

**Conveners Group**  
**Meeting with the First Minister**

**Wednesday 16 November 2016**

*Transcript produced by the Scottish Parliament Official Report*

# CONVENERS GROUP

## CONVENER

\*The Deputy Presiding Officer (Christine Grahame)

## IN ATTENDANCE:

\*Clare Adamson MSP (Convener, Standards, Procedures and Public Appointments Committee)  
\*Bruce Crawford MSP (Convener, Finance and Constitution Committee)  
\*Graeme Dey MSP (Convener, Environment, Climate Change and Land Reform Committee)  
\*Bob Doris MSP (Convener, Local Government and Communities Committee)  
\*James Dornan MSP (Convener, Education and Skills Committee)  
\*Neil Findlay MSP (Convener, Health and Sport Committee)  
\*Johann Lamont MSP (Convener, Public Petitions Committee)  
\*Gordon Lindhurst MSP (Convener, Economy, Jobs and Fair Work Committee)  
\*Jenny Marra MSP (Convener, Public Audit and Post-legislative Scrutiny Committee)  
\*Joan McAlpine MSP (Convener, Culture, Tourism, Europe and External Relations Committee)  
\*Christina McKelvie MSP (Convener, Equalities and Human Rights Committee)  
\*Margaret Mitchell MSP (Convener, Justice Committee)  
\*Edward Mountain MSP (Convener, Rural Economy and Connectivity Committee)  
\*John Scott MSP (Convener, Delegated Powers and Law Reform Committee)  
\*Sandra White MSP (Convener, Social Security Committee)

\*attended

## THE FOLLOWING ALSO PARTICIPATED:

The First Minister (Nicola Sturgeon)

## CLERK TO THE COMMITTEE

Susan Duffy

## LOCATION

The Mary Fairfax Somerville Room (CR2)

# Scottish Parliament

## Conveners Group

Wednesday 16 November 2016

*[The Deputy Presiding Officer opened the meeting at 12:29]*

**The Deputy Presiding Officer (Christine Grahame):** I will start, if nobody minds, because time is tight. I am pleased to convene the first meeting in session 5 of the Conveners Group with the First Minister. I welcome the First Minister and the conveners to the meeting.

I also welcome everyone who has come along to watch the meeting. In particular, I welcome secondary 6 pupils from Perth grammar school and the staff and volunteers from Rowan Alba, which is a charity that helps homeless people. I understand that our Perth grammar school contingent needs to leave early, so members must not take it personally when they get up to go—it is all prearranged.

I remind conveners that, because time is tight, the total time that they have for their questions, responses from the First Minister and any other questions that they want to ask, is five minutes. If there is spare time, I will be able to take supplementaries from other conveners, but I will have to keep you to five minutes. I must leave at 10 minutes to 2, because I will be in the chair in the chamber. That is how tight we are for time.

That said, I invite the First Minister to make brief opening remarks.

12:30

**The First Minister (Nicola Sturgeon):** In the interests of time, Deputy Presiding Officer, I will be brief.

I thank you for giving me this opportunity. As everybody is aware, I am keen that such meetings become more regular. They are an important part of the Government's accountability to Parliament and on the—I think—two occasions that I have previously appeared before the Conveners Group, I found it to be a useful experience.

This is the first meeting since the election, obviously. The period since the election has inevitably been dominated by Brexit. That is not of our choosing or making, but it is unavoidable, given the interests that are at stake. Notwithstanding that, the Government remains focused on progressing its programme for government: I expect that much of our discussion will cover the different aspects of that programme.

With those brief remarks, I am happy to get on with questions.

**The Deputy Presiding Officer:** Thank you very much.

Conveners' microphones will come on automatically when they are called. We will start with James Dornan.

**James Dornan MSP (Convener, Education and Skills Committee):** Good afternoon, First Minister. The Education and Skills Committee plans to hold an evidence-taking meeting with local authorities, focusing on their role as education authorities, to explore, for example, why diagnosis rates for additional support needs in different local authority areas are so notably distinct. It could be due to different approaches that different councils take. The Organisation for Economic Co-Operation and Development has challenged Scotland to have more collaboration in education, which must include collaboration between councils, as the education authorities. Other areas in which councils are crucial to Government policy delivery include provision of funded childcare.

In the light of the importance of councils' roles in the education of children, and to inform the Education and Skills Committee's planned evidence taking from councils, how is the Scottish Government working to ensure that councils deliver Government priorities in education and beyond for children and young people?

**The First Minister:** We work closely with local authorities on an on-going basis in general terms and on specific priorities. For example, that dialogue with local authorities is important to the current commitment to providing 600 hours of childcare and in planning for our transformational change to childcare.

Councils are, and will continue to be, key players in delivery of education more generally. The Deputy First Minister has made it clear in the context of the education governance review that councils will retain democratic oversight of education. That is as it should be, but as members will be aware, the review is very much about ensuring that responsibility and decision making in education lie at the right levels. Right now, we have a system in which councils sit at the centre. They have statutory responsibility and will continue to be key players, but we want to try to get more decision making at the level of individual schools. The governance review is based on the presumption of decisions being taken at school level, unless there is a good reason for the situation to be otherwise.

The review runs until the start of January and will influence the overall governance of education and local councils' place in the relationship

between them and central Government. Within the review, we are considering not only how we can empower schools—much of the evidence shows that empowering schools is key to raising standards and tackling the attainment gap—but how we respond to the OECD's recommendations about “strengthening the middle”, which is the technical term for the what is being done. Therefore, we are considering the concept of education regions to allow local authorities to work together, where appropriate, to share best practice—the variation about which James Dornan asked me is part of what we seek to address through that—and to enable schools to work in clusters.

That is what the governance review is all about. It will obviously influence how Government works with local councils and how local councils work with schools. However, councils are, and will continue to be, key players in education delivery.

**James Dornan:** One of the concerns on which you touched is the fact that the Government gives local authorities a considerable amount of money and expects them to fulfil tasks using it. According to the figures, the early years funding is the latest example of Government money not being used appropriately, but I am not sure that it is the only example. What can the Government do, or what does it intend to do, to ensure that the money that local authorities are given is spent on what we wish it to be spent?

**The First Minister:** That is part of our overall relationship with local councils. As people are aware, when we took office, through the local government concordat, we removed much of the ring fencing of local government expenditure. That led to a different relationship of accountability for spending.

However, there are also parts of local government spending for which—I will simplify matters—the money is received by councils only if the commitments that the money is intended to fund are delivered. Teacher numbers and the council tax freeze over the duration of our time in Government are two examples of how money is not passed over unless commitments are delivered.

Such arrangements can often be controversial. For reasons that I can understand, councils prefer not to have that kind of conditionality—and, in some respects, sanctions—applied to budgets, but as a Government we have a responsibility to the electorate and the taxpayer to ensure that, when we fund a particular commitment, we can look taxpayers in the eye and say that it is being delivered.

James Dornan mentioned childcare. We did a financial review of the childcare commitments to

date, which found—I simply state this as a fact; I am sure that councils would point it out if they were at the table—that although a number of factors were involved, the money that was given as part of their overall settlement to councils for expansion of funded hours to 600 was not in all councils matched by an increase in expenditure on childcare. That leads to a conclusion that the childcare commitment has—again, I simplify—been overfunded.

We have on-going discussions on those issues with councils. As First Minister and leader of the Government, I take very seriously our accountability to the public. That means that, where we fund a statutory responsibility of a council, we have to have that discussion and relationship to ensure that the money is spent appropriately and delivers the right outcomes.

**Margaret Mitchell MSP (Convener, Justice Committee):** The committees have not operated as it was envisaged they would work at the inception of the Parliament. They were hailed as the jewel in the Parliament's crown but, sadly, they have fallen far short of that. For example, in November 1997, the consultative steering group on the new Scottish Parliament was set up and one of its key recommendations for strong parliamentary committees was that they should have the power to introduce legislation. That was heralded as a striking departure from the position at Westminster, and it was intended to embody the principle that power should be shared between the Government and the Parliament. Almost 20 years since the consultative steering group was set up, why do we seem to be so very far away from that vision of committees and Government sharing the initiative on introducing legislation?

**The First Minister:** On the general thrust of the question about the performance of committees, I am sitting in front of committee conveners, so I will be quite careful about what I say, but I am not sure that I entirely agree with Margaret Mitchell on that point. We have had, throughout the life of the Parliament, some fantastic examples of committees—including the committee of which Margaret Mitchell is convener and which was previously chaired by the Deputy Presiding Officer—doing lots of very good and meaningful work, and powerfully and visibly holding the Government to account. That is something to be proud of. Equally, however, we must always look at how we can further strengthen the arrangements. The Presiding Officer has, of course, established a group that is considering refreshing some of the arrangements through which Parliament works so that those arrangements work well.

As a member of the Government who is here to be held to account by committees, I am slightly

hesitant to tell committees how they should do their work. In a previous Conveners Group meeting, I think that it was Christine Grahame who made the point that if the Government's legislative timetable is such that committees are very tied up with it, which was an issue for the previous session's Justice Committee, they do not have the time that they might like to do their own inquiries or to introduce legislation. There are issues about management of Government business to try to ensure that committees have that time, but what subjects committees choose to look into and what, if any, legislation they choose to initiate are not matters for me or the Government; they are very much matters for individual committees. The Government cannot stand in the way of a committee that wants to do an inquiry or any other work on any issue.

**Margaret Mitchell:** You rightly referred to the fact that in 18 months the previous Justice Committee covered something like 13 bills, which was a ridiculous amount of legislation, and scrutiny could not possibly be done at stage 3. Is not there an onus on the Government—and on you, as the First Minister—to look at the legislative timetable and at what is being passed at stage 3? Sometimes, hugely important aspects that are raised in amendments at stage 3 are discussed in a 10-minute debate in the chamber. Surely that cannot be satisfactory for you or anyone else who is affected by the legislation.

**The First Minister:** That is a very general statement. That kind of thing does not happen for every piece of legislation, although there will be particular factors and circumstances around some bills such that amendments are lodged at a later stage—I have to say not always by the Government, but often by Opposition parties and other members.

On the weight of legislation, I have reluctantly come to the conclusion, after almost 10 years in government, that Governments are damned if they do and damned if they don't. It is only a matter of weeks since the Government was being criticised by Margaret Mitchell's party for not having introduced enough legislation since the election. One of the reasons for that—but not the only reason—has been our discussions with individual committees about timetabling of legislation to allow committees to do their work. I am not complaining; it is a feature of the inevitable and—dare I say it?—creative and healthy tension between the Government and the committees that we will be criticised both for introducing too much legislation and for introducing too little.

I absolutely give a commitment that the Minister for Parliamentary Business will always seek to work constructively with committees to ensure that we strike the right balance between the

Government fulfilling its legislative commitments and committees being able to perform a good scrutiny role—which, by and large, the committees of this Parliament do—and having the time and space to initiate work in areas of interest.

**Sandra White MSP (Convener, Social Security Committee):** Good afternoon, First Minister. You have mentioned legislation. The Social Security Committee will be looking at the proposed social security bill, which will be one of the largest pieces of legislation to go through Parliament during this parliamentary session, and will affect possibly the whole population of Scotland at some point. Do you think that Parliament will be in a position to deliver the powers that are to be devolved?

On the point about committees being given time for scrutiny, can you give me and my committee an assurance that we will have ample time to scrutinise all legislation, both primary and secondary, pertaining to the proposed social security bill?

**The First Minister:** I will address your second question first. The short answer is yes, although there will require to be a lot of discussion and dialogue between the Government—Joe FitzPatrick and his officials—and the committee to ensure that that is the case. You are absolutely right to highlight the forthcoming social security bill as being both one of the most important pieces of legislation that will be passed in this session of Parliament and one of the most complex, because we need to get the legislative underpinning for what will be a massive delivery undertaking absolutely right. There will be primary legislation in the next year, as you say, but there will also be a lot of secondary legislation flowing from it. Therefore, it is essential—and it is in the Government's interests—that the Social Security Committee has the time to undertake really good scrutiny of the bill.

As we have said repeatedly, and as the Minister for Social Security set out again yesterday in Parliament, we will have a Scottish social security agency with a delivery system fully up and running to deliver the range of benefits that are being devolved by the end of this parliamentary session. That has always been the case. Jeane Freeman laid out our plans to the Social Security Committee at the end of September, Angela Constance did so previously and there has been a lot of discussion about the matter. The scale and complexity of what we are doing means that, although we want to get the powers up and running as quickly as possible, the absolute driving priority is to deliver them safely and securely so that every person who is eligible for payments that will be delivered by the Scottish Government gets the amount that they are due when they should get it.

I will give a statistic—just one of many that could demonstrate the scale of the system. When the system is fully up and running, it will deliver more payments per week than the Scottish Government currently delivers in total every year. It will deliver payments to 1.4 million people, which is about one in four of the Scottish population.

12:45

The scale of the system will be massive; its complexity is also significant. We are taking responsibility for about 15 per cent of current welfare spend, which means extricating that 15 per cent from the remainder—in other words, from the reserved responsibilities that will remain reserved. In doing that, we must interact with Department for Work and Pensions systems that are often pretty antiquated, and a welfare system that is undergoing significant reform. I will give one example of that complexity. The payment of cold weather payments relies on 11 different DWP information technology systems, each one of which is going to have to be amended to identify Scottish recipients. Counterintuitively, our task would probably be easier if we were taking over the welfare system wholesale, but because we are taking over 15 per cent of it, we must ensure that our systems dovetail properly with the remaining reserved systems so that there are no unintended consequences and so that, if we make a change to benefits it does not have unintended knock-on effects on reserved benefits.

The task that we face is massive and complex. We want to get the new systems up and running as quickly as possible, but we cannot take responsibility for delivering them until we have in place a delivery mechanism that we are confident can deliver. We do not want to make the mistakes that have been made with universal credit, which has overpromised and underdelivered almost since the day it was announced.

**The Deputy Presiding Officer:** That was quite a full answer, but I can let Sandra White have a short supplementary.

**Sandra White:** You correctly mentioned the complexity, First Minister. You gave the example of the cold weather payments, but there is also an issue with funeral payments, which a lot of people are affected by. At the moment, the funeral payments system is paper based. Will you look into that with regard to data extraction?

**The First Minister:** Absolutely. We are having to look at all such issues. The DWP's systems have developed over many years and they are disjointed—that should not be taken as a criticism of the DWP, although I criticise it for plenty of things. Some of its systems are automated and some of them, including the funeral payments

system, are still largely paper based. We are having to understand all that in order to work out how we can extricate the 15 per cent from the totality. We must make sure that the planning and design of the new system is properly undertaken in Scotland.

Some parts of the new system may come on stream earlier than other parts and, in the fullness of time, we will be able to set out delivery dates for each of the benefits that we are taking responsibility for. However, when we switch on the system for any benefit, we must be sure that it can deliver payments of that benefit to everybody who is entitled to them. Over the past few days, it has been suggested that the Scottish Government is trying to delay taking responsibility for the benefits in question. That is utter nonsense. It is a case of working to a timescale that we have always set out and understanding the complexity of the issues that we are dealing with.

**Neil Findlay MSP (Convener, Health and Sport Committee):** With the exception of senior health board managers, civil servants and ministers, almost every witness who comes before my committee, as well as the people we speak to in private briefings, raises the issue of cuts to health and social care services and the impact on patients. One doctor summed up the situation well when he said that there appears to be a gulf between the strategies that are promoted by Government and what actually happens on the ground. Can you offer any explanation for the existence of that gulf?

**The First Minister:** I do not accept that that is the case; I am not sure which witness you are referring to.

**Neil Findlay:** I am referring to lots of them.

**The First Minister:** I absolutely accept—I was very conscious of this when I was health secretary—that coming up with the strategy is often the relatively easy bit of a Government's job. The difficult bit is translating that into practice on the front line, given the relationships that have to be developed, the discussions that have to be held and the hard work that has to be done to do that. That is where our front-line health professionals deserve so much of our gratitude. A lot of work goes into that, but I am not saying that we always get it right. At a time of change and transition for our health service, which is what we are going through at the moment, that challenge is more significant.

We are ensuring that health gets record funding. Under this Government, the health service budget has gone up by £3 billion and, over this parliamentary session, we will increase it by a further £2 billion, which is £500 million more than would be required to keep pace with the rate of

inflation. Further, record numbers of staff are working in our health service. However, as we all know, the demand for health services is rising as well, largely due to changing demography. That brings into sharp focus the need to change and reform the way in which we deliver services. The principal piece of work that we have done around that involves the integration of health and social care. From my constituency experience as well as my experience as First Minister, I am aware of the work that is being done on the ground to turn the legislative part of integration into reality, with proper strategic plans and delivery of services. It is a monumental undertaking, but it is going well and the people on the front line are doing a fantastic job around that.

We have to ensure that we have in place the right frameworks, funding and staffing numbers, and we must then support our health service to make changes—sometimes controversial changes—that get more services delivered in the community, closer to home, so that, over time, we can relieve some of the pressure on acute services. As I said, that will sometimes involve difficult decisions. A couple of weeks ago in the chamber, I said that there will be moments of truth for all of us with regard to whether we are able to face up to some of those difficult decisions.

**Neil Findlay:** Surgeons, doctors, nurses, cleaners, kitchen staff and others in our hospitals and social care field have repeated time and again that cuts to services are happening. Is someone misleading them?

**The First Minister:** I did not accuse anyone of misleading anyone. I understand very well the pressures that front-line healthcare staff work under. Those pressures have always been in the health service and, because of some of the pressures that are driving increased demand at the moment, that is even more the case now. I am not for a second denying the real pressures that health service staff at all levels work under, nor am I denying the things that they say to your committee; I am simply trying to outline the task that we all have—and for which, as First Minister, I have principal responsibility—of ensuring that we fund our health service as well as we can, within the overall financial constraints that we face, and that we support our health service to change in ways that are, frankly, necessitated by the changing demands that are placed on it. That involves the integration of health and social care and the ability to get more money out of the acute service into social care. We have started that process with this year's £250 million transfer, which we want to build on in future years. It also involves ensuring that we build up primary care—we have already signalled our direction of travel in that regard by transferring more of the health budget into primary care. Further, it involves

ensuring that we invest properly in mental health services. If we invest in all those services, that will help to relieve, or at least constrain, the pressure on our acute sector.

I understand that, at times, that will present difficulties for staff and for politicians. However, the health service in Scotland is not unique in that sense. It faces challenges that are inescapable. What will determine how well our health service copes is how well we respond to those challenges.

I agree that our health service faces challenges but, as the Auditor General said in her recent report, compared to other health services across the United Kingdom, NHS Scotland is performing well—waiting times are lower than they were when this Government took office; patient safety is better; hospital infections have reduced dramatically; and hospital mortality is reducing.

Our health service is doing great things. What we have to do is ensure that we support it through the transition that lies ahead of it over the next few years so that it can continue to do great things.

**Neil Findlay:** Do you accept that the evidence that we are hearing is accurate?

**The First Minister:** You hear a lot of evidence, and I will take a different view on some of it. I am not saying that anyone is coming to your committee and saying things that are not true, but you get a lot of evidence, some of which I will agree with and some of which I will have a different interpretation of. If you want to ask me about whether I think that a particular piece of evidence is accurate, I will answer that question. However, the question that you are asking is extremely general.

**Joan McAlpine MSP (Convener, Culture, Tourism, Europe and External Relations Committee):** As you know, the Culture, Tourism, Europe and External Relations Committee is currently working on the implications of the EU referendum result and looking at the single market and alternative trading relationships. This week, we will take evidence from Norwegian experts. I am aware, as you will be, of media reports that say that Norway is one of the alternatives that you are looking at. Will you comment on that?

**The First Minister:** I am aware of those reports. I have been clear that the priority that we have been working around is to look at how we maintain and protect our place in the single market—and by that I mean membership of the single market, not some vague idea of access to the single market that other parties might talk about. There are different ways in which that could be achieved. I have set out clearly that I want the United Kingdom as a whole to stay in the single market, and to the extent that we can wield any influence UK-wide, we will try to steer the UK Government

away from a hard Brexit and towards staying in the single market. In that respect, the outcome of the Supreme Court article 50 case is relevant because it will influence the extent to which the House of Commons will be able to influence the issue before the triggering of article 50.

If the UK is intent on a hard Brexit and coming out of the single market, I want to look at how we can find a way of protecting Scotland's place in the single market, although I am not for a minute saying that there would not be challenges to that. Norway is in the European Free Trade Association, and EFTA countries—apart from Switzerland—are in the single market through the European Economic Area. We are looking at those models. As I have said previously, I hope that, before the end of the year, we will publish some proposals and an option, or perhaps different options, in that regard.

**Joan McAlpine:** You will be aware that the UK Government is going around the world and speaking to various Governments. We have seen the Prime Minister's visit to India and we are told that Liam Fox is globetrotting. Those visits have met with some scepticism, and one aspect has been raised with the committee as a concern. UK ministers could be going around the world and promising all sorts of things during informal discussions with other Governments on future trading relationships, and Scotland is not at the table in those discussions. Have you addressed that? How do you think that we should make sure that our public and private sectors are protected from anything that the UK Government might be promising in those talks?

**The First Minister:** That is a good question; I will unpack it a little bit.

Based on what I have heard thus far, I am not sure that the various discussions that UK Government ministers are having overseas shed any great light on matters, although we sometimes hear snippets from some of those discussions that seem to tell us things that the Prime Minister is not telling the House of Commons. For example, yesterday Boris Johnson apparently said that we are going to be out of the customs union, but, just in the past hour, the Prime Minister stood up in the House of Commons in the past hour and was not prepared to shed any light whatsoever on that.

I keep hoping that I am wrong about this, but I am not sure that I am. I look at the various things that UK Government ministers are doing around Brexit and I am not sure that any of it adds up to any kind of coherent plan for what they are trying to achieve, and that concerns me deeply.

You asked about what will happen if it turns out that offers are being made. At this stage, offers cannot be guaranteed because there will have to

be a negotiation at some point and the UK Government will be only one side of that negotiation. For example, we still do not know what has been offered to Nissan. It might well turn out to be the case that commitments or promises are being made to other Governments, but there is a lack of transparency around any of that right now. That is not just a concern for Scotland and our interests; it is a more general concern about how the Government is conducting the whole exercise. There should be a lot more openness and transparency.

You mentioned our place at the table. We continue to work hard to try to influence the article 50 negotiating position. The joint ministerial committee on European negotiations, which met for the first time last week, is the multilateral forum at which that can happen, but let us just say that the jury is out on how effective that will be. It has been a bit of a struggle to get to this point. There is also a bilateral track of discussion that we are trying to make the most of.

I suppose that I feel frustrated by the inability to meaningfully influence things at this stage, but that is largely because we are trying to influence something that does not really exist yet. There is no real sense of what the UK Government's strategy is and, perhaps even more concerning, no real sense of how it will get from where it is now to having a coherent negotiating strategy. I made that point at the joint ministerial committee meeting a couple of weeks ago. We are trying to influence something that is a bit of a vacuum at the moment. It is extremely frustrating, but we will keep trying as best we can.

13:00

**Bruce Crawford MSP (Convener, Finance and Constitution Committee):** Good afternoon, First Minister. I have been reflecting on some of the comments that were made earlier about committees. I am sure that you are aware that I have not been slow to hold the Scottish Government to account on budgetary matters but, looking to the future, this year's draft budget is historic, given that it will be the first time that the Scottish Parliament has set bands for income tax. I do not think that all of us yet appreciate the historic nature of that. It will raise about £11 billion and it dwarfs previous devolved tax powers. It is going to bring huge changes.

You will also be aware that we have established a tripartite working group to review the impact of the new powers on the budget process. There are challenging and complex issues, particularly around the potential volatility of the budget as we move from having a relatively fixed block grant from Westminster to being a tax-raising



Parliament, and we have the impact of Brexit on top of that.

In your view, what key principles should the group consider, given that we have to establish and design a system that will not just deal with the change in circumstances but be able to stand the test of time?

**The First Minister:** That is a very good question. My view is that our budget process has to change—and probably quite significantly in relation to certain aspects—in order to adapt to the different environment that we are in, principally but not exclusively because of our additional tax-raising powers.

A number of principles have to inform the work of the tripartite group. I guess that, if I was to single out two, they would be, on the one hand, transparency and scrutiny and, on the other, flexibility. I am very aware that there will be a tension between those things, which is why the group has a difficult job of work to do.

I will comment on flexibility first. As we see with the UK Government's budget processes every year, when a Government has significant tax-varying powers, there is often a need to be able to act quickly to reduce the opportunity for people to change their behaviour in relation to tax changes and to forestall. That is why, in a UK context, tax changes are rarely announced far in advance. There is often a very short timescale between announcement and implementation. That is where flexibility is important. Within that, there is also a need to make sure that the budget processes align with the scrutiny that the Scottish Fiscal Commission has to do in order to give the Government and Parliament assurances around our fiscal projections.

On the other side, it is really important that the Parliament still does proper scrutiny of our budget plans. That has been a hallmark of our budget process since the Parliament was established. I know that there have been frustrations—believe it or not, the Government shares some of them—about the constraining of scrutiny last year because of delays around the autumn budget statement. That has happened again this year because of Brexit and a delayed autumn budget statement, which have constrained the time that the Parliament has had to scrutinise the budget.

As I said, I do not think that it is going to be easy to come to perfect answers around this, but we have to try to find a way of balancing, on the one hand, the need for and the essential nature of parliamentary scrutiny, and the transparency required of Government to enable that, while, on the other hand, giving Government a bit more flexibility to take account of the fact that, when we are responsible not just for spending a block grant

but for raising a lot of that money, we need to have a bit more flexibility in the timings.

**Bruce Crawford:** One of the things that I have been—

**The Deputy Presiding Officer:** Bear with me, please. It will have to be a short supplementary, and I would also like a short answer.

**Bruce Crawford:** I will make it as short as I can. Everyone can see that there have been behavioural effects and forestalling around the land and buildings transaction tax. As far as the future is concerned, one of the things that I have been thinking about privately, although I have not shared my thoughts with the committee, is whether we could separate the day we set the draft budget from the day we set the level of taxation, because otherwise behavioural effects and forestalling might well play. What is the First Minister's view on that?

**The First Minister:** That could well be considered. I am slightly hesitant about giving a set of what might appear to be preconceived answers, because we have deliberately set up the process in order to look properly at those matters. However, you are right that that is something that probably should be looked at. It might be one of the ways in which we can balance the often competing principles that I spoke about.

**Gordon Lindhurst MSP (Convener, Economy, Jobs and Fair Work Committee):** You will be aware of recent figures that suggest the relative underperformance of the Scottish economy compared with the wider UK economy. To give my question context, I am referring to the government expenditure and revenue Scotland figures released in late August, which showed the public spending deficit in Scotland standing at 9.5 per cent of gross domestic product, which is more than double the UK figure of 4 per cent. The report that PricewaterhouseCoopers published at the beginning of this week shows that growth in the UK may slow down in 2017, but it will be even slower in Scotland.

Inward investment figures have been dropping in Scotland during the past few years, whereas the UK saw an 11 per cent rise last year, and some parts of the north of England had a 24 per cent increase. The Scottish Government figures tell us that our business density is shrinking. Scotland now has only 768 enterprises per 10,000 people, compared with the UK figure of 1,040. The number of small businesses in Scotland is 210—

**The Deputy Presiding Officer:** Mr Lindhurst, I remind you that if you speak for much longer you will not get more than one question. It is up to you, on behalf of your committee.

**Gordon Lindhurst:** What aspects of the programme for government will be changed to meet those challenges?

**The First Minister:** I noticed that your long list of figures did not include the fact that registered businesses were up by 15 per cent since 2007, that Scotland's business research and development rose by 44 per cent in real terms since 2007, that productivity is up by 4.4 per cent since 2007, compared with no growth whatsoever in the UK, or that this morning's unemployment figures show that unemployment in Scotland is down again in Scotland and that our unemployment rate is below the UK unemployment rate. I just put some of those statistics on the record to give a more balanced account of the Scottish economy. All that having been said, I am acutely aware of the continuing fragility of the UK economy and the economy in Scotland. The position in Scotland is exacerbated by the challenges in the oil and gas sector, which we are all aware of.

On the changes that we will make and the specific initiatives that we will undertake, in my programme for government at the start of September, I announced a new growth scheme that we are currently working to implement. That is a £500 million scheme over the next three years that is specifically geared to help small and medium-sized businesses with loans or, more often, guarantees, to help them with access to finance and to expand or move into new export markets. In this financial year, we have already announced some capital acceleration to give support particularly to the construction industry. The enterprise and skills review is about ensuring that we are targeting all the effort of our enterprise and other employment skills-related agencies absolutely on delivering our economic strategy. We will continue to ensure that all aspects of that economic strategy are pursued, particularly, post Brexit, the internationalisation aspects.

You mentioned inward investment. We remain, as we have been for the past number of years, the best performing part of the UK outside of London for inward investment, but post Brexit we will need to work even harder at that, which is why we have announced plans to set up innovation and investment hubs in Dublin, Brussels and London, and I recently announced that we would also do that in Berlin. We are setting up a new trade board within the Scottish Government to focus particularly on increasing international trade with an emphasis on exports.

I could go on and on, but the convener would stop me. We are absolutely focused on ensuring that we are making the right interventions to support our economy and to focus on sustainable growth in our economy. Obviously, we also have a

hard focus on fair work. However, let us be under no illusions. Following the Brexit vote, the sheer recklessness of what the UK Government is currently trying to inflict on us is a real and present risk not just to the Scottish economy but to the economy of the UK. That is why I think that the politicians who have put us in this position should be rather ashamed of themselves at the moment.

**The Deputy Presiding Officer:** I am afraid that there is no time for a supplementary question from Gordon Lindhurst, because that would mean depriving other conveners of their time.

**Jenny Marra MSP (Convener, Public Audit and Post-legislative Scrutiny Committee):** First Minister, as you know, the Public Audit and Post-Legislative Scrutiny Committee is responsible for scrutinising audit of the whole public sector across all the portfolio areas. In my short time as the convener, since the election, the committee has already seen recurring themes across all areas, such as the Government struggling with major IT projects; how funding decisions contribute to the delivery of outcomes; governance issues; and structural and organisational reform. With 17 years of Audit Scotland reports and many conclusions being repeated year after year, is the Government learning the lessons from Audit Scotland's conclusions?

**The First Minister:** Yes, I think we are. That is a very general question. We work hard to learn and apply the lessons of the Audit Scotland reports. Because of the nature of some Audit Scotland reports, that is an on-going task.

I am aware of the themes that you are talking about, particularly the IT issue. We have significant lessons to learn from the experience with the common agricultural policy payments system and the NHS 24 IT system. That relates to what I said to Sandra White about our responsibility to put in place a delivery system for social security payments. A monumental amount of work is going on in the Scottish Government just now to ensure that the lessons are learned and applied for the future.

Similarly, on governance and around performance, we work hard with Audit Scotland as well as within the Government to ensure that lessons are learned and applied. I am happy to be more specific on any particular aspect of that if you want me to be, but that is my answer in general terms.

**Jenny Marra:** The committee is looking for some reassurance that, when we look at an education report or an Audit Scotland report on health, lessons such as those from the IT projects that you mention are being learned in a particular department and that work is also going on across the Government. Many of the problems with IT

projects, for example, have common themes. Is cross-cutting work on that taking place across the Government?

**The First Minister:** Yes. That will be the case for many themes arising out of Audit Scotland reports. Do not get me wrong—some Audit Scotland report recommendations will be very specific to a particular portfolio area. However, when there are cross-cutting themes—IT is an obvious example of that, but there will be other governance issues—the approach that is taken in Government ensures that the work cuts across different policy and portfolio boundaries.

I do not want to repeat what I said a moment ago, but IT is a pertinent example because we have had to learn painful lessons around the CAP and NHS 24 systems—indeed, we are still learning those lessons—that are already being applied to our other IT responsibilities, principally in the work that we are doing on the social security system. That is partly why we are being so adamant about taking our time and going through the right processes to ensure that we get that system right at every step of the way.

**Christina McKelvie MSP (Convener, Equalities and Human Rights Committee):** You will know that the Equalities and Human Rights Committee was formerly the Equal Opportunities Committee but now has an extended remit following the devolution of equality duties to the Scottish Parliament. That gives us lots of really good opportunities. I know that you have a personal commitment to the expansion of equality policy across lots of areas in Scotland, especially as it involves many of our protected characteristics. You have been very vocal about that.

There is a gender balance on public boards bill in your legislative programme. Can you tell us a wee bit about that? Is there anything else that you see Scotland expanding and taking much further than other legislatures—either through policy or legislation—to underpin and entrench equalities and make them intrinsic to everything that this place does?

13:15

**The First Minister:** First, I do not think that we should ever tell ourselves that we have got it all right or that there is nothing that we can learn from elsewhere. We look all the time at lessons that we can learn from other Parliaments and countries. There are some great examples of where we have looked at other countries and decided to learn. For example, the baby box that we are about to introduce is a relatively small but quite important policy that we have taken from Finland and which the evidence says has been instrumental in

reducing infant mortality and improving the health of children and mothers. The introduction of that—not just the physical box but all that goes around it—will be important.

Gender balance is another area in which we are going further than other Governments, certainly in the UK. We are about to legislate for gender balance on public boards. We do not have the power to do that for private companies, but the 50:50 by 2020 campaign that I started is about encouraging private sector boards to sign up to gender equality. We can also look with some pride at our fair work agenda and the fair work convention. Certain other parts of the UK seem to see trade unions as enemies and opponents, but we see trade unions very much as our partners in trying to build a stronger and more productive economy. That is encapsulated in the fair work convention, but underpinning that is the work that we are doing on the living wage and the business pledge, and on creating an understanding that progressive workplace practices are socially good and economically advantageous.

There is a whole range of things. Childcare is another one. A report earlier in the week said that the single most important policy in improving equality in Scotland is expanding childcare, which underlines our determination to make the transformational change that we have said that we will make during this session of Parliament.

We are doing a lot of good work in Scotland and there is a lot of international interest in some of our work on those agendas. However, we should always be alert to examples from elsewhere that we can apply here.

**Christina McKelvie:** You are absolutely right about learning from others, and you have mentioned lots of things that will take forward the equalities agenda. A few weeks ago, we heard evidence from Tobias Lock from the University of Edinburgh that we should not be complacent about the things that we already have, such as our good record on welcoming people and our anti-discrimination practice and policies. Against the backdrop of Brexit, the possible repeal of the Human Rights Act 1998 and withdrawal from the European convention on human rights, how do you see the Government and the Parliament advancing those causes and ensuring that we do not have racism, homophobic bullying and some of the pretty nasty stuff that we have seen in the past few months? How do we ensure that we do not become complacent but that we push all that forward and become a bit of a beacon in that respect?

**The Deputy Presiding Officer:** The same applies to Ms McKelvie as applied to Mr Lindhurst. That was a lot thrown into a question, and there is

a very short time to answer it. Please be brief, First Minister.

**The First Minister:** Okay, I will be.

Without going into too much detail, one of the lessons of the past few months is that there is no room for complacency. We should never and can never take for granted that progress in any area is irreversible. Some of what we saw in the aftermath of the Brexit vote, and some of what I have read about what has perhaps been seen in certain parts of America in the past week in terms of racist and anti-Semitic attacks or abuse, should never be tolerated. That is a reminder that we always have to work for those values and not just protect progress but continue to make progress on some of the issues.

This is my last sentence, Presiding Officer: getting rid of the Human Rights Act 1998 or coming out of the ECHR in any way would be a huge backward step as far as a lot of those issues are concerned, which is why I will do everything that I can to oppose that.

**Graeme Dey MSP (Convener, Environment, Climate Change and Land Reform Committee):** Evidence received by the Environment, Climate Change and Land Reform Committee in recent weeks has identified what it considers to be a potential gap in data gathering and the evidence base for flooding. It appears that, when the Scottish Environment Protection Agency as a statutory consultee objects to a planning application because of flooding concerns and consent is nevertheless granted and the development goes ahead, no one has responsibility for monitoring whether any issues arise. To give an idea of the numbers involved annually, in 2015, of 22 applications that SEPA opposed, nine were granted. Of course it does not automatically follow that such developments go ahead or go ahead without mitigation conditions attached. Nonetheless, it strikes the committee that someone, whether that be SEPA or local authorities, should have responsibility for assessing what consequences, if any, arise, in order to improve the understanding of flooding situations that might reasonably have been expected to be avoided, such as the inadvisability of building on known flood plains. What are your views on that?

**The First Minister:** That is an important issue. The concern that you are expressing is that, when something that SEPA has objected to has gone ahead anyway, there is a gap because evidence is not gathered to see whether SEPA's concerns were founded. I am certainly happy to ask the chief planner to consider the process and look at whether there is a gap that needs to be filled.

Without sounding as though I do not think that it is an issue—it clearly is an issue that we should address—we should probably be slightly cautious about overstating the scale of the problem. It is worth making two points about planning applications. First, planning policy ensures that those who make the decisions take a precautionary approach to flood risk. Indeed, they have to apply the flood risk framework when they arrive at decisions, so the risk of flooding is an inherent part of planning decision making.

The second point that is perhaps of relevance is that, if a planning application receives an approval while a SEPA objection remains in place, the case has to be referred to ministers. It is a belt-and-braces approach.

As far as I am aware—I can double-check the figures—there are only a small number of such applications. I think that you said that are nine applications. The information that I have here says that, in the past four years, about seven to nine of such applications have come to ministers per year.

The system probably works well overall but, as we saw at the turn of this year, the impact of flooding can be so severe that we have got to make sure that we are properly learning all the lessons.

I will not go into more detail here about the gap that you are concerned might exist, but I will ask the chief planner to look at the matter and report to back to your committee.

**Graeme Dey:** The committee's work thus far has largely covered climate change and biodiversity, and throughout that work, the importance of implementing the updated land use strategy keeps cropping up. Stakeholders as well as committee members see a fully functioning strategy as integral to climate change adaptation and mitigation and to meeting the challenges to Scotland's biodiversity. Do you share that view? Will you outline how the Scottish Government intends to deliver on the promise of the revised strategy?

**The First Minister:** The new land use strategy, which runs from this year to 2021, was published in March. The strategy has a reporting framework around it. I think that we are due to publish before the end of the year on how we plan to report on progress, so that will be a central aspect of the reporting framework.

The strategy has specific climate change commitments in it. There is a package of measures around farming and crofting, work to consider how the Scottish uplands can contribute to climate change targets, and material around forestry. Because the land use strategy has a really important part to play in tackling climate change, it is important that it sets out how

communities are involved in decisions that affect land. As you know, the strategy encourages the formation of regional land use partnerships. The framework that has been put in place there is important to the question that you are asking.

The land use strategy is a vital tool if we are to meet the challenges posed by climate change mitigation and adaptation.

**Edward Mountain MSP (Convener, Rural Economy and Connectivity Committee):** The Rural Economy and Connectivity Committee has taken evidence on farm payments from the Cabinet Secretary for Rural Economy and Connectivity, Fergus Ewing, quite a few times during this session. The committee remains concerned about the issue, especially as a loan will have to be made to cover the 2016 payments and that, for some farmers, the wrong area calculations were made in relation to the loan. We would like some indication from you that you are satisfied that all is being done to resolve the issues, in particular those relating to the explanation for the 2015 payment and those on the timescale for making the final 20 per cent of the 2016 payments.

**The First Minister:** Obviously—and this is worth putting on the record again—Fergus Ewing and I deeply regret the problems around the common agricultural policy payment system and the anxiety that that has caused our farming community. We are determined to do what needs to be done to put that right and to get the system on to a sound footing for next year.

Fergus Ewing has already updated Parliament on where we are with the 2015 payments, but I will just say that 99.9 per cent of payments have now been made to more than 18,000 businesses. Those payments are worth more than £300 million. There are some outstanding claims, but the tail of the remaining payments is now on a similar scale to what we would deal with in a normal year. They will undoubtedly be some of the more complex payments.

Challenges are still cropping up. For example, a small number of overpayments were made in 2015, and work is being done to rectify that. There are still challenges, but 99.9 per cent of the payments for 2015 have been made, and we met the extended European Union deadline of 15 October for payments. Before we know whether there will be any penalties, we need to know whether the UK as a whole met that deadline. We are waiting for confirmation from the UK Government about whether there is member state compliance as a whole.

Obviously, we are determined to learn this year's lessons in order to get the system on to the footing that would be expected for next year. We

have assurances from the contractor that the IT system functionality for 2016 will be delivered early next year. The final processing of applications for payment will be undertaken thereafter. We expect that the 2016 payments will be made and substantially completed between then and the end of the payment period, which is, of course, June 2017. We have put in place the loan scheme for 2016, of course, and a significant amount of money has already been paid through that loan scheme to around 12,000 farmers, I think. That work continues.

I do not underestimate the difficulties and the anxiety that the issue has caused our farming community, but equally I hope that members do not underestimate the amount of work that the Government is rightly doing to ensure that we put those issues right.

**Edward Mountain:** The committee would like to know how it can scrutinise those issues. It is fundamental to understand all the problems and, as yet, we have not had sight of what all the problems are or an explanation of them. Can the First Minister give the committee an undertaking that, once all the problems have been identified, we can scrutinise the solutions to ensure that such problems do not happen again?

**The First Minister:** In short, yes. Obviously, there is a lot of work, and we have focused on getting the payments to farmers, particularly in relation to the 2015 scheme. I hope that members will think that that is the right focus. Obviously, we are learning lessons as we go along and we will no doubt choose to do further internal Government reviews to ensure that all the lessons have been learned and applied.

Obviously, it is entirely open to your committee to undertake whatever review it wants to undertake. The Government will fully co-operate with any review.

The cabinet secretary will continue to keep Parliament updated on progress, and I am very happy to ask him to have a direct discussion with you about how your committee can be fully apprised so that it can perform adequate scrutiny of all the issues that have been identified and how they are being or have been resolved, so that there can be the fullest possible transparency and scrutiny.

**Johann Lamont MSP (Convener, Public Petitions Committee):** I confess, First Minister, that, given the eclectic nature of the Public Petitions Committee, I was rather tempted to test the depth and breadth of your briefing.

**The First Minister:** But you are not going to.

**Johann Lamont:** I have resisted the temptation to allow you to show us just how much you know about sea lice.

**The First Minister:** Well, actually—

**Johann Lamont:** That is why I was going to resist the temptation. I guessed that you probably know more than is wholly healthy for you.

The Public Petitions Committee is clearly driven by the public and, by its very nature, it reveals the passions and interests of people throughout our communities. I know that the Scottish Government takes seriously the role of responding to petitions.

An issue that comes up fairly regularly is the role of local communities in terms of the health service and how change is made. The Scottish ministers' roles and responsibilities in making those changes and the question of what is a minor and what is a major change come up quite often in the committee. Perhaps we are not surprised by that, as all of us politicians are very good at turning up at the opening of things, but we tend to disappear when things are being closed.

Do you recognise that, in dealing with communities and changing services, there is an issue to do with people understanding specifically the role of the Scottish ministers? Are you looking at finding ways of improving guidance or public information about where responsibility lies?

13:30

**The First Minister:** Yes, I recognise that. I have a lot of personal experience of that in relation to a number of issues that I encountered as health secretary over a number of years. I appreciate how difficult local health service changes can be and how confusing it can be for the public and patients as they try to understand how the system works, who takes what decisions and the appropriate level of decision making that is relevant to the particular case that they are interested in.

We have done a lot of work on the role of the Scottish health council and we have tried to simplify some of the guidance. The Parliament has recently debated the process that local changes go through from the point at which they are first discussed by a health board, through the initial public consultation to formal consultation and then on to a decision that the Scottish health council is involved in about whether something constitutes a major service change, in which case it will have to come to a minister. On paper, that looks like quite a straightforward process but, obviously, in practice it can be anything but.

I entirely understand that, if you are patient and a service that you value and rely on is being proposed for change of any nature, even though

the system does not deem the change to be a major one, it will seem like that to you. I do not know that we will ever find the perfect way of dealing with some of those difficult changes. However, we have a responsibility to make the system as open, accessible and understandable to people as possible, and we try to do that on an on-going basis. A number of changes were made to those systems when I was health secretary, and I think that changes have been made since. No doubt some of the debates that we are having in Parliament around these issues will lead to further reflection and possibly further changes in the future.

**Johann Lamont:** Do you recognise the fear that people have that there is a temptation to deem something to be a minor change, because that will mean that it will not have the same level of scrutiny that would otherwise be associated with a change?

Understandably, things have to change and evolve. However, there is also the issue of budget pressures and cuts. How do you find an honest approach as to which is which? It might be necessary to change the health service but, if you are doing it in the context of budgets cuts, you can explain something away as a service change even though it is the result of pressures on the service.

**The First Minister:** The challenge for us is to try to ensure that, if changes are being made to services, they are being made not for cost reasons but for clinical reasons. It can be difficult for people who are responsible for delivering services, but we have an efficiency requirement on health boards, because we need to ensure that public money is being used efficiently, so that we have a situation in which we are reforming the health service in a way that is right for the clinical needs of the service.

I accept that there is a range of issues. That is why I think that the role of the Scottish health council is important. It should be free to comment on the reasons—perceived or otherwise—for changes.

There is perhaps an issue around terminology. The terms “major” and “minor” do not mean “important” and “unimportant”, and we might need to consider that further.

I recognise the responsibilities for Government in this regard. Issues around the health service will never be easy. No Government in history has found these issues easy and, I am sure, no Government in the future will find them easy either. However—I say this gently, because I am at your mercy here [*Interruption*].

**The Deputy Presiding Officer:** Johann Lamont just let out an evil cackle there, so you should be careful, First Minister.

**The First Minister:** I know.

There is also a responsibility on the Opposition. If there is a perception that the changes are cuts that are being made for purely financial reasons, the Opposition has a role to play in saying that that is wrong. Equally, however, the Opposition has a responsibility not always to say that that is the case and to recognise that some changes are about the correct evolution of the health service. That will be a challenge for all of us over the next few years.

**Johann Lamont:** I will leave the sea lice until later.

**The First Minister:** I am disappointed. My officials prepared me to deal with sea lice.

**The Deputy Presiding Officer:** If only we had time. We are all intrigued.

**The First Minister:** Are we getting on to beavers, though? That's what I want to know.

**The Deputy Presiding Officer:** No. We move on to Bob Doris.

**Bob Doris MSP (Convener, Local Government and Communities Committee):** First Minister, my questions refer to sea lice. *[Laughter.]* No, they do not.

The Local Government and Communities Committee has been scrutinising Scottish Government budgets and funds across local authority areas and we are finding the picture increasingly fragmented and more complex to scrutinise. I give two brief but important examples: the £250 million health and social care integration funds that come through the health budget and find their way to local authority priorities, and the £100 million educational attainment fund that will be rolled out in the next financial year. Although those funds will be channelled to local authorities, they do not show up in the revenue support grant for local authorities and they have to be appropriately scrutinised.

What impact does that fragmentation have on the statutory duties of social work and education in local authority areas? Does it tackle some of the cost pressures in relation to those duties? Is anyone in government looking at the totality of spend in a local authority area? Our committee is determined to do that irrespective of how the funds are channelled into local authorities.

**The First Minister:** Yes, we do look at the totality of spend, not just for local government but across other areas. If a discussion with officials to consider how that is done in government would help your committee's consideration, I am happy to facilitate that.

You raise quite an important but inevitable issue. We reform public services. The £250 million

that you talk about going from health to social care is not a financial transaction in isolation; it is the financial part of a significant reform to how health and social care services are delivered. The budget transfer tries to support that reform.

Similarly, with education, as we have developed our plans around attainment and tackling the attainment gap, we have developed funding streams to support that. As we reform public services, there will be an inevitable change in the budget streams that support that.

We need to work with committees on this. Year after year the Finance Committee explores and interrogates the comparability of budget numbers and the ability to scrutinise them, and we must ensure that the ability to scrutinise and the ability to know the impact of that spend is there for committees. That is an area where we probably need to have some further discussion.

Much of the health and social care impact will be in the work that is being done by the integration joint boards. As for how the Government and the Parliament scrutinise that performance, we need to get those systems right.

**Bob Doris:** Do you recognise that 72 per cent of all social work budgets will now sit within integrated health and social care funds? You have put the £250 million into the mix. How do we know that that £250 million will not be used to mitigate existing pressures within the system and that it will give additional value? That is something that our committee is keen to tease out.

**The First Minister:** That is a good point. Last year, when that decision about the £250 million was made, there was a discussion with the Convention of Scottish Local Authorities about the extent to which that money could help to deal with pressures from rising demand, which needs to be done, and also about how it could genuinely build capacity in social care. From memory—I am perhaps getting this wrong, but I am pretty sure that this is correspondence that is available to the committee—the budget was split £125 million to £125 million around that. Provision was also made to support the commitment to the living wage for social care workers. There was a lot of detail around exactly how that budget was going to work.

Similarly with the attainment fund, there are agreements between the Government and local authorities about what will be supported through the attainment fund that will allow us to ensure that the money is additional spend and is not just substituting spend elsewhere.

The Government does a lot of work around that. I am pretty sure that most of it will be available to your committee, but I am more than happy to ask officials to have a discussion with committee

officials to ensure that we are providing as much information as possible on that.

**Clare Adamson MSP (Convener, Standards, Procedures and Public Appointments Committee):** As I am second last to ask a question today, both my questions have already been referred to briefly.

My colleague Christina McKelvie mentioned the gender balance on public boards bill. Given the Standards, Procedures and Public Appointments Committee's role in scrutinising public appointments, will you give me a timescale for the introduction of that bill? What discussions have taken place with the Commission for Ethical Standards in Public Life regarding the bill?

**The First Minister:** The gender balance on public boards bill is a year 1 bill, as you know, so we will consult on the draft bill later this autumn. The bill is scheduled to be introduced to the Parliament before the summer recess. It is a really important bill. It is narrow in the sense that it deals only with public boards but the message that it sends to, and the symbolism that it has for, wider society is important.

There will be discussions with the commissioner on the development of the consultation on the bill. I am happy to get officials to write to your committee to detail exactly what those discussions are or are intended to be and how they will influence the final contents of the bill.

**Clare Adamson:** There has been a bit of discussion about the role of committees and differing views about their effectiveness, but the Presiding Officer has announced his independent commission on parliamentary reform, with a remit to consider how

"the Parliament can:

- be assured it has the right checks and balances in place for the effective conduct of parliamentary business;
- increase its engagement with wider society and the public; and
- clarify its identity as distinct from the Scottish Government."

Will you give us an indication of how the Government will engage with the commission?

**The First Minister:** We will engage with it as closely as the commission wants us to engage with it. I have many views on how all that can be achieved. I know that the Presiding Officer is conscious that we have to be careful that, in setting up such a commission—which is absolutely the right thing for him to have done—we do not somehow suggest that the Parliament is not working, because it is working and works well. I can tell you as First Minister that it feels as if it works reasonably well in holding the Government

to account. However, there are areas in which that functioning can be improved.

We will engage constructively, but I am also conscious of the fact that, almost by definition, a Government should not overly influence how the Parliament decides to conduct itself because that is for Parliament to decide. Immediately after the election, I made two particular suggestions about how the accountability of Government could be improved. One of those, which I am not yet sure whether I regret, was the lengthening of First Minister's questions, which is now a formal change to the standing orders. The second was that I appear before this forum more regularly.

Those are two suggestions that the Government has made. No doubt we will make others, but it is right that the Parliament as a whole comes to conclusions without undue influence by the Government.

**The Deputy Presiding Officer:** Thank you very much. Last but not least, I call John Scott.

**John Scott MSP (Convener, Delegated Powers and Law Reform Committee):** In its legacy report, the session 4 Delegated Powers and Law Reform Committee expressed concern about the increasing number of so-called framework bills that were introduced between 2011 and 2016. As you know, those are bills that confer wide-ranging powers on ministers with little information as to how they are to be exercised and include few details. The session 4 Delegated Powers and Law Reform Committee expressed its dissatisfaction with that approach because it means that Parliament is being asked to delegate powers to the Scottish ministers without knowing how they are to be exercised. Will you please give some assurance that that approach to legislating will not become common practice in this session?

**The First Minister:** I know that concern was expressed previously. This may be a matter of opinion—it is certainly my opinion, but it is also an assurance about the future—but I can say that there is no trend towards the increased use of framework bills. They continue to have a place. They enable a bill to provide a broad legislative framework with some finer detail to be filled in later on. That will often be appropriate where flexibility to change procedures and processes is required and where it would be disproportionate and would unfairly impact on the Parliament's time if such changes were required to be made through primary legislation.

Framework bills provide the broad framework and then further detail is given through secondary legislation. Secondary legislation also has to be approved by Parliament, so a framework bill does not give carte blanche to ministers to fill in the detail; there is a parliamentary process that has to



be gone through. My experience over 10 years is that, sometimes, the secondary legislative process can be trickier than the primary one, no doubt because of the scrutiny that the predecessor committees to the Delegated Powers and Law Reform Committee have applied. It is about providing the detail through a different parliamentary process.

We will not overuse framework legislation. If you, your committee or any other committee has concerns about particular bills going too much towards the framework side—in the previous session, the concerns were about the Land Reform (Scotland) Bill and the Community Empowerment (Scotland) Bill, I think—we will be happy to discuss that with the relevant committees.

13:45

**John Scott:** You are absolutely right to say that the Land Reform (Scotland) Bill and the Community Empowerment (Scotland) Bill, as well as the Burial and Cremation (Scotland) Bill and the Regulatory Reform (Scotland) Bill, gave the Delegated Powers and Law Reform Committee grounds for concern. You will be aware that there are 47 pieces of subordinate legislation to be laid before the Parliament with regard to the Land Reform (Scotland) Act 2016 and that policy development is still continuing in some areas. Notwithstanding your answer, will you personally ensure that better-developed policy intentions will be in this session's bills? Will you ask your Cabinet colleagues to ensure that that happens?

**The First Minister:** In short, yes. *[Laughter.]* That does not mean that there will be no framework legislation. You say that there are 47 pieces of subordinate legislation to be laid in connection with the Land Reform (Scotland) Act 2016. I will take your word on that but, to flip this to the other side, if the content of all 47 of those instruments had been in the bill, we would still be debating it on the floor of Parliament. We need to strike a balance between a good use of parliamentary time and ensuring parliamentary scrutiny. It will always be a balance.

I laughed because, just before I came down, I read—I only read it briefly so I do not know whether it is true—that it has been suggested today that the great repeal bill for Brexit will involve 2,000 pieces of subordinate legislation. If that is true, it suggests that, no matter how bad you think this Government might be in such matters, it is as nothing compared to what might face the House of Commons.

It is a serious point. I give you the undertaking that I will feed back to officials that they should always be mindful to try their best to strike the

balance in the right place and that, as ministers, we will always be mindful to try to do that as well.

**The Deputy Presiding Officer:** That concludes questions. Do you want to make any brief closing remarks, First Minister?

**The First Minister:** I have exhausted—

**The Deputy Presiding Officer:** You can say how wonderful the conveners are.

**The First Minister:** I was just going to read out my briefing on sea lice for the remaining few minutes, if that is okay. *[Laughter.]* Thank you very much.

**The Deputy Presiding Officer:** Thank you very much for attending. I thank the conveners. You have kept to your time, which is wonderful.

*Meeting closed at 13:48.*



