OFFICIAL REPORT
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Health, Social Care and Sport Committee

Tuesday 28 May 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

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HEALTH, SOCIAL CARE AND SPORT COMMITTEE
17th Meeting 2024, Session 6

CONVENER

*Clare Haughey (Rutherglen) (SNP)

DEPUTY CONVENER

*Paul Sweeney (Glasgow) (Lab)

COMMITTEE MEMBERS

*Sandesh Gulhane (Glasgow) (Con)
Emma Harper (South Scotland) (SNP)
*Gillian Mackay (Central Scotland) (Green)
*Ruth Maguire (Cunninghame South) (SNP)
*Carol Mochan (South Scotland) (Lab)
*David Torrance (Kirkcaldy) (SNP)
*Tess White (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jeremy Balfour (Lothian) (Con)
Alex Cole-Hamilton (Edinburgh Western) (LD)
James Dornan (Glasgow Cathcart) (SNP) (Committee Substitute)
Meghan Gallacher (Central Scotland) (Con)
Ross Greer (West Scotland) (Green) (Committee Substitute)
Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)
Jenni Minto (Minister for Public Health and Women's Health)

CLERK TO THE COMMITTEE

Alex Bruce

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Health, Social Care and Sport Committee

Tuesday 28 May 2024

[The Convener opened the meeting at 09:00]

Abortion Services (Safe Access Zones) (Scotland) Bill: Stage 2

The Convener (Clare Haughey): Good morning, and welcome to the 17th meeting in 2024 of the Health, Social Care and Sport Committee. I have received apologies from Ruth Maguire, and James Dornan is joining us remotely as her substitute.

Our only agenda item is consideration of the Abortion Services (Safe Access Zones) (Scotland) Bill at stage 2. As Gillian Mackay is the member in charge of the bill, she will not participate as a committee member in the committee's stage 2 proceedings, by virtue of rule 9.13A.2(b) of the standing orders. Ross Greer is attending in her place as a committee substitute by virtue of rule 12.2A.2. By virtue of rule 12.2.3(a), Gillian Mackay is participating in the meeting as the member in charge of the bill. I also welcome the Minister for Public Health and Women's Health.

For anyone who is watching, I will briefly explain the procedure that we will follow during today's proceedings. Members should have with them a copy of the bill as introduced; the marshalled list of amendments, which sets out the amendments in the order in which they will be disposed of; and the groupings of amendments document, which sets out the amendments in the order in which they will be debated. For anyone who is observing, I note that those documents are available on the bill's page on the Scottish Parliament's website.

There will be one debate on each group of amendments. In each debate, I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call other members with amendments in the group to speak to but not move their amendments and, if they wish, to speak to other amendments in the group. I will then call any other members who wish to speak in the debate. Members who wish to speak should indicate by catching my or the clerk's attention. I will then call the member in charge of the bill, then the minister, if they have not already spoken in the debate.

Finally, I will call the member who moved the first amendment in the group to wind up and to indicate whether he or she wishes to press the amendment or to seek to withdraw it. If the amendment is pressed, I will put the question on it. Later amendments in a group will not be debated again when they are reached. If they are moved, I will put the question on them straight away. If a member wishes to withdraw an amendment after it has been moved and debated, I will ask whether any other member objects. If there is an objection, I will immediately put the question on the amendment.

If any member does not wish to move their amendment when it is called, they should say, "Not moved." In that situation, any other member present may move the amendment. If no one moves it, I will immediately call the next amendment on the marshalled list.

If there is a division, only committee members are entitled to vote. Voting is by a show of hands. It is important that members keep their hands raised clearly until the clerks have recorded their names.

The committee is required to consider and decide on each section of and schedule to the bill and the long title. I will put the question on each of those provisions at the appropriate point.

Before section 1

The Convener: Amendment 42, in the name of Rachael Hamilton, is in a group on its own.

Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con): I thank the committee for welcoming me. I note that I twice attended the First Minister's working group on abortion service buffer zones.

Amendment 42 would insert, at the start of the bill, a purpose clause that sets out the bill's aims and intentions. It outlines that the bill's purpose is to ensure that people seeking safe access to abortion services and healthcare workers who provide that essential healthcare should be able to access and provide abortion services

"without fear of intimidation or harassment".

The amendment would strengthen the bill by specifically outlining its purpose in the bill. It would provide clarity and ensure that the bill remained defined and focused.

I move amendment 42.

Carol Mochan (South Scotland) (Lab): Scottish Labour's position is that amendment 42 is a reasonable amendment, but we are not sure that it is particularly necessary to include it in that part of the bill, as the bill's intention is evident throughout.

Minister for Public Health and Women's Health (Jenni Minto): Thank you, committee

members, for your stage 1 consideration. This is a complex subject area and I am grateful for the sensitive and thoughtful way that you have all approached your consideration. I look forward to a similar discussion this morning.

I will turn directly to amendment 42. My reasons for asking the committee to vote against the amendment are largely practical. Purpose clauses in Scottish legislation have historically been used only in exceptional circumstances and there must be compelling reasons for their inclusion. I note that Carol Mochan raised that matter.

Although I am grateful to Ms Hamilton for setting out her reasons for seeking to do that in the bill, I am concerned that the inclusion of such a section might have consequences that would go beyond what she has set out this morning. The purpose of any bill, no matter the complexity of the subject matter or the rights that are impacted, is to change the law, and every section should further that aim. That is not simply a semantic argument about good drafting; it goes to the heart of how bills are applied in the real world.

All sections should have clear legal effect and be capable of interpretation by a court. That being the case, a section that is not intended to have legal effect should not be included. Bills are not the place to set out policy intent or ambition; there are other opportunities for that, such as policy or strategy documents. Conversely, including a section means that we must accept that it might, in the future, be expected to have legal effect. Therefore, a purpose clause must be the subject of the most careful drafting to ensure that it does not conflict with the other sections of the bill.

Without doing so, there is a risk that its legal effect might conflict with the powers and duties in the bill or be read as serving as an additional legal test for the exercise of duties. For example, in this instance, the purpose refers to "fear of intimidation", which differs from the offences that are set out in sections 4 and 5 and the tests in sections 7 and 8, which set out when it is appropriate for ministers to extend or reduce a zone. Its inclusion could therefore introduce uncertainty around how ministerial powers to reduce or extend a zone could be exercised or with regard to how the courts interpret the offence provisions. Those are significant uncertainties to introduce. Therefore, if the purpose is not intended to have legal effect, it should not be included, and I urge Ms Hamilton not to press the amendment.

If the purpose is intended have legal effect, I must urge the committee to vote against it on the grounds that it may, at best, create uncertainty with regard to how the law is to work in practice and, at worst, be interpreted in ways that result in the law being implemented in a manner that was never intended.

Gillian Mackay (Central Scotland) (Green): Good morning. Like the minister, I offer my thanks to the committee for its work so far. I know that we will not all reach the same conclusions this morning, but I also know that we will do so respectfully and collegiately. I am hopeful that we will achieve a stronger bill by the end of the process.

I thank Rachael Hamilton for her engagement with me and for her desire to collaborate to make the bill better. Other than that, I do not have anything to add to what the minister said.

The Convener: I call Ms Hamilton to wind up.

Rachael Hamilton: From the outset, I have been concerned that women have been put off accessing healthcare, which could be a danger to their health. That has been described to me by the charity Back Off Scotland.

I want to speak to Carol Mochan's comment. There has always been an argument that a purpose clause is not necessary but, on Carol Mochan's point, her own party brings forward purpose clauses in the context of other bills and argues that they are the right thing to do to make the bill clear. I know that the bill has been controversial among many, and I merely seek to bring the focus towards women's health because we have been in danger of letting women down with regard to their health because of this situation.

On the minister's point about legal concern, will she work with me to get the wording right if she has concerns, specifically about the reference to

"fear of intimidation or harassment"?

I think that a purpose clause would clarify the point that we are trying to make, namely the need to strengthen women's health and access to women's health services.

The Convener: The minister wishes to intervene.

Jenni Minto: I thank Ms Hamilton for that proposal. However, as I set out in my arguments for the committee to reject the amendment, I am concerned about the dubiety that it raises. Purpose clauses are not used generally. We have used them before, for example in the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, where one was included to make it clear that the act would not apply until the United Kingdom left the European Union.

We have been very clear in all our policy documents that the bill is being introduced to ensure that women can access healthcare safely, without intimidation and without fear of harassment. That is clear within the bill and in all the policy notes that support it.

Rachael Hamilton: I thank the minister for that, but I am a bit disappointed that she will not work with me to get the words right so that they are legally competent. I will press amendment 42.

The Convener: The question is, that amendment 42 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Sandesh (Glasgow) (Con)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Torrance, David (Kirkcaldy) (SNP)
White, Tess (North East Region) (Con)

Abstentions

Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)

The Convener: The result of the division is: For 1, Against 5, Abstentions 2.

Amendment 42 disagreed to.

Section 1—Meaning of "protected premises"

The Convener: Amendment 6, in the name of the minister, is grouped with amendments 7, 15, 16 and 35 to 38.

Jenni Minto: I will address amendments 6, 7, 15 and 16 quickly. The amendments are drafting improvements. Amendment 6 clarifies that "protected premises" may refer to a building

"that is, contains or forms part of a hospital"

and that the building must provide abortion services.

Amendment 15 reflects that change, and amendments 7 and 16 improve the wording of those provisions.

I will address the amendments to section 10—amendments 35 to 38—together. First, my amendment 36 provides flexibility in how the definition of "protected premises" may be modified. As introduced, section 10 allows the definition to be extended to cover places approved as

"a class of place mentioned in section 1(3A) ... of the Abortion Act 1967".

For example, if general practices were approved as abortion providers, they could all be covered by a zone.

Section 10 also allows the definition to be extended to places providing

"treatments or services relating to abortion services".

For example, a zone could be established around a building where counselling related to abortion treatment is provided.

Under those provisions, if a class of place were approved under the 1967 act, ministers could not extend the definition of "protected premises" in the bill to include only individual premises that were part of a class of place.

To continue my example, if general practices were approved as abortion providers, but not all practices offered the service, ministers could not establish a zone solely around those practices that needed it. Instead, they would have to extend the definition to include all general practices. That would cover more providers than necessary. I am grateful to Dr Gulhane for drawing attention to the issue. My amendment 36 responds directly to points that he made at the evidence session on 19 March. The amendment provides that ministers can now extend the definition to cover individual premises within a class of place approved under the 1967 act. That provides greater flexibility and is proportionate. If required, however, the whole class of place can be added.

As ministers must always act proportionately, they will be bound to use the less restrictive option, where the evidence supports the aim of protecting women and staff. I hope that members agree that that is a positive step that ensures that the bill is future-proofed, while also reflecting the Government's obligation to always act proportionately.

09:15

I now turn to Dr Gulhane's and Mr Balfour's amendments. Given what I have set out, I hope that you will not be surprised to hear that I am resisting both.

With amendment 38, Dr Gulhane seeks to entirely remove the potential to extend the definition of protected premises. As I set out to the committee during my evidence, by including that section we will ensure that we pass legislation that is capable of protecting women, not just this year or next, but in years and maybe even decades to come. It means that women and staff will be able to access and provide services, even if treatments or delivery models change, and it provides scope to respond if the behaviour of groups that oppose abortion and the venues that they target change.

If anyone doubts that that is necessary, I would ask them to reflect on the history of abortion care since the Abortion Act 1967 was passed. When the 1967 act came into force, having an abortion meant undergoing a surgical procedure. Now, for many women, having an abortion involves visiting a clinic to collect tablets that they can take at home. We have no idea what care will look like in

the future, but it would certainly be unwise to assume that it will remain as it is now.

Likewise, although I hope that it does not happen, we cannot rule out that the ways in which anti-abortion groups will seek to target those who are having abortions will continue to evolve. A decade ago, we did not see the kinds of activity in Scotland that we do now, and, although I will not labour the point, we have seen how anti-abortion groups have mobilised to strike at abortion provision in the United States in ways that we would not have imagined possible.

We must make sure that we are able to respond if we need to, although, of course, always ensuring that we act compatibly with the European convention on human rights. Section 10 does not threaten any broader rights to protest. It could only ever be used to protect women and staff at the point where they are accessing or providing services. Of course, I understand that the prospect of covering all GP practices or pharmacies could be significant, and committee members may have concerns about that. I do not want to dismiss that, but I will provide reassurance.

First, the examples that I have given are purely illustrative. There are no plans to approve pharmacies or GP practices as classes of place under the Abortion Act 1967. As I said earlier, we have no idea what the future might bring. A class of place approval may never be granted, or it may be granted for a very small set of premises. Section 10 ensures that we can act if we need to, and the Government amendment has ensured that the protection can be extended only to those premises where it is needed.

Secondly, any decision to extend the definition will be evidence based, and the Scottish ministers must always act compatibly with the European convention on human rights. Because of that, no additional protected premises can be added unless ministers are satisfied that it would be proportionate. They would have to balance protecting the article 8 rights of women and staff with any interference to articles 9, 10 and 11 rights. Again, that underlines the significance of the Government amendment. If protecting only individual premises, rather than an entire class of premises, would achieve the bill's aims, ministers would be duty bound to do only that.

Thirdly, ministers cannot act unilaterally. Any change to the definition of "protected premises" using section 10 will require affirmative regulations. The Scottish Parliament will therefore be able to scrutinise the necessity and proportionality of the designation of any new protected premises. If the Parliament is not satisfied that ministers have met their obligations, or that the evidence to modify the definition is sufficient, the regulations could be voted down.

My reasons for not supporting Mr Balfour's amendments 35 and 37 are very similar. In the event that GP practices or pharmacies are approved as a class of place, we must be able to extend protection to them if that is needed. As I have said, there are no plans to do that. Nevertheless, it is illogical to exclude them when there is a possibility that they could be approved as a class of place for the provision of abortion services and then targeted in the future.

I recognise the concern that underpins those amendments and I hope that the Government's amendment 36 will provide reassurance that we, too, have considered the matter and have taken steps to ensure that the least restrictive approach will be taken.

I move amendment 6.

Jeremy Balfour (Lothian) (Con): Good morning to the convener, the committee, the minister and Gillian Mackay.

Most of the amendments that I lodged are probing amendments to find out where the Government and the member in charge of the bill stand. I will not move amendments 35 and 37, and I am grateful for the tone of the debate so far.

The point of amendments 35 and 37 is to seek to limit the expansion of the definition of "protected premises". It is not unreasonable to suggest that pharmacies and primary care clinics, such as GP surgeries, should be omitted from the bill. I understand that those places can provide take-home services but that is not their primary function. In fact, they rarely provide those services in comparison to other prescriptions and care that they provide.

As the committee recognises in its stage 1 report and as the Government recognises, there is a balance to be struck. Women absolutely have the right to feel safe and protected, but there is also the right to free speech. We have to get the correct balance.

There are 900 GP surgeries in Scotland and more than 1,200 pharmacies, most of which are on our high streets. To expand the definition of "protected premises" to include all of those would shut down every one of those high streets to any form of demonstration, stall or even possible conversation. I accept the minister's comments that she has no intention of doing that, but as she pointed out, we are future proofing the bill for the next generations. Another Government might come down the road and want to expand the definition, perhaps not for appropriate reasons.

Because I am a Lothian member, I had the Lothians and Edinburgh in mind when drafting many of my amendments. For example, if Boots on Princes Street were to become a protected

place, it would mean that there could be no demonstration in Princes Street gardens, George Street and other parts of our city centre because of the 200m rule.

The bill is trying to walk a fine line between ensuring that women can access services and upholding the right to freedom of speech, expression and religion. The way forward is to exclude pharmacists and general practitioners from the bill at the moment. If, as the minister pointed out, things change in the future and the Parliament wants to revisit that, it can do that through amendments or a fresh bill.

There are GP surgeries in many of our city centres and I am concerned that, if we pass the bill unamended, we will take out vast areas where demonstrations might not legally be allowed to take place. Therefore, before stage 3, I will reflect on what the minister said and what other members say.

Sandesh Gulhane (Glasgow) (Con): I declare an interest as a practising national health service GP.

I thank the minister for her remarks. This is not a debate on abortion. I firmly believe that women have a right to access healthcare without fear or intimidation.

Amendment 38 seeks to remove section 10 of the bill. My position is that the definition of "protected premises" should not be capable of modification by secondary legislation. My concern is that, if there are changes to abortion service delivery that mean that new settings, such as pharmacies and GP surgeries, are approved to provide abortion services under the 1967 act, safe access zones could be established around them, which would take the extent and number of zones beyond what is reasonable and proportionate.

Safe access zones could cover significantly larger areas than the initial 30 sites. I am thinking of GP surgeries and pharmacies, but we could even be talking about Amazon warehouses in the future. Although I acknowledge that the bill requires consultation with the provider, the operator and, where considered appropriate, the health board and local authority, I do not consider that there is sufficient scrutiny for such potentially wide-reaching consequences. The modification of the meaning of "protected premises" should happen only by way of primary legislation, with full parliamentary scrutiny. As the minister says, we do not know what abortion care will look like in the coming decades.

Committee members will recall that the stage 1 report highlighted the likelihood of the future extension of the definition impacting on the rights to protest or undertake vigils that are set out in articles 9, 10 and 11 of the European convention on human rights. The stage 1 report recommended that any changes to the definition

"should be subject to a further enhanced level of parliamentary scrutiny to that currently provided by the Bill."

The deletion of section 10 would remove the power of the Scottish Ministers to amend the definition without introducing new primary legislation. In other words, there would be full parliamentary scrutiny. Remember, Governments can change, and a future Government might extend the definition, despite the minister saying right now that that is not the intention. I genuinely believe that such an extension would be a significant change, and significant change requires significant scrutiny.

Carol Mochan: I thank the minister for her time and discussion on this area. Scottish Labour has taken a great deal of time to go over it because, as both Sandesh Gulhane and Jeremy Balfour have said, such a change would be significant and important. On balance, we believe that future care needs to be a part of the bill, because things have changed for women in this area of healthcare and it is important that, should further change be needed, it can be done in a timeous manner. We therefore believe that the bill, as it is set out, with the amendments from the Government, would be sufficient to balance human rights with the restrictions that any additional zones might add, and that it would be fair to allow the minister to do that. We therefore support the minister's amendments.

However, we will vote against amendments 37 and 38 because we believe that it is better for the minister to be able to act on those things and that the bill has a good balance.

Gillian Mackay: I am grateful to the minister for the amendments that she has lodged. In particular, I am fully supportive of the increased flexibility that amendment 36, if agreed by the committee, will provide if there is a need to protect additional kinds of premises in the future.

As I have always said, my aim is to protect women and staff, and I do not wish to infringe on other rights any more than is necessary. I am pleased that amendment 36 will allow a targeted approach, if appropriate.

I also support the minister in urging members to vote against amendments 35, 37 and 38. I have been appreciative of Sandesh Gulhane's consideration throughout the process. As the minister noted, he prompted reflection on the scope of section 10 in the bill as introduced and the lodging of amendment 36. However, I cannot agree that we should pass the bill as if services will remain static and behaviour will never change.

Likewise, I agree with the minister's comments on amendments 35 and 37. The Parliament will have a prominent role in scrutinising any expansion to the definition of "protected premises". It therefore seems extremely ill advised to tie our hands by ruling out specific kinds of premises regardless of circumstance.

Others have mentioned reopening and amending primary legislation. As everybody knows, that would take time, during which women would be intimidated or harassed all over again. That is particularly the case given that, as already discussed, amendment 36 also means that individual premises can be specified if that is more appropriate—for example, in cases in which only certain premises provide the services and a blanket approach is not necessary.

I want women and staff in the future to benefit from the protections that we are considering and I hope that the committee will agree.

The Convener: I invite the minister to wind up.

Jenni Minto: I hope that members agree that an element of future proofing is needed, as Carol Mochan said, to allow the bill to continue to achieve its aims even if abortion treatments or the way in which services are provided change. As I have explained, should the powers be used, they will always be subject to parliamentary oversight, as Gillian Mackay has emphasised.

I thank Mr Balfour for his contribution and tone. If I heard him correctly, he does not intend to move his amendments 35 and 37. I thank him for that and am happy to have further conversations with him prior to stage 3.

09:30

I hope that the arguments that I have just laid out, combined with the improvement to be made by amendment 36, is sufficient to convince Dr Gulhane and Mr Balfour not to move their amendments. I thank Mr Balfour for noting that he will not do so. However, if Dr Gulhane moves amendment 38, I urge members not to vote for it. That will preserve the ability for the legislation to be relevant and fit for purpose in years to come.

Amendment 6 agreed to.

Amendment 7 moved—[Jenni Minto]—and agreed to.

Section 1, as amended, agreed to.

Section 2—Establishment of safe access zones

The Convener: Amendment 8, in the name of the minister, is grouped with amendments 9 to 14, 44, 45, 26 to 30, 47, 32, 48, 49, 40 and 41. I call the minister to move amendment 8 and to speak to all the amendments in the group.

Jenni Minto: Thank you, convener. I apologise. I will just get the right page in my file—my tome.

The Scottish Government has lodged amendments 8 to 14, 26 to 30, 32, 40 and 41, which would amend sections 2, 7, 8 and 13. The bill establishes safe access zones around premises in Scotland that provide abortion services. Therefore, it is important that the way in which safe access zones are described is accurate and easy to understand.

It is proposed that a safe access zone will exist around premises that provides abortion services, which are to be called the "protected premises". The zone will, therefore, consist of the protected premises, the public area of the grounds of the protected premises and the public area of land that lies within a boundary measured from those grounds.

The ability for legislation to be understood by the reader is key to good law. In between the bill's being published and stage 2, I took the opportunity to review the wording of the bill and I identified some areas where there is unnecessary duplication of words, or areas that could be simplified. Overall, the amendments in the group are designed to make it easier to understand how a safe access zone is defined and measured.

Amendments 8, 10, 28 and 29 will remove unnecessary repetitive wording. Amendments 12 and 40 will remove the term "edge of the protected premises". That term will be replaced through amendments 14 and 41, which will introduce a new defined term—"protected site". The reason for that is to improve clarity and avoid repetition of words. There has been no change in policy; rather, the changes help to explain that the protected site is made up of the protected premises together with its grounds.

Amendment 13 will clarify the definition of "grounds". As a consequence of the change of the wording to "protected site", amendments 9, 11, 26, 27, 30 and 32 will replace the phrase "edge of the protected premises" with "boundary of the protected site" throughout the bill.

I understand that Ms Harper will speak to the amendments in her name, and I will address those when I wind up the group.

I move amendment 8.

Emma Harper (South Scotland) (SNP): Good morning, everybody.

The amendments in my name in the group are not controversial, so I hope that members will agree that they are useful in helping to provide

clarity on established safe access zones in Scotland.

Amendments 44 and 45 would remove the need for the Scottish ministers to publish the list of safe access zones after updating it with new protected premises, because the list will already be published. The amendments would ensure that the Scottish ministers are required to maintain the list and ensure that details are up to date. That will ensure clear and proper communication with the public so that everyone is clear about where the safe access zones are.

Amendment 45 would also strengthen the requirement that a safe access zone cannot take effect until at least 14 days after the list is updated, by adding a new subsection to make that easier to identify.

Similarly, amendments 47 and 48 would remove from sections 7 and 8 respectively the need to publish the list when the list is updated following an extension or reduction of safe access zones. That is, again, because the list is already published. The timescales for revised zone sizes taking effect remain unchanged, but they are put in a new subsection in both sections 7 and 8, and are at least 14 days after the list is updated for an extension to the zone size but on the day of the list being updated for a reduction in the zone size.

Although my amendments do not have a policy impact, they are, nonetheless, important changes to make the bill clearer and more easily understood. It is always a guiding principle that this Parliament must pass laws that are accessible and comprehensible by the people whom they impact. However, in this case, where the issues are so challenging and of such personal significance, that duty must be at the forefront of our minds.

Finally, during stage 1 scrutiny of the bill, I was interested in ministerial oversight of the creation, extension or reduction of safe access zones, and I welcome the conversations that I have had with Gillian Mackay in that regard. I hope that members can support my amendments, which will help to make the bill clearer.

Gillian Mackay: I will be brief because I support the amendments and am grateful for the improvements that they will make to the bill. I encourage members to vote for the amendments in the group. In particular, I thank Ms Harper, not just for her amendments, which I believe add clarity, but for her support over the years. She has long championed this issue, and I am grateful for her part in this process today.

The Convener: I call the minister to wind up.

Jenni Minto: I welcome Emma Harper's amendments, which are clearly aimed at ensuring that this important legislation can be understood by everyone who might be subject to its provisions. As members have heard, none of the amendments in the group is contentious. However, they have the same aim, which is to provide clarity. Therefore, I ask members to support all the amendments in the group.

Amendment 8 agreed to.

The Convener: Amendment 43, in the name of Rachael Hamilton, is in a group on its own. I call Rachael Hamilton to speak to and move amendment 43.

Rachael Hamilton: Thank you.

Amendment 43 would reduce the safe zone distance from 200m to 150m. In its stage 1 report, the committee questioned why the default distance of safe access zones had been set at 200m, when evidence suggests that a distance of 150m would be sufficient for all locations except the Queen Elizabeth university hospital.

The committee therefore recommended an alternative approach of setting a standard distance of 150m for safe access zones in Scotland, then using the provisions that are set out in section 7 of the bill to extend that to address the specific circumstances of the Queen Elizabeth university hospital. That would mean that all protected premises that currently provide abortion services in Scotland would be covered. I am interested to hear the minister's arguments for a requirement for a 200m zone, given that she has powers to extend the zone from 150m.

My concern is that there will be unintended consequences for those who are captured within this more extreme version of abortion buffer zones—more extreme than anywhere else in the world. Ultimately, my concern is that, although we want to deliver enforcement of the law, the impact on freedom of speech needs to be proportionate. This is about medical services and not other services that could be affected unintentionally.

I move amendment 43.

Carol Mochan: I thank Rachael Hamilton for starting the debate. Obviously, we have considered the matter at length, given that it was spoken about in the committee's evidence sessions. We have come to the conclusion that we will support the Government in its position, mainly because responses indicated the matter is important and that a distance of 200m will mean that we will have, for women in Scotland, safe access zones in particular premises, which might be helpful in the future. We are content to continue to support the Government so we will not support amendment 43.

Rachael Hamilton: Thanks for your explanation. I do not believe that an impact

assessment has been done of the unintended consequences of people being captured in the 200m zone. The committee recognises that ministerial powers would be in place to extend the zone from 150m, which is already—almost—a standard buffer zone across the United Kingdom, except for Northern Ireland. It is probably at the farther end of the most extreme measurement in the world.

Carol Mochan: I absolutely accept Rachael Hamilton's point. We have gone back and forward with people who consulted with the committee. I accept the member's position, but we have to decide on the matter. At this stage, we have decided that we would be content with 200m.

Jenni Minto: I am aware that Ms Mackay intends to provide a full and detailed response, so I will simply affirm that the Scottish Government's position aligns entirely with hers. In-depth work has been undertaken to ensure that the bill sets a zone size that takes into account the specific circumstances of individual premises and, thereby, provides adequate protection while remaining proportionate.

To accept amendment 43 would be to strike at the bill's heart without reasonable justification. It would represent bad lawmaking, as the legislation would not be fit for purpose because the zones would not be of the necessary size.

Rachael Hamilton: Does the minister not believe that the powers that are set out in the bill are sufficient to extend the zones? Indeed, it is suggested in the bill that 200m will be a minimum.

Jenni Minto: In pulling the bill together and deciding on 200m, we did a huge amount of in-depth work, looking at every single facility in Scotland that provides abortions to ensure that entry points into those locations are covered. In some locations, including, I believe, one in Ms Hamilton's constituency, 150m would not be large enough to cover the area that we believe we need to cover in order to ensure that women and staff can access abortion clinics safely and without harassment.

Rachael Hamilton: With respect, convener, I would like to come back to the minister.

That was not what I asked. I asked whether the minister believes that the powers that are set out in the bill are sufficient to extend anything beyond 200m, because that circumstance could arise, whether it is from 150m or 200m.

Jenni Minto: I believe that we are right to have the 200m limit. When I gave evidence to the committee in stage 1, I said that that limit gives consistency, so that people will understand, when the legislation is enacted, what it is that they are looking at. I do not want to undermine the tremendous work that the committee has done on the issue so far.

Gillian Mackay: I recognise the need to restrict no more than is necessary the rights of those who wish to take part in anti-abortion activity outside services. If I thought that amendment 43 could be safely included and the bill would still provide the necessary protections, I would gladly encourage the committee to vote for it. However, as was outlined at stage 1, considerable work was undertaken between the consultation and the introduction of the bill to ensure that the zones would be the right size.

At the stage 1 debate, I noted that we identified that we needed to address factors that could provide a captive audience. That work contributed to the size of the zone being set at 200m. Therefore, accepting amendment 43 would, to a very large extent, render safe access zones somewhat ineffective from day 1.

The stage 1 report refers to scoping work that shows that 150m is

"sufficient for all but one ... premises."

As I acknowledged during my stage 1 remarks, I consulted on 150m, too, because that size was in line with the size of zones that were then in place in a number of other jurisdictions. However, the consultation rightly did not mark the end of the work around that issue. During the bill's development, the size of the zone was rigorously examined to ensure that it could meet the aims of the bill while remaining proportionate. That was a vital process. I assure all members that, had that work shown that 150m was more than necessary, the size of the zones would have been 150m.

I am repeating much of what I have already said. We assessed the sites for all protected premises and identified places where people who access or provide services would be a captive audience—for example, entrances and exits, the nearest bus stops and the places where activity has already had negative impacts.

We also concluded that there must be a buffer around each place to ensure that women and staff could not be easily called out to or shown images. That made it very clear that 150m would not be sufficient for a number of premises beyond the Queen Elizabeth university hospital—for example, the Borders general hospital and Dumfries and Galloway royal infirmary. In fact, amendment 43 would mean that, at more than one third of sites, women would not receive the protection that they require and the bill's aims would not be met. Therefore, in the strongest terms I urge committee members to vote against the amendment.

09:45

Rachael Hamilton: I want to listen to Gillian Mackay's summary, but could I intervene?

The Convener: She has just finished, Ms Hamilton, and I am about to come to you to wind up and to press or seek to withdraw amendment 43.

Rachael Hamilton: I will make my points in winding up. I did not want to interrupt, because I was interested to hear the full description in what the member had to say. I accept what Gillian Mackay has had to say on this specific subject, but my argument remains: there are already powers in the bill to extend the zones. That is important, because we do not know how the bill will shape itself and develop as we go forward. Buildings change—they change size and become smaller or larger—so having one size of 200m where that is not necessary will capture people in unintended consequences for those—

Paul Sweeney (Glasgow) (Lab): Will you give way on that point?

Rachael Hamilton: Yes.

Paul Sweeney: Do you have examples of specific scenarios or facilities in Scotland about which you have concerns?

Rachael Hamilton: At the Queen Elizabeth university hospital, there are other facilities around the specific area that are encompassed in the zone, and I have felt as though I do not have enough information to reassure me that there would be no unintended consequences. I appreciate the work that the committee has done on the bill—you have obviously looked at it very closely. However, I felt that I needed more information on unintended consequences and proportionality, which is why I lodged amendment 43.

Paul Sweeney: You have mentioned the Queen Elizabeth university hospital in Glasgow, but the consultation response that we received from the British Pregnancy Advisory Service specifically cited a particular location on Hardgate Road, which is the southern access route to the hospital, as being an issue of concern, at which a 150m distance would not be sufficient to deny a gathering space that would be unavoidable for people accessing the hospital. Does not that example justify the 200m baseline?

Rachael Hamilton: Yes. Paul Sweeney will know that I am 100 per cent supportive of the bill. I just wanted to tease out some of the areas for which, for me, the boxes had not been ticked, if you like. However, I accept what Gillian Mackay has said.

I will not press my amendment, convener, but I still have concerns about the fact that I have not received reassurance from the minister on the use of ministerial powers to extend the zones.

Amendment 43, by agreement, withdrawn.

Amendments 9 to 14 moved—[Jenni Minto]—and agreed to.

Section 2, as amended, agreed to.

Section 3—Notification of proposed protected premises etc

Amendments 15 and 16 moved—[Jenni Minto]—and agreed to.

Amendments 44 and 45 moved—[Emma Harper]—and agreed to

Section 3, as amended, agreed to

After section 3

The Convener: Amendment 51, in the name of Meghan Gallacher, is in a group on its own.

Meghan Gallacher (Central Scotland) (Con): Good morning to the committee, the minister and Gillian Mackay.

We have had quite a bit of conversation about signage and I was grateful for the opportunity to meet the minister and Gillian Mackay to talk about that issue. The intent of amendment 51 is to ensure that safe access zones for protected premises are clearly marked and to summarise the restrictions that will apply by virtue of the act within the safe access zones. I understand that the reasons for not including signage in the initial draft of the bill were about protecting women and not drawing close attention to where buffer zones are. However, I still have some concerns about the understanding of where a buffer zone will begin within the 200-mile radius—sorry, I mean 200 metres. Signage would enable clear distinctions of buffer zones, which would allow people to understand where a zone will begin and will not begin. I stress again that it is 200 metres and not 200 miles.

I understand that health boards may install signage in their areas if they wish. However, with amendment 51, I want to probe the matter further to allow a more open debate. I understand that the committee did a lot of work on the issue, but I would like to get more understanding from the minister of whether we could look at it further.

I move amendment 51.

Carol Mochan: I appreciate Meghan Gallacher's contribution. I, too, have had a great deal of discussion with the minister and Gillian Mackay and I understand the arguments for and against signage. We note that health boards have

the option to install signage and it may be that they understand their particular premises best, so, on balance, we are content that that will be the best option. We will vote against amendment 51, but we understand why it was lodged for debate at stage 2.

Tess White (North East Scotland) (Con): I would like Labour and everybody else to reconsider for the sake of clarity. Amendment 51 is important for clarity and enforcement. If there is no proper signage, it will be very difficult to enforce, and leaving it up to the health boards is not good enough.

The financial memorandum states:

"There is no requirement in the Bill for signage to be displayed outside a protected premises, and there is no expectation at present for signage to be required."

I remember that, when the minister gave evidence to the committee at stage 1, we had a discussion about signage and how it would be on-going. Amendment 51 seems to give sufficient flexibility and it is not particularly prescriptive or onerous. I also note that it includes regulation-making powers for Scottish ministers. That is why I encourage the committee to reconsider and review the issue and put signage in the bill.

Jenni Minto: I know from conversations that I have had with Ms Gallacher that she did not lodge amendment 51 lightly and that she is aware of the complexities of the issue. Ms Mackay will speak about those complexities, particularly as regards the concerns of service providers. I will say only that I also have those concerns and that I share Ms Mackay's hesitancy to overrule service providers when there is some doubt about the effectiveness of signage.

I want to talk about what the bill already requires and how that will be supplemented by the Scottish Government. Together, those things already represent a considerable package of efforts to ensure that people who are affected by zones will be made aware of them and their effects. First, as members are aware, the bill already requires that Scottish ministers publish and maintain a list of all safe access zones in Scotland. The list will include not only the name and address of all premises, but also maps that clearly identify the zones. As we know that anti-abortion groups tend to be well organised and often rely on online engagement to share information and plan activity, we believe that maintaining such a list represents a robust means of drawing attention to zones.

The Scottish Government has also committed to a targeted publicity campaign. That will include writing to known anti-abortion groups to make them aware of safe access zones and the criminal sanctions that will attach to activity in relation to them that would result in an offence. We continue to work through the details of the full campaign, but it is likely to also involve leaflet drops to residents within the zone and notices in public venues such as GP surgeries.

Finally, Police Scotland has told us of the approach that it anticipates taking to the policing of zones. It will involve a graduated response, beginning with engagement, explanation and encouragement before any enforcement action would be taken.

For all those reasons, I am of the view that signage would do little to raise awareness of zones that will not be achieved by other means, and therefore amendment 51 in general is unnecessary.

Sandesh Gulhane: Will the minister take an intervention, maybe at the end?

Jenni Minto: I am happy to take it now.

Sandesh Gulhane: Thank you, minister. You spoke of your hesitancy. Will you outline a bit more clearly what exactly you are concerned about? My other question is whether you have taken legal advice on the issue. If a zone is not clearly defined for people on the ground and they are standing 190m instead of 200m away, could that lack of clarity be a reason that is used in defence of the people who are protesting?

Jenni Minto: I have just laid out what Police Scotland would do in such situations. My hesitancy is related to what health boards and health providers feel is the appropriate level of information to give people to inform them of where the zones begin.

As I have pointed out, the Scottish Government is working towards there being very good information to ensure that people are informed. I recognise that we must do everything that is practical to make the law clear to those whom it might impact. I would welcome the opportunity to undertake further exploration of the issue with Ms Gallacher and Ms White, if they are willing. I hope that Ms Gallacher will not press her amendment 51, in order to allow that work to happen. However, if it is pressed, I hope that the committee will vote against it.

Gillian Mackay: I thank the minister for her contribution. I support everything that she said. It is not necessary for me to repeat the particular concerns with the amendment 51 that the minister raised, but I have some more general concerns about a specific requirement for signage. Those concerns will not be new to Ms Gallacher, because they are things that we have already discussed.

As the committee heard during its evidence taking, signage is not a straightforward matter. During the extensive engagement with service

providers ahead of the bill's introduction, a consistent message was the concern that signs would draw attention to abortion services that might otherwise go unnoticed. As has been discussed a number of times since the bill's introduction, that may present a particular challenge where women and staff are especially anxious about being identified—for example, in rural areas with small sites.

It is, of course, the case that zones must be publicised, and the minister has spoken of the steps that will be taken to publicise them. However, signs would be an on-going physical demarcation. They would be visible to every passer-by and not just to those who might wish to organise or attend planned anti-abortion activity. Part of the concern, therefore, is that they could provoke more ad hoc sporadic instances of targeting. In the light of some of the genuinely horrific stories from other countries, there is palpable anxiety among some staff about erecting such a permanent advertisement.

I accept that those concerns must be weighed up against what is fair and necessary for those who might wish to express opposition to abortion outside service sites. However, for me, it remains unclear that signs would provide the clarity that Ms Gallacher seeks. In the first instance, as even those who are opposed to the bill noted during stage 1, it is not clear that signs would be a useful method of demarcating a zone. For example, it would not be practical or desirable to display signs around the entire perimeter of a zone, and it is not possible to determine with certainty where, within the zone, groups or individuals who wish to participate in anti-abortion activity may choose to stand. It is, therefore, not possible to guarantee that signs would be visible at every point where activity might take place. Where signs were noticed, they might create a gathering point behind which anti-abortion groups could safely stand, exactly on the cusp of the safe access zone. That would not be illegal, of course, but it is not something that we would seek to encourage.

I therefore join the minister in urging Meghan Gallacher not to move amendment 51 and to work with me ahead of stage 3 if she feels that there is further work to do to ensure that zones are sufficiently publicised.

10:00

The Convener: I call Meghan Gallacher to wind up and press or seek to withdraw amendment 51.

Meghan Gallacher: I have listened carefully to all the points that have been raised. I am sure that my colleague Tess White and I will be happy to work with Gillian Mackay and the minister on that really important issue. I take into consideration that we do not want women to feel harassed and we do not want to create future gathering points for protest groups outside premises. However, ahead of stage 3, we need to tease out more of the legality issues that Dr Sandesh Gulhane raised. I welcome that opportunity, so I will not press amendment 51.

Amendment 51, by agreement, withdrawn.

Section 4—Offence of influencing, preventing access or causing harassment etc in safe access zone

The Convener: Amendment 17, in the name of Sandesh Gulhane, is grouped with amendments 18, 52, 19, 53, 20, 54, 55, 21, 56, 57 and 22 to 25.

Sandesh Gulhane: The wording of sections 4 and 5 means that an offence would occur not only where a person has the intention to influence, prevent access or cause harassment but, beyond that, where a person is "reckless". It means not only that people should not attempt to protest against abortion services but that they will require to be actively vigilant, beyond their normal, everyday considerations, to ensure that their actions do not have that implication.

My position is that that is an unduly onerous burden on the general public. For example, if family members are leaving the Queen Elizabeth university hospital in Glasgow and they have been told that their grandfather is about to die in hospital, it is not unreasonable for them to stop within or just outside the grounds and pray or silently contemplate what they have just been told. That activity might be covered by the bill if people who are walking past feel that their praying is intended to intimidate.

The committee heard the police say that they are not the thought police and will never ask what somebody is thinking. My amendments 17 and 18 seek to require that an effect be objectively "reasonably foreseeable". There should not be an offence

"where it is not reasonably foreseeable"

that an act would cause the effect. I believe that my amendments would avoid imposing an onerous burden on the public while retaining the principles of the bill. Reasonable foreseeability is a common test in Scots law and the reasonableness test appears in similar existing legislation such as the Protection from Harassment Act 1997. The Crown Office and Procurator Fiscal Service told the committee that guidelines that are issued to Police Scotland around the bill will require satisfaction of intent or recklessness beyond reasonable doubt. My position is that the reasonableness test should be specified in the bill for absolute clarity and for the sake of proportionality.

I move amendment 17.

Meghan Gallacher: My amendment 52 would give ministers the power to

"specify protected premises for the purposes of the offence under subsection (1)."

That would represent an added layer of protection in relation to any legal challenge that could be brought in the future. That is the reason—it is short and sweet—for my amendment.

Jeremy Balfour: The purpose of my second amendment in the group is to exempt schools, places of worship and other non-public places, such as hotels and libraries, from the bill. The aim is to exclude what happens inside the building but not what happens outside it. I will comment on each amendment in turn. Again, what I say will be based on the Edinburgh context, but I am sure that it will also apply to other parts of Scotland.

We all agree that it is important that we allow a multitude of points of view to be presented in schools in order to give children a broad basis for understanding issues. If schools were included in the bill, we would severely limit the ability to provide that. Furthermore, where a school is run by a faith-based organisation, the bill would preclude it from affirming any part of its doctrine that fell foul of the buffer zone. For example, in Edinburgh, there is a Roman Catholic school within 200m of a premises. I am sure that we would not want to limit what happens inside the school with regard to debate, but I am concerned that that could happen if the bill is passed without my amendment being agreed to. The same is true with regard to places of worship. As currently written, the bill would stop churches, mosques, synagogues and other holy buildings hosting any speaker or event that was different from the views on abortion. That is a clear infringement of religion. I emphasise again that this is not about what happens at the doorstep; it is about what happens inside the building.

Venues such as libraries and hotels often host meetings and conferences for a wide variety of interest groups. I do not want to bore the committee but, in the Edinburgh context, if my measurements are right, we would exclude the Edinburgh international book festival from hosting a debate on any issue around abortion, because it is within the 200m range. I am sure that that is not what Gillian Mackay or the Government wants to do. It would be wrong to prohibit the holding of such meetings if the intent is not to harm or harass anyone but simply to discuss the topic.

I understand that the way that I have drafted my amendment makes it a blunt instrument. Again, I am using it as a probing amendment to see where Gillian Mackay and the Government are on the matter. I will not move the amendment, but I am genuinely looking for some reassurance. I seek an understanding from the member and the Government of how we will ensure that we do not stop freedom of speech in such venues in the future.

My third amendment relates to hours of operation. We have discussed previously the balance between freedom of speech, expression and religion and women's ability to access these services in a safe way. In order to maximise the former and minimise barriers to the latter, my amendment seeks to limit the effect of the law to the operational hours of protected premises. I can see no reason why anyone would want to do this, but I also believe in the right to freedom of speech so, if somebody wanted to go and protest outside a building that was closed and which no one was going into, they should be allowed to do that. That would seem to be a reasonable compromise—I understand the strength of feeling on both sides—and it would ensure that the law remained as effective at stopping harassment as it would be without the amendment.

I emphasise that the amendment is in no way intended to be a wrecking amendment. It is not a bad-faith attempt to make the bill less effective. It is a well-intentioned effort to find a compromise that will allow for the right to freedom of speech and, at the same time, allow women to feel absolutely safe when accessing services.

I move on to my fourth amendment—amendment 22. I note for the record that I will move this amendment. I also declare that I am a former church minister. This amendment seeks to carve out an exception in the law for those who are carrying out chaplaincy services at protected premises. The importance of the services that are rendered by chaplains of all faiths must not be underestimated. They often meet people who are at their lowest point and they provide impartial care that can be key to a patient's recovery. They are a fundamental part of hospital care. We deal with the spiritual as well as the physical. For that reason, it is crucial that chaplains are free to have open, honest and frank discussions that cover a wide range of issues. It should be up to the patient and not the law to decide the content of those pastoral conversations.

To be clear, I note that the exception would not give chaplains licence to press people into one decision or another. It would not give them the ability to set up a stall or to protest. It would not even necessarily give them licence to bring the topic up. However, it would allow them to respond to patients who are seeking guidance or a faith perspective on their care options. I hope that the committee will agree to the amendment to ensure that women can have access to the pastoral care that they want at the time when they want it.

I move on to section 5 of the bill. I understand that there are those who are angry with amendment 21. I have been accused in the press of trying to wreck the bill with it, and it has been called a back-door effort to allow protesters to skirt the law. I say for the record that I am trying to do no such thing. I have been painted as being in favour of the protests and as endorsing the way in which people go about demonstrating. I note for the record that, even though I believe that people should have the freedom to gather and demonstrate, I do not agree with some of the tactics that have been used in demonstrating outside clinics. I do not think that they are effective or helpful and I have never taken part in any of those events.

However, on three days a week, I stand at a bus stop that is within 200m of the Chalmers clinic in Edinburgh. I do not plan for what I am going to pray for, but sometimes, as a Christian, I pray at that bus stop. I do not always pray for the same things, but occasionally I might want to pray around the issue of abortion. Given the way in which the bill is currently written—I would be interested to know whether the minister agrees with this—that prayer would be breaking the law and I should be prosecuted. Even though there is no outward action and only I and God know what I am thinking, I would be breaking the law.

Putting aside the question of how it would be possible to enforce that, do we as a Parliament really want to be in the business of policing thought in that way? Do we really want to infringe on religious freedom in that way? My amendment 21 would not allow groups to plan and gather in safe access zones or allow people to organise a rolling vigil. It seeks to protect individual silent meditation and prayer. I urge the Government, if it is not willing to support the amendment today, to provide some clarification of where the law is on that issue.

I turn to my final amendment—you will be glad to hear that, convener. Amendment 25 follows on from what my colleague said earlier. It would add a defence of reasonableness to the bill that is exactly the same as the one in the Hate Crime and Public Order (Scotland) Act 2021. It would help to protect freedom and ensure that the law is not applied overly harshly. As the minister said early in the debate, it is really important that we future proof the bill so that it stands not just for today, for tomorrow or for five years, but for decades to come. I hope that my amendment can achieve broad support. After all, no one is suggesting that reasonable behaviour should be prosecuted. The amendment guarantees that that will not be an issue.

The Convener: Thank you. I think that, as we go forward, it would be helpful if members referred to the amendments as they are numbered, rather than their own numbers, so that members can keep up with what is being debated.

I call Rachael Hamilton to speak to amendment 56 and other amendments in the group.

Rachael Hamilton: Amendment 56 makes it a prohibited behaviour to film a person within a designated safe access zone and outlines penalties for such a breach. It is a focused amendment that comes into effect if a person is prevented, impeded or harassed in gaining access to abortion services within the buffer zone, or their decision is influenced by filming within that area.

It is worth sharing with the committee that the amendment is similar to a provision in the Abortion Services (Safe Access Zones) Act (Northern Ireland) 2023, which prevents intimidation or harassment of a person through filming within the safe access zone.

Furthermore, I bring members' attention to the nuance between my amendment and amendment 57, in the name of my colleague Meghan Gallacher, which makes it an offence to record a person in a safe access zone. My amendment focuses on the effects of filming rather than the act of it. As it outlines, effects include

"influencing ... preventing or impeding another person from accessing, providing or facilitating the provision of abortion services,"

and

"causing harassment, alarm or distress to another person"

who is accessing or providing abortion services.

I see both amendments as important, and I look forward to hearing the minister's view on them.

10:15

Carol Mochan: The committee took a lot of evidence on section 5 and, on balance, it was important that we did so. Scottish Labour has considered all the points and wants to try to get the balance of human rights correct. We support the debate this morning.

I will mention, in particular, amendments 17, 18 and 20, in the name of Sandesh Gulhane, which we feel are not necessary and a bit unclear. I appreciate the member's comments this morning, which have been helpful in clarifying his intention, but we will not support his amendments.

I appreciate Jeremy Balfour's contribution on the amendments in his name, as we have been considering all those points. We are glad that amendment 21 is a probing amendment—and it was helpful, Mr Balfour, that you clarified that particular point. We have considered again and again the matter that amendment 22 relates to; the

member is absolutely right that we need to get that particular issue right, and we hope that he will consider working with the Government on it as we go towards stage 3.

Jeremy Balfour: I am always for cross-party co-operation. If the minister or Gillian Mackay are happy to work on the amendment, I am certainly open to the suggestion.

Carol Mochan: That is helpful—thank you. Scottish Labour would be prepared to speak to you about it, as we go into stage 3.

We will not support amendment 23. We believe that flexibility is required, because we are not always sure of the opening and closing times of healthcare services and when people might be coming out of them. As the amendment would be restrictive, we do not want it to be included.

We believe that not mentioning behaviours is the best way to approach the bill as set out. Therefore, we will not support amendment 24.

On Rachael Hamilton's amendment 56 and Meghan Gallacher's amendment 57, I appreciate the members' contributions with regard to filming, because we are sympathetic to that issue. However, although we absolutely understand the motives for the amendments, we have some concerns that they fall into the area of placing behaviours in the bill. We hope that they will consider working together on this as we move towards stage 3, but, although we are keeping the issue under consideration, we will not be supporting these amendments at this stage.

The Convener: I call Meghan Gallacher.

Meghan Gallacher: I am grateful, convener, for allowing me the time to come back in.

I want to reflect on amendment 56 in the name of my colleague Rachael Hamilton and amendment 57 in my name. They are important amendments on deterrence, prevention and adding an additional layer of protection for vulnerable women seeking to access those healthcare services.

On the slight differences between the two amendments, it is good that they are different, as they bring in not only the element of filming but that of recording. The reason for lodging those amendments is that, with the consistent evolution of social media and the different ways in which they could find themselves being harassed by certain groups in the future, women could end up finding images online of themselves accessing those services, because groups are no longer able to stand outwith the healthcare clinics.

Certainly, my reason for lodging amendment 57 was to provide that additional layer of protection. If the opportunity is open, I would be grateful to work with anyone who is seeking to add any additional layers of protection for vulnerable women. I would be grateful for the minister's comments on that, as I believe that Rachael Hamilton's amendment and my amendment would bring an important additional element to the bill.

Jenni Minto: This is a complex topic and my remarks are, accordingly, quite lengthy. However, before addressing any specifics, I note that the provisions in the amendments in this group would almost universally be highly damaging to the bill's intent and practical operation.

The exception, in my view, is Mr Balfour's amendment 22, which would create a specific exemption from the offences under the bill in relation to the provision of "chaplaincy services". The Government would like more time to consider the amendment to ensure that it would apply equally to all faiths, but we do not object, in principle, to the idea. I hope that Mr Balfour will not move his amendment, to allow that consideration to happen, but I must ask that the committee resists all his amendments, if he moves them—although I see him indicating that he might not.

Dr Gulhane's amendments 17 to 20 seek to introduce an exception to the section 4 and section 5 offences where the effects of an action are not "reasonably foreseeable". I am grateful for Dr Gulhane's thoughtful and considered questioning during the committee's scrutiny and I know that his amendments are intended to increase safeguards within the bill, but I must ask members to vote against the amendments on the grounds that they would undermine a key element of the bill while failing to strengthen it in a meaningful way.

A key purpose of the bill is to ensure that women and staff are not required to come forward to report their experiences of anti-abortion activity to the police in order for an offence to have been committed and protections to apply. For understandable reasons, given the personal and sometimes upsetting nature of the matters concerned, women and staff are often reluctant to do that. Moreover, requiring women to report harm that they have experienced means that harm must happen before action can be taken. That is entirely opposite to the bill's aim, which is, as far as possible, to prevent certain harmful effects in the first place.

There are two scenarios in which offences would be committed: first, where acts are carried out with the intention of influencing, impeding, causing alarm or harassment, or, secondly, where acts are carried out recklessly as to whether they have those effects. In either case, whether an offence has been committed will be based on the evidence of the individual's behaviour, either by assessing their intentions or establishing whether

they were reckless as to their effects. The result is that a demonstrable effect on a specific person does not require to be evidenced and, crucially, women or staff do not need to come forward and make a report before action can be taken. Instead, other witnesses can report the behaviour and provide corroborating evidence.

The amendments would provide that, even if a person carried out an act with the intention of causing one of the effects in the offence provisions, it would not amount to an offence unless the foreseeability test were met. That creates uncertainty around the offence provisions and their enforcement without any discernible benefit. In practical terms, it is hard to conceive of a situation in which the intention to influence, harass or intimidate an individual could be established without its being reasonably foreseeable that the act in question would have that effect.

In relation to the recklessness offence, there must be evidence that the accused had an utter disregard as to its effects; in other words, there must be a very high degree of indifference as to the consequences of the actions. Recklessness will generally be inferred from all the circumstances of the case and will involve, to some extent, the court considering the likely consequences of the accused's action. To that extent, whether the consequence was—or should have been—reasonably foreseeable will be something that the court may consider. I therefore reiterate that the amendments would weaken the bill without benefit, and I urge members to preserve the bill's original intent and to vote against amendments 17 to 20.

Similarly, I do not support, in the strongest terms, Mr Balfour's amendment 25. It runs directly counter to the bill's aims in seeking to allow behaviour that meets the high threshold for the offence provisions to be considered "reasonable" and to constitute a defence. That would run the risk of significantly diminishing the potential protection provided by the bill.

In very simple terms, amendment 25 would mean that someone who was charged with an offence under the bill may raise a defence that the act was "reasonable". A person could admit that they had intended to influence someone accessing services while claiming, for example, that they did not know that they were in a safe access zone, no matter how extensive the publicity around it had been; that it was a weekend and so they thought that the premises would be closed; that the strength of their belief or their particular circumstances justified the offence; or that they had intended to provide support for women accessing the services and were therefore justified on that basis.

To be clear, it will always be possible for an accused to make those arguments; it is, of course, their right to produce mitigating evidence in their favour and to show that they neither intended to have that effect or were reckless as to the consequences of their actions. However, the defence under amendment 25 would build in potential loopholes from the outset.

I have made this argument several times today, but I must do so again: no other safe access zones legislation across the UK includes such a defence. The Northern Ireland Assembly considered it during the parliamentary passage of its own legislation and rejected it for the reasons that I have just outlined. In addition, it was precisely the absence of such a defence that the Supreme Court was asked to rule on when it considered that legislation. The court held that the offences provided for within that bill, which are broadly similar to those that we are considering, constituted a proportionate interference with the rights of anti-abortion groups, in light of the importance of the bill's aims. Crucially, the Supreme Court considered that the inclusion of a reasonable excuse defence would impact the effectiveness of its provisions in achieving those aims.

It is the Scottish Government's view that similar considerations apply in respect of the Abortion Services (Safe Access Zones) (Scotland) Bill. There is a risk that the defence could be used to justify behaviours that otherwise would be caught and therefore would have the precise impacts on women and staff accessing services that we are seeking to prevent. I therefore ask members to resist amendment 25.

I will address amendments 56 and 57, which relate to filming and photography offences, in general terms. When the matter was considered during the bill's development, it was concluded that the offences as drafted would capture photography and filming.

As I have said throughout this session, the offences have deliberately been drafted broadly to avoid criminalising specific behaviours and to capture any activity that could have the effects outlined in sections 4 and 5. Therefore, if someone was filming or photographing a person accessing or providing services, either recklessly or with the intent of influencing, impeding access or causing alarm, that activity would very likely be caught by the existing provisions.

I do not think that it is difficult to understand why that would be. As we keep repeating, the issue at the heart of the bill is that women are accessing medical care and are making extremely personal decisions. In such circumstances, photography or filming, done with intent or with recklessness,

would very likely have one of the effects set out in the offence provisions.

It is not normal practice to provide for an offence where an existing offence adequately covers the relevant behaviour. In this case, the offence of filming or photography is already caught by the offences that we are creating in the bill.

Meghan Gallacher: Minister, you used the word "likely". There is a risk, then, as there would be some exceptions; in other words, some things might not fall into what would be deemed as an offence under the section in question. Have you carried out any further work on the parameters for breaching or getting away with the offence?

Jenni Minto: I will continue with my response, as I think that it will answer Ms Gallacher's point.

I must impress upon the committee that the offences have been drafted to avoid setting out a list of prohibited behaviours. It is the effect that matters—that is essential to ensuring that the bill remains future proofed. We must avoid doing anything that would significantly undercut that approach, otherwise the very situation that we have worked so hard to prevent might arise—that is, that we end up introducing doubt by covering one activity and not others.

Rachael Hamilton: It has been noted in research that the degree of emotional distress is not proportionate to the act of filming, so making the offence explicit in the bill is really important. Minister, even if you are taking a broad-brush approach to offences that might cover such activity—and I would highlight what Meghan Gallacher said and quote your comment that it is "likely" to be covered—it is still important that any act that disproportionately impacts on women's privacy and causes them to seek other treatments, or to defer treatment, be covered. The amendments should be considered in the round, because of their selective approach to an activity that should be prohibited specifically. I would be grateful if you could work with us on that.

10:30

Jenni Minto: I thank Ms Hamilton and Ms Gallacher for their offers. In Ms Gallacher's second contribution, she talked about the crossover and, in some respects, the separation between the two amendments. I am content to meet you both to discuss the issue further, if you agree not to move your amendments today.

I apologise, convener—I have spoken for some time and I note that Ms Mackay intends to speak to a number of other amendments. As a result, I will limit myself to briefly setting out the Government's position on them.

Amendment 23 is unnecessary, because of the way in which the bill is drafted. The person carrying out anti-abortion activity that is capable of being caught by the bill must already be in the zone at the same time as another person trying to access or provide services, unless the act has a continuing effect. The amendment, therefore, would be unworkable in practice.

Amendment 24 is unnecessary and would weaken the protections in the bill. As silent prayer is not in itself an offence under the current provisions, it does not need to be exempted. Moreover, doing so could allow conduct that has been shown to have the negative impacts that the bill seeks to prevent and create loopholes that could exempt other behaviour beyond silent prayer.

Turning to amendments 21 and 52 to 55, I would just add a point of clarification on amendment 21. The safe access zone does not include indoor spaces, including schools or places of worship. I hope that that gives Mr Balfour some clarity.

Amendments 21 and 52 to 55 would cut across one of the bill's key aims—that is, the need for a preventative approach. Amendment 21 seeks to remove section 5 entirely, while amendments 52 to 55 would require regulations to be laid and approved before women and staff could be guaranteed protection within a zone. Until those regulations were passed, conduct that was intended to be public and to have particular harmful effects could be carried on. Under Mr Balfour's amendment 21, there would be no scope to prevent that.

I urge members not to support the amendments in this group.

Gillian Mackay: As the minister noted, there is a significant amount to cover in this group. In the interests of maintaining momentum, I will not repeat what the minister has already said, but I apologise for the length of the comments that I am about to make. I will use my time to cover amendments 24, 21, 22 and 23, and I will touch on the amendments relating to photography in summing up.

Amendment 24 is on silent prayer. I have listened carefully to the arguments for an exemption since the bill was introduced, and I hope that members will believe that I have thought long and hard about them. That is because, as I have said from the outset, I recognise the importance that prayer can play in the lives of people of faith. I have never sought to minimise or undermine that, and I do not believe that the bill does either. On the other hand, having considered the matter, I am convinced that an exemption for

silent prayer would undermine the bill and what it seeks to do.

I urge members to vote against the amendment on two grounds: first, it is unnecessary; and secondly, it would fundamentally weaken the protection that the bill seeks to provide to women and staff.

On the first point, as I highlighted during the stage 1 debate, the bill does not prohibit specific behaviours in a safe access zone. Silent prayer is therefore not in and of itself prohibited. In reference to Mr Balfour's example, he would not be breaking the law in quiet personal reflection. To put it another way, the offences are not about what you are thinking but about what you are doing and the effect that that has on others.

When Police Scotland gave evidence at stage 1, it said that it was not going to police what people are thinking. I wholly support that. However, amendment 24 would require enforcement agencies to try to do exactly that.

I hope that some illustrations will help here. If someone prays silently without outward sign on their way to, or even outside, a hospital or at a bus stop—to use Mr Balfour's example—for a few minutes, it is very unlikely that anyone would be aware that they are silently praying. If nobody knows that someone is praying and nothing in their conduct is capable of having the effects on women or staff that the bill seeks to prevent, it is unlikely that any offence could be committed.

However, if someone stands silently praying for a long time while deliberately looking at women who are accessing an abortion clinic or, for example, they stand with a sign, as we see currently, they might be committing an offence. That is not because of the prayer; it is because of the sense of judgment. It is about the effects of that conduct in positioning themselves in that location on women and staff who are accessing the clinic. An offence would be committed only when the full facts and circumstances demonstrated that the behaviour was intended to have those effects or was reckless as to whether it did. That is why an exemption is unnecessary.

As I said at the start, an exemption is not only unnecessary; it would be damaging. Setting silent prayer aside, amendment 24 could have the unintended consequence of creating loopholes for other conduct. As I mentioned earlier, someone could simply stand for hours looking at women and staff and monitoring their comings and goings, and the exemption could provide cover. That in itself might be enough to reject amendment 24. Setting that aside, conduct that gives rise to the harmful effects on women and staff that the bill seeks to prevent should not be permitted simply because someone is silently praying at the time.

I understand that there are people who do not think that silent prayer could have any of the effects that are prohibited in the bill. I must remind members that we have heard evidence from women and staff that they feel intimidated and judged when they try to access or provide healthcare services and encounter people who are praying outside. I know that this is obvious, but I must emphasise the point that people are positioning themselves outside those services.

That is probably happening right now when people are accessing medical care to which they are entitled, when they are making personal decisions, and when many of them will already feel vulnerable or afraid. In those circumstances, they are a captive audience—I have referred to that already. They have no way of escaping the presence of those who are praying. They cannot simply go to another venue or come back another day. In contrast, as Ross Greer pointed out during the stage 1 debate, those who oppose abortion can pray anywhere else, including just up the road. We are talking about a narrow restriction that will have the profound impact of affording women and staff dignity, privacy and respect when they need that most.

I remind the committee that we are not the only body to consider the matter, and that others before us have accepted that silent presence can have a negative impact. The Supreme Court noted in its consideration of the Northern Ireland legislation that

"Silent but reproachful observance of persons accessing"

an abortion clinic

"may be as effective, as a means of deterring them"

from getting an abortion

"as more boisterous demonstrations."

In Livia Tossici-Bolt v Bournemouth, Christchurch and Poole Council, which considered a public space protection order creating a safe access zone around an abortion clinic, the court commented:

"The protest activities described in the evidence, including silent prayer ... were not taking place in a shopping centre or park or in a church but outside a clinic to which women were resorting at particularly sensitive and difficult moments in their lives ... those activities ... were, quite reasonably, interpreted as an expression of opposition or disapproval."

I hope—indeed, I trust—that, in this room, the testimonies of women and staff, including those that were provided in evidence to the committee, will be given the same weight as they were in those cases.

Once we accept that silent prayer can be harmful, we must also accept that exempting it fails to deliver adequate protection. That certainly

would not provide the level of protection promised across the rest of the UK. An exemption for silent prayer was proposed as an amendment to the Public Order Act 2023 and was rejected. Likewise, there is no exemption in the legislation in force in Northern Ireland.

There is no way around the reality. If we agree to amendment 24, we will be saying that we are comfortable leaving women and staff in Scotland more vulnerable than their counterparts across the UK. I urge members of the committee to prevent that from happening and, instead, to vote against that amendment and ensure that women and staff in Scotland receive the protection that the bill as introduced promised.

I turn to Mr Balfour's and Ms Gallacher's amendments to section 5 of the bill. I am grateful for the challenge that that section has received. It is right that it should be scrutinised carefully, given its potential impact. However, as I set out to the committee during stage 1, the impact of the provision is carefully limited, and it is vital to ensuring that the protection that we are seeking to provide is robust.

Before I turn to the amendments, I will first clarify the purpose and scope of section 5. Contrary to some misunderstandings, the section does not extend a safe access zone indefinitely. Section 5 applies only to areas inside the 200m boundary of the zone; outwith that boundary, people are free to conduct any lawful anti-abortion activity in any location that they choose.

I must also impress upon members that, even within the zone, wholly private actions will not be subject to sanction. Private conversations in homes and in restaurants, religious lessons in schools, and sermons and hymns in a church would be unlikely to meet the conditions for an offence that are set out in section 5. Instead, an offence would likely be committed where either an activity or behaviour is deliberately done in an outward-facing public way for the purpose of influencing, impeding access or alarming someone who is trying to access or provide services, or an activity is done with an utter disregard as to whether it could have those consequences or there is a high level of indifference to the consequences.

Crucially, whether the activity or behaviour constitutes an offence under section 5 will be an operational decision for enforcement agencies. Police Scotland has already explained to the committee how it would approach enforcement.

I hope that that, combined with the targeted scope of the provisions, provides the committee with some reassurance. However, I recognise that the legislation impacts on rights, and I understand why, at first sight, the offences in section 5 may cause members more concern than the offences that are created by section 4.

The provisions have been considered carefully and have been included only because they are necessary. Mr Balfour's amendment 21, which would remove section 5 entirely, would result in a significant loophole that would allow anti-abortion activities to take place within a safe access zone. That is clear from evidence that the committee has heard. Colin Poolman provided a hypothetical example of an organisation setting up its headquarters within a zone and then using that building to conduct anti-abortion activity that is designed to target women and staff. He commented that that would defeat the purposes of the bill. If section 5 were to be removed from the bill, that hypothetical example could happen.

That may seem to be an unlikely threat—except that the committee also heard from Professor Sharon Cameron, who explained that we already have examples of anti-choice messages being projected on to Chalmers sexual health centre from a property across the street. Without section 5, there would be nothing to protect against such activity being carried out in private places within a zone.

In amendments 52 to 55, Ms Gallacher provides for the possibility of that protection. I thank her for recognising that that is important. However, the effect of her amendments in practice would still be to diminish the bill.

As I have said throughout the process, a key aim of the bill is to prevent harm. However, those amendments would, at the very least, mean that, on day 1, public-facing activity of the kind that I have already described would be possible within safe access zones, until such time as Parliament passed regulations.

Jeremy Balfour: I totally accept that my amendment 21 is not the right way forward, but would Gillian Mackay be willing to have further discussions about making sure that what happens in a room in a school or a hotel or in a church building with the doors closed is not caught unintentionally? I appreciate that the minister said that, in her view, that would not be the case, but I think that there is still some concern among the faith community that that might happen unintentionally. Would Gillian Mackay be willing to have a further conversation about that before stage 3?

Gillian Mackay: I am more than happy to have a conversation with Mr Balfour to consider how we can allay those concerns, particularly for those faith-based communities that may be in safe access zones.

Jeremy Balfour: Thank you very much for that.

Gillian Mackay: Before I conclude, I want to make a couple of other points. First, limiting public-facing activity or behaviour is not unique to this bill. There are already circumstances in which actions in private places can constitute a breach of the peace. As with this bill, the circumstances justify the restrictions.

The Public Order Act 2023 provides that a safe access zone includes any location that is visible from public spaces or from the

"curtilage of an abortion clinic".

Draft Home Office guidance on safe access zones under that act says:

"a sermon about abortion inside a church within a Safe Access Zone, which does not affect persons outside who are accessing, providing, or facilitating services, would not be unlawful ... However, if people lean out of their windows or stand on their driveways and call out comments to passers-by about abortion, they could commit an offence."

I ask the committee to vote against those amendments if they are moved to ensure that women and staff in Scotland have parity with those elsewhere in the UK.

Mr Balfour's amendment 23 would create an exception to offences when actions are carried out while premises are closed. I must urge the committee to reject that amendment on the grounds that it would lessen protection for patients and staff and add significant administrative complexity.

10:45

As I have noted already, the offence requires that actions are carried out with the intention of having the effects that are set out in sections 4 and 5 or the individual is reckless with regard to whether those effects occur. The person who is carrying out the activity must be in the zone, and they must be intending to influence someone who is also in the zone at the time—unless the act in question has a continuing effect. Therefore, if the behaviour occurs when premises are closed and no one could be said to be on their way to access or provide services, the actions are unlikely to be an offence unless, as I have said, they have a continuing effect.

Sandesh Gulhane: We must also remember that there are staff who could feel upset when they are attending work when the clinic is closed.

Gillian Mackay: Mr Gulhane has pre-empted the second part of my comments on amendment 23. I agree that we do not know how staff might be affected. There are many different shift patterns in many of the hospitals that the bill will cover, and there is no way, generally, to know when staff are coming and going, so protection for those staff is essential.

Jeremy Balfour: Hypothetically, if a clinic was open between 9 and 5, Monday to Friday, and it was closed on a Saturday afternoon, would it be legal, in Gillian Mackay's opinion, to have a demonstration outside it then? Would that be legal if there were no staff going in or out of it, and it was a Saturday afternoon or 2 o'clock in the morning, for example?

Gillian Mackay: Mr Balfour will understand that I am a marine biologist, not a lawyer, so my opinion on whether that would be lawful is potentially unhelpful. I have laid out in my comments previously that the continuing effect has to be taken into consideration. Some of the protests that we have seen have had an impact on staff, who have been concerned about coming to their work, and on patients, who have been concerned about attending appointments the following day. We have seen activity outside the Sandyford clinic over weekends that we know, anecdotally from staff, caused people to delay treatment or to cancel and rearrange appointments.

Dr Gulhane made the point that services could be closed to patients but staff members could still be on the premises to carry out non-clinical duties that are, nonetheless, vital for the facilitation and provision of services. I believe that the current provision provides operational flexibility for enforcement agencies to consider the full facts of the case before deciding whether an offence has been committed. A definitive exception would mean that staff working on the premises when they are closed to the public would have no protection.

I turn to Mr Balfour's comments about clinics ordinarily running from 9 to 5, Monday to Friday. On a particular weekend, anti-abortion groups could organise a protest, but, on that weekend, unbeknown to the groups, the premises could have extended its opening hours to allow staff to see patients and clear waiting lists. Criminal sanctions would apply, and those attending the services would potentially be exposed to exactly the behaviours that the bill intends to stop before the situation could be communicated to the anti-abortion groups and the activity ceased. That is a scenario that really could happen if we pass the amendment, and that is surely a scenario that none of us wants to see.

The only way in which a situation could potentially be avoided would be by each protected premises advertising its opening hours, including any changes. That would be an additional administrative burden on staff, and it would potentially draw attention to exactly when patients and staff can be targeted. It still would not address the situation when services are closed to the patients but staff are still in attendance.

The result would be a system that reduced protection and vastly increased the difficulty of communicating and understanding when zones apply. That would be unfair for staff and patients and for those who may be subject to criminal sanctions. I therefore urge committee members to vote against amendment 23.

On amendments 56 and 57, I am grateful to Rachael Hamilton and Meghan Gallacher for their conversations about those provisions. I am still of the view that listing individual behaviours is something that we might not want to do, and I believe that those offences are implicitly covered by the bill. I am grateful for the opportunity to discuss and highlight that they are covered by the bill and that those behaviours are not acceptable outside protected premises.

I recognise that the intention of both Rachael Hamilton and Meghan Gallacher is to make the bill better. However, I believe that beginning to list behaviours runs contrary to the work that we have done thus far. However, like the minister, I am happy to have further conversations ahead of stage 3.

Sandesh Gulhane: On the issue of filming, I am glad that the minister and Gillian Mackay are both willing to discuss this. It is potentially even more intimidating than a protest to be filmed walking into somewhere and for that to be put on social media. Given the quality of cameras, filming can be done from a very large distance away or even, potentially, from a different property. Therefore, although we would not want to have every single potential behaviour listed, having an example or listing one thing that is particularly intimidating or that would particularly cause harassment is important.

Gillian Mackay: I appreciate that intervention from Dr Gulhane. The problem that I have is that various people have given me evidence of their particular situation—you could cover just about every behaviour that happens outside clinics—and they believe that that is the most intimidating thing that could happen. For me, singling out particular behaviours becomes difficult when different people who have experienced such protests place different weight on different behaviours.

I absolutely agree that the recording and sharing of people's images, which we have seen at Sandyford with respect to one staff member, can be particularly damaging for those staff. If Dr Gulhane has a particular interest, I am happy to open up a wider discussion among more members on filming and photography in addition to the conversation that the minister and I will have with Rachael Hamilton and Meghan Gallacher.

Finally, I turn to amendment 22. I will finish in a minute, convener—I promise. As I noted in my evidence to the committee, it is unlikely that the activities of chaplains or spiritual advisers would be caught by the bill. In general, the role of hospital chaplains is to listen to and support those who are considering an abortion rather than to provide advice. Such support is not considered to be intended to influence decisions. It will have been requested by the women rather than its being an unwanted conversation, and, as such, those circumstances appear not to be likely to result in an offence.

However, I recognise that the bill contains a specific exemption for healthcare and that there are parallels with chaplaincy care. I should also note that we have received a request from the Royal College of Nursing to look at that exemption for healthcare staff, and we are looking at that. There were logistical issues with the timing of that request for stage 2.

Women choose to speak to healthcare professionals and may be persuaded to have or not have an abortion based on the advice that they are given, even if the advice is not intended to persuade the women one way or another. I also recognise the concern about women being dissuaded from seeking chaplaincy or spiritual support, so I am happy to put the matter beyond doubt. However, it is important that that applies to all faiths, so I will consider whether a further amendment might be needed at stage 3 to make that clear. Therefore, I urge Mr Balfour not to move his amendment and to work with me to explore lodging an amendment at stage 3. If Mr Balfour moves his amendment, I ask members to vote against it.

The Convener: I call Sandesh Gulhane to wind up and to press or seek to withdraw amendment 17.

Sandesh Gulhane: Given what the minister said about an offence requiring a high degree of recklessness to be demonstrated, I will withdraw amendment 17 and I will not move amendments 18 and 19.

Amendment 17, by agreement, withdrawn.

Amendment 18 not moved.

Section 4 agreed to.

The Convener: I will suspend proceedings for 10 minutes for a comfort break.

10:54

Meeting suspended.

11:05

On resuming—

Section 5—Offence of influencing, preventing access or causing harassment etc. in area visible or audible from safe access zone

Amendment 52 moved—[Meghan Gallacher].

The Convener: The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Dr. Sandesh (Glasgow) (Con)
White, Tess (North East Region) (Con)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Greer, Ross (West Scotland) (Green)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 52 disagreed to.

Amendment 19 not moved.

The Convener: Amendment 53, in the name of Meghan Gallacher, was already debated with amendment 17. I call Meghan Gallacher to move or not move the amendment.

Meghan Gallacher: Given that amendment 52 was disagreed to, I will not move amendment 53.

Amendment 53 not moved.

Amendments 20, 54, 55 and 21 not moved.

Section 5 agreed to.

After section 5

Amendments 56 and 57 not moved.

Section 6—Exceptions to offences

The Convener: Amendment 22, in the name of Jeremy Balfour, was already debated with amendment 17. I call Jeremy Balfour to move or not move.

Jeremy Balfour: I thank the Government and the committee for their remarks.

Amendment 22 not moved.

Amendments 23 and 24 not moved.

Section 6 agreed to.

After section 6

Amendment 25 not moved.

Section 7—Extension of safe access zones

Amendments 26 to 30 moved—[Jenni Minto]—and agreed to.

The Convener: Amendment 31, in the name of Gillian Mackay, is grouped with amendments 1, 2, 33, 3, 4, 5 and 34. I call Gillian Mackay to move amendment 31 and speak to all the amendments in the group.

Gillian Mackay: There is little to be said on my amendments 31 and 33 that I did not say when, in the stage 1 debate, I committed to introducing a consultation requirement. As I said then, I followed precedent when the bill was introduced by not including such a requirement, on the ground that consultation would follow as standard practice if there was any consideration of extending or reducing the size of a safe access zone. However, in recognition of the complexities and sensitivities surrounding the bill, I introduced those amendments.

The amendments are straightforward. Together, they provide that when the Scottish ministers are deciding, of their own accord, whether to extend or reduce the size of a zone, they must consult operators, or persons representing their interests, as well as any other persons whom they consider appropriate. Where the extension follows a request from an operator, the consultation requirement still applies to any other persons who are considered to be appropriate. I believe that that satisfies the calls in the committee's stage 1 report, and I hope that it demonstrates my commitment to strengthening the bill in response to your scrutiny wherever possible.

In recognition of the strength of feeling around the use of reduction powers, I have gone further by lodging amendment 34, which requires ministers to lay a report before the Parliament within seven days of publicising a change to the size of safe access zones. In that report, they must provide their reasons for making such a change. As I will set out shortly, I think that that strikes a better balance than Mr Cole-Hamilton's amendments, which I now turn to.

As a point of process before I address the substance of the amendments, I must note that, if passed on their own, amendments 2 and 4 would entirely remove the powers to extend or reduce a zone. I know, and have always valued, Mr Cole-Hamilton's support for the bill, and I do not think that that was his intention when lodging the amendments. Amendments 1 and 3 would amend the relevant sections in the way that I believe he wishes. I therefore hope that he will not press the other two.

Taken together, amendments 1 and 3 will mean that any extension or reduction would require to be made by regulations that would be subject to approval by the Parliament, while amendment 5 would require ministers to set minimum and maximum zone sizes by regulations, which would also be subject to affirmative procedure.

As I noted in my stage 1 response, I understand entirely the motivation behind amendments 4 and 5 and the understandable concern that the Parliament should not be excluded from the process of changing zone sizes. Nonetheless, I will reiterate my reasons for my believing that the committee should not support the amendments that Mr Cole-Hamilton has lodged. The reasons for having those powers are well understood by now, so I will only briefly highlight why they are important. We do not know how services will operate in the future, or how anti-abortion groups might choose to express their opposition outside those services. We must be able to extend zones if evidence tells us that what we have is no longer effective in meeting the bill's aims, or to reduce them if the evidence tells us that the level of protection that we currently have goes too far.

11:15

The powers in the bill provide that flexibility but, crucially, as drafted, they ensure that ministers can act quickly. As we have heard, that is supported by those who are campaigning for the bill.

As I have explained, if needed, a reduction must be made without delay, because individuals would otherwise be subject to criminal sanction when that is unnecessary, which would breach their convention rights. Equally, if ministers have evidence that one or more zones do not offer enough protection, they must act quickly to ensure that women do not have to wait for their rights to be protected.

I am a full advocate for the Parliament having its role. I believe in that as a democratic principle and because, as all members do, I want to ensure that I can hold ministers to account.

Rachael Hamilton: I refer to my previously discussed amendment 43 on the measurement of zones. You are saying that if, in the future, you need to extend the zones, you will take advice from persons who have an interest. However, in the past, when you were considering an increase in the distance from 150m to 200m, did you consult those who would be captured in that—or is that for the future rather than the past?

Gillian Mackay: We have had on-going dialogue with everyone who will be impacted by safe access zones. I understand Rachael Hamilton's interest in the difference between the 150m and the 200m distance, where that came from and how it interacts with the ability to extend. We heard very strongly from people that they wanted a consistent distance across all sites—at least, to begin with; some behaviours may mean that we have to extend at different places, and some things, which I cannot predict, may mean that, at some time in the future, a reduction may be appropriate at certain sites.

Once the bill is passed, there will be on-going engagement to understand those impacts, as well as the potential impacts if an extension is to be made. I am sure that there will be a great deal of scrutiny around the first extension or reduction of a zone. I very much welcome the Parliament's scrutiny on that. On-going dialogue and engagement are important. I hope that that has provided the answer that Rachael Hamilton was looking for.

To go back to the amendments at hand, I am a great advocate of the democratic accountability of the Parliament but, with the best will in the world, I, as a member of that Parliament, cannot guarantee that we could act quickly if affirmative regulations were required. Even in normal times, affirmative regulations could introduce a delay of many weeks. Once a recess is factored in, that could, on some occasions, stretch to months—months during which people could be prevented from expressing opposition to abortion or could even be charged with offences in places in which a zone is no longer needed, or during which women could be subject to exactly the kinds of behaviour that we agreed at stage 1 to be intolerable.

Similar concerns apply to amendment 5. As I outlined, we do not know what changes lie ahead and, therefore, what sizes of zone will be needed. I appreciate the effort to manage that uncertainty by allowing the size of zones to be set by regulations. However, again, if evidence in early July suggests that 260m is needed when 250m has been set as the maximum, or if 90m turns out to be sufficient when the minimum is set at 100m, the use of regulations would mean that it would be months before the change could be made. I do not think that we can be comfortable with such a solution.

I stress that the speed that I seek is for the implementation of changes only after a rigorous process of evidence gathering has taken place. The minister may wish to say more on that, but we must remember that the Government will always be bound to act proportionately. It is my understanding that that means that it will carefully review the evidence to ensure that any extension or reduction is compatible with convention rights and is based proportionately on the applicable circumstances. There is now the added safeguard that consultation will always be a vital part of the

process. Any decision to extend or reduce will therefore have been thoroughly considered, and its proportionality will have been assured.

I recognise, however, that my assurance may not be sufficient. That is why I have lodged amendment 34, which, as I have said, requires ministers, within seven days of publicising a change to the size of safe access zones, to lay a report before the Parliament setting out their reasons for making such a change. I believe that that amendment strikes the right balance. It still allows ministers to act swiftly when needed, but it also ensures that the Parliament has the opportunity to understand and interrogate the evidence and rationale for any change.

I hope that amendment 34 shows that I have listened to feedback and have looked for compromise, even where I have been unable to go as far as all members would like. I ask members to trust that, for as long as I am a member of this Parliament, I will always be intensely interested in how zones are applied. I would not, and could not, have lodged the amendment if I thought that my own voice would be lost in the process. In that spirit, I ask members to vote against Mr Cole-Hamilton's amendments and ensure that the possibility to act swiftly remains, while ensuring that the Parliament has its place.

I move amendment 31.

Alex Cole-Hamilton (Edinburgh Western) (LD): Thank you for allowing me to join you today, convener. I will say at the start that I am grateful for the engagement that I have had with both Gillian Mackay MSP and the minister on the topics that my amendments seek to cover.

We are not the first jurisdiction in the United Kingdom to bring forward legislation around safe access zones and abortion services. Both the United Kingdom Parliament and the Northern Ireland Assembly have used different legislative vehicles to bring about the effect that we are seeking to achieve. In the UK Parliament, there was a simple amendment, in the name of Stella Creasy, to a piece of legislation. The framing of legislation in Northern Ireland was very different, given its political context. Neither of those legislative vehicles contained provision to allow ministers unfettered power to moderate or change the exclusion zones.

My particular concern—and the reason for lodging my amendments, a couple of which are more in the way of probing amendments than anything else—is that we, as legislators, need to govern for the political consensus as it might become in the future, rather than as it is now or as we would wish it to be. My anxiety is that, without having proper scrutiny from Parliament, ministers of a less progressive Administration in the future may simply reduce the reach or distance of a buffer zone to zero, without any recourse to Parliament. That is why I have lodged amendments 1 and 3. I will wait to hear the minister's remarks, but I intend to press them.

In relation to amendments 2 and 4, I am not entirely sure that any reference to expansion or reduction is needed. It does not seem to be needed in the other jurisdictions that I talked about. Those amendments are more about getting the points on the record and exploring solutions with Gillian Mackay and the Scottish Government.

Carol Mochan: I will briefly set out Scottish Labour's position on this grouping. We believe that Gillian Mackay has engaged right across the parties and we thank her for listening to our views. My remarks today clarify our position on her amendments. In particular, we believe that amendment 34 is good and will support it.

It has been helpful to hear Mr Cole-Hamilton speak about his amendments, because we were a bit unclear about the idea of removing section 8. We did not support that amendment all, as we thought that it was unreasonable, but it will be useful to hear the minister's response.

We thank everybody for contributing to the discussion on the section.

Jenni Minto: I thank Ms Mackay for setting out so clearly her reasons for lodging amendments 31, 33 and 34 and for opposing Mr Cole-Hamilton's amendments.

I, like Ms Mackay, am grateful for Mr Cole-Hamilton's support for the bill. I know that he has a sincere wish to ensure that it offers women and staff meaningful protection, both now and in the future. I believe that Mr Cole-Hamilton's amendments reflect that, and I understand his wish to ensure that the Parliament will always have oversight of how ministers use what are, I admit, significant powers.

However, I fully support the arguments that were made by Ms Mackay. As Mr Cole-Hamilton knows only too well, having lent his voice to the cause for a number of years, the work to bring the bill to fruition has not always been easy. Having worked hard to ensure that the bill offers adequate protection, and having taken the time to assure ourselves of its fair balance between competing interests, we must now ensure that we can preserve both. That means having in place a process that will allow us to act without delay where the evidence tells us that some or all zones are no longer fit for purpose. I will not go over the reasons why that is so important again, but I confirm that Ms Mackay's understanding of the requirements on the Government is correct.

Acting compatibly with the European convention on human rights is an obligation on ministers, not an optional extra or a matter of best practice, as I have said before. That means that every decision on using the powers in sections 7 and 8 of the bill would require the most rigorous scrutiny, by considering all available evidence and taking into account the whole circumstances. That would hold true whether we were considering one zone or all zones and whether the change was 5m or 50m. That also means that a limit on zone sizes is inherent in the process. If ministers act arbitrarily and extend a zone based on reasons that are not evidence based and that either infringe rights of freedom of expression, religion or assembly more than is justifiable, or do not go far enough to protect the article 8 rights of women and staff, they would not be acting compatibly with the convention. If we fail in that duty, we—rightly—can and would be held accountable.

By lodging amendment 34, Ms Mackay has ensured that the Parliament and anyone else with an interest will be able to scrutinise the degree to which we have discharged that duty. I hope that members will embrace that compromise and vote to accept amendments 31, 33 and 34, rather than compromise the bill by accepting Mr Cole-Hamilton's amendments, well intentioned though they are.

The Convener: I call Gillian Mackay to wind up and to press or seek to withdraw amendment 31.

Gillian Mackay: Thank you, convener. I thank Mr Cole-Hamilton for considering the extension and reduction of safe access zones in depth and for lodging his amendments. I know that he has genuine interest in the topic.

For the reasons that I have already outlined, I ask Mr Cole-Hamilton not to move amendments 1 to 5. If he does, I ask committee members to vote against them. I hope that members will recognise the layer of additional oversight that my amendments bring and will vote for them.

Amendment 31 agreed to.

Amendment 47 moved—[Emma Harper]—and agreed to.

The Convener: I call Alex Cole-Hamilton to move or not move amendment 1.

Alex Cole-Hamilton: Having listened to the remarks of Gillian Mackay and the minister, I will not move amendment 1.

Amendment 1 not moved.

Amendment 2 not moved.

Section 7, as amended, agreed to.

Section 8—Reduction of safe access zones

Amendment 32 moved—[Jenni Minto]—and agreed to.

Amendment 33 moved—[Gillian Mackay]—and agreed to.

Amendment 48 moved—[Emma Harper]—and agreed to.

Amendments 3 and 4 not moved.

Section 8, as amended, agreed to.

After section 8

Amendment 5 not moved.

Section 9—Cessation of safe access zones

Amendment 49 moved—[Emma Harper]—and agreed to.

Section 9, as amended, agreed to.

After section 9

Amendment 34 moved—[Gillian Mackay]—and agreed to.

11:30

Section 10—Power to modify meaning of "protected premises"

Amendment 35 not moved.

Amendment 36 moved—[Jenni Minto]—and agreed to.

Amendment 37 not moved.

Amendment 38 moved—[Sandesh Gulhane].

The Convener: The question is, that amendment 38 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Gulhane, Dr. Sandesh (Glasgow) (Con)
White, Tess (North East Region) (Con)

Against

Dornan, James (Glasgow Cathcart) (SNP)
Greer, Ross (West Scotland) (Green)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Torrance, David (Kirkcaldy) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 0.

Amendment 38 disagreed to.

Section 10, as amended, agreed to.

Section 11 agreed to.

After section 11

The Convener: Amendment 39, in the name of Gillian Mackay, is grouped with amendments 50 and 58.

Gillian Mackay: As I acknowledged during the stage 1 debate, given the complex and challenging issues that the bill raises, it is right that we provide for a post-legislative review. My amendment 39 seeks to achieve that.

I am grateful for the consideration that Tess White and Rachael Hamilton have given to the matter. I note that there are some differences between our approaches. Ms White and Ms Hamilton have opted for annual reviews, whereas I have taken a more standard approach, with an initial review two years after the legislation comes into force and every five years thereafter.

It is my expectation that those reviews should not be a light-touch or tick-box exercise but, rather, should involve in-depth consideration of the legislation's impact and effectiveness. The timings that I chose reflect that, because the reviews will have implications on staff time and the public purse. It is also important that the bill's provisions are given time to bed in, so that the impacts of safe access zones can be fairly evaluated.

However, I recognise that members might feel that the significance of the issues that are raised by safe access zones means that something more regular is required. Although I am concerned by the implications of an annual review, if amendment 39 is agreed to today, I would be very happy to explore with Ms White and Ms Hamilton whether any changes to the timings of the reviews would be possible ahead of stage 3.

I note that the amendments that have been lodged by Ms White and Ms Hamilton would not require the reports to be laid before the Parliament; they would require them only to be published. My amendment 39 would require the reports to be published and laid before the Parliament, and I think that that would offer greater transparency and accountability.

Likewise, I note that there is a considerable difference between the specificity of my amendment 39 and that of Ms White's amendment 58. As I have said, I share her desire to ensure that the reviews are robust, but I am also sensitive to the risk of being overly prescriptive, with the detail required removing the opportunity to gather a fuller and more informative picture. Again, if my amendment 39 is agreed to, I would be very willing to discuss the issue with Ms White ahead of stage 3.

I move amendment 39.

Rachael Hamilton: Similar to Gillian Mackay's amendment 39, my amendment 50 would require ministers to publish a report on the effectiveness of safe access zones each year. As per an earlier amendment of mine, it draws on the example of the Northern Ireland legislation. Former member of the Legislative Assembly Clare Bailey described how she and her colleagues approached the bill, which was attractive to my Scottish Parliament colleagues and seemed to be an elegant solution to what we are trying to achieve here.

I believe that amendment 50 would improve Parliament's ability to scrutinise the effectiveness of the bill and increase accountability. However, I recognise that Gillian Mackay has pointed out that her amendment 39 requires the report to be laid before Parliament.

Gillian Mackay has also pointed out that her amendment 39 has a different timescale, being over two years rather than a year, as in Tess White's and my amendments. Gillian Mackay's amendment takes a broader view and is not as specific as mine. Considering the fact that the bill seeks to ensure that women can access healthcare without fear and harassment, I believe that my amendment 50 is more targeted to the outcomes.

I thank Gillian Mackay for saying that she will work with my colleague Tess White and me on the issue, if her amendment 39 is agreed to. I believe that Ms White's amendment is complementary to both amendments, but it seeks to gather wider information on a broader set of metrics. I hope that we can achieve something that is positive to ensure that the bill works.

Finally, the point that Gillian Mackay made about the timescale of two years is slightly contradictory to what she was trying to argue previously about the need to be fleet of foot when recognising, extending or reducing the zone measurements. We need to be live to the situation. If the reporting mechanism provision was for a year, rather than two years, it would show Parliament the picture on the ground at the time, but I understand Gillian Mackay's comments on being reflexive.

Tess White: Like my colleague Rachel Hamilton, I welcome Gillian Mackay's suggestion to engage with us on the issue. As she says, it is important to make the bill robust. I want to say a few words in advance of meeting Gillian Mackay with Rachel Hamilton.

The committee made it clear in paragraphs 7 and 22 of our stage 1 report that the legislation should be subject to regular and on-going review. We have just discussed how the timing might be different, so we could talk about that. I take the committee back to the reasoning around the recommendation, which was

"to ensure restrictions continue to be proportionate to the legitimate aims of the Bill as circumstances change over time".

Legislation such as this seeks to address the balance of rights and the bill is about the balance of rights between different groups. The key point of amendment 58 is that regular post-legislative review is crucial. Building something in to make sure that it is robust is really important.

As I said, Rachel Hamilton and I welcome Gillian Mackay's willingness to include the post-legislative review provision at stage 2, which is covered in amendment 39. My concern is that an initial review period of two years, followed by five-year increments, does not really go far enough towards meeting the committee's recommendations in this regard, so when we meet I would like to test that further.

Amendment 58 calls for an annual review, which makes the provision more robust. It draws from the committee's recommendations, as well as from section 8 of the Abortion Services (Safe Access Zones) Act (Northern Ireland) 2023, which comprehensively covers areas such as the effectiveness of the legislation in achieving its aims, as well as the impact on those who are engaged in protests and vigils, which we talked about earlier in the meeting.

Amendment 58 also seeks regular reporting on the number of arrests, prosecutions and convictions under the act, and on the act's on-going compliance with the Human Rights Act 1998, which has been mentioned previously. It seeks input from key stakeholders such as Police Scotland, health boards and local authorities, and it gives Scottish ministers flexibility to consult in that regard.

It is important to enshrine in the bill a checklist of who the key stakeholders are. Those points are all covered by paragraphs 7 and 22 of the committee's stage 1 report. I am not trying to be prescriptive, but I am trying to capture as much information as possible to ensure that the bill is effective over the longer term.

Given that Gillian Mackay has said that she is willing to meet Rachael Hamilton and me, I will not move amendment 58 but will instead seek to come up with a form of wording that is mutually agreeable.

Carol Mochan: I want to put on record a few points about the proposed reporting and review section, which, as other members have indicated, will be so important in understanding the way in which the bill functions in our communities. We have looked carefully at all the amendments in this group, and we absolutely understand why they have been lodged. I am very heartened by the discussion that has just taken place. Our intention had been to support Gillian Mackay's amendment 39, but to ask the Government to work with other members on the proposed new section.

Jenni Minto: I will be brief. I echo what Ms Mackay has said. I believe that amendment 39 responds to the stage 1 recommendations by providing for a robust and comprehensive review that will give Parliament its place and make its findings public.

I will address the point that Rachael Hamilton and Tess White made about the two-year reporting period. The two-year reporting period would not prevent action from being taken in the meantime to extend or reduce zones, as needed. In addition, I gently point out that ministers always keep legislation under review. That is an on-going process.

I urge members to support amendment 39 by voting for it, and I extend an offer to discuss the matter further with Ms Hamilton and Ms White if they feel that their intentions are not met by Ms Mackay's amendment.

I will finish there before my voice disappears.

The Convener: I invite Gillian Mackay to wind up and to press or seek to withdraw amendment 39.

Gillian Mackay: I thank everyone for their contributions on this set of amendments. I appreciate Rachael Hamilton's comments about there potentially appearing to be a contradiction between moving quickly to react to scenarios and taking our time for review. In my view, there are two main times of year when a large amount of activity takes place at the sites in question. If we take too few of them into account and do not allow time for the behavioural change to take place, that could reduce the level of scrutiny that we might be able to undertake in a post-legislative setting. That is why I believe that a two-year period is better than a one-year period. We will happily cover—

Rachael Hamilton: I completely agree. I think that it is a difficult landscape right now, because we do not know how other legislation is working in other legislatures. It would have been useful to find that out, but given that this is a brand-new area, we have to take the approach that is proposed. I completely appreciate what Gillian Mackay is saying.

Gillian Mackay: Absolutely. I appreciate the arguments that have been made for a review period of a year. However, my other concern around a yearly review is the burden that that would place on committees, in particular. It is likely that the Health, Social Care and Sport Committee would have to do the review. Given how crowded committees' work programmes often are, a requirement to carry out an annual review could

displace other pieces of work. Others might take a contrary view. As Rachael Hamilton mentioned, it is a difficult landscape.

Tess White: I would like to ask a question. I welcome the spirit of what Gillian Mackay and the minister are saying about their willingness to engage on this important point. Are you open to looking at the issue with Rachael Hamilton and me? Do you have an open mind? How much wiggle room is there? Are you willing to look at the issue completely openly?

11:45

Gillian Mackay: I am absolutely willing to look at it. I wanted to respond to Rachael Hamilton's comments and to set out why I believe what I have proposed is the right way to do it. I would be more than happy to explore in a separate conversation—which would allow us to have a longer discussion—what it is that people are looking for.

Tess White: Thank you for that. It is important to go back to the substance of the committee's report in that respect.

Gillian Mackay: Absolutely.

For all the reasons that I have outlined, I will press amendment 39. In the light of the constructive conversation that we have had, I hope that the committee will support it, and I hope that Ms White and Ms Hamilton will not move their amendments. If they do, I ask the committee to vote against them.

I again commit to meeting Ms Hamilton and Ms White to explore what other steps we could take to strengthen the bill ahead of stage 3.

Amendment 39 agreed to.

Amendments 50 and 58 not moved.

Section 12 agreed to.

Section 13—Interpretation

Amendments 40 and 41 moved—[Jenni Minto]—and agreed to.

Section 13, as amended, agreed to.

Sections 14 to 16 agreed to.

Long title agreed to.

The Convener: That ends our stage 2 consideration of the bill. At next week's meeting, we will have a session with stakeholders to consider NHS waiting times, and we will start phase 2 of our post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013. That concludes today's meeting.

Meeting closed at 11:47.

Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447
Fax: 0131 348 5423

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