. However, they also have questions to which they would like a more immediate answer. I reassure the families of Katie Allan and William Lindsay that, if there are lessons—I have no doubt that there are—that we can learn from in the here and now, in the immediate and short term, we will do what we can to act on those.

On the question of the existing support for young people, the member will be aware of the talk to me strategy. However, even with all the support that exists for young people, we want to prevent them from getting into the criminal justice system in the first place. I referred to the whole-system approach and I saw a good example of effective early intervention on a recent visit to West Lothian. Whether we are dealing with children within or outwith the care system, that is what we want to be doing. However, I know that in relation to the case of William Lindsay in particular, there is a particular focus on young people in the care system. We must take a cross-Government approach to that issue and I have spoken to many members of the Government, including the Deputy First Minister, John Swinney, and the Minister for Children and Young People, Maree Todd. The Government is determined to take a cross-Government approach to the support that young people have when they are in the criminal justice system as well as, importantly, to the preventative measures that will stop them getting into the criminal justice system in the first place.

Angus MacDonald: I welcome the cross-Government approach to the issue. It is my understanding that a lack of secure places for young people in custody may have been a factor in the case that we are discussing this afternoon. Does the cabinet secretary recognise that there may be capacity issues in the system and will he commit to working with the relevant institutions to make sure that secure care is made available wherever possible?

Humza Yousaf: Yes. Again, I have had conversations with my Government colleagues about that. It is important that facts are fully established in these cases and we are

endeavouring to ensure that we have all the facts in the cases of both William Lindsay and Katie Allan.

It is important, however, that secure accommodation units are available. There are difficulties and pressures on the system—we know that there have been capacity demands on secure units for a number of years. We will look to see what we can do to address some of that. Space is needed to ensure that we establish the full facts of cases, but we will certainly take a cross-Government approach to the issue that Angus MacDonald raises.

Liam Kerr (North East Scotland) (Con): Can the cabinet secretary assure the chamber that any review will examine the anti-ligature measures that are in place at Polmont prison? When does he anticipate that the fatal accident inquiry will report?

Humza Yousaf: Liam Kerr will be aware that the fatal accident inquiry is a responsibility of the Lord Advocate. I do not think that Katie Allan's family would mind me saying that they raised directly with me issues to do with the FAI process, such as the length of time that it will take, which Liam Kerr asked about. I think that those are legitimate questions to ask. I have had a conversation with the Lord Advocate, and I will continue to have conversations with the Lord Advocate, who rightly has responsibility for FAIs.

With regard to the first part of Mr Kerr's question, I am reflecting carefully on how we take a cross-Government and cross-systems approach, with various criminal justice and preventative partners, to a variety of issues to do with how we deal with young people in the criminal justice system.

Today, Katie Allan's family raised with me the issue of ligature points in the prison estate. I gave them a commitment that whatever action we choose to bring forward—I will update Parliament on that—making our prison estate as safe and secure as possible will be part of the conversation.

Daniel Johnson (Edinburgh Southern) (Lab): I associate myself with the cabinet secretary's remarks—the deaths of William Brown and Katie Allan were undoubtedly a tragedy. I understand that William Brown was in Polmont on remand. To follow on from the points about capacity, when people are in Polmont on remand, is that kept under review, so that they have the possibility of going to secure accommodation?

Some of the details in Katie Allan's case are troubling—for example, she was offered a banana when she asked for a bandana. Surely we do not need to wait for a fatal accident inquiry to address such details about the level of care; action can be taken now on the sensitivities and practice in relation to vulnerable people who are in Polmont.

Humza Yousaf: I agree with both points that Daniel Johnson made. Work will be done to look at those who are on remand in Polmont. The decision to remand a young person—or anybody else—in custody, as opposed to the presumption of bail being granted, is of course for a sheriff or another legal authority. It is important for such decisions to remain independent of the Government, but I heard what Daniel Johnson said about learning lessons. I will reflect on and take back with my officials the question about those who are on remand in Polmont.

I also agree with Daniel Johnson's second point. I gave Linda and Stuart Allan the assurance that we will not wait for an FAI to report; we will look to learn any immediate and short-term lessons. It is inevitable that an FAI will go into specific details—Daniel Johnson referred to some of them—and it is important for the process to be free from any Government or other interference and allowed to take its course. However, when there are short-term lessons to be learned, we will look at how we can give them best effect across the Government.

Liam McArthur (Orkney Islands) (LD): I, too, associate myself with the sympathy that was expressed for the families concerned. Today, I counted that 76 deaths in prison have yet to be the subject of FAIs—that stretches back to six deaths in 2014. In his analysis, Kenneth Roy—who, sadly, passed away last week—labelled such a situation a

“catalogue of delay and obfuscation”.

Does the justice secretary agree—I think from his comments that he does—that no family, including those of William Lindsay and Katie Allan, should ever have to go through such an interminable wait to find out what happened? Does he agree that such delays are preventing lessons from being learned, which makes it harder to save lives?

Humza Yousaf: I will reflect on what has been said. Katie Allan's family, whom I met today, have no desire—I imagine that no other family would—to wait years down the line for lessons to be learned; they want immediate action. They gave me a set of requests for things that could be done in the immediate and short term that they would like me to consider, and I will fully consider that.

I will reflect back to the Lord Advocate the conversation about FAIs, as other members can. It is important to note that he has the responsibility for FAIs. It is right for the Government and politics to be kept separate from that. Notwithstanding that, I have heard loudly and clearly from members and others that there are questions to be asked about the FAI process. I will reflect that in conversations with the Lord Advocate.

Age of Criminal Responsibility (Scotland) Bill: Stage 1

The Presiding Officer (Ken Macintosh): The next item of business is a stage 1 debate on motion S5M-14704, in the name of Maree Todd, on the Age of Criminal Responsibility (Scotland) Bill.

I advise members that we have plenty of time in hand today, so interventions will be welcome. We will not be cutting members off.

14:15

The Minister for Children and Young People (Maree Todd): When I was elected as a member of the Scottish Parliament, in 2016, the elation that I felt was matched by my excitement about the opportunity that I had to take forward key causes that are close to my heart and dear to my and my party's values. At that point, I did not dare to dream that I might actually be in the position of being able to bring any of those to fruition as a minister, so I am absolutely delighted that the first stage 1 debate that I am leading as the Minister for Children and Young People is on the bill that seeks to raise the age of criminal responsibility.

I acknowledge that it has taken a long journey to get here, and I pay tribute to the cabinet secretaries and ministers who have helped to guide that journey. It is important to reflect on how far we have come, not least in understanding how best to prevent and address harm in children's lives. We should be honest with ourselves as parliamentarians. Only a few years ago, we would not have been here, with a consensus right across the chamber that the age of criminal responsibility should be raised. Now, our discussions are about what age to raise that age to and what safeguards and other issues need to be addressed. That is a significant and welcome shift.

Collectively, we can agree that reforming the age of criminal responsibility will contribute to a youth justice system that recognises that heavy-handed criminal justice and early adversarial contact with enforcement agencies are counterproductive for children. We can reiterate our support for the integrated care and justice ethos that has been in place in Scotland for many years to respond to young children when things go wrong. That ethos resonates through the children's hearings system, getting it right for every child and the focus on early and effective intervention as part of the whole-systems approach to youth justice.

We can acknowledge that we and agencies, services and professionals all now have a better recognition and understanding of the long-term

effects of adverse childhood experiences and the need for trauma-informed practice. When we consider all that knowledge and understanding together, it becomes almost self-evident that how we address children's harmful behaviour also needs to change. The Age of Criminal Responsibility (Scotland) Bill forms a key part of such a response.

The bill reflects not only the Government's aspirations but the recommendations of the advisory group that was set up in 2015, which comprised organisations that work with and for children, victims, families and justice. I thank everyone who contributed to the group's deliberations and recommendations. Their work is reflected in the principles that underpin the bill and its measures.

I also thank the members of the Equalities and Human Rights Committee for their considered approach to stage 1. In particular, I welcome the committee's support in its report for the general principles of the bill. I will take the time that is needed to consider the report's conclusions and recommendations and to respond to the challenges in just as constructive a manner as that in which they have been framed, and I will ensure that the committee has my response in sufficient time to consider it ahead of the commencement of stage 2. However, I will respond to some of the key findings today.

I welcome the committee's support for raising the age of criminal responsibility to 12. There is a strong rationale for that position. Of the 700,000 children in Scotland who are aged under 12, fewer than 300 are referred to the children's reporter for consideration of formal measures due to harmful behaviour. That number is declining, and most cases that involve harmful behaviour that is currently labelled as criminal involve harm that is minor to moderate in nature.

Our proposal to raise the age to 12 was also supported by the public consultation and by the majority of respondents to the committee's call for written evidence.

Alex Cole-Hamilton (Edinburgh Western) (LD): It is absolutely true that the majority of respondents supported the uplift to 12, but does the minister recognise that the majority of written submissions and the overwhelming majority of those who gave oral evidence wanted the age to be raised still further?

Maree Todd: I know that some people want to see the age raised higher, but I also note that there is not a clear consensus among those people on what the age should be.

I reassure members that I have listened carefully to the arguments that have been put by those who propose a higher age, including their

points about the position in other countries. I accept that the European average age of criminal responsibility is 14. However, our comparative evidence clearly shows that the “age of criminal responsibility” does not mean the same thing in different jurisdictions.

References to higher ages in other jurisdictions, without accounting for their context, such as exceptions for serious harm, or civil detention on mental health or care grounds, are not nuanced enough. To arrive at useful comparisons, we need to capture the full complexity of how a system responds to children who are involved in harmful behaviour, their families and those affected.

We should also recognise that the law has already been changed in Scotland so that no child under 12 can be prosecuted for a criminal offence in an adult court. That is different from the situation in many other countries, as is our approach to youth justice. I am confident that the position that is adopted in the bill, which is to raise the age of criminal responsibility to 12, is the right one.

We must provide for a proportionate and effective response by relevant agencies to the very small number of children aged nine to 12 who may engage in seriously harmful behaviour, and that is what the measures in parts 2 to 4 aim to do.

The bill seeks to provide legal certainty and clarity in the small number of the most troubling cases to ensure that children are treated equally, fairly and consistently in such circumstances. It provides bespoke police powers to ensure appropriate investigation and the proportionate involvement of the children in the most harmful cases. Those powers are an additional tool to meet the specific needs of investigations into the most harmful acts and the needs and rights of the children involved. They will be engaged only when a sheriff is persuaded that they are necessary and they will be necessary only when agencies cannot apply good practice through early and effective intervention or through getting it right for every child conversations with children and their families and carers.

The bill's reform of particular elements of disclosure is part of a wider effort that is being made through the protecting vulnerable groups review and the Management of Offenders (Scotland) Bill. Taken together, they will deliver a clearer, more responsive and progressive system of disclosure. I am pleased that the committee took time to explore that in its evidence gathering and recognised that wider work.

Rightly, we need to ensure that those who are affected by harmful behaviour have confidence in the proven effectiveness of our interventions, and I welcome the approach that the committee took to

the issue in its evidence gathering. We need to make sure that victims see, hear and are reassured that serious harm will be responded to effectively. Part 3 seeks to achieve that, although I note the committee's view that the bill represents an opportunity to consider the matter more carefully. I undertake to do that.

I want to make it absolutely clear that many children who engage in harmful behaviour at a young age are often victims themselves. The data from the Scottish Children's Reporter Administration bears that out. Often, children who harm are themselves harmed and have experienced significant adversity in their childhoods. To insist that some children might be victims and that others are simply perpetrators is too simplistic, as all our work in prevention and early intervention bears out. We need to take a whole-child approach.

Many organisations and agencies have contributed to the development of the measures in the bill and to stage 1 of the bill's parliamentary progress. Crucially, children and young people have contributed their views. I thank the Scottish Youth Parliament, Who Cares? Scotland, the Children's Parliament, Action for Children, Up-2-Us and many others for discussing the bill with so many children and young people and for including me in the discussion with primary school children.

I welcome the committee's recognition of the particular needs of care-experienced children and young people in its evidence gathering and its recognition that love and safety must be at the heart of our wider approach to supporting vulnerable children and young people. As James Docherty of Scotland's violence reduction unit put it:

“you will never punish a young person into a better way of being; you can only love and nurture them into a better way of being. We need to look at what is missing in their life in the first place and replicate that missing element as responsible, connected adults because it is not good enough any more to say to young people, ‘You are making bad choices.’”—[*Official Report, Equalities and Human Rights Committee*, 27 September 2018; c 33.]

Raising the age of criminal responsibility forms part of the work to address that broader fundamental question, which the independent care review has been set up to consider and address, of how to create a care system that truly cares.

The most powerful testimony that we heard at stage 1 came from a young woman called Lynzy Hanvidge. I acknowledge that what she experienced in the criminal justice system would not be helped by the bill. The bill's emergency power does not relate to the processes that she was subjected to. However, it is clear from her evidence that she was not treated as a child in distress and difficulty, that the adult professionals

around her did not respond to her distress in a trauma-informed way and that the situation escalated rather than de-escalated.

What happened to Lynzy Hanvidge was unacceptable then and it would be unacceptable now. I believe that the best way to respond is to have in place robust policy, procedures and training to prevent that entire unacceptable situation from arising. Focusing on the age of criminal responsibility as a response is, frankly, shutting the stable door after the horse has bolted.

As Lynzy Hanvidge's case and much more recent ones suggest, we are not getting it right for every young person who comes into contact with the criminal justice system. These matters have come into sharp and discomfiting relief in recent days, and I am working with the Cabinet Secretary for Justice to address them.

We can be clearer about what we mean by a place of safety in this bill, which provides for a specific emergency power to take a child under 12 to a place of safety when there is a risk of harm and the need arises to investigate an incident of serious harmful behaviour in which a child under 12 may be involved. I note the committee's concern over the provisions. I confirm that I have asked for an amendment to be prepared that will include the full definition from the Children and Young People (Scotland) Act 2014 to make it clear that the same range of safe places can be used. I also undertake to reflect on and respond to the committee's concern about whether police cells can ever be considered an appropriate place of safety for children under 12.

If there is one message that I ask members to take into this afternoon's debate, it is that I am listening and will consider carefully what more might need to be done to ensure that the bill gets it right. After all, our law benefits when it is the result of careful, considered and collaborative work. Our society benefits when we work together to consider how best to provide for our communities, for our children, for victims and for our responsible professionals. Crucially, our children and young people will benefit.

I am confident that the central approach in the bill, which is to raise the age of criminal responsibility to 12, is the right one. I am confident that we can build a shared understanding of that and that, with this reform, we can build consensus and build for the future. I look forward to the debate this afternoon and to hearing more of the views of members across the chamber, and I have great pleasure in moving the motion.

I move,

That the Parliament agrees to the general principles of the Age of Criminal Responsibility (Scotland) Bill.

The Presiding Officer: I call Ruth Maguire to speak on behalf of the Equalities and Human Rights Committee.

14:30

Ruth Maguire (Cunninghame South) (SNP): I am pleased to speak on behalf of the Equalities and Human Rights Committee, in my new capacity as convener. I give sincere thanks to our supportive, diligent and efficient clerking team for all their hard work. I also thank my fellow members for their care and compassion in exploring challenging issues and, of course, I thank those who gave evidence and shared their stories with us.

Scotland currently has the youngest age of criminal responsibility in Europe, at eight years of age. The minimum age of criminal prosecution in Scotland was raised to 12 in 2010, which means that children under the age of 12 can no longer be prosecuted through the adult courts.

However, children who are aged between eight and 11 years old could still obtain a conviction via a children's hearing, either by admitting an offence, or by having an offence ground established via a proof hearing at the sheriff court. The bill seeks to address that disparity by raising the age of criminal responsibility to 12, in line with the age of criminal prosecution.

The bill also includes provisions on police powers to investigate an incident of harmful behaviour by a child under 12. It will end automatic disclosure of convictions of under-12s, and make changes to disclosure processes and to the release of non-conviction information and information to victims of harmful behaviour. As a result, no behaviour by a child under the age of 12 can be regarded as criminal.

According to the Scottish Children's Reporter Administration, about 200 children will be decriminalised each year as a result of the bill—1,000 children over a five-year period. The committee heard about the harm that has been caused by treating children as offenders from such a young age. Involvement in formal processes did not stop harmful behaviour: once they had been exposed to the criminal justice system, children continued in the system and moved on to become part of the adult offending system.

Professor Susan McVie from the University of Edinburgh told us:

"those who end up in our criminal justice system disproportionately come from poorer backgrounds and a huge proportion of them come from either looked-after backgrounds or youth justice backgrounds".—[*Official Report, Equalities and Human Rights Committee*, 6 September 2018; c 3.]

The committee heard about what can only be described as harrowing encounters with the justice system. Lynzy Hanvidge, who is a care-experienced policy ambassador with Who Cares? Scotland, told us that her first experience of being treated as a criminal was on the day when she was taken into care at the age of 13. I am sure that other members will expand on her story. I would like to thank her especially, and all those who shared their personal stories with us in order to help us to understand the system better, and to drive us to do better.

Alex Cole-Hamilton: Does the convener of the committee share my concern that nothing about the bill would have made Lynzy Hanvidge at 13's story any different?

Ruth Maguire: I absolutely share Alex Cole-Hamilton's concern. I also heard what the minister said. I am very conscious that today I am speaking on behalf of the committee rather than personally.

Professionals also told us that it is the most traumatised children who are most likely to become involved in serious harmful behaviour. They were clear that a trauma-informed approach results in better outcomes for children and young people, and significantly reduces repeat harmful behaviour. That is why the committee recommended:

"the way in which any decisions are made about very serious harmful behaviours by all children, whether criminally responsible for their actions or not, must start from a trauma-informed perspective."

I hope that the minister will today give a commitment that all operational staff will have access to guidance and training materials that make that clear.

We issued our call for evidence on 27 April and received 41 submissions from a wide range of organisations and individuals, including children's services and social work services, looked-after children, child-centred groups, advocacy services and victims. To supplement our evidence, we visited three secure accommodation units: Edinburgh secure services Howdenhall; the Kibble secure unit in Paisley; and St Mary's Kenmure secure unit in Bishopbriggs. Committee members express our sincere thanks to the young people who shared their experiences and their thoughts on how the system could be improved.

In addition, we observed children's hearings that support child protection and youth justice. We are grateful to the young people who consented to our doing so. I also thank everyone who facilitated our visits and who gave evidence.

It was important to us to involve children more broadly in the decision-making process for the bill. We therefore took the innovative step of developing a downloadable toolkit, by means of

which, from June to October, schools and youth groups could discuss the principle of raising the age of criminal responsibility. More than a thousand secondary school students and more than 200 primary school pupils engaged with the committee through such sessions. I acknowledge their efforts in joining the debate, and hope that it will have sparked their interest in continuing to participate in matters that clearly affect their lives.

Many issues that were raised by the bill were discussed in detail by the committee—for example, police powers, the interviewing of children, and the use of a police station as a place of safety. With the rest of the time that I have available, I will focus on two key areas: the age of criminal responsibility and disclosure of conviction and non-conviction information.

From the outset, the committee recognised that the most difficult issue would be our weighing up of the various arguments to determine the most appropriate age of criminal responsibility. Many stakeholders queried whether a move to the age of 12 is progressive or likely to meet Scotland's international human rights commitments. It was pointed out to us that increasing the age to 12 would achieve only the minimum internationally acceptable age, as defined by the United Nations' Committee on the Rights of the Child. The move would also only just lift Scotland off the bottom of the European Union league table, and would not achieve the progressive increase that was envisaged by the UN committee.

Others considered that an incremental approach would give time to measure and review the outcomes of the legislation before raising the age. We struggled to reach a shared view on whether 12 is a sufficiently high age to achieve the outcomes that are sought. There was, however, a recognition that because the age of criminal responsibility in Scotland was last increased 86 years ago, the committee did not want to jeopardise a long-awaited opportunity to address the most pressing issues in criminalisation of children and young people. We therefore accepted that the approach that was being taken by the Scottish Government in the bill was grounded in the desire to make improvements and, in the interests of a shared commitment to improving outcomes for children and young people now, we reached consensus on raising the age of criminal responsibility to 12. I am sure that members have their own views on whether 12 is the right age: no doubt, the matter will be explored further as we consider the bill at stage 2.

I turn to the disclosure provisions. Under the current system, any convictions that are gained between the ages of eight and 11 years have the potential to affect the child later in life, because convictions would appear on a higher-level

disclosure check or protection of vulnerable groups scheme record. That could restrict a person's choice of career or training in adult life, thereby compounding the disadvantage that they had already experienced. The bill would end automatic disclosure of information relating to behaviour of a child under the age of 12. Also, information about the behaviour of such a child would be disclosed as "other relevant information" only as part of a disclosure application following independent review of that decision.

In October, we worked with the Scottish Youth Parliament at its Kilmarnock sitting to co-produce a successful workshop on disclosure and non-conviction information. That helped us to explore the impact that disclosure could have, and underlined the need to involve young people in how the independent reviewer role is carried out.

It would be helpful if the minister could today provide assurances that, in preparing guidance, the Government will consult young people who have experience of youth justice or of being looked after; those who have speech, language and communication difficulties; and those who have disabilities and hidden disabilities.

In conclusion, the Equalities and Human Rights Committee supports the general principles of the Age of Criminal Responsibility (Scotland) Bill.

14:39

Oliver Mundell (Dumfriesshire) (Con): I am pleased to open, in today's debate, for the Scottish Conservative Party. I begin by putting on the record my thanks to the committee clerks and witnesses, and to my fellow members of the committee, who put in a tremendous effort to ensure that the bill was well scrutinised ahead of today's stage 1 debate.

We are content to support the Scottish Government's approach in the bill. I thank the minister for the candour of her opening speech. It takes real courage to come to the chamber and to be honest with members in recognising failings in our criminal justice system, and that not every child who comes into contact with our law enforcement and criminal justice agencies gets the support that he or she deserves. That is not always through want of those agencies trying; there is always a difficult balance to be struck between meeting the needs of the child and agencies doing their job. I thank the minister genuinely and warmly for that recognition.

We acknowledge that the age of criminal prosecution in Scotland was raised to 12 in 2010, which means that younger children are already sent to children's hearings instead of to court, and that children who are aged between eight and 11 cannot be prosecuted in the criminal courts. In

many senses, that means that the bill is simply an attempt to tidy up our legal system, and reflects the fact that a significant policy change was made some time ago.

The proposed change also has the added benefit of simplifying Scots law. As the Law Society of Scotland has pointed out, raising the age of criminal responsibility to 12 will bring it into line with the existing age of criminal prosecution, which will provide clarity in the law and ensure that children are not treated and labelled as offenders because of things that they did before they were 12 years old. For the reasons that have already been outlined, the bill goes slightly beyond that, but we believe that it strikes the right balance in general, and that decisions such as this are so central to the character of our legal system and the values of our society that they should be taken by consensus whenever possible.

The age of 12 is not random or arbitrary; it already has legal significance in Scots law and has emerged from the Government's consultation, from wider discussions and conversations and from much of the evidence that shows that there is significant support and consensus for raising the minimum age of criminal responsibility to 12. Even so, there will still be a degree of discretion for prosecutors when they are thinking about the public interest.

We recognise that a number of witnesses who came before the committee and some members of the committee have questioned whether a move to 12 is a progressive move that is likely to meet Scotland's international human rights commitments. I strongly believe that the public must be on board and brought along with such changes. For many people, including me, raising the age to 12 is a big and significant step, so I believe that the Government is right to be cautious and to want to see how the changes bed in and work in practice before considering further changes. That view was echoed by Police Scotland, which suggested that 12 is the most appropriate starting age and that, although it understands the debate around raising the age of criminal responsibility, it is mindful that the nature of children's actions and that the prevalence of behaviours change, as the age profile of offending increases to 12 and above. We have to respect the expert views of people who work on the front line, and we have to strike a balance between listening to the voices of children's organisations and those of the law and justice agencies, including the police.

The minister was correct when she appeared before the committee and when she spoke today to stress that direct international comparisons cannot be made, given the differences between legal systems. A clear example of that was the

policy decision of the Crown Office not to proceed on a policy basis with the prosecution of people under the age of 12. That is not always reflected in the international debate and dialogue on the issue. It somewhat changes the practical position, if not the technical legal position.

It is, of course, always tempting to look at other European nations and to consider ourselves to be behind when it comes to such legislation, but that is a false conclusion. It is in looking at children's rights and how our legal system operates in the round that we will best identify the positive steps that can be taken.

I was pleased that the minister paid close attention to the evidence from Lynzy Hanvidge, who was one of the young witnesses at committee. I reflected carefully on her views, and it became clear to me that many of the issues that she had faced were not around the age of criminal responsibility, but were—as the minister has already stated—broader questions about how our criminal justice system shows compassion, interacts with the most vulnerable individuals and understands the true nature and causes of their seemingly offending behaviour. I know that the minister considers the issue of looked-after young people to be very close to her heart, so I urge her to use this opportunity to look again at some of the wider issues that were raised in that session.

It is also important to consider the fact that the actual text of the UN convention does not specify a minimum age of criminal responsibility, and that age 12 is a suggestion that has come forward from a committee based on broader international interpretation. As with many of the most difficult issues relating to human rights development, again I stress to my committee colleagues that we are on a journey, on which we must make progress and move at a pace that allows everyone to sign up to and support initiatives.

I always go back to the example of the ship at sea, which came from one of my law lecturers. Sometimes, there is a danger that, in an attempt to modernise and rebuild, we move and remove too many of the planks at once and end up without a ship. When it comes to the Scottish legal system, which has seen, and continues to see, significant change, it is important to move at a pace that allows for continuity. Again, I stress that the bill has that balance right.

Finally—and in many respects, most importantly—I want to highlight the importance of victims and to reflect on the fact that all crime has a serious impact, not only on those who are directly affected, but on the wider community, regardless of age. All such behaviour, particularly when it is violent, must be treated seriously and acted on. It is in everyone's interests to ensure that young people grow up in a society in which

they feel fully supported, and in which opportunities exist for them.

Prevention is always better than trying to deal with the consequences, but we must be mindful that, when dealing with the consequences, it is possible to cause more harm than good. That is why we believe that the victim-support elements of the bill are essential. At the very least, a victim-centred justice system must give victims and families information on how, regardless of their age, the wrongdoer has been dealt with. We believe that those proposals should not be watered down, therefore we also believe that police powers should not be unduly restricted. Although it is right that the powers of the police should be altered to reflect the fact that we will no longer treat under-12s as criminally responsible, we believe that the police should still have the powers that they need to keep children and the public safe when wrongdoing takes place. I ask the Government to provide reassurance that the bill will not make it harder for police officers to do their job.

I urge the minister not to allow the bill to become a vehicle for discussion about an even higher age of criminal responsibility. From the consultation that has taken place and the discussions at committee, we have reached consensus. We now need to focus—as many of my colleagues will do—on how to strengthen other aspects of the bill. As I pointed out already, Police Scotland's evidence said that significant behavioural changes take place at the age of 12 and, as the minister pointed out, international comparisons can be misleading.

We need to recognise and thank those who work in our children's hearings system for their incredible work to ensure that, already, many children do not have to go to court. However, we have to be able to justify that decision directly to victims and the communities that are most affected by crime.

I offer the Conservatives' general support for the principles behind the bill. We stand ready to work with the Government and other parties to strengthen the bill, where consensus emerges.

14:49

Daniel Johnson (Edinburgh Southern) (Lab): As someone who does not sit on the Equalities and Human Rights Committee, I thank the clerks and members of the committee for the excellent work that they have done on their stage 1 report. I acknowledge the work of the independent advisory group on the minimum age of criminal responsibility, the children's reporter and the many organisations and individuals who submitted a

response; frankly, they have made this debate possible.

Most important, like others, I thank the children, young people and those who, as children, have experienced the criminal justice system, because that experience is absolutely invaluable in informing our progress.

Scottish Labour welcomes the bill and believes that it is an important step forward. We agree with the broad principles that have been outlined during stage 1. In particular, we agree with raising the age of criminal responsibility to 12. The minister was right when she said in her opening remarks that we should engage in the debate in a reflective way, particularly with regard to the historical context. Back in 2007, the UN Committee on the Rights of the Child stated that 12 should be the minimum internationally acceptable age of criminal responsibility, and we should all reflect on the time that it has taken us to reach the point at which we are making the change in our law.

At a time when people in this and other countries are seeking to undermine our international institutions, this debate is important, both in and of itself and as an affirmation of our commitment to the international rule of law and rules-based order. Now, more than ever, we need to stand up for those international institutions because they are the beacons by which we guide progressive policy and see a way forward for our country and others.

The bill deals with tragic and exceptional circumstances, and it is important to recognise that it deals with a very small number of cases. We are responsible for presenting in the debate a picture that is accurate. Not all teenagers end up in the criminal justice system by any stretch, and those who do are led there by the most tragic of circumstances. According to research published by the Scottish Children's Reporter Administration involving a sample of 100 children who were aged between eight and 11 years old, there were recorded concerns about the educational achievement of 53 per cent of those children; 25 per cent had been victims of physical or sexual abuse; and 75 per cent had previous referrals to the reporter. It is absolutely right that we respond appropriately when a child or young person is responsible for an act that we may regard as criminal or harmful behaviour, but we cannot do that by ignoring the wider context of the circumstances in which they find themselves. Such behaviour by children is surely a sign of wider social failure, and we must all take on that wider responsibility.

Before I deal with specific points in the bill, I remind members that we must be mindful of the broader principles and context that are beyond the scope of the bill. We should be proud of the

children's hearings system in Scotland. It has not been the case for many years that a child who has tipped over into the age of criminal responsibility has automatically found themselves in the High Court, facing horsehair wigs and the full force of the adversarial system. The children's hearings system was set up in 1971 to provide an integrated welfare-based approach to children who have committed offences. It is worth considering, through the passage of the bill, how we can strengthen that system. As the Education and Skills Committee heard last year, the system is becoming increasingly adversarial. We cannot allow the children's hearings system to become simply another court of law.

With regard to its specifics, the bill makes important changes to the disclosure process, which, as the minister said, has also been looked at in the Management of Offenders (Scotland) Bill—the issue is of concern for the broader criminal justice system. Other members put it very well when they ask what the purpose of the disclosure system is. That is the challenge. It is right to curtail the disclosures that are required for those who have committed crimes when under the age of 12.

However, we must also challenge ourselves. Although the bill represents positive reform, it is important that, during stages 2 and 3, we thoroughly investigate how the bill will meaningfully effect change. Are we really protecting children from the harmful effects of early criminalisation or are we simply changing terminology? We should seek to do the former rather than the latter.

The police have said in relation to places of safety:

“a police station is not the best place for a child”.—
[*Official Report, Equalities and Human Rights Committee*,
20 September 2018; c 14.]

I put the simple question: if a young person is taken by the police when they do not want to go with them and put in a cold room in a police station, in what way does that feel different from being arrested and put in prison? It is vital that we look at police powers.

On the wider point, the reality of what young people experience was set out well by Lynzy Hanvidge in her evidence and by other members. Will the bill truly make a difference to young people who come into contact with the criminal justice system?

For the reasons that I have set out, Labour supports the Government raising the age of criminal responsibility to 12. It is important that Scotland is compliant with the United Nations Committee on the Rights of the Child and that we seek to prevent our most vulnerable children and

young people from being exposed to the harmful effects of the criminal justice system. Although that is the right thing to do, we recognise that we must seek broad support. As the minister said, consensus is important, outwith Parliament as well as within it.

This area of law needs to remain under constant review to ensure that the children's justice system is doing what it was set up to do. I look forward to the progress of the bill through stages 2 and 3.

14:56

Alex Cole-Hamilton (Edinburgh Western) (LD): I remind the chamber of my entry in the register of members' interests, in that I was formerly the convener of Together, the Scottish Alliance for Children's Rights.

I will use my time to offer the guarded support of my party for the general principles of the bill. I say "guarded" because rarely in the consideration of primary legislation does a bill attract such comprehensive pressure from stakeholders who want us to go further. There has been a lot of talk in the debate about pace—the rate at which the people of Scotland will accept further change in this area. We have been moving at snail's pace just to get to this point; it has been a long and frustrating road.

Our commitment to raising the age of criminal responsibility was first laid out in a report to the UN Committee on the Rights of the Child in 2012. At that time, Aileen Campbell assured the UN that Scotland would bring the ACR to 12 during the previous parliamentary session. With legislative opportunities in that session running out, my friend and colleague Alison McInnes valiantly used a stage 3 amendment to the Criminal Justice (Scotland) Bill in 2015 to deliver on the commitment to the UN, only to have it rejected by the Cabinet Secretary for Justice and voted down by those on the Government benches. That vote ensured that Scotland retained one of the lowest ACRs in the world. I do not think that it is unreasonable to suggest that, arguably, the Government lied to the United Nations.

Put simply, the UN set a floor of 12 as the minimum age of criminal responsibility that was to be adopted no later than 2007, and it said that countries should work upwards from that point. All having been told, the Parliament has sat and risen from the chamber over three sessions since that international starting gun was fired. Only now has the Government finally brought our country to the races.

The minister suggests that the Government has elected to stick at 12 because the majority of the respondents to its consultation agreed that that is where the age should be set—but 12 is all that

they were asked about. Therefore, it is particularly striking that a powerful majority of those who responded in writing to the Government's consultation and to the Equality and Human Rights Committee's stage 1 call for evidence still volunteered that we should go further. The overwhelming majority of witnesses to the committee during our stage 1 consideration of the bill felt the same. The feeling was summed up most powerfully by our Children and Young People's Commissioner, Bruce Adamson, who said:

"we need to be looking at 14 or 16 as the norm, internationally. If Scotland wants to be a human rights leader, I am very confused as to why we are talking about 12 rather than 16 or higher."—[*Official Report, Equalities and Human Rights Committee*, 27 September 2018; c 23.]

The stage 1 evidence was hugely important to our understanding of the issue, and I thank everyone—witnesses, respondents and our clerks—who contributed.

The experience of countries that have gone before us was vital. We learned that Denmark, which lowered its age of criminal responsibility from 15 to 14 on the election of a more right-wing Government, then reversed that decision shortly afterwards, due to an increase in offending behaviour and a decline in positive outcomes.

It is the lived experience of young people that we found most compelling. We have already heard Lynzy Hanvidge's story during the debate. It is possibly the most compelling witness statement that I have heard in my parliamentary career. As a young girl, Lynzy was arrested on the night that she was to be taken in to care. She was being removed from her mother and, in her own words, she "kicked off". That led to her being charged and spending a night in the cells. We could have heard a pin drop when she said:

"I spent my first night in care in a prison cell, locked up. I had not done anything wrong, but I felt like I had".—[*Official Report, Equalities and Human Rights Committee*, 6 September 2018; c 26.]

She went on to describe the enduring harm that that caused her. Lynzy was just 13 years old, yet nothing about the bill—not one clause or section—would have changed her story or the outcomes that she may well now face for the rest of her life. I will work to amend the bill at subsequent stages so that we answer the challenge, not just of the United Nations, but of our sister nations across this continent, which put our efforts on this issue to shame.

Lynzy's story does not just shine a light on the lack of Government ambition in the age that it has chosen; her testimony reminds us that we regularly lock up our children in police station cells in contravention of their rights as defined in article

37 of the United Nations Convention on the Rights of the Child.

I was concerned from the outset that the only place mentioned in the place of safety provisions in the bill, albeit in the context of last resort, is the police station. When only one place of safety is defined it runs the risk of becoming the default, and I do not think that any of us would recognise a police station on a Friday night as a place of safety for vulnerable young children. I will seek to amend the bill so that it promotes the use of best practice alternatives and expressly prohibits the use of cells for the containment of children.

I have fought for children's rights all my adult life and I do not intend to stop now. We will support the bill, but we will do so with a sense of disappointment, which is shared by so many witnesses and stakeholders who want us to go further. This is not a radical bill—it is not even a progressive bill. However, it is a bill that finally achieves the *de minimis* standard of international expectation. On this issue we will find ourselves on a par with the four most socially conservative countries in Europe. As such, we are left wildly adrift of our shared ambition to make Scotland the best place in the world to grow up in.

15:02

Fulton MacGregor (Coatbridge and Chryston) (SNP): As a member of the Equalities and Human Rights Committee, I too associate myself with the convener's opening remarks and pay tribute to the clerks for all their work in pulling together the very comprehensive stage 1 report.

The current age of criminal responsibility in Scotland is just 8 years—the lowest in Europe—so the bill is absolutely necessary and is the right thing to do. Almost all the evidence that was received by the committee agreed with the approach in the bill as an absolute minimum. As other members have already alluded to, the most contentious issue is not whether the age should be raised, but what age it should be raised to.

As Oliver Mundell mentioned, some witnesses, such as those from Police Scotland, seemed content with the proposal of 12 years of age. Others, such as the Children and Young People's Commissioner, Who Cares? Scotland and Juliet Harris from Together, wanted to go much further and suggested 14, 16, 18 or even higher. Good evidence was put forward for those arguments—there were comparisons with youth justice statistics from other countries that showed a reduction in offending, and there was evidence on neuroscience in respect of brain development.

I admit that my own personal inclination is that the age of criminal responsibility should be higher. However, I note the strong evidence given by the

minister on some of the downfalls of direct comparisons and the discrepancies in some other systems. For example, in Luxembourg, despite 18 years being the headline age, there is scope to keep a child in solitary for up to 10 days, which I do not think that any of us here would advocate.

It is also fair to say that we are quite a difficult country to draw comparisons with, as we have the unique children's hearings system, which places the needs and views of the young person right at the centre. I accept that there are issues with our system, as Daniel Johnson mentioned, and that some reform is required to make it work even better, but, broadly, it is a good system that allows us to treat children who display harmful behaviour in a mainly welfare-orientated and supportive way.

At committee, the minister demonstrated that, despite the bill's name, the age of criminal responsibility in and of itself is not the only factor. This is about taking further steps not only to make sure that Scotland is the best place for our children to grow up in but—crucially—to reduce the negative effects of criminal convictions later on, in adult life.

Raising the age from eight to 12 is absolutely the right thing to do. When I was a social worker and attended children's panels, I witnessed children accepting grounds just to get the hearing over with or because someone else—a parent, care giver or professional—wanted them to accept those grounds. The committee also heard evidence of that. Admittedly, the numbers are very small, but the bill will ensure that no child under 12 will be dealt with at a children's hearing on offence grounds.

It is perhaps just as important that, although systems are already in place to reduce the number of offence grounds for older children, the bill will introduce an independent reviewer for disclosures. The committee welcomes that approach, which could be applied to under-18s. As outlined by the minister, that step has the potential to move us to a situation where only in rare and exceptional circumstances would any child's involvement in offending be disclosed and so potentially impact on their life as an adult. That is where we need to be.

As Oliver Mundell mentioned, it is important that the public are fully behind us. The parties in the Parliament all agree that the age should be at least 12, which is something to work from, and the responses to the committee were generally the same, although I take on board the point that Alex Cole-Hamilton made about that in his speech. The Scottish Youth Parliament, which I visited in Kilmarnock, had broadly the same view. At the end of the discussion, there was broad agreement that 12 was about right. Some people believed that 12 was just right and others thought that it

should be a bit higher, but the views were broadly similar to those given to the committee in evidence.

The United Nations suggests progressively increasing the age, which is why I am open minded about Mary Fee's suggestions in the committee regarding some sort of review. I will be interested to see whether there is an amendment at stage 2 and what form it takes. That might serve as some sort of compromise on the issue.

Part 4 of the bill is on police powers. There was a lot of discussion about police cells being used as a place of safety and about that being mentioned in the bill. Alex Cole-Hamilton has outlined his concerns about that, but I welcome the minister's remarks in her opening speech, in which she said that she has asked for an amendment to be prepared for stage 2 to address some of the concerns. I ask the minister and the Government to consider using the child protection guidelines for places of safety, which would be consistent with the overall approach in the bill. The committee makes that recommendation in the stage 1 report.

The bill offers us an opportunity to consider how the police engage with young people who are involved in suspected harmful behaviours in a general sense. I heard evidence at the Scottish Youth Parliament and on a visit to Kibble about the concerns that young people have about those interactions. In my area, the police do a lot of successful community work with youngsters. It is about changing cultures in the police and other services and sharing best practice. It is about society starting to recognise that behaviours that we might think of as criminal are actually the result of traumatic experiences—in many cases, highly traumatic experiences.

Bullying is an example of that. As members will know, this is anti-bullying week—I will ask a question about that at First Minister's question time on Thursday. As MSPs, how often do we come across a bullying situation in a school only to find out, when we engage with the professionals, that the alleged bullies are also victims of horrendous circumstances? It is a difficult circle to square in some respects, but how we deal with it and support the victim and the perpetrators, as well as our schools and others who work with children, is an indication of where we are as a country and what the priorities are for individual local authorities and communities. The number 1 message that we hear from victims is that they do not want what happened to them to happen to someone else. We all have a duty to work together to make that a reality through a therapeutic and joined-up approach.

It has been a great pleasure to scrutinise the bill at stage 1. I believe that it sends out a strong message about the caring and progressive country

that Scotland is, and I look forward to considering any amendments that come forward at stage 2. I commend the general principles of the bill to members and hope that it will be supported at decision time.

The Deputy Presiding Officer (Linda Fabiani): We have quite a lot of time in hand, so I can allow extra time for interventions and a bit of debate, and even a bit of droning on if anyone is so inclined. I call Gordon Lindhurst—[*Laughter.*] Sorry. It was nothing personal, Mr Lindhurst.

15:09

Gordon Lindhurst (Lothian) (Con): That is a slightly unfair introduction to my speech, Presiding Officer—I will perhaps accept the invitation to debate, but hopefully not the invitation to drone on. I start by briefly mentioning my entry in the register of members' interests and my status as a non-practising advocate.

The bill before us today will, as the Law Society of Scotland has pointed out, raise the age of criminal responsibility by bringing it into line with the existing age for prosecution. I note the Equalities and Human Rights Committee's stage 1 report, which highlights Police Scotland's support for raising the age of criminal responsibility on the basis that "the prevalence of that behaviour" tends to change beyond that point. Police Scotland is, of course, under a duty to remain neutral on political issues, and I trust that it will continue to focus on the detection and prevention of criminal activity by whomsoever it may be committed.

The age of 12 is, after all, already recognised in our law as a time of important change in a young person's life, moving from primary to secondary school, being able to make a will and being able to consent to or veto their own adoption. Those are just a few examples, and the report provides others. A number of witnesses, including representatives of Orkney Islands Council and Police Scotland, recognise that raising the age also needs the buy-in of society, because although a welfare basis behind doing so, in terms of the offender, is relied upon by the committee, we must also recognise that there are victims of crimes for whom the age of the offender may be of little or no consequence. The age of the offender who stabs someone does not alter the trauma experienced by the victim.

That is why it is disappointing to hear, in this context, that information for victims on how their experience was dealt with—for example, from the Scottish Children's Reporter Administration's victim information service—is limited, or that it took time to get to the victim. The Scottish Alliance for Children's Rights summarised the point in

explaining the important role that information can play for victims

“in having their experiences validated and knowing that harmful behaviour ... has been taken seriously.”

We must be careful not to water down information provided to victims, to the point that it becomes meaningless. That remains true even if, as Bruce Adamson, the Children and Young People’s Commissioner, said:

“it is not necessarily about punishing the person, but about ensuring that what happened does not happen again”.—[*Official Report, Equalities and Human Rights Committee*, 27 September 2018; c 37.]

I am sure that quite a number of us would view the matter in the same way as stated in that quote. Victims want to know that the wrong done to them is being righted as far as possible and that the person who carried out the offending behaviour has been dealt with and helped as appropriate.

Likewise, as touched on by Daniel Johnson, with whom I agree on this point, removing the name of criminality from the behaviour must not be allowed to send a message to young people that they have no responsibilities for their actions towards others. In other words, we cannot just look at the terminology; that would be wrong. It is important, when wrongdoing has been committed, that the facts can still be established by the police. As Children 1st pointed out in evidence,

“these powers are crucial to establishing the truth of the matter, informing decisions about a child’s welfare and the risk they pose to themselves and others and to ensuring the rights of victims”.

Putting in place trauma-sensitive police procedures makes some sense within the wider objectives of the bill, but we need reassurance from the Government that the bill will not make it harder for the police to do their job.

Alex Cole-Hamilton: In regard to the conduct of the police in carrying out their duties, does the member share my concern that the provisions in the bill for the right of children not to answer questions are not as strong as the right of adults to silence? Should the bill be amended to reflect that?

Gordon Lindhurst: The member raises an important point and I share some concern about that. If one changes the behaviour from being technically criminal, that has certain consequences, as he points out, under the European convention on human rights and in terms of law. That is a matter that may need to be looked at, and I agree that it should be considered further as the bill progresses.

Maree Todd: I want to make it clear that the right not to answer questions is intended to ensure that children do not have to say anything. Any interview under the bill will be conducted in a

context where the child is not a criminal suspect, as the member has noted, and where their experience needs to be completely removed from criminalisation. The bill deliberately does not echo the language of the police caution. If that is not clear, I am more than happy to consider whether an amendment is needed as we move forward.

Gordon Lindhurst: I thank the minister for that intervention. I will proceed with my speech, unless anyone else wishes to intervene and continue the debate. [*Interruption.*] If I might say so, Mr Stevenson, that was not a general invitation to all members.

It is important that facts are established for the good of all parties to an incident. One must consider the rights of a child who it is thought may have committed offending behaviour, whether or not such behaviour is technically considered a crime after this bill has passed. It is important that the police are in a position to establish the facts. Indeed, for those who must consider the welfare of the child, whether the child was involved as a victim or as an offender, it should be clear what has taken place in order to enable services to meaningfully engage with the situation.

Other members have also touched on how important it is to work with young people outside the criminal justice system to ensure that wrongdoing is not repeated. That work can potentially be undone later in life if a child is unnecessarily burdened with a criminal record. There are provisions for certain crimes to come off adults’ records; indeed, that concept is already well recognised in our law.

It needs to be emphasised that, whatever procedures are put in place to deal with the matters that we are considering, the victims of what would be crime by any other name, and the protection of the public, must remain central to all considerations. We must, as a Parliament, understand that changing the headline age of criminality should not allow us to lose sight of the requirement to address offending behaviour and the needs of the victim, as well as the adjustments to our law and procedures that will be needed to accommodate that. I welcome the minister’s assurance that the Government will look at those issues.

Finally, I will turn to practicalities. I have been locked in a cell with someone who I was entrusted with defending—they had been accused of an assault crime with an offensive weapon—simply because there was nowhere else for me, as that relatively young individual’s counsel, to advise them going in to the courtroom situation. We need to address such practicalities, because if we simply make empty statements about ensuring that matters are dealt with properly, we will not be

able to see this through, and I am sure that none of us would want that to happen.

15:18

Gail Ross (Caithness, Sutherland and Ross) (SNP): I, too, thank the clerks of the Equalities and Human Rights Committee, the Scottish Parliament information centre, the official report, my fellow committee members and everyone who took the time to respond in written and oral evidence. Colleagues have already covered many points, and indeed the committee dealt with so much that it would be impossible for me to fit it all in to this speech. Instead, I will concentrate on the age of criminal responsibility and try to give some context for why it needs to be raised. I am glad to say that, so far, it is something that we all seem to agree on.

Today, in Scotland, a child can get a criminal record from the age of 8. The age of criminal responsibility is the minimum age at which a child who commits an offence is considered to have the maturity to understand their actions and can be charged and held responsible in a criminal procedure. We know that children develop at different stages and that holding children criminally responsible for their actions can be extremely damaging.

It is becoming more and more accepted among people and organisations that work with children and young people that a person who commits an offence when they are very young needs help and support, not criminalisation. It is true that such a young person needs to understand that what they did was wrong, but as a society, we need to understand what drove the behaviour in the first place.

The evidence is already there—developmental psychology and neuroscience focus on the developmental differences between children and adults, children's diminished capacity and, consequently, culpability. The current low age of criminal responsibility means that we are responding to welfare issues with criminal justice responses and potentially damaging the prospects of young people. Raising the age of criminal responsibility would minimise social harm across society and not just for the young people involved.

I was recently speaking to someone who was under the impression that we had already raised the age to 12. However, to clarify, the Criminal Justice and Licensing (Scotland) Act 2010 raised the age of criminal prosecution to 12, meaning that children under the age of 12 could no longer be pursued through the adult courts. We now find ourselves in the position where children aged eight to 11 could still receive a conviction from the children's hearings system, either by admitting an

offence or having an offence established via a proof hearing at a sheriff court.

The bill in front of us asks that we raise the age of criminal responsibility to 12, in line with the minimum age that is internationally acceptable according to the United Nations Committee on the Rights of the Child. As the minister outlined, the Scottish Government's advisory group recommended an increase to the age of criminal responsibility, and 95 per cent of respondents to the Scottish Government's consultation agreed that it should be raised to 12 or older.

The oral evidence taken by the Equalities and Human Rights Committee gave differing views as to what the age should be. The children's commissioner stated that the age of 12

“was never intended as a target but the absolute minimum.”—[*Official Report, Equalities and Human Rights Committee*, 27 September 2018; c 22.]

Professor Susan McVie questioned whether the age of 12 represented

“a progressive commitment to international human rights standards.”—[*Official Report, Equalities and Human Rights Committee*, 6 September 2018; c 2.]

Duncan Dunlop, the chief executive of Who Cares? Scotland, also suggested that a move to 12 was not enough.

On the other hand, evidence from Police Scotland and Victim Support Scotland suggested that 12 is an appropriate age and that there should be more emphasis on the victims of crime.

Our committee has therefore requested information on the current support for victims and how it is being applied in practice throughout the country. We have also asked for appropriate materials to be developed to help victims—including child victims—to understand how the harmful behaviour of children under 12 is dealt with.

From the evidence received by the committee, it is obvious that we are all agreed that the age of criminal responsibility should be raised. Raising it to 12 would place Scotland above the rest of the United Kingdom, where the age is 10, and in line with Belgium, Ireland and the Netherlands. Of the other 24 European Union countries, France alone has an age of 13 while all of the rest have an age of 14, 15 or 16. Although it has already been said in this debate—and the minister also pointed it out in her evidence to the committee—I reiterate that we need to take those ages in accordance with the policy that lies alongside them and understand that the issue is not as black and white as age only. One suggestion put forward was that 12 could be a starting point, and that a review mechanism could be built into the bill to allow for the age to rise in increments, once it had been

proven that the outcomes for children and young people had improved.

In her evidence to the committee, Maggie Mellon of the Howard League Scotland stated:

“Scotland set the age of criminal responsibility at 8 in 1937. In 1964, Lord Kilbrandon said that there was no clinical evidence to suggest that that had made any sense at all: we were calling for the age to be higher in 1964.

In considering review, the committee should bear it in mind that it might take 100 years for evidence to come back, despite there being lots of international evidence showing different thinking about the age of childhood and youth.”—[*Official Report, Equalities and Human Rights Committee*, 27 September 2018; c 10.]

We have waited a long time for such a bill to come before us, and I thank the Scottish Government for introducing the Age of Criminal Responsibility (Scotland) Bill. I also thank the minister for the clarifications that she gave in her opening speech. Let us not wait 100 years for further progress to be made.

I will end by quoting paragraph 119 of the committee’s report:

“Whilst public opinion may be a factor in considering the age at which the age of criminal responsibility should be set, it should not, we believe, be the only driver for change. Welfare and the protection of the child should be paramount.”

15:24

Rona Mackay (Strathkelvin and Bearsden) (SNP): I start my contribution to this important debate in the way that I would normally end such a speech, by saying that I support the general principles of the bill at stage 1. I support the bill because it is long overdue and is a step in the right direction. However, I am disappointed that the minimum age will not be set higher; my view is that it should be 14.

We have heard that, with eight as the age of criminal responsibility, Scotland lags behind the rest of Europe. In England, the age is 10, and in most other countries it is 14 or above. The UN believes that the absolute minimum age should be 12, and that is accepted internationally. Should we be moving to the absolute minimum?

Although the Criminal Justice and Licensing (Scotland) Act 2010 raised the minimum age of criminal responsibility to 12, children who are aged between eight and 11 can still be convicted through a children’s hearing by admitting to an offence or on established grounds via a sheriff court. Such a conviction will blight those children for the rest of their lives.

When the children’s hearings system was introduced, in 1971, after the Kilbrandon review, it put Scotland among the most progressive countries in the world when it came to children in

the justice system, and that system is still held up as a model of good practice throughout the world. That is why the current age of criminalisation, at eight, is an anomaly—it is out of sync with the way in which we treat children in Scotland and it makes no sense. Few people could dispute or are disputing that an increase is long overdue.

I am not a member of the lead committee on the bill, but I understand that it struggled to reach a view on what the age should be. I commend the Equalities and Human Rights Committee and its clerks for the amount of work and detailed analysis in the stage 1 report, which covers a variety of complex areas including disclosure, place of safety and other vital aspects of child safety that I do not have time to address. I will stick to issues that relate to the age of criminal responsibility.

The advisory group’s report, which was published in 2016, recommended the age of 12, and 88 per cent of those who responded to the consultation favoured raising the age to 12 or above. In thinking about the subject to prepare for the debate, I kept coming back to one question: what rationale is there to call children of any age criminals? The bill makes it clear that no child who is under 12 can be called a criminal, but does a child stop being a child when they reach their 13th or 14th birthday?

The United Nations Convention on the Rights of the Child defines a child as anyone who is below the age of 18. A child or young person who ends up in the criminal justice system is a child who has been failed by adults and by our system, which should have intervened early to prevent the child from getting into trouble in the first place. We know that children are not born inherently bad. We know, too, of the empirical evidence of the damage that adverse childhood experiences cause to children and young people. That has been mentioned several times in the debate and in many debates in the chamber. The importance of ACEs cannot be overstated.

During my time on the children’s panel, the children who appeared at hearings for whatever reason all had one thing in common—they were unhappy, insecure and confused. They had lost their way. They were there because they had done something wrong, but, instead of asking them what they had done, maybe we should have asked what had happened to them and why they were lashing out, being antisocial or not attending school. Most of those children were victims of a chaotic lifestyle, some had no positive role models and far too many were children of addicted parents. Children who experience ACEs are 20 times more likely to end up offending or incarcerated during their lifetime.

Of course, children should be taught wrong from right, and they should not be allowed to run wild

and cause hurt or injury to persons or property. We would fail in our duty of care as adults if we allowed that to happen. Equally, victims have a right to know that they will be respected and that those who offended against them will be dealt with. Some offences that are carried out by children can be extremely serious, but the majority are not. It is how we deal with the children who commit offences that is the key. I believe that providing positive guidance and intensive therapy is one way to proceed, but people who are far more qualified than I am and who work tirelessly in children's welfare could advise on the best way forward. As the minister said, we need to take a whole-child approach.

I reiterate that I support the general principles of the bill at stage 1, and I look forward to the stage 2 amendments. This is our chance to redress the balance for children in the justice system. Scotland has a reputation for being progressive and fair in all aspects of our society, and we should not shy away from making a radical shift in the age of criminal responsibility.

The Deputy Presiding Officer: I call Margaret Mitchell, to be followed by Richard Lyle. There is still some time in hand.

15:30

Margaret Mitchell (Central Scotland) (Con): Presiding Officer,

"The minimum age of criminal responsibility is a substantial and complex issue."—[*Official Report, Justice Committee*, 8 September 2015; c 26.]

Those were the words of the then Cabinet Secretary for Justice in 2015, when, at stage 2 of the Criminal Justice (Scotland) Bill, he responded to and rejected an amendment that Alison McInnes had lodged—Alex Cole-Hamilton mentioned it earlier—that sought to increase the age of criminal responsibility. The committee was evenly split, with four votes for and four against, and the amendment failed on the casting vote of the convener. I abstained in the vote because the committee had not taken any evidence on the issue. Instead, I welcomed the cabinet secretary's announcement during the stage 2 debate that an independent advisory group was to be established to look at the potential implications of an increase in the age of criminal responsibility.

Scotland has a distinct legal system that is recognised and admired across the world. It also has a strong record on protecting children's rights. In 2010, the law was changed so that no one under the age of 12 could be prosecuted in the criminal courts, and children aged between eight and 11 who face allegations of having committed an offence are dealt with through the children's hearings system.

Alex Cole-Hamilton: Will the member take an intervention?

Margaret Mitchell: I might be coming to the point that the member wants to make, but I will take the intervention.

Alex Cole-Hamilton: Does the member recognise that, even though that is true and children who exhibit offending behaviour are dealt with through the children's hearings system, they can, through that process, still obtain a criminal record that can follow them right through their lives, to their detriment? There are sometimes barriers to opportunities such as potential jobs in delicate positions.

Margaret Mitchell: As I suspected, that is the very point that I was coming to.

Having said that, Scotland has the youngest age of criminal responsibility in Europe, and a lower age than nations such as China, Venezuela and Russia. Furthermore, as Mr Cole-Hamilton says, no one wants young children to have criminal records, which can impact through the implications of disclosure on their chances of employment, as a result of childhood behaviour.

The Age of Criminal Responsibility (Scotland) Bill ensures that this complex issue receives the scrutiny that it merits in an effort to give certainty on the disclosure of criminal records, the use of forensic samples, police investigatory powers and the rights of victims and to ensure that it has the confidence of communities and the public. Its provisions have been influenced by both the 2015 advisory group's findings, which were published in 2016, and the Scottish Government's public consultation, which followed. More specifically, the bill seeks to raise the age of criminal responsibility to 12 and makes provision on the release of non-conviction information for under-12s, information for victims of harmful behaviour, police powers to investigate an incident of harmful behaviour by a child under 12 and changes to disclosure processes.

In the time that remains to me, I will concentrate on two areas. The first is the provision that sets the age of criminal responsibility at 12, which, in effect, means that a child under that age cannot commit an offence. That age, as the Law Society of Scotland states, is already significant in Scots law. As Gail Ross pointed out, children of 12 are presumed to have sufficient understanding to make a will, consent to or veto their adoption and express a view on arrangements for their future care in private law proceedings and at children's hearings, and they are deemed to have sufficient understanding to instruct a solicitor.

Raising the age of criminal responsibility to 12 would also bring it in line with the age of criminal prosecution. Crucially, it would remove the stigma

associated with labelling as criminal the bad adverse behaviour of young people in the eight to 11 age group that is in the minor to moderate category of offence, with all the potential unintended consequences that that can have for those young people in their later life. Establishing the age of criminal responsibility as 12 gives legal clarity and strikes the correct balance.

I also want to talk about the—thankfully—relatively few cases of serious incidents of harmful behaviour carried out by under-12-year-olds. Scotland's youngest child killer was 11 years old when he was convicted of the culpable homicide of a three-year-old toddler. Although that is an extreme example, it helps to concentrate minds on how critical it is that the measures in the bill are sufficiently robust to reassure the families of victims and to protect the public. That is where the issue of a place of safety needs to be addressed.

The policy memorandum states that the bill provides several measures—referred to as safeguards by the advisory group—to ensure that action can still be taken by the police or other authorities when a child under 12 is involved in serious incidents of harmful behaviour. Those measures include specific police investigatory powers to establish the facts and, although automatic disclosure for a child under the age of criminal responsibility has been removed, putting in place independent consideration of information to be included in response to a disclosure check when the check may disclose a non-conviction and potentially adverse information dating back to when the applicant was under the age of criminal responsibility.

I support the age of criminal responsibility becoming 12 but consider it essential that the safeguards be monitored closely to ensure that they are fit for purpose and to give victims, their families and the public confidence in the bill's provisions.

15:37

Richard Lyle (Uddingston and Bellshill) (SNP): I welcome the opportunity to contribute to such an important debate. I begin by stating clearly that I view the bill and the topic through the prism of international human rights and the progressive ideology that we in Scotland wish to show as an example to the rest of the world.

The bill builds on the announcements made by the First Minister in her programme for government on embedding the United Nations Convention on the Rights of the Child in Scots law. That step, alongside the action that we are debating today, makes it clear that our approach to policy formulation is fundamentally rights based.

Scotland's current age of criminal responsibility—eight—is the lowest in Europe, and that has tarnished Scotland's international reputation as a leader on rights. We can see that the criticisms often levelled at Scotland from rights organisations, such as the UN Committee on the Rights of the Child, are because of our incredibly low age of criminal responsibility. I am proud that the Scottish Government has taken those criticisms on board and is responding to them. As I have said, that demonstrates our shared commitment to human rights.

The Criminal Justice and Licensing (Scotland) Act 2010 raised the minimum age of criminal prosecution in Scotland to 12, meaning that children under the age of 12 could no longer be prosecuted through the adult courts. That created a disparity between the age of criminal responsibility and the age of criminal prosecution, which meant that children aged eight to 11 years could still obtain a conviction through a children's hearing, by either admitting to an offence or having an offence ground established in a proof hearing at the sheriff court.

Any convictions gained at that age have the potential to appear on a higher-level disclosure check or PVG scheme record later in the child's life, potentially preventing them from moving on from an incident in childhood or restricting their ability to undertake the training course or career of their choice. How bad is that?

That is part of what I call the "why" of the bill, but the "what" is important, too. What does the bill do? What are its core aims and values? As well as increasing the age of criminal responsibility to 12, the bill makes a number of provisions relating to police powers to investigate an incident of harmful behaviour by a child under 12, changes to the disclosure process and the release of non-conviction information—known as "other relevant information"—for under 12s and information for victims of harmful behaviour.

The bill was introduced in March 2018. The policy memorandum perfectly shows the Government's ambition for the bill in a nutshell:

"the Bill is focussed on protecting children, reducing stigma and ensuring better future life chances, rather than reflecting a particular understanding of when an individual child in fact has the capacity to understand their actions, or the consequences that could result from those actions—either for them or for the people they may have harmed."

As I have outlined, the Scottish Government is committed to bringing a rights-focused approach to all areas of Government policy relating to children, especially when it comes to the children who are most affected by early trauma and adversity. It is clear that this reform will contribute to a youth justice system that recognises that heavy-handed criminal justice is counterproductive

for children and young people. That is an important statement for us all.

Children aged under 12 are already protected from prosecution, due to legislation introduced by this Government in 2011, and it is a fact that the vast majority of children aged 12 to 15 who offend are dealt with by the children's reporter rather than prosecuted. We have a robust framework in place to minimise early contact with formal justice systems, through the principles of early and effective intervention—EEI—and diversion from prosecution. That requires appropriate support and monitoring to ensure effective delivery.

The final core element that I will reflect on is that raising the ACR will benefit Scotland as a whole. I know that the evidence of harm caused by treating children as offenders from such a young age is clear, with studies showing that young people and children who have been involved with police and the justice system at a young age are more likely to offend as adults. I came across that when I was a justice of the peace many years ago.

I wish to share something that Duncan Dunlop, who is the chief executive of Who Cares? Scotland, said. I commend in passing Who Cares? Scotland for its truly incredible work and fantastic support of care-experienced people, particularly young people, across Scotland. Duncan said:

"The involvement of police and in fact—bizarrely—the justice system means that people are more likely to continue offending. We have to look at a different approach and we should seize this opportunity."—[*Official Report, Equalities and Human Rights Committee*, 6 September 2018; c 22.]

I am proud that this Government is living up to those words and seizing the opportunity to take action on the issue. The bill does, indeed, focus

"on protecting children, reducing stigma and ensuring better future life chances."

Alex Cole-Hamilton: Is the member aware that Duncan Dunlop said those words during stage 1 evidence and that they were part and parcel of an impassioned soliloquy calling on the Scottish Government to go much further than it has done in the bill and increase the age of criminal responsibility beyond 12?

Richard Lyle: I welcome Alex Cole-Hamilton's intervention. I got his name right for a change—that is a wee joke that he and I have.

I know how passionate he is about pushing for a greater increase, but we need to be realistic. I live in the real world, where we are raising the age of criminal responsibility from eight to 12. It may be 14 or older in other countries, but it is a step in the right direction. With the greatest respect to Mr Alex Cole-Hamilton, it is a step that we have to take. He may wish to grandstand and say that he is going to raise the age by this or that number of years,

and that is his prerogative. For my part, I intend to support my Government, which I believe to be taking the right steps. I consider myself to be a friend of the member, as we have been on a few different committees together, and, in the spirit of consensus and togetherness, I would ask him to listen, to learn and to follow. Creating better chances for young people is a noble ambition, and one that I am sure that everyone across this chamber would wish to deliver.

The Deputy Presiding Officer: I am terribly glad that you two are still pals.

15:46

Mary Fee (West Scotland) (Lab): While welcoming the principles of the Age of Criminal Responsibility (Scotland) Bill, I will say, at the outset, that I believe that it is ludicrous that, in Scotland, children as young as eight have been criminalised for over 80 years. No other country in Europe has such a low age of criminal responsibility. It is long overdue that we rectify what I consider to be wrong and make this change.

I thank my fellow committee members for all their hard work during the committee inquiry and in the preparation of the report. I also thank the clerks of the Equalities and Human Rights Committee for their diligent work in supporting every member of the committee, reaching out to all stakeholders and gathering the compelling evidence in the stage 1 report.

Equally, my thanks go to every individual and organisation who provided evidence and, most important, to the young people whom we met in committee and on visits, for being open and honest about the impact that the criminal justice system has had on their lives.

The vast majority of respondents to the call for evidence backed raising the age of criminal responsibility, with some advocating a higher age than is proposed in the bill. It is now our duty, as politicians, to listen to those with greater experience and understanding of this issue, and to right the wrong that has criminalised children in Scotland.

The United Nations Committee on the Rights of the Child suggests that 12 should be the minimum age of criminal responsibility across the world. I am sad to say that it is a reflection of our society that Scotland is at the bottom of the table of EU member states.

The majority of EU states have 14 as the age of criminal responsibility, and even when this bill is passed we will remain behind the rest of Europe. Even with the raising of the age to 12, the inconsistencies around children and Scots law—

pointed out by many stakeholders—remain a problem that must be addressed.

The lifelong damage that can be done to a child who becomes involved with the criminal justice system is evident. Involvement in the system can affect education, health and wellbeing; it can also become normalised for the child and lead to offending at a later age.

A range of professionals told the committee that children's brains do not fully mature until much later in life and that full emotional maturity is not achieved until the late teens or as late as 25. Children 1st said:

"Not all children mature at the same rate and some understand and interpret consequences and processes differently to others."

The centre for youth and criminal justice told us:

"For children growing up in families and communities where others around them are engaged in criminal and harmful behaviours, it can be extremely difficult, if not impossible, for them to understand what criminal behaviour is and also to be able to exercise choice over what they do."

That leads me to the impact of trauma and adverse childhood experiences. The committee heard that children and young people who had been involved in the criminal justice system had experienced trauma in their lives—some more severely than others. Research published in 2016 by the Scottish Children's Reporter Administration found that, of 100 children aged eight to 11 who had been referred to the reporter, many had a range of pre-existing problems: 39 per cent were children with disabilities and physical and/or mental health problems, and 25 per cent had been victims of sexual and/or other physical abuse. The research also showed serious concerns about the education of children, with attendance and behaviour problems affecting more than half of them. That is why it is crucial that the approach to dealing with harmful behaviour focuses on trauma-informed perspectives.

I back the committee's recommendation that the Scottish Government and other public authorities amend supporting guidance and training materials so as to frame them around trauma. We must also recognise the serious consequences that austerity can have on the lives of young children, as many suffer the brunt of cuts to welfare and public services—particularly education. When a child is removed from a harmful situation, they must be taken to an appropriate place of safety. A police station must always be the last resort.

I am grateful that the minister has taken cognisance of the committee's request to take into account the full definition of "place of safety", as set out in section 202(1) of the Children's Hearings (Scotland) Act 2011. Reinforcing that opinion is

the testimony of Lynzy Hanvidge, a care-experienced policy ambassador for Who Cares? Scotland. Ms Hanvidge's courage in talking about her experiences is greatly appreciated by everyone on the committee. When we hear phrases such as

"They tried to force me ... They put me in handcuffs in my mum's house in front of her and my brother and my sister",

and, most chillingly of all,

"I spent my first night in care in a prison cell"—[*Official Report, Equalities and Human Rights Committee*, 6 September 2018; c 26.]

from a young woman re-telling trauma that she experienced at the age of only 13, it shows that change is required to keep children and young people away from such stressful and frightening situations, regardless of the reasons that led them there.

James Docherty, from the violence reduction unit, related his own experiences as a young child who spent time in a police station. He told the committee:

"I spent time in prison cells as a wee boy and I was terrified—that is the overarching feeling that I can remember of being in a police station as a wee boy. It was too clinical and full of noise ... but what was never taken into account was the psychological and emotional impact that it had on me."—[*Official Report, Equalities and Human Rights Committee*, 27 September 2018; c 25.]

I welcome the principles of the bill, which will raise the age of criminal responsibility and better protect children from the harmful effects of early criminalisation.

15:53

Sandra White (Glasgow Kelvin) (SNP): We have heard some excellent speeches this afternoon. Everyone wants the bill to be a success. I believe that the only sticking point is likely to be our differences about the age of criminal responsibility, which I am sure will come through as the bill goes to stages 2 and 3.

I am not a member of the Justice Committee or what used to be called the Equal Opportunities Committee, but I am thankful for the chance to speak in the debate. As others have done, I thank the many groups and individuals who took part in the consultation and the evidence sessions. As a former member of the Justice Committee, I recollect—as will others who have been members—the number of times that the age of criminal responsibility came up in various guises, as we examined bills. It was raised many times, so I am pleased that we are discussing it at stage 1 of the bill, which will, if passed, ensure that no child under the age of 12 will be treated as a criminal or accrue a criminal record. Other members have mentioned that; it is an important point for me, too.

I particularly welcome that change, because it is not just about people at the age of 12 or who are under 12. I have spoken to people at remand centres and young men in Barlinnie who might have done something criminal, but it was something stupid and it will be on their record forever. At that age, they did not realise that that was the case. As they get older, having that conviction creates barriers to their getting into training, for example, or to branching out in their careers. It is important to get such convictions out of high-level disclosure checks or PVG records altogether because they can affect a person greatly later in their life.

Oliver Mundell and other members mentioned parity in the justice system. Both committees' reports show that there is no parity at the moment, but if the bill is passed, there will be parity in the justice system. He was correct to say that raising the age of criminal responsibility from eight to 12 will align it with the current minimum age for criminal prosecution.

It is important to look at that; it throws up some serious questions. Perhaps the minister can enlighten me, or I will be enlightened as the bill goes through its stages, because I am not a lawyer, but what should the age be? If the age of criminal responsibility was raised to 14 years of age or older, the age of criminal prosecution would also have to be considered. Would the excellent children's hearings system need to be changed if the age of criminal responsibility were to be raised to above 12? I would like clarification from lawyers on that; I am sure that I will get it.

As Margaret Mitchell said, at the age of 12, people can make a will, consent to or veto their own adoption and express views on private law proceedings. However, as Gail Ross said so poignantly, it is not black and white on age. We need to remember that.

I turn to the Equalities and Human Rights Committee report and thank everyone who was involved in it. As Mary Fee said, excellent evidence was contributed, and it is an excellent report. Mary Fee talked about one of the most poignant parts of that report, on page 28, on children's hearings. It is just unbelievable. Elected members come across constituents and others every day, whether it be in the constituency, when we visit a police station, when we go out with street pastors at night or when we visit schools. It is not just about the age. I do not know whether the age of criminal responsibility should be 12, 14, 16 or 18; I have an open mind on that. However, let us look at what comes out of the children's hearings: 75 per cent of children had previous referrals to the children's reporter; 70 children had been referred on non-offence grounds, and five on offence grounds; 26 children were on compulsory

supervision orders at the time of the offence referral incidents. The report

"established a clear link between younger children's welfare needs and harmful behaviour."

I know that the bill is about the age of criminal responsibility, but we cannot get around that just by raising the age without looking at the children's backgrounds. When we go out with the street pastors or visit children's homes—I hate the word "home"—or residential units, we see and hear about the traumatic experiences that most of those kids have had throughout their lives. They need care and love. Many of those children had no good start in life—they do not know anything else. We want to increase the age of criminal responsibility under the law, but we really need to look at what has happened in the lives of those children.

Let us, perhaps, intervene a bit sooner. As the committee heard, some kids have been reported five times. We talk about revolving doors for criminals. Sometimes, there is a revolving door for those kids. From foster care, they go back to their parents, who have a chaotic lifestyle, then they are back in foster care again. How must that affect their minds? It would certainly affect my mind. I am sure that it would affect everybody's mind.

Although in the bill we are looking at the age of criminal responsibility, let us also concentrate on the years before. Let us get it right for every child—GIRFEC. Let us get it right for those kids, because those kids are the future. Mary Fee does a lot of work in prisons and with children, and as she said, we are looking not just at kids, but at three or four generations. If we want to stop that, we have to do something about it.

16:00

Alison Harris (Central Scotland) (Con): As members have said, the bill aims to raise from eight to 12 the minimum age at which a criminal offence can be committed. It seems that members from across the chamber agree that that should happen, but perhaps they have different reasons for why.

I am a practical person, so it seems to me to be logical that we should raise the age of criminal responsibility to 12, because that is already the minimum age at which a person can be prosecuted. Members have mentioned that raising the age to 12 would bring Scotland into line with the United Nations' minimum level. However, I do not want to spend too much time comparing minimum ages in different countries' legal systems, because I am not convinced that it is a wholly useful comparison, given the international variation in cultures. Some members have said that the age of 12 would still be on the low end in comparison with other countries, but that does not

take into account other rules that apply in those countries, such as on exceptions based on the severity of the crime.

In Scotland, we have a strong support-first approach for children that we have had since the 1960s. That is more important than focusing on age alone. However, the bill has been introduced because problems have been identified with the age of criminal responsibility currently being eight.

An advisory group was set up in 2015 to take a close look at the proposal. The group made key recommendations that formed the basic structure of the bill. From those recommendations, it can be seen that the topic of disclosure is important and troublesome. Although children under the age of 12 cannot be convicted of a crime, they can be summoned to hearings and have their involvement in harmful behaviour disclosed by the police, which results in knock-on effects that run deep into their lives. A black mark against their name can limit choice later on in life at school, in further or higher education, and even into employment. The stigma that attaches to the term “offender” can lead to isolation and potentially to further offences, which is an outcome that we all want to avoid.

That is why disclosure and its consequences are such high priorities in the bill, with the policy memorandum stating that the bill is designed to reduce stigma, protect children and ensure better life chances for them. Upping the age of criminal responsibility to 12 would aid in correcting that problem, at least for children who were between the ages of 8 and 11 at the time of their actions.

Beyond the age of 12, children should be treated as having more responsibility. From my experience, by the time people have reached the age of 12, they are—for the most part—perfectly aware of what they are doing and should realise that there are consequences to their actions.

Ruth Maguire: Does Alison Harris acknowledge that when children experience trauma in their younger years, that can have an impact on their development, so not all 12-year-olds are the same?

Alison Harris: No two individuals are the same, but we have to come to an agreement on an age at which responsibility comes in. For me, 12 is that age.

In an ideal world, no child would commit a crime but, unfortunately, various factors cause that world to be impossible. There has to be a cut-off at which responsibility is introduced: 12 is the fairest age for that cut-off because, by that point, the majority of teenagers should know what is right and what is wrong.

Some people advocate raising the age of criminal responsibility further to 14 or 16, but that

could have unintended consequences. We have heard disturbing stories from throughout the UK about the number of stabbings in London, the rise in gang culture, youths throwing fireworks at people in the streets, and the rate in Scotland of teenagers taking knives to school. It is apparent that more work is needed before we explore further the idea of raising the age of responsibility.

The nature of crime is changing, too. Organised crime groups target children and teenagers and entice them into crime; we do not want to give those groups more opportunity to do that through children in that age group having immunity from prosecution. People are more sympathetic when the perpetrator is a young child, but if we start to include teenagers, that sympathy will wane very quickly. On an emotional level, I ask members to imagine telling the family of a victim of a serious crime that the perpetrator cannot be identified and has not received legal punishment for their actions because they are 14 going on 15 years of age. Balance is needed, which is why I wanted to take a little time at stage 1 to outline how I feel about the subject. At stage 1, many ideas are proposed before stage 2. We should all consider fully the possible side effects of our actions when we are legislating on such an important matter.

Other matters that I have not had time to explore include the associated powers of the police if the age of responsibility is raised, and the considerations that will need to be made for victims to ensure that fairness is observed all round. I am confident that both those topics will be explored fully throughout each stage of the bill, and I look forward to following its progress.

I will support the Age of Criminal Responsibility (Scotland) Bill because, as I said earlier, raising of the age of responsibility to 12 appears to be sensible, practical and fair. I hope that those factors continue to prevail in the bill's progress in the coming months.

The Deputy Presiding Officer (Christine Grahame): This is probably a hostage to fortune: I advise members that there is time in hand to be more expansive in your contributions. Oh dear, I may regret that. I call Stewart Stevenson, to be followed by Angus MacDonald.

16:07

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): My arithmetic says that I have about 17 minutes, Presiding Officer, but I am sure that you will haul me up at the appropriate point.

It is as well to think about how children develop. I am not a dad, so I have not personally been through this, but psychologists give us a guideline. Before coming to that, I will mention a GIRFEC conference at which I spoke on behalf of the then

Minister for Children and Early Years, Adam Ingram, as he was not at the right location. Immediately before I spoke, a wonderful film of a one-hour-old child was shown. Music was being played to the child, who waved its arms in time to the beat. When the music stopped, the child stopped waving its arms; when the music started again, it waved its arms. In other words, children start to interact with their environment from the very point of birth—perhaps even before. Psychologists say that in the first year we recognise human faces; in year three, we start to acknowledge the past to interpret present events; at year seven, we start to tell jokes—some people have not moved on from that stage—and at 11, we start to be more conscious of our moral code. However, our personal development is varied and it is unique to us.

Children who have been raised in less than ideal conditions—as a result of poverty, missing parents or other circumstances—may well have developed at a much slower rate. I agree with members in many parts of the chamber who have said that, whatever their maturity, prison is no place for a child. That is why our children's hearings system is a beacon to the world as to how we should treat those who are in difficulties. As an MSP, I have had the great privilege of being able to sit in on a children's hearing; I cannot of course tell members anything about the detail of what went on, but the key point is that it was child centred. That is absolutely correct and members would need to work very hard to persuade me otherwise.

We have talked a lot about numbers during the debate. People might think that one plus one equals two, but as a mathematician I can say that there are five alternative answers in the one-plus-one philosophy. If time permits, I will explain what they are at the end of my speech. Just as in mathematics, so in this debate.

Margaret Mitchell very usefully gave us quite a long and interesting list of rights that people acquire at the age of 12—I certainly heard things of which I had not been aware. There is a series of ages at which people are allowed to do certain things. It is worth saying that someone can get a firearms certificate at the age of 14. Someone can get a shotgun certificate at any age—there is no age qualification, but someone under the age of 15 is required to be supervised with a shotgun when they are exercising their rights. Someone can fly an aircraft at the age of 14, and someone can drive on a public highway in a car at the age of 17.

Alex Cole-Hamilton: The member is describing the range of ages for different activities, the majority of which relate to physical limitations or physical capacities. Does he recognise that the

chamber only very recently extended the franchise to 16-year-olds? We have credited 16-year-olds with sufficient judgment to decide on the right Government for them. Should we not be raising the age of criminal responsibility further? If we recognise that people have the capacity to have political judgment only at 16, what does that say about their actions and their ability to tell right from wrong at the ages preceding 16?

Stewart Stevenson: The member makes a good point, which I will simply pass on. I will say that the bill makes interesting comments at sections 39 and 43, when it refers to taking account

“of the child's age and maturity”.

That makes an important point. I stopped growing when I was 12 years old because I was given a hormone treatment for a particular condition that I have, although the treatment did not help the condition. Children mature physically and mentally at varying rates. Whatever we do, we need to take account of that, and I am pleased that the bill provides for that at different points.

I am also pleased about something rather obvious: the Justice Committee is not the lead committee for the bill. It could have been, if we think about it, and there are references to the Justice Committee's activities, but the lead committee is the Equalities and Human Rights Committee. That is entirely appropriate.

With regard to age, we are adults at 18 for most purposes but not all, because sometimes the age is 21. There is no age restriction on opening a bank account; someone can open one as soon as they can sign anything. However, they cannot have bank credit until they are 18.

There is a wee issue with the bill in that there is an assumption that there is certainty about when people are 12. Bashir Ahmad, our late member and friend in this chamber, did not know when his birthday was. Many people who come to Scotland from other jurisdictions are in the same position. He was given a birthday by the legal system—if someone looks up the records, they will see something there—but there was no certainty about it. Apparently, when asked when he was born, his mother said, “Spring.” That was all that there was to know. In a number of parts of the bill—possibly at section 23, for example—we might say that a constable “reasonably believes” somebody to be under 12, because there cannot always be certainty.

I turn to the detail in the bill—I am alert to the Presiding Officer's guidance that I should head towards a conclusion. There are a couple of wee things. I make my usual comment: section 28(7) says that the definition of “‘vehicle’ includes a vessel”—in that case, it should include aircraft,

too, although it might be ultra vires to do so; I am not entirely certain about that.

We have heard about a child's right to refuse to answer questions. I see that that is covered at section 46(2) and section 42, so I am not quite clear on what more we might have to do.

I conclude with the committee's report, on which I congratulate it, and come back to the question of what a place of safety is. In coming to a conclusion on that, it might be helpful to document, or to see a document about, where there are places of safety across Scotland so that we can assess whether there are enough of them.

Presiding Officer, I am obliged to you for your indulgence.

The Deputy Presiding Officer: Not at all, we are very grateful to you, Mr Stevenson. Mr MacDonald is the last speaker in the open debate.

16:15

Angus MacDonald (Falkirk East) (SNP): I am pleased to take part in the debate, not only because we as a Parliament continually strive to introduce legislation that will benefit our citizens, but because we look to create a society that is progressive in nature, with welfare and equality at its heart.

Having looked over the salient points of the evidence taken by the Equalities and Human Rights Committee, it is clear that there is widespread support for the aims of the bill, and that is to be welcomed. It is also clear that there is a feeling that the bill is long overdue and that it is required to bring Scotland, as a forward-looking nation, into line with our international partners.

The bill speaks to what we have long striven for: to be progressive in our policies to uphold and protect our commitment to international human rights standards. In Scotland, a child aged eight is criminally responsible for their actions and that has been the case for the past 86 years, given that in 1932 it was raised from the age of seven. I think that Gail Ross mentioned that it was 1937, but the information that I have is that it was in 1932. I could be wrong—it would not be the first time.

As we have heard on a number of occasions during the debate, it is also the case that we have the youngest age of criminal responsibility in Europe, which has been a source of criticism for some time. If we put that into context, our nearest neighbours in the UK have an age of criminal responsibility of 10 years, while the average across the 28 member states of the EU is almost 14 years. We can compare that with other nations across the globe: Russia's age of criminal responsibility is 14, which is the same as in North Korea and South Korea, and China has an age of

criminal responsibility of 16, although in serious cases, such as intentional homicide and intentional hurt to cause serious injury or death, people are considered to be criminally responsible from the age of 14.

In the debate, we have heard comparisons between the differences in the ages of criminal responsibility in different countries. However, as the minister stated in her opening speech, the comparisons do not take into account the differences in the way in which Scotland deals with the issues. While some countries employ tailored penal sentences according to the age and maturity of a child between the ages of 14 and 17, or have no examples of a juvenile justice system, Scotland has its children's hearings system, which is dedicated to providing welfarist solutions for children when these issues arise.

There is a clear requirement to raise the age of criminal responsibility from the current age of eight. Not only is it recognised that the heavy-handed nature of the criminal justice system is counterproductive for children and young people, but there is significant evidence that it leads to further issues in a child's future. The evidence of the harm caused by treating children as offenders from such a young age is clear, with studies showing that young people and children who have been involved with the police and the justice system at a young age are more likely to offend as adults.

By raising the age of criminal responsibility, we are further contributing to a youth justice system that is appropriate and that considers the benefit to both the children and young people who are subject to the system, and aims to provide a benefit to the country as a whole.

We must take cognisance of the evidence that was presented from organisations and individuals who have experience of the youth and criminal justice systems. The general principles of the bill will contribute to our commitments to international human rights standards. There are those, however, who would like the Scottish Government to take steps to increase the age of criminal responsibility further, to the age of 14 or possibly beyond, and in line with the UN Convention on the Rights of the Child.

The majority of members across the chamber will have encountered school groups in the time since they have been elected. Some may well have visited several schools within their regions or constituencies. We are all therefore aware of the work being undertaken by classes the length and breadth of the country so that children understand the UNCRC from a young age.

As long as we as a Parliament, along with the Government, are committed to furthering the aims

of the UNCRC and can continue to take progressive steps in this area—particularly in relation to giving our children and young people the opportunities that they need to realise their aspirations—we will, as a nation, be all the better for it.

We have heard that the use of a police station as a place of safety is undesirable. However, it is clear that such a place would be used only in very specific circumstances. I was glad to hear in the minister's opening speech that the Scottish Government will further clarify the situation through an amendment that is being prepared. However, it remains the case that several key factors have to be taken into account in what can be incredibly constrained and pressurised situations. In the majority of cases, a place of safety will be familiar to the child or young person, and their safety and any risk of further harm will be taken into account. We must recognise that such situations can be incredibly traumatic and that further trauma can detrimentally affect a person's future, which we already know can lead to further issues.

Increasing the age of criminal responsibility fits in the wider context of Scotland being a trauma-informed nation and recognises that dealing with the root causes of harmful behaviour supports the child to move on from harmful behaviour and lessens the odds of that behaviour being repeated, which is beneficial for the country as a whole.

It is fair to say that the bill is a long-awaited positive step in the right direction for children and young people and for Scotland as a nation. However, it is incumbent on us all to continue to strive to do more to ensure that we keep in line with our ambition to be a globally progressive nation that is the best country in the world for a child to grow up in. We must take into account the wider evidence on increasing the age of criminal responsibility further when it is right, necessary and appropriate to do so. I encourage the Scottish Government to see what other steps are available to it now and will be available in future to strengthen the legislation further to realise those aims.

The Deputy Presiding Officer: We come to the closing speeches. I call Daniel Johnson to close for Labour.

16:21

Daniel Johnson: I thank all the members who have contributed to this thought-provoking and constructive debate—which is not to say that there has not been disagreement. The issue was set in context very well by the minister's and Oliver Mundell's opening speeches. It was important that, in her opening remarks, the minister

acknowledged that the move is perhaps overdue, but is being made in a reflective manner. It is absolutely right that she is committed to listening. This is not an easy matter to get right, so it is important that we all listen.

I thank Oliver Mundell for his contribution. Although his party undoubtedly comes to the issue with a degree of caution, he was absolutely right to acknowledge children's vulnerabilities and the fact that children who find themselves in the criminal justice system do not always receive the support that they need.

There has been discussion about whether the issue is a criminal justice issue or a children's issue. Let us be clear: it is both, because it is an area where those two areas come into contact. Whenever we consider issues to do with the criminal justice system, such as incarceration, punishment and how the courts arrive at decisions, we need to seek balance. On restitution, it is important that the individual makes up for what they have done, but there must also be reform and rehabilitation. We cannot take those elements apart. All those elements become absolutely sensitive in respect of children who have come into contact with the law. Ideas of improving behaviour and rehabilitating become much more delicate when it comes to children: those are the issues that we have been dealing with in the debate.

I thank Alex Cole-Hamilton for providing the challenge that the debate absolutely required. The change to the age of criminal responsibility is a serious decision that is definitely overdue, but it is one that requires challenge, especially for those of us who take a more cautious line than he and others might like.

I will address some of the issues. Comment has been made about it being about 80 years since the age of criminal responsibility was set at eight. I gently point out that we now have the Scottish Parliament, and those of us who are frustrated by the length of time that it has taken to make the change must take seriously our duty to keep the law under review, to reflect on what its impact has been and to review it. We cannot allow another 20 years after Parliament's coming into being before we look again at the ideas and challenge them.

In some ways, the issue is that we are setting an age at all. The most important point is that we do not treat whatever age we decide on as a cliff edge. In that regard, Stewart Stevenson's contribution was perhaps the most instructive. It is absolutely right to point out that some people do not know their birthday, which evidences just how arbitrary the age is.

A number of members pointed out that the ability of an individual to understand in a mature fashion their actions and the consequences of those actions, and how they can reform, is absolutely vital. That does not happen at a single age. The idea that there is a magic age at which one somehow accrues all rights, responsibilities and understandings is mistaken. We need a system that is reflective and which treats every individual appropriately, especially when they are under the age of 18. That is what we must strive for and that is what we must ensure happens in the system, both in the explicit context of the bill and beyond that.

A number of members pointed, as I have done, to the importance of the children's panel system. Gail Ross set out the context of its coming into being. We must protect that system. The evidence that was taken by the Education and Skills Committee painted a picture of the increasingly adversarial nature of the children's panel and the increasing use of legal representation in that context, and of children often feeling alienated by the system. We must keep a close watch on that, so in some ways I am concerned that the bill does not say more about improvements that could be made to the children's hearings system.

Members also referred to the importance of understanding the vulnerabilities of children. Rona Mackay did an excellent job of outlining that, as did my colleague Mary Fee. Such understanding is absolutely vital; there are a number of statistics that one could cite in that context. I will wheel out one that I like to reflect on—one that is personal to me.

I have spoken on a number of occasions in the chamber about attention deficit hyperactivity disorder. The incidence of ADHD in the general population is 5 per cent. A recent study has found that 40 per cent of young people in Polmont have ADHD. It is not the only such indicator. Acquired head trauma, foetal alcohol syndrome and a number of other things are disproportionately overrepresented among the young offenders population, so we need to understand both why people come into contact with the criminal justice system and the underlying issues, and to deal with them appropriately. Rona Mackay was absolutely right on that, and Mary Fee was right to point out that we need to understand the neuroscience. We are at the beginning of a huge increase in our understanding of how the brain works and why people behave as they do. We must take cognisance of that in the education system and in the criminal justice system.

I return to the point about police powers, because a number of members highlighted the need to look at what the experience under the new regime will actually be like. When we look in the

round at the police powers in the bill, we see that we need to scrutinise them carefully at stage 2, whether we are looking at the provisions on the place of safety or on the powers of the police with regard to search and interview. Clan Childlaw was absolutely right to say in evidence that children whose behaviour is not deemed to be criminal must not face criminal consequences, so we must challenge those provisions in order to ensure that the bill will not do that. In short, the terminology that is being used is that children below the age of criminal responsibility would be deemed to be showing "harmful behaviour". It is vital that we do not simply change the terminology from "criminal behaviour" to "harmful behaviour". There must be a complete change in the approach and in how services, especially the police, respond. As Gordon Lindhurst said—

The Deputy Presiding Officer: I am sorry, Mr Johnson, but I must ask you to close. It might be because decision time has been advanced, but I am taking speeches to the limit, so please conclude your remarks.

Daniel Johnson: I will close now, Presiding Officer. The police must investigate, but that cannot happen at the expense of the child.

Ultimately, Labour will be pleased to support the bill at stage 1. We agree with the steps that it takes, because they are overdue, and we look forward to scrutinising the issues that I have raised at stages 2 and 3.

The Deputy Presiding Officer: I call Liam Kerr to close for the Conservatives. I can give you up to eight minutes, Mr Kerr.

16:30

Liam Kerr (North East Scotland) (Con): I am pleased to close for the Scottish Conservatives and to speak in favour of the principles of the Age of Criminal Responsibility (Scotland) Bill.

Daniel Johnson made a really good point at the end of his speech: although the fundamental principle of the bill is about the age of criminal responsibility, that opens up much wider questions about the nature and definition of crime, about who is a criminal and who should be deemed a criminal, and about relations of power and vulnerability, all of which will, no doubt, stimulate interesting debate as the bill progresses.

The key issue that the bill seeks to address is that the minimum age at which a child can be held criminally responsible is currently eight. It was pointed out by several contributors to the committee's stage 1 report, and by Fulton MacGregor, that that age—which, as Ruth Maguire said, was set in 1932—is the lowest in

Europe. That is certainly challenging—it is not a good look. As Rona Mackay said,

“it is out of sync with the way in which we treat children in Scotland”.

Gail Ross said powerfully and persuasively that at such a low age, we would be responding to welfare issues, and she described the consequences of the current position for those aged eight to 11, saying:

“we are all agreed that the minimum age of criminal responsibility should be raised.”

She is right. If it is not eight, what should the age of criminal responsibility be?

The bill’s second principle is that the age of criminal responsibility should be 12. The debate has made it clear that that makes sense. One of the reasons why the current age of criminal responsibility is eight is that those below that age are deemed to lack the mental capacity to commit a crime. That point about mental capacity is the appropriate and correct standard against which to consider the issue.

We should ask ourselves at what age do children have the maturity to be responsible in law for their actions? Do we think that even when they know the difference between right and wrong, children can understand the difference between various levels of wrongdoing and should be held criminally responsible for such actions? Persuasive guidance that that age is 12 is provided by the policy memorandum to the bill and by the Law Society of Scotland, which was cited by Gordon Lindhurst and Margaret Mitchell. The policy memorandum says that children aged 12 and over can make a will, consent to or veto adoption, have sufficient capacity to express views on future arrangements for their care in private law proceedings, form a view to express at a children’s hearing and instruct a solicitor. It is also the basic age at which children start secondary school.

Alex Cole-Hamilton: If Liam Kerr is persuaded that 12 is the age at which children reach mental capacity, do he and his party therefore support the extension of the voting age to 12-year-olds?

Liam Kerr: Does the member mean reduction of the voting age to 12 for a general election, for example?

Alex Cole-Hamilton: Yes.

Liam Kerr: I would take an awful lot of persuading on that.

Alex Cole-Hamilton: When do children have that capacity?

Liam Kerr: I will come back to that point, because I want to address Alex Cole-Hamilton directly on raising the age beyond 12.

No one has mentioned today that Lord Dholakia tried to introduce a similar move in England. He argued that

“children of 10 and 11 have less ability to think through the consequences of their actions, less ability to empathise with other people’s feelings and less ability to control impulsive behaviour”

and that therefore

“It cannot be right to deal with such young children in a criminal process based on ideas of culpability which assume a capacity for mature, adult-like decision-making.”—[*Official Report, House of Lords*, 8 November 2018; c 477.]

I also find it persuasive that, as Margaret Mitchell flagged up, the number of incidents currently reported as involving under 12s offending is small and reducing. The minister reported that most of that behaviour is minor to moderate.

I was pleased to hear Gordon Lindhurst cite Police Scotland’s evidence that

“the nature of children’s actions and the prevalence of that behaviour changes as the age group increases to 12 and above.”

It is important that the committee concluded that, as Oliver Mundell said, 12 appears to be a publicly acceptable age that has both “professional and public confidence”.

Some members—in particular, Alex Cole-Hamilton and Rona Mackay—feel that the age should be higher. We would find any such move difficult to support, but not because, as Richard Lyle believes, Alex Cole-Hamilton is grandstanding. He is not. Although I do not agree with Alex Cole-Hamilton on this point, I believe that he is totally sincere and is an important voice in the debate. However, Richard Lyle’s point about living in the real world holds water.

I found Alison Harris’s thoughts persuasive when she said that it is not helpful to say that because the age of criminal responsibility in whatever country is 14 or 16, we should therefore ask why we should not have the same age here.

Alex Cole-Hamilton: Will the member take an intervention?

Liam Kerr: Will I get time back at the end, Presiding Officer?

The Deputy Presiding Officer: Yes.

Alex Cole-Hamilton: I have now twice heard members challenging my position on increasing the age beyond 12 as not living in the real world. I point to the rest of the real world, which largely has ages of criminal responsibility that are higher than 12.

Liam Kerr: On the point about the “real world”, I was simply picking up the words that were used by Richard Lyle. The minister, Maree Todd, however,

made the same point in response to Alex Cole-Hamilton's intervention earlier in the debate as she made when giving evidence to the Equalities and Human Rights Committee, when she said that

"it is clear that you cannot make direct comparisons between countries because the headline age does not capture the nuance."—[*Official Report, Equalities and Human Rights Committee*, 4 October 2018; c 5.]

The minister cited Luxembourg as an example of a country that nominally has an age of criminal responsibility of 18, but permits its youth court to impose penal measures.

Before we made a change as monumental as raising the age higher than 12, we would have to be very careful to consider unintended consequences. As Alison Harris warned, those could include organised crime outfits targeting teenagers for recruitment based on their new-found lack of capacity to commit a crime.

Another area that could perhaps pose a problem—I am very much thinking aloud—is when teenagers commit sexual violence crimes against other teenagers or children. The system is challenging enough for victims already without their being told that the person lacked the capacity to commit a crime.

I found the discussion on police powers, especially in respect of the place of safety, to be interesting. Alex Cole-Hamilton, again, spoke powerfully on the place of safety and the definitions behind that. Police Scotland recognises the concerns around places of safety, but has pointed to a lack of locations and said that there have to be resources and suitable premises to which a child could be taken and in which they would feel safe.

Like Fulton MacGregor and Angus MacDonald, I was pleased to hear the minister undertake to consider carefully the committee's request that the Scottish Government provide further information on the suitability of police stations, and for data to be gathered.

Parliament is being asked today to indicate its support or otherwise for the principles of the Age of Criminal Responsibility (Scotland) Bill. The Equalities and Human Rights Committee's report and today's debate provide compelling evidence that the current age of eight for criminal responsibility is no longer sustainable. We have also heard good evidence that 12 is an appropriate age at which to set criminal responsibility, including on the basis of agency, legal precedent and public acceptance. Accordingly, the Scottish Conservatives will support the principles of the Age of Criminal Responsibility (Scotland) Bill at decision time tonight.

16:37

Maree Todd: I thank members from around the chamber for their contributions today. The debate has been constructive and open and I want to make absolutely clear my commitment to keep working together on this complex and crucial matter. I am really encouraged to hear the messages of support for raising the age of criminal responsibility. For too long, raising the age of criminal responsibility in Scotland was labelled as being too difficult. The scale of the challenge has been responsibly faced up to through this bill.

We know that harmful behaviour involving primary school-aged children is rare and that seriously harmful behaviour is even rarer. The overall number of children being referred to the children's reporter for offending has defined significantly. That is a result of the impact of the whole-system approach, which incorporates early and effective intervention policies and processes. It is part of getting it right for every child and hears the voice of the child in moving forward from crisis. That work will continue.

Our response to harm must have the confidence of those who are harmed and those who respond to harm. We need to build understanding of how that will work both with children and with those who work with and for children. That work goes beyond legislation; it is about guidance, training, experience and culture.

I assure all members that I have listened carefully to the debate and that I will respond fully to the issues that have been raised today and in the committee's stage 1 report in the response that I send to the committee.

I want to focus on some of the broad themes that have been raised in the debate. On the theme of the age of 12, we are proposing to move children of primary school age completely out of the criminal justice system. That is a significant reform for Scotland.

We know that a disproportionate number of children who are involved in offending faced severe disadvantage and adversity in their early childhood. The bill recognises that. By removing the criminal label from those children, we are choosing to no longer differentiate between those who exhibit harmful behaviour and those who are the subject of harm. I acknowledge that it has taken us a very long time to get to this point, but I suggest that that fact alone reflects the challenge and complexity involved.

Readiness to move beyond the age of 12 is not simply about public opinion. It is about ensuring that our professionals understand how to respond to harmful behaviour without a criminalising label; ensuring that systems are ready to respond when things go wrong without relying on the lens of

criminality; protecting the integrity of investigations, and ensuring that victims understand that such a response provides the best chance to reduce the likelihood of further harm; having sufficient interventions available for as long as they need to be; and ensuring that children and families know that there is legal certainty and protection of their rights throughout.

Raising the age of criminal responsibility must be looked at in the wider context of reform—for example, we absolutely recognise the complexity of the fact that 16 to 18-year-olds are still children in UNCRC terms and need to be responded to accordingly. Specific work to support them better is being advanced under the child protection improvement programme. When such young people are in trouble, they are supported by good practice in multi-agency early and effective intervention and diversion from prosecution, which keeps them out of formal systems as far as is possible, in line with our successful whole-system approach to youth justice.

I am confident that the bill offers Scotland the right reform at this time, but I am keen to listen and to work with colleagues across the chamber to consider future reform. It is absolutely clear that, if it was decided that increasing the age beyond 12 should be the direction of travel, we would need to answer challenging questions.

As for the allegation that we are not being bold, I argue that we are being bold. The age of criminal responsibility is just one part of the picture; many members mentioned the unique children's hearings system, which gives us a flexible and graded child-centred approach that looks at the child's needs and not their deeds. We have the policy of getting it right for every child, the whole-system approach and early and effective intervention. Across the Government, our national health service and our education system, we have better recognition and understanding of ACEs. We are developing training on trauma-informed responses across the workforce, so that services and professionals can apply that knowledge when they work with children and families every day.

We have made a commitment to incorporating the UNCRC and reviewing the PVG scheme, and we have the Management of Offenders (Scotland) Bill.

Alex Cole-Hamilton: I have made a lot of trouble of myself in the debate by intervening to give my view that we should go further than 12, but one thing that the minister and I are completely united on is the need to incorporate the UNCRC into Scots law. Will she guarantee that that will happen in this parliamentary session?

Maree Todd: As the member knows from the written response that the Equalities and Human

Rights Committee received today, I guarantee that we are committed to incorporation. Legislative reform is a necessary part of our approach to children in Scotland, but it is not sufficient alone. Real change will come from taking a multifaceted approach that leads to culture change.

I will respond to particular issues that have been raised. I make it absolutely clear that the place of safety provision is an emergency power that is restricted to a clearly articulated lawful purpose, which is to protect people

“from an immediate risk of significant harm or further such harm.”

I repeat that it is not a power of detention.

The place of safety could be the child's home, a friend's home, a granny's home, a local authority residential facility, a hospital or a surgery—any place whose occupier was willing to receive the child temporarily. I emphasise again that a police station would be used only as a last resort and for the shortest time necessary, before somewhere else could be found. Section 23 makes that very clear. I mentioned that I am willing to lodge an amendment to establish a presumption against the use of a police cell as a place of safety, and I am also willing to look at monitoring the use of places of safety.

Oliver Mundell: I ask the minister to be cautious as that amendment is drawn up. When I think of my rural constituency, I imagine that, at 3 o'clock in the morning, for example, it might not be possible to find somewhere nearby. Taking the young person to somewhere that they know in their community could be preferable to driving them for a matter of hours to another facility. I ask the minister to listen to what children and young people have to say on that.

Maree Todd: Absolutely. As a member who represents a rural area, I completely agree. However, I think that a distinction can be drawn between using a police station and using police cells.

In response to Gordon Lindhurst's point about victim information, I note that it is right to share limited information, but we need to be mindful of the importance of information about a child's personal and family circumstances being held confidentially. It matters that the perpetrator is a child, especially if they are a young child. If we want to work with child perpetrators to succeed in building their empathy, their responsibility and their resilience, it has to take place in confidence.

In response to Daniel Johnson's point about the children's hearings system becoming more adversarial and the point that we do not want it to become a court of law, I absolutely acknowledge last year's Education and Skills Committee inquiry

into the children's hearings reforms. Action is being taken by the multi-agency children's hearings improvement partnership to implement the 32 better hearings standards, and we will write to the committee with an update. I absolutely agree with the member about the fundamental importance of hearings remaining conversations and not becoming confrontations.

On Stewart Stevenson's point about determining whether a child is actually under 12, there is an established process for assessing a child's age if it is not certain. That is set out in detail in the 2012 age assessment practice guidance, and section 124 of the Children's Hearings (Scotland) Act 2011 recognises the requirement to establish a child's age before a hearing.

The bill aims to address the complexity of the subject, to take a serious-minded look at our context and to address the needs of all Scotland's children. It removes primary school-age children from criminalisation and addresses the needs of those affected by harmful behaviour whether as victims, perpetrators or both. Detailed work with care and justice organisations, stakeholders and children and young people has been on-going throughout the development of the bill, and we will continue that.

I again offer to meet members from across the Parliament to discuss the detail of the bill and to take the time that is required to work through the complexities that it addresses. In this year of young people, I am grateful for the careful consideration of so many, and I look forward to our next steps together.

Age of Criminal Responsibility (Scotland) Bill: Financial Resolution

16:47

The Presiding Officer (Ken Macintosh): The next item of business is consideration of motion S5M-14567, on a financial resolution for the Age of Criminal Responsibility (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Age of Criminal Responsibility (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.—
[Derek Mackay]

Motion without Notice

16:48

The Presiding Officer (Ken Macintosh): I am minded to accept a motion without notice to bring forward decision time to now. I invite the Minister for Parliamentary Business and Veterans to move such a motion.

Motion moved,

That, under Rule 11.2.4 of Standing Orders, Decision Time on Tuesday 13 November be taken at 4.48 pm.—
[Graeme Dey]

Motion agreed to.

Decision Time

16:48

The Presiding Officer (Ken Macintosh): The first question is, that motion S5M-14704, in the name of Maree Todd, on the Age of Criminal Responsibility (Scotland) Bill at stage 1, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Age of Criminal Responsibility (Scotland) Bill.

The Presiding Officer: The second question is, that motion S5M-14567, in the name of Derek Mackay, on a financial resolution for the Age of Criminal Responsibility (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Age of Criminal Responsibility (Scotland) Bill, agrees to any expenditure of a kind referred to in Rule 9.12.3(b) of the Parliament's Standing Orders arising in consequence of the Act.

Texas Instruments

The Deputy Presiding Officer (Linda Fabiani): The final item of business is a members' business debate on motion S5M-13551, in the name of Stuart McMillan, on Texas Instruments. The debate will be concluded without any question being put.

Motion debated,

That the Parliament expresses its concern at reports that the Texas Instruments semi-conductor plant in Greenock is scheduled to close in 2019; notes the effect that this closure could have on the current employees and Inverclyde economy; further notes that a total of 572 positions would be affected with 318 direct jobs, 127 indirect jobs and 127 induced jobs; acknowledges that the Texas Instruments task force, which includes Inverclyde Council, the Scottish Government, parliamentarians, councillors and various public agencies, was established after the announcement, with an initial remit of trying to find a buyer for the plant and to safeguard as many jobs as possible; suggests that all avenues to date have sadly fallen through, and notes calls on everyone involved to redouble their efforts to find a resolution to try and assist the workforce, as well as the Inverclyde economy.

16:51

Stuart McMillan (Greenock and Inverclyde) (SNP): I thank every member who signed the motion to allow the debate to take place. I also thank the whips for allocating the time to debate the motion.

I will begin with a short history of the Texas Instruments situation, before going on to explore other aspects of the business and Inverclyde.

On 27 January 2016, TI announced that it was going to close the Greenock plant, with the loss of more than 300 jobs. That came as a blow to my area, which is one that has not been without economic challenges since the decline of the majority of the shipyards, heavy engineering and sugar manufacturing, as well as the huge reduction in the information technology sector in recent times. The local site manufactures semiconductors, but it also had a design centre. The 25 posts in the design centre were made redundant in April and May 2016.

The population of Inverclyde is robust—we have had to be, given that the TI announcement followed the trend of other industries. The vast majority of the TI jobs are technical and highly skilled and their financial contribution to the local economy is vast. The workers deliver results and the Greenock facility is productive.

TI took its decision purely for business reasons. The Greenock site is one of the smallest in its portfolio and, therefore, TI decided to consolidate its business by closing the Greenock site and transferring the work to the United States of

America, Japan and Germany. TI is the second biggest manufacturer of semiconductors in the world, so it has the scale and size to enable it to make that type of decision. I am grateful that TI provided a long lead-in time to the closure and extended the closure date to 2019, which has provided valuable additional time to try to find a buyer.

The Texas Instruments task force was established by Inverclyde Council and consists of councillors, parliamentarians, Scottish Government ministers, Scottish Office representatives, public agency representatives and the site director of Texas Instruments. It was genuinely a team Inverclyde approach. The primary goal of the TI task force was—and still is—to find a buyer to maintain the site. If that proved unachievable, then the task force would focus its efforts on providing the best possible outcomes for the workforce and the local community. Government agency staff have visited the plant to talk to the workforce to make people aware of services available to them. I thank TI for its co-operation in that regard.

TI contracted ATREG Inc to help sell the site but, although some companies came forward, it unfortunately amounted to nothing. Earlier this year, the joint statement by Inverclyde Council leader, Stephen McCabe, and Paul Wheelhouse MSP, the then Minister for Business, Innovation and Energy, indicated the past efforts and dialogue with potential buyers that had been undertaken and stated that one deal was still on the table. We have been informed that discussions are continuing, which I am sure will be welcomed by everyone with a stake in the outcome for the workforce and the local economy.

The TI task force has provided a forum to discuss the challenges and possible obstacles facing a successful outcome for the plant and the excellent workforce. I want to put two things on the record. First, I thank everyone on the task force for the collegiate manner in which they have worked. Secondly, but most importantly, I thank the workforce. With the threat of redundancy hanging over their heads, they continue to perform, deliver and contribute to the highest possible standards. They are the consummate professionals, and when TI leaves the area, its loss will be someone else's gain, whether they are from the same or another industry.

I hope that that summary helps the Parliament to appreciate the efforts that not only have been under way, but continue.

As I said, the 300-plus workforce and what they contribute to my area is hugely important. If it becomes a necessity, they have transferable skills, but maintaining their quality of life by living

and working in Inverclyde is important for them and our area.

I do not doubt for one minute that anything and everything that can be done is being done. My message to Texas Instruments, any potential buyer, the Scottish Government, its agencies and to Inverclyde Council is very simple: do not leave any stone unturned to get a deal.

If there is a deal, TI would be able to leave the area knowing that a positive legacy is the outcome. TI will be aware that that has not always been the case locally, so it can show that it is trying to be responsible. Any potential buyer would be getting a first-class, dedicated and highly motivated workforce. The fact that the workforce has done the work every day for years—and that their work has continued after the closure announcement—proves that it is a credit. If the staff can still deliver under the stresses that they are feeling, just think what they could do with job security. The Scottish Government would have an area that is not being hit with a major economic shock and income tax receipts would continue, rather than none being received. Inverclyde Council would not have to worry about an increased number of people leaving the area, adding to the historical population decline and the economic aftershock that that would bring. It is in everyone's interests that a deal is done.

Some of the challenges that we face include population decline and the claimant count. Our population is down to just under 80,000 when it was once more than 110,000. Recent National Records of Scotland population figures and projections highlight a stark message. Between 1997 and 2017, Inverclyde's population has decreased by 8.9 per cent, while Scotland's population has increased by 6.7 per cent. During that period, the 25 to 34 age group has decreased by 28.6 per cent and the 75-plus age group has increased by 20.9 per cent. Between 2016 and 2026, it is projected that Inverclyde's population will decrease by 3.8 per cent, while Scotland's population will increase by 3.2 per cent. Between 2016 and 2026, the 16 to 24 age group will decrease by 13.2 per cent, but the 75-plus group will increase by 20.8 per cent. Our claimant count rate, based on the Office for National Statistics figures for September 2018, stands at 5.4 per cent, which is 2,670 people.

With most of the heavy industry gone, we have our challenges, but there are many positives, too. Shipbuilding remains in Port Glasgow with Ferguson Marine, thanks to the support of the Scottish Government. I am immensely proud of its action. We also have ship repair in Greenock at Dales Marine Services. We are the home of the national ferry company with CalMac Ferries in Gourock. We are the recreational marine capital of

Scotland, with an increasing level of marine-based activities, including more than 60 cruise ships docking in Greenock this year. That number is expected to increase hugely next year. The new George Wyllie museum, which will be incorporated into the new docking area for cruise ships, will be opening as part of one of the city deal projects. Those are just some of the many wonderful examples as to why Inverclyde should be a destination of choice and a location for investment.

Inverclyde is my home. I grew up there and I live there, and I am immensely proud of my area. We, just like every other part of Scotland or anywhere else across the globe, have our challenges, but we also have our opportunities. We are no different from anywhere else.

I do not want the workforce of TI to be added to the claimant count figures. I want them to continue producing high-quality, high-value products. That would enhance my community and Inverclyde's economy and reputation. The TI workforce has consistently delivered. Those people have perseverance and hope and I genuinely hope that we can give them the best Christmas present that they could ever wish for—a deal to secure their jobs for the long term.

16:59

Jamie Greene (West Scotland) (Con): I thank Stuart McMillan for his impassioned speech and for bringing the debate to the chamber. It is an excellent use of the limited time that Parliament has to discuss this important topic.

It is such an important matter because, as Mr McMillan said, it greatly affects not just those who work on site, but their families and the wider economy. Like him, I grew up in Greenock, so I am fully aware of the changes that the town has gone through as some of the big employers have come and gone over the years. The effect of that on the town has been substantial. Sadly, Texas Instruments is another one of those cases.

The task force was set up in 2016 to bring together the council, the Government, some Government agencies such as Scottish Enterprise and the business itself, as well as local politicians, and get round the table to have some frank and honest discussions about the situation. There have been many meetings of the task force and I have tried to attend as many as I can, with the exception of a few absences due to diary clashes. I have always found those meetings to be constructive and open.

I would like to pay tribute to the Texas Instrument task force chair, councillor Stephen McCabe, for the work and effort that he has put in. There has been acceptance that, unless we are collegiate and sit around a table to work together

as politicians and agencies, the task force will never achieve anything. I can say honestly that the task force has worked tirelessly to look at and explore all avenues, right up to this point.

To be fair, the Government has done the same. Their agencies have participated in the meetings and they have gone out to the wider market, both in Scotland and overseas, to see what buyers might be out there and there have been many instances of expressions of interest. Some of those companies may have been tyre kicking—looking for an opportunity for a site—and many have come and gone. It is disappointing that we have got to the stage that we have.

Greenock, and Inverclyde in general, has been a resilient and robust part of Scotland. Members of my family worked for decades, until their retirement, in these iconic industries and in some of the companies that have come and gone, such as IBM and National Semiconductor. When they closed their doors it left a legacy in the town. This closure would do so too. I share Mr McMillan's values in this regard: we do not want these people simply to be more statistics or to be joining the queue of benefits claimants.

We need to look at what happens next. There are only a few potential options. This is the last chance saloon, as we call it, to find a buyer. As the motion says, we should redouble all efforts to do so.

Those who want to use this opportunity to retire should be helped to do so and not judged. Many people have their reasons for doing that and I understand them. However, there are many who wish to continue in employment and that brings me on to another issue: what do we do around retraining and re-employability?

Last Friday, I went to West College Scotland in Paisley which has a campus in Greenock that used to be the old James Watt College. Many people will know it. One of the conversations that I had with the new principal there, who has just recently taken up office, was about how we can use further education facilities such as the college to help with adult retraining and re-employability.

There really is an issue for people who find themselves made redundant at a certain time of life, when it is too early to retire and they want to continue to work, but they struggle, after decades in a particular environment, to adapt to the new digital industries that seem to be coming forward.

We have to have a conversation about how we help such people to retrain, through practical training and through academic study, so that they can take up new opportunities. I know that the partnership action for continuing employment team is working with many people on the site and I hope that it will continue to do so.

In the short time that I have left before I must close, let me say that the TI site is a great site and I struggle to understand why no buyer has been forthcoming. I hope that there is still an opportunity in that regard, but if no buyer comes forward, the people who want to continue in the workplace must be given all the support that Governments and agencies, at every level, can provide.

As Stuart McMillan said, Inverclyde is a great place to live and work. If the plant closes, I hope that the people who work there will at least be able to move into the next stages of their careers. I hope that all politicians, at local level and in the Scottish Parliament, will do everything that they can to assist the workforce.

17:04

Neil Bibby (West Scotland) (Lab): I welcome tonight's debate, which has been secured by Stuart McMillan. I support the motion on Texas Instruments, because it must be a priority for all of us to protect and create quality jobs in our communities. I agree with Mr McMillan about the plant's importance—indeed, it would be difficult to overstate it—to the Greenock community and to Inverclyde as a whole.

In an age in which global competition has seen reliable, productive, high-value industrial jobs move elsewhere, the plant has continued to give skilled workers in Inverclyde the opportunity to sustain a valuable and profitable trade. Just as hundreds of people benefit directly from such highly skilled industrial work, hundreds more enjoy the indirect employment that is supported by the presence of Texas Instruments. Thousands benefit from the injection of millions of pounds into the Inverclyde and west of Scotland economy. It is estimated that, in total, the closure of the factory would mean a loss of 572 direct and indirect jobs and of £32.2 million in gross value added.

As others have said, we cannot allow Texas Instruments to withdraw from Inverclyde without a viable alternative emerging. I join other members in commending the work of the Texas Instruments task force, which has worked hard to find such an alternative. By working together to find a way forward, the council-led task force, with other agencies and the business community in the west of Scotland, has exemplified how the public and private sectors can co-operate to promote the economic interests of a community. I commend everyone who has been involved, but particularly Councillor Stephen McCabe and his Inverclyde Council officers for their leadership, as well as the workforce for the commitment and resilience that they have shown in the face of adversity.

The truth is that the factory's story is not just another one about the stark realities of global

competition. The potential loss of such highly skilled industrial jobs is not a sign of the times, nor the result of modernity. The truth is that the plant was profitable—and continues to be so. In the 2017-18 fiscal year, it generated profits of upwards of £3 million.

The sharp decline in silicon glen and the erosion of our electronics industry over the years have been dramatic, but that does not mean that we do not have options now. We do not have to just accept the loss of what remains of our electronics industry in Inverclyde. I agree with what Stuart McMillan has said, in that everything that can be done should continue to be done to protect this important asset. For the past two and a half years, members of the task force and I have said that a buyer can—and must—be found. The plant can still have a long-term future—a future that I hope can be confirmed soon. In pursuing a viable buyer for the plant who can continue to support the jobs, the industry and electronic innovation in the future, we commit ourselves again to building the robust economy that we can achieve and which our people deserve.

17:08

Maurice Corry (West Scotland) (Con): I, too, express my thanks to Stuart McMillan for bringing to the chamber this important motion, which I support.

I welcome the opportunity to speak about Texas Instruments. The semiconductor plant is an important part of Scottish industry, so its upcoming scheduled closure is of great concern. The closure has the potential to affect not just Greenock and the Inverclyde area, but the worth of Scotland's industry nationwide.

I echo the points made by my colleague Jamie Greene. I hope that, through the debate, we can raise awareness of the issue and strengthen our motivation to keep fighting for the workforce at Texas Instruments in Greenock. Those highly skilled people deserve to have no stone unturned in our aim to ensure that they have continued employment.

As has been referred to, the scheduled closure of the Greenock Texas Instruments plant in 2019 was announced almost three years ago. It is no mistake to say that the loss of the plant would be a severe blow to the Inverclyde economy and community, and that its workers are an asset to the industry.

The potential loss of Texas Instruments will have a worrying impact. First and foremost, its closure will affect 550 positions, and 318 direct jobs are expected to be lost. What does that mean for the area? Without those jobs, families in the area might feel that they must move elsewhere in

search of more concrete employment. That will alter the face of the community and reduce options for incoming businesses and industries to come to Inverclyde.

The closure of Texas Instruments might also result in the loss of healthy competition across the industry in Scotland. The potential financial loss could be high: our economy could lose more than £32 million.

To be clear, this is not just a local problem. Texas Instruments has been of enormous financial benefit to Scotland's economy. To keep that benefit going, we must safeguard it. I am thankful for the work that has been done by the Texas Instruments task force, which I am pleased to be associated with. The task force is an on-going collaboration between Inverclyde Council, the United Kingdom Government and the Scottish Government, as well as councillors, parliamentarians and multiple public agencies.

Since the closure was announced, our aim has been to protect the employees and to ensure a long-lasting and secure future for the plant in Greenock. As expected, that has been a challenge. For such a niche and specialist industry, finding a buyer for the plant has proved difficult. So far, our efforts have not given us the answer that we hoped for, but with each new possible opportunity, the task force remains hopeful of success, even with on-going negotiations. I am keeping my fingers crossed.

I hope that the efforts made by the task force will continue to be supported from all corners. Only with full support can all avenues be explored in depth. I know that the task force is committed to protecting the skills base that we have on our doorstep, and to using it as much as possible.

Ensuring long-term stability will open doors for the next generation of the community. For that reason, it is essential that we continue to include semiconductor science as part of our high school curriculum. That will encourage young people to direct their sights and their skills at the future of the industry. I hope that our teenagers will have the opportunity to put the skill set that they can gain to practical use in real-life situations, and I hope the Greenock plant is here to provide them.

I echo the call to continue agency-wide co-operation in our efforts to protect the Greenock workforce and support the Government's efforts. We need to assess our options and every possible solution to keep the momentum going. The Greenock semiconductor plant is part of a global industry and is of much value to the surrounding community, as well as to our economy. In recognition of that, we must further our efforts and maintain our enthusiasm in order to secure the

plant's future for the sake of the employees and their community.

17:12

The Minister for Business, Fair Work and Skills (Jamie Hepburn): I thank Stuart McMillan for lodging the motion and securing the debate. As Jamie Greene said, Stuart McMillan spoke with the passion that he always expresses when he is talking about his home area and, in particular, his efforts with the Texas Instruments task force.

I also welcome other members' contributions. We often have debates in which we speak with one voice—that is particularly the case with members' business debates, and quite rightly so tonight. We are all of the same mind. We are all here because we want to secure a positive outcome for the Texas Instruments site and, above all, for its workforce.

Many points have been well made. Stuart McMillan reminded us of some of the history of his home town, which, in line with most of the west of Scotland, has sadly seen some industrial decline during the past few decades. He spoke about Greenock's shipbuilding heritage and the sugar industry that was once the town's hallmark. In a later wave of industries, we saw Greenock and Inverclyde establish themselves as a hub for the technology sector, which has also seen something of a decline, with Texas Instruments being the last remaining big employer in that sector. We want to do everything that we can to retain that expertise locally.

We are moving closer towards the plant's proposed closure in June 2019, so it is absolutely right that we have the debate tonight.

The loss of more than 300 jobs at the TI site would be an enormous blow to the economy. Texas Instruments has made a significant contribution to Inverclyde's labour market and economy by providing a large number of high-value jobs. No area in Scotland can afford to lose that number of jobs, but I am acutely aware of the wider socioeconomic context that Inverclyde is operating in and the depopulation issues that Stuart McMillan ably set out. That is what we need to focus on.

Scottish Enterprise produced a report that assessed the economic impact of the company's closure. In that regard, Neil Bibby was correct to say that this is not just about the jobs at that site alone. If we include the jobs supported by the site's supply chain and the impact of falling household expenditure, Scottish Enterprise's assessment suggests that 570 jobs could be lost to the local economy. In that sense, the scale of the issue goes far beyond the business itself.

Stuart McMillan welcomed the fact that Texas Instruments gave us some lead-in time to its announcement, which has allowed us time to seek a long-term future for the site and the workforce. Since taking up my role as Minister for Business, Fair Work and Skills, I have attended both meetings of the Texas Instruments task force that have been convened in that time. Of course, Paul Wheelhouse attended the meetings that were convened while he was business minister. As has been set out, the task force was a creation of Inverclyde Council, and it has been a good approach. Inverclyde Council established and convenes the task force, but the Scottish Government has been a critical participant. Also at the table are Skills Development Scotland, Scottish Enterprise and, critically and crucially, Texas Instruments—because it is best placed to tell us precisely what is happening at the site at any given time. Since I have been the business minister, MSPs of various political colours have been at the table: Stuart McMillan has been present, and Maurice Corry was at one meeting. Councillors of different parties also attend. In that sense, we are having the open, frank and necessary dialogue that has been mentioned.

As a Government, we have a strong commitment to work with the task force to secure the long-term future of the plant and its workers. That is an ambition that we all share. We are pursuing the matter outwith the confines of the Texas Instruments task force. In February this year, Keith Brown, then the Cabinet Secretary for Economy, Jobs and Fair Work, met the senior vice-president of Texas Instruments to discuss the situation. We have requested a further meeting with the company's chief executive, and we have continued to engage with the managing director of the Greenock plant. In conjunction with the council's officers, Scottish Government officials are now focusing efforts through a working group that started meeting earlier this year.

We maintain that open dialogue with Inverclyde Council to consider interventions that we can take together to support the wider region. Scottish Development International has been working actively and with the utmost determination to find a buyer for the plant, which is the nub of the issue.

As other members have set out, it has been very clear from the outset that finding a buyer for the site has been a significant challenge. Stuart McMillan said that, unfortunately, several expressions of interest have not come to fruition, but discussions are still on-going between Texas Instruments and a potential buyer. We need to give them the time, space and confidentiality to find an agreement. That said, I have been absolutely clear that the Scottish Government remains utterly committed to doing everything that

it can to support the purchase and secure the plant's long-term future.

Jamie Greene: I thank the minister for his warm words. From attending meetings of the task force, he might have picked up its sense of frustration that similar high-profile potential job losses in other parts of the country—the number in Greenock is in the hundreds, as he mentioned—have garnered much more media focus and more of a national conversation. The situation seems to have gone largely under the radar. I hope that that will not affect the way in which the Government seeks to tackle it and help the community.

Jamie Hepburn: To put it simply, and to assure Mr Greene and all other members, no, it will not.

Just as Mr Greene might be frustrated on occasion, so am I, but I cannot control the media output. Notwithstanding the validity of his point, that will not impact on the Government's determination to find and secure a future for the site and the workforce. In that regard, the engagement that we are undertaking right now is more than a tyre-kicking exercise.

The debate is important because it gives the matter a degree of prominence. It is right that we debate it as a Parliament and reiterate the scale of concern for not only the plant and its workforce but the broader region. We are doing all that we can to secure a viable future for the plant, and we will continue to work in partnership to seek to obtain a solution that is in the best interests of the employees of Texas Instruments, Inverclyde and the Scottish economy. In that regard, I assure Stuart McMillan and other members that we will leave no stone unturned.

Meeting closed at 17:20.

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