



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Public Petitions Committee

**Thursday 23 November 2017**

**Session 5**



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Pàrlamaid na h-Alba

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**PUBLIC PETITIONS COMMITTEE**

**21<sup>st</sup> Meeting 2017, Session 5**

**CONVENER**

\*Johann Lamont (Glasgow) (Lab)

**DEPUTY CONVENER**

\*Angus MacDonald (Falkirk East) (SNP)

**COMMITTEE MEMBERS**

\*Michelle Ballantyne (South Scotland) (Con)

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

\*Brian Whittle (South Scotland) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Finlay Carson (Galloway and West Dumfries) (Con)

Annabelle Ewing (Minister for Community Safety and Legal Affairs)

Neil Findlay (Lothian) (Lab)

Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

Rhoda Grant (Highlands and Islands) (Lab)

James Mackie

Maggie Mellon

Edward Mountain (Highlands and Islands) (Con)

Anne Speak

Simon Stockwell (Scottish Government)

Humza Yousaf (Minister for Transport and the Islands)

**CLERK TO THE COMMITTEE**

Catherine Fergusson

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Public Petitions Committee

Thursday 23 November 2017

[The Convener opened the meeting at 08:45]

### Continued Petitions

#### Healthcare Services (Skye, Lochalsh and South-west Ross) (PE1591)

**The Convener (Johann Lamont):** I welcome everyone to the 21st meeting in 2017 of the Public Petitions Committee. I remind members and others in the room to switch phones and other devices to silent.

The first item on our agenda is consideration of a continued petition, PE1591, which is on the major redesign of healthcare services in Skye, Lochalsh, and south-west Ross. I welcome to the meeting Kate Forbes MSP, Rhoda Grant MSP and Edward Mountain MSP. The petition was scheduled for consideration at our previous meeting on 9 November, but because of time constraints the committee agreed to defer the agenda item until today to ensure that we had sufficient time to consider the issues.

In May, when we previously considered the petition, we agreed to write to the Cabinet Secretary for Health and Sport to ask her to address the petitioner's on-going concerns about the service redesign. The cabinet secretary's response is included with our meeting papers, along with submissions from NHS Highland and the petitioner. In her response, the cabinet secretary sets out the assurances that she has received from NHS Highland with regard to concerns about the further development of services for local people, including palliative care, community care, respite care and care at home. She notes that the board's integrated community team is taking forward development work in that area. In addition, she refers to the assurances that she has received from NHS Highland in relation to concerns about access to primary and emergency care, and on the board's efforts to engage with local communities to

"build greater confidence in the process".

It is the cabinet secretary's understanding that the board's offer to meet local councillors was turned down, and she reiterates her encouragement to all local stakeholders

"to work with the Board to take this important work forward".

The submissions from the cabinet secretary and NHS Highland address the concerns about

transport and access to Broadford hospital. NHS Highland acknowledges the concerns, but it considers that the issues are long standing and span a wider area than health services alone. The board has commissioned a team from the University of Aberdeen to assess any specific implications of the changes to transport and access to Broadford and to look at how those might be addressed.

The petitioner expresses in her submission the view that the community's concerns are being ignored and that the service redesign is

"being used as a cover for cuts to essential health and social care services".

Do members have any comments or suggestions for further action? It might be helpful if colleagues who represent the area speak first, so I will bring in Kate Forbes.

**Kate Forbes (Skye, Lochaber and Badenoch) (SNP):** I am happy to kick off. I will touch on two issues, which have been mentioned previously at the committee and which are totally interlinked: the redesign and the current management of services. The petition ultimately calls for an independent scrutiny panel, and if the committee were to go down that route, I would support it. The petitioner highlights two main issues that relate to transport and to population growth at the north end of the island.

I turn to my concerns. The greatest flaw that I can see in the redesign is that it is full of nice ideas that are not matched by the reality on the ground. One issue is the number of beds. If we had a thriving care-in-the-community system that was working exceptionally well, I could see a reason to cut bed numbers, but there are problems with care in the community. A second issue concerns residential care beds. Again, the redesign is based on the premise that there will be a certain number of residential care beds, but numbers have been cut by private operators in the past few years. The third issue, which is of concern to most people, is out-of-hours care. When I asked the First Minister about that issue a few weeks ago, she said that there would be "no changes to out of hours". However, when I speak to people on Skye, they feel that there have already been changes to out-of-hours services. Those three issues are to do with the redesign, which is an issue in and of itself that the committee is considering today.

I move on to the current management of services, which the committee has discussed at large. There has been a continual apparent downgrading since the summer. First, Portree hospital was closed to admissions due to staffing, then out-of-hours services were temporarily suspended. This week, not in Portree but at

Broadford, maternity services have been temporarily suspended for a month as a result of staff absences. That is currently a critical concern for my constituents.

Over the past month, the cabinet secretary has recognised those issues and has asked NHS Highland to consider undertaking an external review of out-of-hours and emergency services in Portree. The review was announced at the end of October, but I believe that the terms of reference for an independent external reviewer are still being agreed. There are concerns that the review's remit does not go far enough, but I certainly welcome it as a first step. The cabinet secretary also asked NHS Highland to establish a steering group in which community representatives from the north end of Skye could participate. Again, though, everything has been happening so slowly. The establishment of a steering group has been discussed since the middle of summer, but it has still not happened. I would like to have seen more progress on the external review in the past month than has been the case. The petition offers an opportunity to highlight those issues again, and to flag up the frustrations that people in the north end of the island continue to experience.

I will leave it at that, as I recognise that my colleagues have more to say.

**Rhoda Grant (Highlands and Islands) (Lab):** I will not repeat what Kate Forbes said; I will simply add a little to it. The review is welcome, but there are real concerns that it does not go far enough to address the issues that people have raised.

NHS Highland said, as the convener mentioned when she introduced the petition, that it is aware of a long-standing issue with transport. If the board is aware of such long-standing issues that are wider than the NHS, surely it should consider them in the redesign process, rather than just saying that there is an issue and that the redesign will take place in spite of it.

A group was set up to look at transport and was supposed to report in June and again in September, but it has still not reported. To an extent, all the work that is supposed to reassure the community and move it forward appears to be stagnating. There is a bit of a stand-off between the community and NHS Highland, which I think has arisen because of a lack of trust from the community.

In Portree hospital, which has been closed to new admissions, two in-patient beds are currently occupied by people who are waiting to go to care homes. The fact that they have been there for a considerable length of time shows us just how little people can rely on care in the community, especially in respect of step-up, step-down care and palliative care, which it is really important for

people to access close to home. For the petitioner, there are still real outstanding issues.

**Edward Mountain (Highlands and Islands) (Con):** The problem with speaking last in a group of three is that everyone has mentioned everything that I wanted to say. However, I will make two comments. The first concerns the lack of trust between the community and NHS Highland. The offer by NHS Highland to meet councillors is seen as divisive because the board is trying to pick off individual people rather than engaging with the community. Another concern, which is relevant not only to the situation in Skye but to all decisions by NHS Highland, is the board's manipulation of statistics to achieve the end that it seeks. That might mean that it downgrades services slowly and therefore reduces the amount of people who are taken in, or that an ambulance moves from one hospital to another and bypasses the one in between.

Every day, I get letters to do with the situation in Skye or Caithness. An independent review, which has been called for by both my colleagues who represent the area, is critical, and it is important that we keep the petition open to ensure that that review happens. I thank you, convener, for allowing me to speak.

**The Convener:** That is no problem.

What do members think about the petition? We must be alive to the fact that some of the issues are simply operational—they are not simple for the people who are dealing with them, but they are operational matters and are therefore not for the Public Petitions Committee to consider. We have to look at the national issues. I know that the petitioner has expectations of the committee, and she has understandably expressed frustration about what is happening. Do members have any suggestions for how we might take the petition forward?

**Brian Whittle (South Scotland) (Con):** I have listened to discussions about the petition over a period of time, and it strikes me that more than half the population of Skye have signed it, so it is obviously of significant influence up there. I would like to hear from the population of Skye—from a representation of the people of Skye themselves.

The cabinet secretary has suggested that the Scottish Government is happy with what is being proposed, but I would be interested to see where the Public Petitions Committee could go with the petition. I am certainly not inclined to let it go. Too much of the population of the island have a vested interest and have taken the time to participate in the petition.

**The Convener:** I wonder whether the issue is as Kate Forbes has identified: that the forum and the independent review should be established,

which could provide some sense of progress. Given the cabinet secretary's commitment and the gap between what the First Minister has been advised and what has actually been happening, if we got reassurance from the cabinet secretary about a timetable for that, would that give people comfort? Would that be an option?

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I think that that would be the road to go down at this stage. There is definitely a disconnect with information, and it would be good to get clarification on that from the cabinet secretary.

**Michelle Ballantyne (South Scotland) (Con):** I am particularly concerned about the disconnect, in that the cabinet secretary is saying, "This is what is happening," but there is other evidence from the petitioner, and now from our colleagues. I have taken part in health service changes reviews and transformations, and I am aware that there is a huge reliance on the data that proves that a service is not needed in one place or is needed in another place. If we downgrade and reduce access to a service, we can use such data to justify the changes.

The petition raises a number of questions about the process of the review, and the petitioner indicates that in some of the background information. She discusses how

"the design process and the public consultation that sought to justify its outcome are both deeply flawed."

I am not entirely clear from the paperwork in front of me what those deep flaws are, or what the petitioner was referencing in the petition. I am assuming from the paperwork that I have that the action that the committee has taken so far is to write to the cabinet secretary.

**The Convener:** We questioned the matter, and we went back to the cabinet secretary at least twice on the question of confidence in the process. The cabinet secretary has said that she is confident in the process. I do not think that that will change.

In my experience, people tend to be confident in a process if it they get the outcome that they want. That is not to say that the process is not flawed. If people are unhappy with the way in which services are going to be configured, they will not be content with the process that got them to that point.

**Michelle Ballantyne:** To be fair to the cabinet secretary, she is taking her information from NHS Highland's management team, who are not going to say that their process was flawed. There is a slight disconnect there. I wonder whether we should have a conversation with the management team. We could ask them to come and give evidence on what they think about their process. We could also ask them some of the questions

that the petitioner has raised in her last communication, and that Kate Forbes has raised this morning, on the downgrading of beds and the statements and operational activities that do not match up. Those are the key elements of what the islanders are experiencing.

**The Convener:** I would be concerned about creating an impression that we can somehow adjudicate on the matter and would be able to come to a view. Some of the issue is operational, and we are considering national issues. I do not think that we can insert ourselves into a process and create the impression that, having heard all the evidence, we can make a judgment on how services should be configured.

**Michelle Ballantyne:** I do not think that we would be taking any view on how services should be configured or how they should look. The petition is calling for an independent review, and the petitioners want the matter to be looked at again. The committee has to come to a judgment on whether or not that is necessary, not a view on whether the decision is right or wrong. That would be for the review to decide.

09:00

**The Convener:** The argument is how we get people to justify what they have done and to be open about the decisions that have been made. The independent scrutiny panel that Kate Forbes mentioned would do that job, but our concern is that that body has not been established.

**Kate Forbes:** Can I clarify that? There are two distinct issues. The petitioner wants an independent scrutiny panel to look at the entire consultation process, and a review of the redesign. A month ago the cabinet secretary announced an external review of services that are currently being provided at Portree hospital, because of the disconnect between the First Minister saying, "We will make sure they are good", and the people on the ground saying that they are not good. The petitioner wants an external independent reviewer to go in now to establish whether the reality matches the assurances that there is reliable out-of-hours and emergency cover in the hospital.

There are two different issues. One of them relates to the redesign, and it is for the committee to decide what to do about that. On the other issue, the cabinet secretary announced an external review. I am frustrated that that is not being done faster, because the announcement was a month ago and the terms of reference are still to be agreed.

**The Convener:** We considered the scrutiny panel previously. Clearly, we do not want to let the petition go, because we recognise how important it

is. We are also alive to the fact that decisions have to be made. Operational matters will be decided by NHS Highland and the cabinet secretary is content with the process. Will we seek movement on the independent review that Kate Forbes has talked about and the establishment of the forum?

**Rona Mackay:** We need to probe further into the progress on that. The response that we get to that will enable us to decide how we go forward with the petition.

**Angus MacDonald (Falkirk East) (SNP):** Could we ask the cabinet secretary to extend the terms of reference of the proposed independent review of the out-of-hours cover in the hospital to include something more akin to what the petitioners are looking for? Given that we are still waiting for the review to kick off, there is an opportunity to extend its remit.

**The Convener:** I suggest that we contact the cabinet secretary with concerns about the mismatch between what she believes to be happening and what the petitioners say is happening on the ground. We welcome the establishment of the independent body and of a forum, but we want a strict timetable for them. We should ask her to give us a timetable and to look at the question of the terms of reference, which are in the process of being developed, recognising the concerns that have been highlighted to the committee. Is that agreed?

**Michelle Ballantyne:** If we do that, can we also highlight the time critical nature of this? The papers indicate the progress that the national health service is making around the employment of architects and the site, et cetera. If we are taking the petition seriously, we need to ensure that the review moves faster, otherwise the redesign will become a fait accompli with no option to go back.

**The Convener:** Your point about creating a self-fulfilling prophecy is well made: you run down a service and then prove to people that it is not being used. If that is justified, there will be changes.

There is a lot to be done. It is agreed that we will write to the cabinet secretary and await a response. I thank Kate Forbes, Rhoda Grant and Edward Mountain for their attendance.

### **Children (Scotland) Act 1995 (Section 11) (PE1635)**

**The Convener:** Agenda item 2 is the taking of evidence on a continued petition, PE1635, by Emma McDonald, which calls for a review of section 11 of the Children (Scotland) Act 1995. I welcome Neil Findlay.

Recent correspondence from the Scottish Government and the petitioner has been circulated with our meeting papers, along with a range of documents and papers that are referred to in the submissions.

Our previous consideration of the petition was in May, when we took evidence in a round-table format from Relationships Scotland, Families Need Fathers Scotland, the Children and Young People's Commissioner Scotland, Scottish Women's Aid and the ASSIST project. That session was very useful in informing our thinking on the petition, and it drew out a number of issues that the committee agreed to explore with the Scottish Government.

I welcome Annabelle Ewing, the Minister for Community Safety and Legal Affairs, and Simon Stockwell, head of family and property law at the Scottish Government. Thank you for attending, minister. You have up to five minutes to make some opening remarks, after which we will move to questions.

**The Minister for Community Safety and Legal Affairs (Annabelle Ewing):** Good morning. Thank you for the opportunity to make a short opening statement. Before I do so, I draw members' attention to my entry in the register of members' interests, which notes that I am a member of the Law Society of Scotland, as I hold a current practising certificate—albeit that I do not currently practise.

The Scottish Government recognises the concerns that are raised by the petition. The petitioner is not alone in having those concerns, as a good proportion of my ministerial correspondence is about contact and residence cases. Having recognised that there were concerns, we made a commitment to consult next year on potential changes to primary legislation in that area, and we are committed to making changes to improve the system, where we can, in advance of primary legislation. For example, we have chaired a working group on child welfare reporters, who provide reports to the sheriff in such cases. That working group led to greater clarity in court rules on the remit of reporters, and it produced a guide for parties and guidance for reporters. We are currently preparing a guide for children on the work of reporters.

In another area, we recommended to the family law committee of the Scottish Civil Justice Council, which works on court rules, that the court form that is used to obtain the voice of the child in such cases should be improved. That work has been taken forward, and rules to put in place a new, more child-friendly form will be considered at the next meeting of the family law committee of the Scottish Civil Justice Council on 5 February 2018.

We also recommended to the family law committee that changes should be made to the case management of family actions. A sub-committee has reported on suggested improvements in that area, and the Scottish Civil Justice Council has just agreed that there will be an open consultation on the proposals. We await the exact timings of that consultation.

I recognise the particular concerns that have been raised by the petition on child contact centres. Next year's Scottish Government consultation will discuss the role and remit of those centres. It will also seek views on regulating them. In the meantime, the Scottish Government is making it clear to Relationships Scotland and the four independent child contact centres that we expect those centres to offer safe, secure and welcoming environments.

Next year's Scottish Government consultation will be wide ranging. Its timing is no accident. As the committee will be well aware, the Domestic Abuse (Scotland) Bill is currently being considered by the Justice Committee. The bill is about the criminal justice response to domestic abuse, but points are being raised during its passage about the civil justice response to domestic abuse in areas such as contact. We will cover those issues in next year's consultation.

To recap, among other issues, next year's consultation will include consideration of the regulation of child welfare reporters, including issues to do with training; the regulation of child contact centres; the protection of domestic abuse victims when contact cases are being heard and the need to consider further how contact cases are dealt with when domestic abuse has been alleged; and further steps to ensure that the voice of the child is heard in contact cases.

In conclusion, the Government recognises that action is needed in the areas that the petition identifies. I look forward to answering the committee's questions.

**The Convener:** Thank you. The petitioner's most recent submission sets out some concerns about the consultation that is to be undertaken by the Government and details a number of questions that she would like to be asked. How would you respond to the concern about the consultation and the business and regulatory impact assessment being a means of

"pushing the issue further into the future and putting off taking any action"?

**Annabelle Ewing:** I noted the petitioner's submission in that regard. The business and regulatory impact assessment, or BRIA, is a normal part of the process of proceeding with legislation and having consultation—that is

absolutely standard. We have gone out to talk to stakeholders about it.

The consultation will be publicised on the Scottish Government website in the normal way, and I imagine that it will be picked up by the media, because the subject is sensitive and people will have differing views on the way forward on family law issues.

The petitioner wondered how her views could be factored into the consultation. It will be an open consultation. In correspondence that I have received as minister that has raised cases in this area, we have flagged up next year's consultation and have asked whether the correspondent would wish to be added to the list of people with whom we will make direct contact. If the petitioner would wish to be in that position, we would be happy to facilitate that.

**The Convener:** The business and regulatory impact assessment seems to have a higher profile than in other consultations that I have seen. Are you saying that, when you do a consultation, that bit of the process is always the same?

**Annabelle Ewing:** We have to have a BRIA to proceed with legislation. We felt it prudent to start to engage with stakeholders now, which is part of the standard process.

**The Convener:** I suppose that I was trying to get at whether the BRIA would normally be as highlighted as it has been in this consultation. I have not noticed it before, but that might be because, on this occasion, it has been drawn to my attention. It seems more evident than it has been in the past.

**Annabelle Ewing:** As far as I am concerned, it is fairly standard. I will ask Simon Stockwell to comment.

**Simon Stockwell (Scottish Government):** With this BRIA, we took the approach of asking a wider range of questions than would perhaps be normal when preparing a BRIA. As the minister said, we prepare a BRIA for major consultations. When we looked at this consultation, we thought that it was an opportunity to seek information not just about costs and savings, but about the wider policy questions that stakeholders have raised and that people have mentioned in correspondence to the minister.

**The Convener:** You said that the consultation will be next year—in fact, I think that you said that it will be early in 2018, which is not very long now. Can you provide more specific dates? How long will it run for?

**Annabelle Ewing:** We hope to have the consultation out in spring 2018; the consultation period is 12 weeks.

**Rona Mackay:** Good morning. You have acknowledged that Relationships Scotland has said that it would support external regulation of child contact centres. There was a consensus on that at our round-table session in June.

Serious concerns have arisen about the physical accommodation of contact centres and the potential impacts on child safety—you alluded to that in your opening statement. I am concerned about whether the timeframe for the consultation will enable the Government to take the necessary steps to ensure the safety of the physical environment at the earliest opportunity. The fact that there is to be a 12-week consultation next year means that children will continue to attend those centres for quite a while when they will not be entirely safe. There is still quite a wee way to go.

**Annabelle Ewing:** I do not know whether I would accept that the children are not entirely safe. Relationships Scotland, which has 45 or 46 of the contact centres in Scotland, has a quality assurance framework whereby it has various policies and standards in place. It has staff training, as it has mentioned in its submission to the committee. Although the bricks and mortar varies from place to place, I recently visited the Avenue service in Aberdeen and the Family Mediation Central Scotland office in Stirling—it also has offices in Alloa and Falkirk—and I left without any qualms. The issues are dealt with with the utmost seriousness. The respective heads of the Avenue and the centre in Stirling have been working in the field for many years and, for them, the safety of the child in the contact centre is absolutely paramount.

09:15

I take the wider point about how we will progress the matter and the need to proceed with the consultation. That will not lead to primary legislation overnight. We would be happy to continue our dialogue with Relationships Scotland and, indeed, with the four independent contact centres with which we have been in touch, to ensure that all relevant safety and other standards are being adhered to.

**Rona Mackay:** If I understand you correctly, you are saying that you will be making extra checks on the centres. When we took evidence, we heard about some incidents. Those might have been specific to one centre, but they were alarming—there were child safety issues, with children being left unaccompanied with boiling water and allowed to run out into the street. Will you commit to saying that, until the consultation is completed, the existing centres will be checked and staff refreshed on the safety aspects of their duties?

**Annabelle Ewing:** If there are issues to do with physical safety, a number of rules come into play, particularly those on health and safety. It would be really helpful for the Government to know if health and safety issues have been raised in relation to specific contact centres, because we would not hesitate to pursue those issues via the relevant channels to ensure that safety standards are being adhered to.

We will do what we can, but the issue that we need to address—and which we will address through the consultation process—is that there is no regulatory base on which to act. However, as I say, we are in dialogue with Relationships Scotland and the other four contact centres, and we have made it clear that we expect them to be safe, secure and welcoming. We will ensure that we continue to monitor the situation.

**Angus MacDonald:** Good morning, minister. Good morning, Mr Stockwell. I will stick to the child-centred approach and ensuring that a child's voice is heard. The petitioner has offered her observations on the working group on child welfare reporters. She considers that that seems to

“merely represent what has been the status quo”

as per the Government's “Guide to the Child Welfare Report”.

The petitioner notes that the guide says that a child's views could be included in a child welfare report, while it appears that the aim of the family justice modernisation strategy is to

“ensure the voice of the child is fully heard”.

What is your response to those concerns?

**Annabelle Ewing:** I noted those comments. There might be a slight misunderstanding about the scope, because in circumstances in which there was a new-born baby, the part of the form that deals with that would not be relevant. There is no intention behind this other than simply to reflect that the child could be of any age.

On the child's voice being heard, that key issue will very much be part of the consultation, because we recognise the very important work that is going on in that area. An example of that is the power up/power down project. There are many interesting strands to the work, and we are keen to ensure that that issue is fully debated in the consultation.

On the issue of the child welfare reporters, as I have mentioned, we have been carrying out a number of activities. One was to ensure that guidance was available for child welfare reporters and for the parties to the case, and we are working on guidance for children on child welfare reporters. There has also been a change in court rules in

terms of remit to seek to make it possible for more specific instructions to be given to child welfare reporters in incident cases.

We have recommended that there be training. At the moment, the Lord President does not consider that that important issue can be proceeded with without a statutory basis, so that issue will be included in the consultation. However, we have written to the relevant bodies—the Law Society, the Faculty of Advocates, the Family Law Association Scotland and Social Work Scotland—to ask them to reflect on what training they can ensure that their members who are child welfare reporters have access to in the interim. It is not as if we are simply waiting for legislation. We are doing whatever we can that can be done outwith a legislative route, and we are happy to continue to engage in that way.

**Michelle Ballantyne:** Funnily enough, I was going to ask about the qualifications of a child welfare reporter, but you have touched on that in the context of training. The petitioner has commented that, because solicitors are professional law practitioners, it should not be taken as read that they are the best option to fulfil the role of a child welfare reporter. She has compared it to the position of police officers, who have the same broad training, but some of whom receive specialist training if their role involves speaking to children. That is a good reflection on what needs to be done.

Minister, you mentioned the recommendations that have been made to you, but what are your thoughts on the need for anyone who carries out the role of child welfare reporter to have received specialist training? It is suggested that it might be beneficial to make more use of children's rights officers or children's advocacy workers to bridge the gap and allow a child to feel that their views are being heard and represented throughout the process. What is your view on that?

**Annabelle Ewing:** On the first issue, we can all benefit from training in different walks of life. That is why we recommended that there be training, but we have hit this slight legal vacuum whereby we need to have primary legislation to do that, so we are taking the opportunity in the consultation to consult on that and on wider regulatory issues as well.

The issue of children's rights officers involves local authorities and their resources, and how they interact with the civil legal system and, indeed, the criminal justice system in some cases. Therefore, the committee would need more information from the local authorities.

**Michelle Ballantyne:** Dr Marsha Scott, who is very familiar with the role of children's rights

officers, particularly in West Lothian, commented that

"it is not rocket science".—[*Official Report, Public Petitions Committee, 22 June 2017; c 10.*]

She said that it is important to have somebody who knows how to engage with children and win over their trust, and who understands the nature of domestic abuse. She pointed out that one officer has a case load of more than 200.

What is your view on managing workloads in whatever role is used to ensure that a child's voice is heard? When someone is dealing with such a heavy case load, that definitely raises questions.

**Annabelle Ewing:** When it comes to people who are employed by the local authorities, one would need to discuss those matters with them, but the case-load issue has not been flagged up directly with me by the local authority concerned. If officials wish to write to me and meet me to have a discussion about that, I will be happy to do so, but that has not come up in correspondence with me.

On the wider issues that have been raised, the consultation will provide the opportunity to have a debate about the best model going forward. I accept that there will be many different views in that regard, and it may be that, for some people, the training of child welfare officers will be neither here nor there, because they would prefer to have something else in place. The consultation will provide the opportunity for a full discussion, and we will encourage as many people as possible to make submissions to it.

**Brian Whittle:** Good morning. The annex to your submission provides the response from the Judicial Institute for Scotland with regard to the judicial training that has been available for the past year or so. I acknowledge that training is a matter for the Judicial Institute, but do you have any observations to make on the information that was provided?

**Annabelle Ewing:** There has been some training. There was a suggestion in one of the submissions that I read that there was no training at all. The annex indicates the dates of the training, the topics covered and the total number of judges who attended, albeit that it was recognised that some judges might have been very diligent and attended several courses.

Brian Whittle is absolutely right to say that training is a matter for the Judicial Institute. It would not be appropriate for me, as the minister, given the independence of the courts, to dictate those matters to the Lord President, but we have raised the issue with the Lord President. We will continue to reflect back the comments that we receive on the subject matter but, at the end of the day, while we can work with the Lord President,

ultimately it is up to the Judicial Institute to determine such matters.

**Brian Whittle:** I will address training for contact centre staff and volunteers. When we took evidence from the petitioner, concern was expressed about how much time is spent on training staff. There was a sense that it varies according to resources, both in terms of personnel and funding. At a round-table meeting, we heard that there is a range of training to take account of two types of contact—supervised contact and supported contact. Much more in-depth training and knowledge are required to facilitate supervised contact which, we heard, accounts for approximately 10 per cent of all contact and requires two well-trained members of staff. What are your views on requirements for consistency in training, and what would you consider to be the minimum requirement?

**Annabelle Ewing:** The submissions that we have received reflected—Relationships Scotland certainly made the point—that there is training, although they acknowledged that the number of available hours varies. I think that the training for supported contact is shorter than that for supervised contact, the training for which is more intensive in order to reflect the more complex scenarios that are presented in supervised contact.

We accept that there are concerns about consistency in the level of training. It is one of the issues that we will address next year in the consultation, which will include looking at regulation of contact centres.

**Michelle Ballantyne:** That leads very nicely to the thorny question of funding arrangements for contact centres, in so far as they apply to centres that are operated by Relationships Scotland. The information that has been provided to us suggests that its network receives approximately £866,000 annually. The majority of that—£700,000—comes from the Big Lottery Fund and £166,000 comes from the Scottish Government. That funding covers 45 or 46 centres and somewhere in the region of 400 members of staff and volunteers, which is an average of about £18,000 per contact centre. Can you comment on the amount and sources of funding, given the role that contact centres are playing?

**Annabelle Ewing:** I anticipated a question on funding. In 2016-17, £1.5 million was given to Relationships Scotland. The same amount was given again in 2017-18. In addition, the Scottish Government provided £370,000 to Relationships Scotland over the past three years to allow it to establish and develop its parenting apart service. Those resources come from the early years portfolio rather than the justice portfolio. It is important to flag that up so that if the committee

has supplementary questions, you will know where to direct them in the first instance.

As far as the justice portfolio is concerned, it is important to bear it in mind that the Scottish legal aid fund also comes into play for supervised contact. In 2016-17, the amount that was sanctioned for supervised access was £481,973. It is important to give the committee that wider picture: the Scottish Government has not provided just £166,000, full stop.

**Michelle Ballantyne:** That was a very fortuitous comment, because my supplementary question is about legal aid. You are quite right: according to figures that we have been given, a big chunk of the extra funding that is required by clients to access contact centres comes from legal aid.

One concern is what happens when a client does not qualify for legal aid. Can you give us an example of what happens in that scenario?

**Annabelle Ewing:** Do you mean for supervised contact?

**Michelle Ballantyne:** Yes—using contact centres.

**Annabelle Ewing:** I will have to look into that, although I imagine that that is the exception rather than the rule.

**Simon Stockwell:** We can look into that. Some contact centres would probably charge, and the charge would vary from centre to centre. Many supervised contact cases are legally aided, but we probably do not have a precise split of how many are and how many are not. The expectation is that many such cases get legal aid.

**Michelle Ballantyne:** That would be a good thing to look at, because there is a question about what happens in such situations.

**Annabelle Ewing:** Do you want information on supervised contact?

**Michelle Ballantyne:** Yes.

**Annabelle Ewing:** The answer will depend on how the information is broken down, but we will try to that find it out, if it is available.

09:30

**Michelle Ballantyne:** It may be worth recognising where there is not a requirement but there is a fear, and therefore people are asking for that support through a contact centre. It would be good to know why they are being turned down, and the number of cases that are being turned down.

**The Convener:** Rona Mackay wants to ask a supplementary question. Do you want to ask your main question at the same time?

**Rona Mackay:** Yes.

The Relationships Scotland submission says that it is developing a strategic post of head of professional practice for child contact centres, which would be a step in the right direction. However, that post will be funded only until March 2019, and the funding will come from its reserves. Could there be a problem with ongoing funding to retain that post?

**Annabelle Ewing:** Regarding the contribution that the organisation gets from the Scottish Government, we are going into the draft budget period. Far be it from me to prejudge Mr Mackay's processes—

**The Convener:** Surely you will make a presentation to the Cabinet Secretary for Finance and Sustainable Growth. It would be for you to judge that and to inform him that funds should be provided.

**Annabelle Ewing:** The budget heading is in the early years portfolio, but I will pass that comment on to colleagues. Relationships Scotland has advised that it has managed to find money from its reserves, notwithstanding the fact that initially it did not think—

**The Convener:** Might it be the case that the organisation had to find the money from its reserves because nobody else was going to fund the post. I am interested in how that works. Relationships Scotland found the money because it recognised that there was a need, but because it found the money, it will not qualify for funding, which is a little perverse.

**Annabelle Ewing:** The organisation found the money from its reserves and says that the money will be in place until March 2019. I will certainly pass on the convener's comments to colleagues in the early years portfolio.

**The Convener:** Is the funding that Relationships Scotland is being given for contact centres secure past March 2019?

**Annabelle Ewing:** Its budgetary funding award is to March 2019. I am not in a position to say what its funding will be beyond then.

**The Convener:** So, Relationships Scotland cannot have any confidence to plan ahead.

**Annabelle Ewing:** The budget has not been drafted or approved by Parliament. We are about to go through the budget process, so I cannot offer a guarantee or make a statement about that.

**The Convener:** If contact centres are fundamental to child protection and to supervision and are being directed by the courts to provide that service, should not they have secure funding?

**Annabelle Ewing:** I do not know. You are arguing that bodies like Relationships Scotland should have secure funding, but for how many years? Should it be five, 10, 15 or 20 years? I do not know. That is another budget discussion to be had.

**The Convener:** Something that may come out of our deliberations is why a voluntary body should provide a service that has been directed by the courts. That is part of the dilemma that we face.

**Annabelle Ewing:** Although the organisation will be directed by the courts, most support will be paid for out of legal aid funds, as has been mentioned.

**The Convener:** We do not know whether that will be the case. Legal aid is certainly not paid for all cases.

**Annabelle Ewing:** Legal aid will be paid for most supervised contact.

**Rona Mackay:** What is the minister's response to concerns about people's confidence in the system? Serious concerns have been raised during evidence sessions. Will the consultation allay those fears?

**Annabelle Ewing:** The consultation affords an opportunity to have a good discussion about where we will go from here. It is recognised in some submissions that how contact centres have developed has been driven by local community developments. They have evolved in an ad hoc fashion; therefore, it is time to have a look at them. The petition reminds us that consultation would be a useful process on which to embark. I was struck when I visited Family Mediation Central Scotland's centre in Stirling a few weeks ago that 65 per cent of cases involve contact referral work. We should all bear that interesting statistic in mind as we look to the future.

**Neil Findlay (Lothian) (Lab):** We are dealing with the issue only because of the ambivalent attitude of the Scottish Government when I raised the matter a few years ago after the petitioner, who is a constituent of mine, came to speak to me. Had the issue been taken seriously at that point, we might never have reached this position, but we are where we are.

I always get worried when people say that things will happen in the spring, because in Parliament spring can run anywhere from January to December. A firm timeline on when we will see action would be helpful because the minister mentioned spring, but she also mentioned a 12-week consultation. What is the end point? When will the action point be? That is the most critical thing.

This is a very good example of how the rhetoric of wanting Scotland to be the best place for

children to grow up in is not matched by the reality, so my first question is to ask whether the minister personally supports regulation of child contact centres.

**Annabelle Ewing:** I do not want to pre-empt the consultation, but I can see that regulation is almost certainly the way forward. Relationships Scotland has acknowledged that and has no objection. When I spoke to the workers at the Avenue and the Family Mediation Central Scotland centres, they were quite happy with that, too.

I appreciate that Neil Findlay has represented his constituent well, and I do not want to take away from that, but it is not quite fair to say that the Scottish Government is ambivalent on the issue. We are very clear that a number of things need to be done. We need to have a proper consultation and a proper discussion, then to reflect on that and work out the best way to proceed, be that primary legislation for some matters, or other routes, such as court rules or whatever for other matters. We will work as quickly as we can, but we have to respect the processes that we as Government must go through.

**Neil Findlay:** I was making the point that we are here only because of the petition. Previous efforts, including correspondence with and meeting civil servants, have not resulted in very much. That is why we are where we are.

Earlier, you mentioned the safety of children, which is always the paramount priority for us all. You expressed some confidence that the contact centres are providing that safety, but I have heard about a contact centre where a child was put in a room with an open window at ground level, where an electric bar heater was used to heat a room in which there was no closed-circuit television, and where the person who was staffing the centre had limited child protection experience and was trying to cajole and urge a child into contact with the parent when the child clearly did not want it. That does not sound like a satisfactory or safe situation.

**Annabelle Ewing:** I understand your concern—I share it. I do not know in which submission that issue was raised, but I wonder whether the matter could be teased out such that we get information and hard facts about that contact centre. Is it a Relationships Scotland centre? Is it an independent centre? If we know that, the matter can be pursued, and it would be important to do so, given the incidents that Neil Findlay describes. If we do not know which centre it is, we cannot make progress such as we would like.

Any incident in which safety is compromised is worrying and must be dealt with, but I do not think that I have received any correspondence about an incident at any of the 45 or so Relationships Scotland contact centres and the four that are not

Relationships Scotland centres. I am looking at my official as I say that—I can see that he is worried by my making such a statement. I just do not recall off the top of my head any such correspondence. I am happy to look into the matter, but such issues are not coming through my correspondence regularly.

Therefore, it is important to recognise that although we absolutely need to look to the next stage of how we operate contact centres, we should not lose sight of the fact that for many individuals who interact with contact centres every week such incidents are not their experience—they have a good experience. That is all credit to the workers in the contact centres, who do a fantastic job. We want information on any example in which that is not the case so that we can look into the matter.

**Neil Findlay:** I have a small final point to make. You mentioned non-legal-aid cases. My understanding is that there is a charge of about £80 an hour for supported child contact service in those cases.

Finally, I return to my first point. You mentioned spring next year and a 12-week consultation. What is the timeline for the work?

**Annabelle Ewing:** On the first point, Relationship Scotland's submission said that

"Most of our child contact centres do not charge for supported child contact."

You might want to factor that information from Relationship Scotland into the committee's deliberations.

On timing, we will have the 12-week consultation in the spring. We hope thereafter to proceed as quickly as possible. The consultation will deal with many important issues of concern in family law including parental rights and responsibilities, child contact centres, how contact interfaces with issues of domestic abuse, the right of the child to have their voice heard, the position of grandparents and a number of other issues. It will look comprehensively at where we are with family law issues, given changes in society and related matters since the Children (Scotland) Act 1995 was introduced. We have no reason not to proceed as quickly as possible, but we accept that we have to go through the necessary processes.

**The Convener:** Neil Findlay's constituent has highlighted the specific concerns that prompted the petition, but we will be dealing with the broader issues. You could perhaps correspond directly with the committee on the specific concerns relating to those incidents.

**Annabelle Ewing:** That would be really helpful, because we absolutely want to get to the bottom of the situation.

**Michelle Ballantyne:** I am new to the process and may have missed this in the earlier discussions but are you working on the presumption that contact is good for the child? When you talk about the voice of the child in particular, is the starting presumption one of contact or one of not having contact unless the child wishes it?

**Annabelle Ewing:** Under the current legislation—the 1995 act as amended by the Family Law (Scotland) Act 2006—that is the fundamental issue. The welfare of the child is the paramount consideration. That is the overriding benchmark by reference to which a decision has to be taken. You have to look at whether a decision on contact should be made—that is set forth in legislation. You have got to the heart of the matter because contact may not be in the best interests of the welfare of the child in all cases. The court already has that test before it.

There were wider issues on presumption against contact—for example, in domestic abuse cases—in some of the submissions. Some stakeholders put forward that view, at least as a matter for discussion. Other stakeholders took the view that if there is that presumption in those circumstances, that may cut across the voice of the child, and therefore the overarching test that the welfare of the child is the paramount consideration. Those issues are very weighty, difficult, complex and sensitive. A benefit of having the consultation is that those issues can be fleshed out and we can have the much-needed discussion that many stakeholders want.

**Michelle Ballantyne:** It is extremely important because the context of presumption of contact or no contact affects the stress levels of young people—particularly those who are a bit older and recognise the stress of contact. A child will often not want to deny their parent contact even if they are stressed by a potential meeting. It is something that really needs to be looked at.

**Annabelle Ewing:** You are right. For clarity, in legislation, there is not a presumption either of contact or no contact. You start with the welfare of the child.

**Michelle Ballantyne:** The presumption is not written into law.

**Annabelle Ewing:** Many people have the perception that the presumption is one of contact. I understand that, and we must have that discussion.

**Angus MacDonald:** Do any aspects of the Domestic Abuse (Scotland) Bill feed into the discussions on child contact centres and the child contact process?

09:45

**Annabelle Ewing:** As I mentioned in my opening remarks, we were keen to proceed with the Domestic Abuse (Scotland) Bill to address how the criminal justice system handles domestic abuse while recognising that a number of issues would be thrown up as a result of those deliberations. Rona Mackay, as the deputy convener of the Justice Committee, is well versed in the deliberations on that bill. We recognised that a number of issues that would have an impact on our civil legal system would arise and the Cabinet Secretary for Justice has already indicated that we will consider the interconnection with the civil legal system in the context of the work on family law, our consultation and then the legislation to come.

**The Convener:** Some of the people who have a view on the matter would not necessarily be reached by the consultation process or might feel uncomfortable about it. Do you have plans for reaching out to some of the people who are affected by the issues that have been highlighted but who might not be the normal stakeholders with easy access to the consultation?

**Annabelle Ewing:** You make an excellent point, convener, and we will reflect carefully on that. Every consultation is slightly different. When Lord Bracadale was reflecting on how best to proceed with the consultation on the review of hate crime legislation, he had to bear in mind many issues about how to reach the people from whom he really wanted to hear in addition to the normal stakeholders.

**Simon Stockwell:** We might speak to some of the local women's aid groups. In the past, I have spoken to women's aid in Paisley to learn about their experience with child welfare reporters, for example. We are also mindful of the need to hear the voices of children. We might, for example, speak to the Scottish Youth Parliament or the Children's Parliament. I think that the children and young people who worked with Scottish Women's Aid on the power up/power down project are still available to speak to about their experiences of the system. There are a number of ways of getting out to people other than the usual suspects.

**The Convener:** Another possibility would be to speak to or correspond with the petitioner about how you might get information from people who are using the service but are not necessarily involved in any particular groups.

Obviously, after the consultation, you have to analyse and report on the responses and then draft legislation. What is the timetable for that?

**Annabelle Ewing:** We hope to proceed as quickly as possible but I cannot give an exact date because too many variables are involved. We recognise not only that it is a big piece of work but

that it is very important and we want to proceed with it as expeditiously as possible. However, I cannot give you a specific date when a bill will be presented to the Presiding Officer for his reflections.

**The Convener:** Could some things be processed more quickly? Contact is a massive area. However, confidence in the contact centres and their potential regulation is a small subset of that. If bits of the process look as though they can be fairly easily sorted, will you consider taking them separately? Just because you cannot do everything immediately does not mean that you cannot do some things right now.

I remind you that the petition came from a family's direct experience of and concerns about a contact centre. Relationships Scotland has said that it would like regulation. Rona Mackay, who was involved in the hearings system before she came to the Parliament, was surprised—I am not putting words into her mouth—that what she thought the contact centres were offering was not people's actual experience. Will you at least consider treating that issue as a discrete piece of work from the massive amount of work that you are doing on the broader legislation?

**Annabelle Ewing:** As we proceed with the consultation, we will bear that point in mind. It would be premature to say one way or the other today because we often find that tasks that we thought were discrete and straightforward become less so because of interrelated and interconnected issues. It would not be helpful for me to prejudge the outcome of the consultation that is to be held next year. However, we will bear the point in mind.

We are anxious to make progress on all fronts as expeditiously as possible and, if there are ways to do that, we will certainly consider them. However, I cannot in all conscience prejudge the outcome of the consultation today because experience dictates that what we might think is a straightforward set of plans to do something frequently involves many other considerations and becomes a bigger task than we first thought. I certainly look forward to the committee's report and we will carefully consider all the recommendations that it makes.

**The Convener:** Thank you very much.

We have exhausted our questions. Do members have a view on how to take forward the petition?

**Rona Mackay:** We should ask the petitioner for her response to today's evidence.

**The Convener:** Okay. We can reflect on the evidence that we have heard and ask for a further response from the petitioner. That would be useful.

**Brian Whittle:** I am concerned about the timescale. I would like to write to the Government and at least nudge it to give us some sort of indication of when the consultation might take place. Otherwise, if it is not working to a timetable, the matter could just slip and slip.

**The Convener:** I suppose, minister, that you could provide the committee with that information once you have a sense of the timetable.

**Annabelle Ewing:** Once we have a clearer sense of the timetable, we will be happy to share it with the committee.

**The Convener:** I imagine that you must have in your head a timetable against which you are operating, which might slip because you discover that there is more to do. Perhaps you could give us that planned timetable.

**Annabelle Ewing:** There might be an indicative timetable but, before we provide the committee with information, we want to be reasonably confident that we are providing it with the best, most accurate information, rather than red herrings that go nowhere.

**The Convener:** We could also write to the Judicial Institute for Scotland to ask it to provide information about the training courses that are available to judicial office holders. That information could include the duration of courses, how the content of the courses addresses issues in relation to contact centres, clarification of the overall number of the attendees at the training and the specific judicial office held by them. We got some information in our briefing and the courses certainly looked interesting but it would be useful to know their extent and how many people are involved.

**Michelle Ballantyne:** I would like to see some reporting back on the concept of the right person being in the right job. It is about having someone with whom the child feels comfortable, whom they trust and who can really be their voice. To pick up on the conversation about the presumption of contact or no contact, it is important that the right person is involved.

**The Convener:** From our round-table session, we got a sense of the extent to which somebody who has a relationship with the child can be a more effective advocate for them or have an awareness of their anxieties.

There are a number of issues that we can take forward. I thank the minister and Mr Stockwell for attending. The session was very useful indeed.

09:52

*Meeting suspended.*

09:56

*On resuming—***A75 (Upgrade) (PE1610)****A77 Upgrade (PE1657)**

**The Convener:** Agenda item 3 is further consideration of continued petitions PE1610, by Matt Halliday, on upgrading the A75, and PE1657, by Donald McHarrie, on upgrading the A77.

At our meeting on 21 September, we agreed to write to the Scottish Government to ask two specific questions regarding PE1657, including what the timetable was for the Maybole bypass and the action that is being taken by the Scottish Government to address the traffic lights at Marchburn. A response has been received and is included in our meeting papers. We also agreed to join together PE1610 and PE1657 for future consideration and to take evidence from the Scottish Government on the significant concerns that are raised in both petitions in relation to the economy and the road infrastructure.

I welcome, from the Scottish Government, Humza Yousaf, the Minister for Transport and the Islands; Alison Irvine, head of strategic transport planning; and Paul Junik, head of transport forecasts and infrastructure planning.

The minister will make a brief opening statement of up to five minutes, after which we will move to questions from committee members.

**The Minister for Transport and the Islands (Humza Yousaf):** Thank you for inviting me to appear before the committee this morning, convener. I understand that the committee has been considering two separate petitions on dualling the A75 and A77. I will be happy to respond to your queries.

Before I do that, it may be helpful if I set out the Scottish Government's position. The Government understands the important strategic role that both the A75 and the A77 play in connecting the communities in Dumfries and Galloway and South Ayrshire with the central belt and the north of England. In particular, both routes provide the necessary strategic connectivity to Prestwick airport and to the ports at Cairnryan. Both roads carry a mixture of commuter, tourist and, importantly, freight traffic along their length.

The Government's on-going commitment is demonstrated by the investment in maintenance since 2007 of £66 million approximately for the A75 and £48 million for the A77. On capital investment, approximately £50 million has been invested since 2007 in six new schemes along the length of the A75 to improve overtaking and to remove known pinchpoints. Approximately £35

million has been invested in four schemes on the A77 and the planned investment on the Maybole bypass.

10:00

Regarding my interest in the south-west of Scotland, I chaired the Dumfries and Galloway transport summit in August 2016, which was an excellent opportunity to hear from key stakeholders about their views on the transport network. The most discussed topics were the A75 and the A77. The final report from the summit contained 14 action points, and an updated document reflecting the current position on those action points was published earlier this month. In the margins of the summit, I had a productive meeting with dual the A75 campaigners who put their case to me. More recently, I met South Ayrshire councillors regarding their concerns about the A77, while only last week I met representatives of the A77 action group to hear their concerns. They were also accompanied by two committee members.

The 2017-18 programme for government reaffirmed our commitment to commence work early on the review of strategic transport projects in the Dumfries and Galloway area. In line with that commitment, we are progressing a study that will consider the rationale for improvements to road, rail, public transport and active travel on key strategic corridors, including the A77 and the A75. The study will have a focus on access to the ports at Cairnryan. Over the coming weeks, Transport Scotland will commission consultants to progress the study. In advance of the study, we have completed a programme of data collection on roads in Dumfries and Galloway and South Ayrshire to understand trip-making patterns on major routes across the south-west of Scotland.

In addition, Transport Scotland has just completed a two-day-long survey of departing passengers from the Stena Line and P&O ports at Cairnryan. As the Scottish transport appraisal guidance pre-appraisal study moves forward, a key aspect will be engagement with stakeholders, and there will be opportunities to engage with the study before the initial report in autumn 2018. The outcomes of that study will feed into the second strategic transport projects review. STPR2 will report later in this parliamentary session, as it must take cognisance of the strategic outcomes and priorities of the new national transport strategy review. I reassure the committee that the Scottish Government recognises the importance of the A75 and the A77 to the strategic transport network and the economy of south-west Scotland and, indeed, to the country as a whole. I am more than happy to take questions.

**The Convener:** The committee has heard evidence that the south-west is the “forgotten corner” of Scotland and that investment in road infrastructure in the area has been limited in favour of other roads in the country, such as the A8 and A9. Will the minister respond to these concerns?

**Humza Yousaf:** My meetings over the past few weeks have largely focused on the A77, but there has also been a focus on the A75. A number of members have made a similar suggestion. As I travel through communities everywhere in Scotland, I understand that they would like more investment in trunk roads. Clearly, we face pressures on our budget, but I reject the premise that the south-west is the “forgotten corner”. We made a £50 million capital investment in the A75 for schemes that were not small—for example, the Dunragit bypass on the A75 is a £17 million scheme. In addition, £35 million is being spent on the A77. I could list the schemes but, for the sake of brevity, I will not. We also have planned investment of £30 million in the Maybole bypass. That campaign has been going on for years, but when I spoke to the campaigners, they told me that it had been going on for decades. We are delivering on that.

I can understand the frustration of campaigners who want more investment. Cairnryan port is strategically important and campaigners there strongly argue that further investment is needed. That is why we are proceeding with the study that I mentioned. When the maintenance budget is added to the figures I have quoted, hundreds of millions of pounds are being spent on those strategic roads.

**The Convener:** Thank you.

**Angus MacDonald:** The minister said that he met the petitioners last week to discuss their concerns and that the Scottish Government will conduct a study. How much will be invested in the study and will it include a specific assessment of the remedies that are called for in the petition? How will the study fit into the overall strategic approach to transport planning in Scotland?

**Humza Yousaf:** The study will help to add weight to the argument of those who are calling for additional investment in the A75 and the A77. Everyone around the table will understand that everything we do has to be evidence based and that the investment of every pound of Scottish taxpayers’ money has to be evidence based, so a power of work is being done.

Angus MacDonald asked about the cost of the study. My officials will keep me right if I am wildly off, but we expect it to be in the order of £200,000. On top of that we are doing some data collection, which will incur its own costs as well. That is a

significant investment, and the study will take a broad overview of the issues—it is not just about roads, although roads will be an important part of it. As I mentioned, the study will also look at rail, public transport options and active travel, but it will focus on the ports at Cairnryan. When I met P&O and Stena, which have been part of the conversations that I have had on this topic in the last few weeks, they made a very strong case for the investment that is needed on the A77 and the A75.

The study will help to feed into the STPR2, and I expect it to come with a long list of options, which we will then have to look at narrowing down. We will have to look at the budgetary resource implications of each option and make a decision on the type of investment that we want to see in the future. However, I would say to those who support the A75 and the A77 campaigns that they are in a strong place in terms of consideration for future investment.

**Michelle Ballantyne:** Thank you and welcome, minister. When we visited Dumfries and Galloway in September, one of the frustrations that came through very strongly was the sense that promises had been made by successive Governments and had not been followed through on.

I listened carefully to what you have said this morning about investments that have already been made. I would say that maintenance is a core part of normal revenue spending, but you have wrapped that up and said that that is how much you spent on it. However, we are discussing not maintenance investment but capital investment to improve and upgrade the road.

Given the economic value, and the commentary that has been made time and again to people in the area, how do you respond to concerns that any improvements to date of the A75 and the A77 have been piecemeal in nature and have failed to deliver a long-term solution to the area? How would you reassure people that your undertaking another review will not just result in more promises that do not actually deliver a solution?

When we were in the area, we heard that the extension of the ports and the work that has been done for the shipping lines was to some degree in response to Government promises that there would be investment in the roads.

**Humza Yousaf:** That is a really good question. During my discussions with campaigners, I felt that sense of frustration also. Interestingly, there was even some scepticism about projects that we have absolutely committed to.

The Maybole bypass is an example where people said that they will believe it once they see it built. From my point of view, we are absolutely committed. We have committed the funding to it

and there will be a Maybole bypass. It is important and imperative that the Government demonstrates along every part of the process for the bypass that we are engaging with communities and giving them the reassurance that they need.

I would not say that that is restricted to the south-west corner. When I talk to colleagues in the north-east about the Laurencekirk junction, they say that people say they will believe it when they see it and that they have been told for years and years that there will be a new junction. It is coming. The proof is in the eating of the pudding, but I am committed to the schemes that I have mentioned.

I take slight issue with what the member said about maintenance. You only have to talk to those chief operating officers of transport at local government level to hear that even if funds should be spent on a road for maintenance, they often do not get there. The fact that we have continued to invest tens of millions of pounds—or, if we take the two roads together, almost hundreds of millions of pounds—on maintenance is important. However, I accept your point. That is why I made the points about the capital spend that we have made on both road schemes, which is not insubstantial.

We have tried to remove some of the pinchpoints and traffic hotspots, but there is clearly a desire in the communities along the length of both the A77 and the A75 for really significant investment. That will, they tell me, be a game changer for them.

The campaigners have made a strong case that we should consider the ports of Cairnryan to be strategically important not just to the south-west, but to the entire country and to connections beyond these islands. The promises that I can make are that we will absolutely deliver the schemes that we said we would deliver, such as the Maybole bypass.

We would not spend the money that we are spending on the study not to have tangible outcomes at the end of the process. Therefore, the expectation on the Government to deliver meaningful investment after the study is absolutely merited. As I say, stakeholders will have a chance to engage in the study.

I must be absolutely frank about two points. First, we can sit around a committee table discussing matters and there can be petitions, but everybody will understand that a solution will not necessarily come overnight. Secondly, there must also be an understanding that there are pressures on our budget, but that is a matter of prioritisation.

As I said, the campaigners on the A77 and the A75 and the ports of Cairnryan are putting

together a very strong case for looking at future investment.

**Michelle Ballantyne:** I do not think that it is a case of expecting a return overnight, but the petitioners have been campaigning on the issue for years and successive promises have been made on and off the record. Now that you are doing the study, I suppose what they are looking for is that, if the study tells us what we think we already know, you will step up and, this time, keep the promise that you make.

**The Convener:** Are you going to answer, minister?

**Humza Yousaf:** Oh. Right.

**Michelle Ballantyne:** It was kind of a statement.

**Humza Yousaf:** It was more of a statement than a question. As I said, we have kept the promises that we have made on investment. However, I absolutely understand the campaigners' frustration because they want to have more. In some respects, I also understand the scepticism. The member is absolutely right, in that it is our job to deliver on the promises that we have made, so I agree.

**The Convener:** The petitioners' frustration with the Maybole decision is not just about whether the work will happen—they are also frustrated that the decision is not the right one. The petitioners' submission says that not recommending a dual carriageway

“is a missed opportunity by the Transport Minister.”

At this point, I welcome Finlay Carson MSP, who also has an interest in the issues.

**Humza Yousaf:** I met the Maybole bypass committee. Some of its members have been campaigning not for years, but for decades. On the Maybole bypass decision, yes, some were still saying that they would wait until the spades were in the ground before they would accept that it was happening, but the response was overwhelmingly positive.

The dual carriageway option for the Maybole bypass was explored. I will provide some context, but if you want more detail, we can, of course, provide it. Our in-depth study showed that the proposed single-carriageway dual bypass scheme will deliver 85 per cent of the journey time improvement that a dual carriageway would deliver at 60 per cent of the capital cost.

You said that not recommending the dual carriageway is a missed opportunity. I say that 85 per cent of the benefits for 60 per cent of the cost is great value for the Scottish taxpayer.

**The Convener:** It was not me who said that, obviously.

**Humza Yousaf:** No. I was just making the point for the record.

**The Convener:** The petitioners said that it is a missed opportunity. Furthermore, 85 per cent is maybe not 100 per cent.

**Brian Whittle:** Surely, to take a long-term view, that decision is short-sighted, because all you are doing is moving the pinchpoints further up the road to Minishant. I think that the scheme covers 5.4 miles. You are not affording traffic the opportunity to overtake the 44 tonne lorries that are coming up the road.

**Humza Yousaf:** The decision is not short-sighted. You have not taken cognisance of the statistic that I have just used: the scheme will get 85 per cent of the journey time improvement that we would have got had we chosen to dual the carriageway

The convener is absolutely correct in her assessment—85 per cent is not 100 per cent. Could we have gone further? Yes, but that would have added 40 per cent on to the capital cost. That is not good value for taxpayers' money. I respect the fact that you and other campaigners say that you would have wanted 100 per cent of the journey time improvement and 100 per cent of the benefits that we would have had with the dual carriageway, but I think that, when I have competing pressures across the country, 85 per cent of the improvement for 60 per cent of the cost is not a missed opportunity.

I return to what I have said. When I met the Maybole bypass committee, the members were overwhelmingly positive that the scheme will be delivered.

**Brian Whittle:** It is a case of not "Could you have done that?" but "Should you have done that?" It is not good value for money if you will have to upgrade the road yet again in the future.

10:15

**Humza Yousaf:** I do not envisage having to go back to the Maybole bypass and extend it from a single to a double carriageway. When we deliver that percentage of benefit for the cost, it is about not "Could you?" or "Should you?" but the resources that are available for the various priorities. When I spoke to the Maybole bypass group, which has been campaigning for decades on the issue, they were overwhelmingly positive.

**Brian Whittle:** The Maybole bypass is about not just the community near the bypass but the transport link from Cairnryan to the central belt. If you are taking cognisance only of the community's

requirements, you are taking cognisance simply of the people who want to take the traffic away from Maybole. What about the traffic that uses that route? Have you taken cognisance of the views that the drivers are expressing?

**Humza Yousaf:** When we carry out any infrastructure project, including the Maybole bypass, we take account of not just the relatively small community in the particular area but the wider picture, too. The pre-appraisal study that I have committed to producing, and for which we are on the verge of appointing consultants, will also look at the wider picture, including investments that are planned and that we have already made. The design of the Maybole bypass does not just look at what the effect will be then and there, as it is built; it forecasts traffic volumes for 15 years ahead. Therefore, to say that it is shortsighted is an incorrect and unfair assessment.

I am not saying that I cannot understand the frustrations of those who want a dual carriageway bypass. I completely understand the desire for one and, in every community that I travel to, many people desire dual rather than single carriageways on the trunk road network. However, in terms of value for the taxpayer, with pressures on our budget, I am confident that the current design for the Maybole bypass will deliver great benefit not just for the local community but for wider communities. It is not shortsighted—I point the member to the fact that we look at 15-year traffic forecasts.

**The Convener:** There is concern about making false economies, which is why we were keen to put the matter in context. Your responsibility is for transport projects, but a different test might be applied if the project was being looked at strategically from a broader economic perspective. Obviously, it is not for you but for the cabinet secretary to make that decision.

**Rona Mackay:** Good morning, minister. The committee understands that the Loch Ryan ports are facing increasing competition from Holyhead, in Wales, and Heysham, in Lancashire, where the roads infrastructure has been significantly improved over recent years, the economic benefits of which appear very positive. For example, we understand that an assessment was made that every £1 that was invested in the new Heysham link road will earn £4.40 for the local economy. What is the Scottish Government doing to secure the long-term future of the Cairnryan ports? Will the study be enough at this point? What assessment has the Scottish Government made of the socioeconomic impact of the contributions that the ferry services make to Dumfries and Galloway and to Scotland and of the possible impact should the ferry services withdraw from Loch Ryan?

**Humza Yousaf:** We fully understand the strategic importance of the ports at Cairnryan not just to the local economy in the south-west but to Scotland. The point that the convener made before Rona Mackay's question is important. The ports at Cairnryan give us an economic focus. Almost every trunk road that I travel on in Scotland has economic significance for the local community because of connectivity, but I agree with the assessment that there is an added focus for the ports at Cairnryan.

We understand the value of the ports and, in recent meetings, Stena Line and P&O have made a strong case that, if investment in Cairnryan is not forthcoming but investment continues to be made in Heysham or Holyhead, the Cairnryan ports risk losing business and their competitive edge.

That is why we are looking at the holistic picture in our study. We are looking at rail, road, public transport and active travel, although the study will focus on the ports at Cairnryan because of their strategic importance. For example, the Government has provided other assistance, with a grant of £1.3 million through Scottish Enterprise. We understand the importance of both ports.

For the study, consultants will be commissioned to analyse road-based freight on the A75 and the A77 and to estimate the value of goods going into the ports, which will aid analysis of the economic value of the ports. The economic significance of the ports to the area and to the country more widely will, therefore, be a key part of the study. Stena Line and P&O have both made a strong case to me in that regard.

**Rona Mackay:** You acknowledge the investment that Stena Line and P&O have made in the ports infrastructure, but the committee has heard that that investment has not reached its full potential due to a lack of investment in road improvements. One written submission goes so far as to say that the current infrastructure on the A77 "strangles economic activity". What is your response to that?

**Humza Yousaf:** I have probably touched on this in previous answers. We have invested in the A75 and the A77 but we are getting clear, consistent messages from campaigners and members representing all the different political parties that, because of the strategic importance of the Cairnryan ports, we need to invest to unleash further economic potential. That is why we are undertaking a study that will look at that in a holistic manner. We will examine not only the transport infrastructure, as we have plans for a south of Scotland enterprise agency, but we will have to introduce legislation to get the ball rolling on that. That fits in with the work that I am doing and that the cabinet secretary, Keith Brown, is doing to consider the wider economic picture.

**Brian Whittle:** We want to understand the economic profile of Dumfries and Galloway and how it compares to the wider profile of the Scottish economy. I have in mind, for example, business start-up rates, business survival rates, employment rates and migration patterns into and out of the area. Could you supply us with information of that type?

**Humza Yousaf:** I do not have that information to hand, but perhaps I can go through the convener, as is usually appropriate, to get you some detail on migration patterns in and out of south-west Scotland. We are committed to establishing a new enterprise agency in the south of Scotland that will drive inclusive growth, but we are also committed to working with local authorities to shape the borderlands inclusive growth initiative, which was mentioned in the UK Government's budget speech yesterday. We will work with partners and will have detailed discussions with the Dumfries and Galloway and Scottish Borders councils to explore a deal that supports their aspirations. I will write to the convener with the detailed information on business start-ups and migration patterns, and she will, no doubt, share that information with the other committee members.

**Angus MacDonald:** Let us turn to the Cairnryan landslip and other landslips along the A77. We are encouraged that work to repair the Cairnryan landslip is due to be completed early next year. However, the petitioners are seeking action on a number of other landslip sites along the route. Why has there been such a delay in resolving the Cairnryan landslip, particularly when similar situations appear to be resolved more quickly? What plans does the Scottish Government have to repair the other landslips along the A77?

**Humza Yousaf:** When I met the A77 action group recently, I could sense their frustration. There were a number of councillors present at the meeting, and I know that one councillor, in particular, is very keen to see a resolution to the A77 landslip. I am well aware of, and completely share, the frustrations of the community in regard to landslip issues.

As you will know, the A77 landslip at Cairnryan is on its way to being resolved. These things are not simple and can take a long time to resolve however it might look to an outside eye. Complex engineering solutions are needed, particularly considering the gradient of the slope, and ground investigations have to take place. In this case, specialist geotechnical engineering input was needed. I share the frustrations of Angus MacDonald and the action group that the process took so long, but I give the petitioner a degree of reassurance, I hope, by saying that the improvement works commenced on 30 October.

Depending on the weather, they are due to be completed by the end of February 2018.

On other landslips, Angus MacDonald will know that our operating company delivered the improvements to the A77 at Kennedy's Pass on 10 September this year. On the wider issue, Transport Scotland issued a south west unit landslide action plan, which includes Cairnryan, on 27 October. We have budgeted for resolving some of the landslip issues, but the community is absolutely right to be frustrated by the amount of time that it has taken. We will work hard to resolve the issues sooner rather than later.

**Angus MacDonald:** Do you have a timescale for that?

**Humza Yousaf:** As I mentioned, the plan is to resolve the landslip at Cairnryan by February next year, although I always add the caveat that that is weather dependent. Just this week, we have seen landslips across the country, further north, close to Dingwall. The safety of workers and engineers while they repair landslips is important, but the programme is to have the repairs done by February 2018.

**Brian Whittle:** There were temporary traffic lights sitting on the A77 at one of the landslips for four years. You may recognise where the frustration comes from. You discussed the complexities of some of the issues, but the Government managed to build a bridge over the Forth for £1.7 billion in six years. That leads some people to reflect that the area around the A77 is the forgotten part of Scotland. Four years is too long to have temporary traffic lights.

**Humza Yousaf:** I agree with the first part of your question on having temporary traffic lights for that length of time. You will have an issue with temporary traffic lights for a number of years at Enterkinfoot on the A76. It is frustrating, but the reason that the landslip was not resolved was not budgetary; it was largely due to engineering complexities and the nature of the A77, which we have spoken about extensively. The diversion of routes can cause long tailbacks, which is why looking at further investment and the holistic picture of the A77 and the A75 is so important. I understand the frustration, which is why we published the action plan in October. I hope that it will give some reassurance to those on the A77.

**Michelle Ballantyne:** I have a couple of final questions for you. One is supplementary to the question that my colleague Brian Whittle asked about a wider profile for the Dumfries and Galloway review. When you conduct the review of the roads, will you include the wider economic profile of the region? Some of the evidence that we took mentioned that, when there is an accident on the road, it puts people off living there, makes

people rethink their businesses and, in effect, causes businesses to fail because it has an impact. Will you consider that wider aspect?

10:30

**Humza Yousaf:** Yes.

**Michelle Ballantyne:** I recognise that we do not get a resolution of such matters overnight. Stena Line has suggested that you could get a quick win by implementing a 50mph limit on the A77. I assume that that is to do with preventing accidents. What is your view of that suggestion? Could any other quick wins be implemented in the interim while you work towards a bigger solution?

**Humza Yousaf:** I am not convinced that raising the speed limit is necessarily a quick win.

**Michelle Ballantyne:** I am talking about reducing the speed limit.

**Humza Yousaf:** I thought that you were talking about increasing it from 40mph to 50mph for heavy goods vehicles. Is that not what you were saying?

**Michelle Ballantyne:** Stena Line did not specifically say that; it just asked for a 50mph limit.

**Humza Yousaf:** Aye, which would be an increase in the speed limit, because it is currently 40mph for HGVs. That is not necessarily a quick win, because we all know that every study under the sun has shown that increasing speed limits for any type of vehicle has road safety implications.

That said, we are trialling an increase in the speed limit for HGVs to 50mph on the A9. That is being done on that road because we have average speed cameras on it. We are trialling that over three years to find out the effects on road safety. I will double-check when that pilot is due to finish. If the evidence from it shows that there is a quick win, as you characterise it, from increasing speed limits, we will consider that.

It is difficult to identify other quick wins. If we want to make a significant intervention in transport, it has to go through the statutory process. Even investments such as those in the Dunragit bypass, in which we invested about £17.5 million, or the Maybole bypass, which we are currently planning, have to go through the statutory process and that can take time, especially if there are objections to them, because there then has to be a public local inquiry.

There is space to consider what might be, in transport terms, relatively short to medium-term interventions versus long-term ambitions and interventions. I would be cautious about raising the speed limit for HGVs to 50mph, though. There is a pilot going on, so let us see what the results of that are. Road safety must never be compromised.

**Michelle Ballantyne:** I suppose that I was having a dumb moment there. That proposal is about reducing the potential for overtaking or people getting frustrated behind vehicles and forcing themselves into the overtaking position, which is often the cause of accidents. On a road such as the A77, the aim is to keep the traffic moving without detrimental impacts.

**The Convener:** Given the fact that it has been suggested that that might help and that it is exactly the same measure as the pilot that is taking place on the A9, could you not trial it in both places at the same time?

**Humza Yousaf:** We are piloting a scheme at the moment, and I would need to look at the exact profile. There are average speed cameras on the A77, but it would depend on which parts of the route we were talking about. We can give the matter some consideration.

**The Convener:** You said that it would be a bad idea because, if we increase speed, that can cause problems. I presume that there is evidence to back that up. Nevertheless, if you have a pilot that is doing exactly what has been suggested for the A77, you should do that in both places.

**Humza Yousaf:** We can give it some consideration, as I said. The reason for piloting the measure on the A9 is that we have controlled conditions because of the average speed cameras.

**The Convener:** Did you not install the average speed cameras in order to deliver the pilot?

**Humza Yousaf:** The average speed cameras are there because the road is unsafe, as the fatal accident and casualty statistics show.

**The Convener:** Forgive me; I am asking you because I do not know. Is it the case that the average speed cameras were already installed and, because they are there, you can facilitate the pilot? If so, does that not mean that you could do the same thing on the A77?

**Humza Yousaf:** You mean that we could install average speed cameras.

**The Convener:** Yes. That would then allow you to conduct a pilot in parallel with the one on the A9.

**Humza Yousaf:** We can give that consideration, but it would obviously come at a cost. Others might say that, rather than spend that money on average speed cameras on that chunk of road, they would spend it on interventions on the road.

**The Convener:** The cost has been met in other parts of the country, which perhaps makes the case for people who feel that the same test is not being applied in all parts of the country. Also, the cost of the test would be met not from the

transport budget but from the economic impact budget.

**Humza Yousaf:** I visit communities around the country, and a number of them want average speed cameras. Those come at a cost, but there may be specific accident hotspots. The A77 and A75 are not immune to hotspots, but the cameras were put on the A9 in the first place because of the high number of fatal accidents and casualties on that road. There are cameras on the A90 between Dundee and Stonehaven for that reason as well.

My officials might have a little more information on this, but I think that the pilot is at the halfway stage, so it has been going on for about a year and a half. Even if we got a new pilot up and running within six months, the other pilot would be two years in. I think that it will be better to see the results of the pilot—even interim results—and then, if it makes sense, to raise the HGV limit from 40mph to 50mph. Nevertheless, we will consider your suggestion.

**The Convener:** I urge you to look at the submissions on that issue. The initial reaction was that such a measure would not work because it is not a good idea. However, when it is established that the exact same measure has been taken elsewhere in the country, people will ask why, when evidence has come forward to do as Stena Line has suggested, you would not test the A77 in the same way. I take on board that you have said that you will look at the idea further.

It would be useful if you could get back to the committee on that and with the information that Brian Whittle asked for. It would be really helpful if we could get that in the next fortnight, as that would allow the petitioner to respond to your evidence before our next examination of the petition.

**Humza Yousaf:** Sure. We can do that.

**The Convener:** I will take Michelle Ballantyne briefly, and I will then allow Finlay Carson in, since he has been very well behaved.

**Michelle Ballantyne:** Minister, you said several times during your discussion with the convener that there is a cost for running a pilot. In the three months since I got involved with the petitions and heard the first evidence on PE1657, there have been, to my knowledge, three bad accidents on the A77. The road has been blocked, everything has been held up, and there has been significant input by services. That is a cost. Therefore, any measures that could prevent those things from happening will be offset anyway. It is not always about adding costs; sometimes it is about avoiding alternative costs.

**Humza Yousaf:** Sure. If we could reduce road accidents to zero, that is where we would want to be. All of us around this table share that ambition. One death on a road is one too many.

**Michelle Ballantyne:** You talk about cost, but there is an offset cost.

**Humza Yousaf:** There is, but we also have to look at the statistics. I will give Michelle Ballantyne some information. In 2015, there were 38 accidents in total from Whitletts roundabout to Stranraer on the A77. This year, up to 14 September, the number was down to 21. We have to wait until the end of the year to get the full statistics, and winter can be a particularly difficult time for accidents, but that demonstrates, cautiously, that there is a reduction in the number of accidents that are taking place.

**Michelle Ballantyne:** Twenty-one is a significant cost in economic terms—

**Humza Yousaf:** I accept that that is a significant cost. I am not arguing against that; my point is that the trajectory is going in the right direction. I am not dismissing the fact that there is a cost.

The reason why average speed cameras have just gone live on the A90 from Dundee to Stonehaven, for example, is that we have to look at priorities. If I could have average speed cameras along the entire length of our trunk road network from the Borders to Wick, I am sure that we would look to having them, but we have to prioritise areas where there are significant fatal accidents. That is not at all to dismiss the 21 accidents on the A77 to date this year. I am simply saying that the reality is that there are significant pressures on Government budgets. Where we can make our roads safer, let us make sure that we put in interventions to do that, but we face those pressures.

The convener suggested that we go back and look at the implications of a pilot to raise the HGV speed limit from 40mph to 50mph. We will consider doing that, but we have done that in a controlled pilot on the A9. Road safety will be paramount, of course, and if there are any indications that that will make accidents with HGVs any more likely, we will not push ahead with that course of action.

**The Convener:** On the test, you said that other areas were prioritised before the A77. Are priorities determined simply by numbers, or is the economic impact tested? As you have quite rightly said, no fatalities are acceptable and you want to have as high a level of road safety as possible but, if you were making strategic decisions about where you would go first, would you look at the impact in snarling up a whole area? That could be a huge impact. People might make economic decisions not to put freight through a particular

road and to put it through another. Is that assessment made, or are priorities determined simply by numbers? I go back to my question on the extent to which transport decisions, which are entirely rational, might not necessarily be the same if you looked at the issue in the broader economic context for the whole of Scotland.

**Humza Yousaf:** First and foremost, speed cameras are deployed where they have the greatest potential to reduce injury collisions and there is evidence of both collisions and speeding. The vital factor is where the impact on reducing injury collisions will be greatest. That is not the only factor, as the convener has suggested, but it is the number 1 factor.

**Finlay Carson (Galloway and West Dumfries) (Con):** I have very few questions left to ask and plenty of answers, so I commend committee members on how well they have covered the petitions. I thank them for that, because the petitions are of huge importance to people in south-west Scotland.

I want to raise a couple of points. It is of no comfort at all to anybody in the south-west when we hear figures quoted about how much investment has been made in maintenance on the road. Over the past few years, the biggest bulk of the money has been on the maintenance or rebuild of the Gatehouse of Fleet and Ringford bypass. If that money had not been spent, the road would have had to be closed, because it was breaking up. The holes got bigger with every lorry that went over them, and there was a road safety issue. We despair when we hear figures being bandied about on how much investment there has been in the road, because that goes only on keeping it open.

I would like more work to be done on the impact of closures of the A75 in particular and on the impact of road closures on the ferry traffic that travels up the A77. There are regularly long detours after accidents on the A75 and the A77, and we all know that accident investigations take considerably longer than they used to. The number of road closures makes companies think twice about siting depots in that area because of the effect on their ability to deliver goods on time. I have spoken to two companies in Stranraer whose decisions about expanding have been affected by closures of the A77 and the A75.

I want to put on the record something that was mentioned at our private meeting with the petitioners last week. When the port in Cairnryan was opened, the First Minister at the time gave a commitment to provide additional overtaking opportunities on the A75. Two have been delivered, but six were promised at the time. Those projects should have been scoped and shovels should have been in the ground. They

should have been delivered by now; those are broken commitments and promises. This has been going on for a long time. I hope that, after your survey has been done and it comes back with recommendations, we will not be sitting here in 20 years' time restating that commitments to road improvements have not been delivered.

The minister quoted the increased percentage of traffic flow around the Maybole bypass and the percentage of the total cost. Is that based on the Maybole section or on the whole length of the A77? How does that compare with the traffic flow and the percentage cost of the A9? When it comes to those figures, it is important that there is equity and equality for the south-west. I would not like to think that those statistics are taken in isolation. It would be useful to see the cost benefit analysis of dualling the A9 and not the Maybole bypass.

10:45

**Humza Yousaf:** I take issue with some of Finlay Carson's statements. I do not know where the promise of six overtaking lanes came from. If he can furnish me with that information, it would be most helpful. I do not know whether he has it in front of him.

**Finlay Carson:** I do not.

**Humza Yousaf:** It would be useful if you could forward that because, as you acknowledged, we have invested in overtaking lanes. The point that I made about maintenance before you came into the meeting was that maintenance is essential but, if you talked to local authority partners, you would know that money that should be spent on road maintenance is sometimes not spent on that. That was highlighted by the Public Audit and Post-legislative Scrutiny Committee. Such investment is important, but there has been significant additional investment in both the A75 and A77. I understand the desire of local communities for more. If you can furnish me with a copy of the promise for six overtaking lanes, I will consider it.

The Maybole bypass scheme will deliver 85 per cent of the benefit for 60 per cent of the cost. It is deeply unwise to pit one part of the country against another. There are a number of reasons for the dualling of the A9 and A96 and, if it is appropriate, I can forward you the information that you are seeking via the convener. The work is part of the city deals strategy connecting seven cities by dual carriageway, which is a laudable aim. Any country would want all of its cities to be connected in that way.

However, we should continue to invest, as we have promised, in other parts of the country. The dualling of the A9 and A96 clearly fits into the city strategy. You will make the argument, as you did fairly in our meeting last week, that the

connections between the south-west and the central belt are of great strategic importance, not only to Scotland but to the rest of the UK and potentially to Europe because of the E18 route. I accept that view, which is why we are conducting the study that will examine road, rail and public transport improvements with an economic focus particularly on the ports of Cairnryan.

**The Convener:** It would be useful if the minister shared a copy of the promise with the committee as well, as not all Government promises are written in stone.

The concern highlighted by Finlay Carson is that money that is described as investment in roads is used for maintenance of roads, which is a consequence of other work not happening. You said that local authorities get money to maintain roads but they do not spend it on maintenance. To what extent does that happen? Have you conducted an analysis of that? What will you do about that? It is unfortunate that local authorities are being given money to maintain roads but they are not doing that. I presume that there should be a reaction from the Government to try to understand why that is happening. What remedial measures will you take to prevent that from happening?

**Humza Yousaf:** I will forward the information that I have on the roads collaboration programme. We work closely with our partners in local government on the issue of roads maintenance. I have a particularly good relationship with the Society of Chief Officers of Transportation in Scotland. I understand the pressures on local government and I was not having a go at local authorities in this regard, but when there are pressures on their budgets, road maintenance is not the number 1 priority. The Audit Scotland report on this highlighted the difference between the condition of the trunk road network and that of the local road network. There was a substantial difference in maintenance. I have increased the maintenance budget but, where local authorities face budgetary pressures, we are trying to get them to collaborate with neighbouring local authorities. The Ayrshire Roads Alliance is an example of that. I will furnish you with details about what we are doing in relation to road maintenance with local authorities. Significant work is on-going in that respect and I can pass on information about that to the committee.

**The Convener:** That would be very helpful. I appreciate that the decisions about disproportionate cuts to local government budgets are not for you, but the difference in road maintenance is perhaps one of the impacts of that. I was concerned that you were suggesting that people at the local government level were making decisions that were having an impact more

broadly, and I am comforted to know that you are having a conversation about that.

**Michelle Ballantyne:** The roads that we are discussing are not local government-maintained roads.

**Humza Yousaf:** I do not think that I ever made that suggestion. I made the point that some people were somewhat dismissing our spend on maintenance and saying that we were doing that only because we had to. That is a political consideration that we make because we think that maintaining the roads is important.

Of course there is still work for the Government to do on maintaining roads, but I simply make the point that you will see from the Audit Scotland report that there is a stark difference between the spend on the trunk road network and the spend on local roads. As I say, I understand the pressures on local government, and we are working closely with it to try to face down some of the challenges on road maintenance.

**The Convener:** I will make sure that the committee is furnished with the Audit Scotland report.

**Brian Whittle:** Do you envisage that the outcome of the study will be to give you a long-term strategic plan—an end goal, if you like—for the A75 and the A77? Without that, the measures that you are taking will simply be sticking plasters.

**Humza Yousaf:** That is a good question. The study will look at the next 20 years, so it will be a long-term forecast without a doubt. I agree with you that we should not be short-sighted.

It is an opportune moment to do the study, because it will feed into our national transport strategy review, which, again, is a 20-year vision for transport in the future. That will feed into the STPR, which is about the investment in our infrastructure that we will look to make over the coming period.

I get what you are insinuating, and you are right to suggest that no one wants a study for the sake of a study. We want to see concrete actions as a result. My caveat to that is that a process must be followed. Various organisations, groups and MSPs are engaging in that process. If I were using the A77 and the A75, I would be hopeful that there would be future strategic investment to those trunk road networks.

**The Convener:** Finlay Carson said that he hoped that we would not be here in 20 years' time. I would quite like to be around in 20 years' time, but I am not planning to be convener of this committee then. [*Laughter.*]

On the subject of a 20-year stretch, the petition on the A77 was the second ever to be presented

to the committee. Some of you were probably still at school back then—I am not bitter about that either.

It is very clear that the committee wants to look further at the petition. Are there any suggestions on how we might do that? We will be getting a number of bits of information, including public audit information and information from the minister.

**Brian Whittle:** I think that the minister said in the meeting to which he referred that the study would be started in the next month or two. That was a week ago, and a month comprises four or five weeks. I want to know when the study will start and when it is likely to conclude.

The A77 is the only trunk road in Scotland with a 20mph and 30mph limit. From the Whitletts roundabout, you can get all the way to Inverness, across to Berwick and down to Barcelona without hitting another 30mph zone.

**The Convener:** We could ask the minister to provide information on that, too. Perhaps it would be useful to reflect on today's evidence and to get a report from the clerks, which will then allow the petitioner to respond to what we have heard. A lot of interesting information has been provided.

**Brian Whittle:** I thank the minister for how he has conducted himself. We have given him a bit of a hard time, but he has not hidden from our questions.

**Humza Yousaf:** Trust me, as transport minister, I know that it is not easy to hide, although I have tried my best at times.

**The Convener:** I very much appreciate the minister coming along today. I make the point that the committee considers that there is a broader economic context to this matter, but the Scottish Government made a decision that the transport minister, rather than the cabinet secretary, would attend. However, we are looking for assurances from the Scottish Government that it understands that we are talking not about individual transport projects but about the significant economic impact for business in that part of the country, which impacts on the rest of Scotland.

I thank the minister and his officials for their attendance. We will reflect on how we want to take forward the petition. I suspend the meeting briefly to allow the witnesses to leave.

10:55

*Meeting suspended.*

10:58

*On resuming—*

## New Petitions

### Child Protection Services (PE1673)

#### Children's Hearings (PE1675)

**The Convener:** Our final agenda item is consideration of two new petitions, both by James Mackie. We will take evidence from Mr Mackie, who is accompanied by Anne Speak and Maggie Mellon. I welcome you all to the meeting.

Parliamentary rules specify that we must conclude our business before business in the chamber starts, so we must finish by 20 to 12. I aim to finish taking evidence from the panel by half past 11, which would allow us a wee bit of discussion time. We have a good half hour for questions and answers, with another 10 minutes after that for the committee. I hope that that is satisfactory.

I invite James Mackie to make a brief opening statement of up to five minutes, after which members will have questions.

**James Mackie:** I thank the convener and committee members for inviting us here today. The petitions are on serious matters, and they have implications for the whole of Scotland, particularly for our children. First, I record my great thanks to the committee clerk, who has guided me through the process during an extremely difficult personal and political situation.

11:00

I will introduce my supporters. To my right is Anne Speak, who has worked with children and adults with learning difficulties and disabilities for well over 40 years. For 20 years, she was project manager of a specific project for those types of individuals in Moray. That project finished because of a lack of funding. For the past 25 to 30 years, she has also been a volunteer with the charity Enable. On behalf of Enable, she picked up the Queen's award for services to the voluntary sector last year.

To my left is Maggie Mellon, who is a social worker by training and profession. She has had many roles in her life. She is the former director of Children 1st. For a number of years, she was vice-chair of the British Association of Social Workers. She has communicated with the Scottish Government on many of the aspects of our petitions that we hope to cover today. She was also invited to give advice to the Isle of Man

Government when it was drawing up new legislation on child protection.

I left school with six O-levels six weeks after my 16th birthday. I moved from rural Moray down to lodgings in a deprived ex-mining village in Clackmannanshire—an area where I lived for 45 years. During that time, I was a professional criminal and civil law investigator and enforcer for 43 years. I was also a researcher for a member of the Scottish Parliament in the very first session of Parliament. Through working for him, I got involved in helping families with autistic adults in psychiatric services and in helping families with children wrongly diagnosed with attention deficit hyperactivity disorder.

Like most people in the country, I realised that child protection existed and that there were children who needed to go into care. I think that the three of us still agree that, in certain circumstances, children need to be taken into care for their welfare. However, from my experience, both professionally and as a grandfather—the oldest of my grandchildren is eight—I feel that there are great deficiencies in the whole system at the moment. With the committee's permission, I would like to look at what the aim of child protection is from a political point of view, look at some statistics that show what is actually happening and explain what the whole child protection system is.

I got involved in child protection when my grandchildren were removed from my house at half past 11 on a Friday night. I got a phone call with two hours' notice that that was going to happen. People have been referred to me because of my personal experience of the system and my personal background. I have spoken to at least two dozen families that have gone through the system, and there is a consistency in their experiences. The purpose of child protection is to protect children but, in reality, the statistics on children taken into care show that the system is not working and that children in care are at great risk.

Government statistics show that 1.1 per cent of all children in Scotland are in care and have been taken away from home, although there might be a bit of movement regarding that figure, depending on how people discuss it. Based on that figure, the cost of having children in care to the Government and the public is between £400 million and £850 million per year.

Everyone looks at outcomes, and one striking figure is that 20 per cent of children who have been in care will not see their 25th birthday. In addition, 25 per cent of females who have been in care will be pregnant by the age of 19, 25 per cent of those who have been in care will have police convictions by the age of 25, 25 per cent are

homeless between the ages of 16 and 25 and a similar percentage are unemployed. If children are being taken away from their parents and taken into care and we end up with those figures, something is far wrong with the system. Other figures show that parents with a learning difficulty are 50 times more likely to have their children taken into care.

Then there is—excuse me for stopping, but this has been a very emotional and stressful time.

The inference in the official statistics is that, over the past three, four or five years, the number of children being taken into care or reported through children's panel hearings has remained steady. The headline figure of referrals has maybe been stable, but the number of children who are referred and stay with their parents is diving whereas the number of children who are going into care, away from their home, is accelerating. That is where the big difference is. At the same time, a higher percentage of children are being adopted against the wishes of the parent.

From my experience of my family and from speaking to others, the system is geared towards pillorying the mother. The mother is blamed for everything, but abusive fathers and partners stand on a pedestal. I know that it is difficult to understand—it took me a long time to understand it—but the whole system works like that.

A number of organisations are involved in child protection: social workers, the police, charities, schools and different parts of the national health service, including health visitors, general practitioner services, hospitals and accident and emergency.

There is no doubt that children who are abused, such as through physical assault, need to be taken into care. However, our experience says that a very high percentage of children are taken away from their parents and into care before any serious investigation is done, if one is done at all.

I will give you a couple of examples so you can see where we are coming from. An 11-year-old child, whose school notes showed that he was believed to be autistic, stood up during a classroom discussion and said, "Last night, my mother took me by the arm and put me to bed." The next thing to happen was that a social worker and a police officer were called. The child was interviewed on his own, away from everybody else. His mother got a phone call at half past 3 in the afternoon saying, "Your son has made a serious complaint against you. We are seriously worried about his safety and wellbeing in your house. He will not be coming home tonight. Where can he go?" It was arranged that he would go to a relative's house, but the mother was told that she could not phone or speak to her son. That happened a year past June. No social worker or

police officer has ever gone to the house to interview the mother, but after a day the child was let home.

On 1 March this year, the Supreme Court in London judged that West Lothian Council had taken actions on child protection that were purely based on opinion. I, as well as colleagues and other professionals who are interested in the issues, would extend that and say that the majority of proceedings in child protection—especially in cases where children are taken into care or put on compulsory supervision orders—are based purely, or 95 per cent, on opinion, speculation and supposition.

**The Convener:** I am conscious that this is very personal to you, but I am worried about time. It would be useful to explore some of those issues through questions.

**James Mackie:** Fine, but I could go on for days. I will just make one point. My grandchildren were subject to a child protection order. When someone applies for a CPO, the family is never told. The first that they know about it is when the police and social worker arrive.

This big folder that I am holding shows the paperwork for one CPO. From the time the children are taken into care, the family gets 48 hours to prepare a defence for the hearing that is held by the children's panel. This folder plus half again is part of the file for 12 months of involvement with councils, core group meetings and the children's hearings system.

For the children's hearings system, the family gets the social worker's report three days before the hearing, and that includes weekends. A family can get papers on a Friday afternoon for a hearing on a Tuesday. That does not give time for them to read through it, understand it or get legal advice.

Those are just some of the points that can trigger a conversation.

**The Convener:** Thank you. To be clear, one petition asks for the Scottish Government to create an independent Queen's counsel-led inquiry into the whole issue of child protection, and the second one is about the specific issue of children's hearings and the obligation of young people—

**James Mackie:** I can give you two minutes on that one, because it is short.

**The Convener:** We will take questions on that. I just wanted to clarify that the other petition is about attendance at hearings. I thank you for the statement, and I recognise your personal involvement.

**Angus MacDonald:** The petition is clear that some of the fundamental issues that you raise are about communication, including communication of

the right to representation, whether that be legal representation or independent advocacy. Do you agree that that is one of the fundamental questions? If so, how would you like it to be addressed?

**James Mackie:** It is one of about seven or eight serious issues, but representation is the major one. Legal aid is extremely hard to get. In our case, we phoned more than 30 legal practices when we were trying to get assistance. The majority said that they did not do child protection or children's panels. They gave two reasons for that, although I will only refer to one; the other can be kept for a later date. They said that legal aid is extremely difficult to get because of the way in which it is allocated, and if they applied for it, there was a timescale that did not fit with the timescales of the children's hearings system. They also said that the amount of money that is given for legal aid for child protection is so low that it does not cover a lot of the costs most of the time.

The criteria for getting legal aid have been tightened up so much that few families can meet them and get legal aid. Yesterday, I had a meeting in Edinburgh with a mother who is going through the system. In child protection cases, there is a system of appeal to the sheriff. Legal aid will pay for only one appeal to the sheriff court and many cases need to go further than that—to the Supreme Court, for example. Legal aid will not pay for the follow on.

If a family who cannot get legal aid appear in the sheriff court, they have to pay for it privately, and the costs are horrendous. A defence solicitor costs an average of £200 an hour. One case that I know of had QCs involved for eight days, at about £3,000 to £5,000 per day for that team. Probably 98 per cent of families who are involved in the system cannot afford to get legal assistance. That is one major failing.

11:15

**Angus MacDonald:** I am curious as to why you feel that you cannot share the second reason.

**James Mackie:** It is comments from solicitors about one reason why they do not like getting involved in children's hearings and child protection. Their blunt answer was that social workers lie. That is coming back from the legal profession.

**Brian Whittle:** I refer members to my entry in the register of interests. I am a member of the west of Scotland board of the National Society for the Prevention of Cruelty to Children.

A particular issue that you raised relates to the evidence that is presented to a sheriff in relation to an application for a child protection order and

whether there is, or should be, an opportunity for the family of the child concerned to have input into that process. The counterargument to that would be that the safety of a child is in question, and action to protect that child should be taken without delay. How would you respond to that argument?

**James Mackie:** I will ask Maggie Mellon to respond to that, after which I might add a few comments from personal experience.

**Maggie Mellon:** When a child protection order is pursued, the social worker or police officer presents a prima facie case to a sheriff, in which certain allegations about the safety of a child are made such that they are at risk of significant harm. If the sheriff agrees—and they rarely do not, because they do not like to be in that position—parents will only know about it when police officers and social workers arrive at their door to take their children away. In most cases that I have been aware of, it would have been absolutely right to inform parents that such a measure would be taken and to allow parents to be present, to challenge and to be able to say what they understood of the situation.

I can understand that there are cases where a child would be in peril if anybody knew that they were going to be rescued, but they are a minority. Single mothers are the subject of the orders in the majority of cases. They are not in any sense threatening to the police and the children are not at imminent risk of serious injury. Like Mr Mackie, the reason that I am here is that I have independently helped to support parents in these cases through my professional work. I am contacted two or three times a week by parents who have experienced removal in such traumatic circumstances—as have their children.

I provided some statistics because I would like the committee to be aware that the rate of removal in Scotland is significantly higher than it is anywhere else in the UK. I included some PowerPoint slides that show that. It is important for the committee to be aware that the situation in Scotland is much more extreme than it is anywhere else in the UK and that no other factor explains that, other than problems in our processes. We do not have enough safeguards.

I know of a case where children were removed late on a Friday night by the police and social workers and taken into care. What happens in such cases is that an interim compulsory supervision order is then made by the next children's hearing, so the reason that those children were removed might never be put to a sheriff in court, and the evidence might not be heard, for up to a year—or sometimes longer. Members might find that unbelievable, but it can happen. I know of one case where the evidence was not tested in court for a year. Meanwhile, the

children remain separated from their parents, and that is hugely harmful. If you do not get it right, the removal of children in emergency circumstances with the police present can be a huge emotional trauma for a child. They can be separated from their siblings without any plan in place and without them knowing why they are being removed, so it is something that should be avoided. We are obviously not avoiding it enough in Scotland because the rate of removal is so extreme. The number of children being taken into care has almost doubled since 2004.

**Rona Mackay:** Good morning, panel. Mr Mackie, your petition indicates that you have raised issues with a number of organisations in relation to the current operation of child protection services. What response have you had?

**James Mackie:** They do not want to touch it with a bargepole. I wrote to the Scottish Social Services Council and sent copied files of what was going on. The answer that came back was that, basically, I was disagreeing with a social worker's opinion. It also set out what the Scottish Social Services Council could investigate, and one of those things was dishonesty. I wrote back and said that it was dishonest of social workers to submit false information to a sheriff to obtain a child protection order. I got absolutely no response and it went dead.

I wrote to the Care Commission, again with copies of our personal files. I said that I knew that it would not look at that one case specifically, but that it should be aware that that was what was happening in general, and that it should look at the issue. The response that I got from the chief executive officer was that they could not touch it because it was a single case, and that I should be glad that my grandchildren were now under the protection of the children's hearings system. My response was that they were only in that system because false information had been put in.

The children were taken out of the house and we got them back four days later through a children's hearing in Stirling. After the trauma of that, it took me about a week to get my head back on my shoulders and to be able to look at the papers that were put in for the CPO. At the time that the papers were served to us, we were led to believe that an affidavit—

**The Convener:** I appreciate that very much. If I can just—

**James Mackie:** I will answer the question. The paperwork that we sent to Police Scotland—

**The Convener:** I just want to say that we will not deal with individual cases.

**James Mackie:** I appreciate that, but I was giving you examples.

**The Convener:** However, we are sympathetic to the fact that a petition has emerged out of individual circumstances. We are trying to deal with the themes that the petitions committee can address with the Government, but that is not to disrespect anything that you have to say. Given the time constraints, after reflecting on the meeting, if there are things that you want to say but did not get the chance to say, you have the opportunity to write to the committee again, and that will be circulated.

**James Mackie:** I did not appreciate that, but thank you.

**Michelle Ballantyne:** In respect to the children's hearings system, you seem to show concerns in your petition about the requirement of vulnerable children to appear before a panel; age and learning disabilities are mentioned in particular. Are you of the view that children below a certain age or those with a learning disability or other vulnerability should never be required to attend a meeting?

**James Mackie:** If the panel feels that they should be there, the panel should have the power to explain why it wants those children to be there. At the moment, any notification for a children's panel hearing says in bold letters that the children must appear—it does not matter what age the children are, their understanding of procedures or how scared they will be. If you do not think that the children should be there, you have to apply to the panel for a pre-hearing meeting to explain that.

In any other legal system, the age of criminal responsibility was raised from eight to 12 a number of years—or decades—ago because children do not understand the proceedings. When very young children or those who have learning disabilities are taken in, they do not understand, they are extremely scared and they have to sit in a meeting at which their parent is being decried for bad parenting. It is a whole mix of things that the child is not of an age to understand. Once they get to 12, they can start making decisions and they can understand but, below that age, it is extremely stressful for the child and it makes their situation worse.

**Maggie Mellon:** I agree that the child, or somebody independent who is able to represent the child's view, their state and what they are thinking, should be at the hearing. After the Orkney inquiry, it was laid down as a principle that the children's panel must see the children at the hearing because, in Orkney, the children had very strong opinions that they should not have been taken away, but they were not produced.

There are very variable rates around Scotland for children appearing at hearings. It has been my experience that children are not produced and that

they are excused when they are likely to say that they do not want to be in care and that they want to go home, and their independent view is not properly represented. I know that the Children and Young People's Commissioner Scotland is doing work on that broader issue, rather than looking at individual cases. He is looking at how children can be represented at hearings without being upset in the way that Mr Mackie described.

Children's hearings used to be for older children and usually involved issues of truancy and delinquency. However, children's hearings are now completely different. The majority of children whose cases are heard at children's hearings are not just under 11 but probably under five. However, their attendance is often excused because they would obviously not understand what was going on.

There is a question mark around children's hearings and whether they can properly hear cases involving child protection issues. The focus of children's hearings has moved away from including a young person and talking to them about their role in their life regarding making decisions and being responsible. The work of hearings is now quite different, in that a hearing has half an hour or 40 minutes to make major decisions about contact with parents and children remaining in care, often without a good, independent look at the child's stake. In some ways, the issue is not about whether a child should attend a hearing but about whether that is the right forum in which to discuss those issues and make decisions on them.

**Anne Speak:** I have been to children's panels when preschool children and children with additional support needs were taken in, and it was terrifying for them. With my working hat on, I have had to report children to a social worker, but I know that a mother's abuse is sometimes a cry for help. If we have the right input at the beginning, a case does not need to go as far as the children's panel.

I was called by Mr Mackie when he heard that the social workers were coming round to take the children. I never want to see again two children, one of six and the other of preschool age, being woken up at half-past eleven at night and taken from their bed, with their mother and both grandparents being really upset. It was absolutely horrendous. I know that the social work department and the police were trying to be kind, but at the end of the day the law meant that the children were taken away. Why could they have not waited until the next morning to do that? Why could there have not been more preparation? The children were taken away to a strange house where the people had probably just found out about the children coming and had not done much

preparation for receiving them. It was a horrendous situation.

**Michelle Ballantyne:** Obviously, you have thought about the importance of ensuring that the child's voice is heard; I can hear it in some of your statements. You are painting a picture of something that is not very good. I declare an interest in that I used to head up a service that worked with children and I have attended children's panels as an advocate for children. There are mixed experiences, without a doubt. Is what you are bringing to us related to geography? Are there good areas and bad areas or are the problems evenly spread across the country? You are making significant suggestions here.

**James Mackie:** It is serious. As I said, I got involved through a personal experience. However, if someone has a background in investigation, they go and look for information. A lot of that information has come from Government web pages, but it has also come from speaking to families around the whole of Scotland. Various organisations have a culture that is inward looking and self-preserving. From my experience of identifying problem areas, I believe that the organisations in the child protection service are untouchable, because nobody will take a complaint against them. I have gone to two councils, including Falkirk, and my complaint has been washed out.

11:30

I have a legal and police investigation background and immediately I looked through the paperwork for the CPO I saw that there were downright damn lies in it. We were told that it was an affidavit. To me, an affidavit is made under oath. Police Scotland, 15 months down the line, does not want to handle it. It just keeps ignoring it. The whole system has major, major problems. There are constant reviews of different parts of the system, but they are done by people who have an interest in it.

There has never been a complete overview of the whole system and certainly, in any review of any part of the system, the parents—the mothers—are never, ever interviewed. The attitude is that the mothers are the bad people; they are there to harm children and we cannot speak to them. The views and experiences of the family are never taken into account. You cannot run a system that ignores the views of the main players within it.

Also, I cannot understand politicians and others. The figures that have been produced on child protection and children in care show such horrendous outcomes for children who are taken

into care. How can that be better? What is happening to them is just a nightmare.

**Michelle Ballantyne:** For clarity, though—

**The Convener:** Sorry, Michelle—we have to get the last couple of questions in. We have under 10 minutes left. I have also afforded people the opportunity to come back later. I will take questions from Rona Mackay and Brian Whittle and then we need to conclude—my apologies.

**Rona Mackay:** I will be as brief as possible. I should say at the outset that I was a children's panel member for six years, until last year, and Mr Mackie has said a lot of things about the system that I do not recognise. I am sorry that you have had a bad personal experience, Mr Mackie.

Regarding children being at the hearing, it is extremely important for a panel to see a child, because reading about a child's wellbeing is not the same as seeing the child sitting in front of you. We regularly excuse children who will be traumatised or who are far too young. That has been happening more regularly, in my experience. The majority of the cases that we see are not child protection orders. They are for truancy or child supervision orders, not to take children away from their parents.

Maggie Mellon spoke about the time that is spent. I have sat in hearings about one child for four hours; the time taken is not just half an hour or 40 minutes, it is a lot more than that. I just wanted to put on the record that that is not my experience of the children's hearings system. I am not saying that it is perfect and I am really sorry that you have had bad experiences, but that is not my experience of it.

**Brian Whittle:** In a response to the Education and Skills Committee in June this year, the Scottish Government indicated that it would consider the case for legislative change, including the requirement for physical attendance,

“by reviewing whether the existing rules inhibit partners taking a more child-centred, child-led approach.”

What changes to the rules do you consider would enable a more child-centred and child-led approach to be taken?

**James Mackie:** Do you want to answer that, Maggie?

**Maggie Mellon:** There is always a difficulty when people talk about a child-centred or child-led approach and do not include within that an understanding that children live in and come from families. There is a huge tendency nowadays for children to be considered absolutely separately from the conditions of their family.

For instance, neglect is one of the rising reasons why a child might be brought to a hearing,

yet there is such a huge connection between neglect and poverty and the conditions that people are living in. People dispute that, but a recent study has absolutely demonstrated that poverty is associated, for obvious reasons, with neglect. It is not because people who are poor are worse than people who are well-off. It is just that it is hard to decide what is neglect and what is just an absence of money or absence of time or whatever.

It is important to say that there should be a child-centred approach. However, the question is what a child-centred approach would be. Rona Mackay said that she did not recognise the hearings as we described them, but the research on parents says that they find it all incredibly difficult and unpleasant. That is not because they are abusing their children; it is because they do not have a voice. They feel that the social worker is always believed.

For example, a panel could decide to excuse a child from a hearing because they would be traumatised, but who told the panel that the child would be traumatised? In the cases that I know of there has been a pre-meeting that the parents know nothing about in which a social worker has gone along and said that the child would be traumatised if they were to attend.

As Mr Mackie suggests, we should have a proper approach to respecting parents and their views. Parents should be included and their experiences should be identified. If we did that, panel members would be surprised by what came back to them from the parents who have been through the proceedings.

A family-centred approach would be much more relevant and reasonable, rather than an approach that leads to the separation of children from their families. When we separate children and take them into care, the outcomes are not good. The outcomes from being in care are much worse than they are from being with a family.

Some children need to come into care, but in general—

**The Convener:** We would need to establish a causal link. It is an issue about what the young child takes into the system.

I am very alive to the time—we have under five minutes left. I will let Brian in, and then I will afford Mr Mackie the opportunity to make the last comments. The committee will then need a minute at the end. I think that it would be fair to say that, at the very least, we will write to the Scottish Government about the issues.

**Brian Whittle:** I need to get to the chamber; I have no more questions, convener.

**The Convener:** In that case, do you have any final comments, Mr Mackie?

**James Mackie:** Originally, I had four petitions on child protection services. With Catherine Fergusson's help, that was cut down to one.

Rona Mackay is to be applauded for being a children's panel member. I have been to five hearings in the past year and not experienced what she has experienced. In my experience, and the experience of families and lawyers, there has been insufficient time. Paperwork that is put into the panels comes only from the social workers. The information, which is dated chronologically and includes their opinions and suppositions, goes on files. The input of families is totally ignored. Our experience is ignored; other people's experiences are ignored.

I would like to sit down with you and talk you through our experiences. It is a massive issue. You would need to delve further into it. I will write to you about it.

**The Convener:** Please do. The conclusion that we need to draw is whether your experience is specific to you or whether it applies more generally and is something that we want to explore with the Scottish Government.

I think that it is fair to say that we want to write to the Scottish Government to ask for a response to today's evidence. Do members agree to bring together both petitions in order that we can consider them together in future? Subsequent to the Scottish Government's response, we will look at how we might progress the petitions.

**Members** *indicated agreement.*

**The Convener:** I thank you for attending, Mr Mackie. I appreciate that it is that bit more difficult to discuss such a personal matter, particularly given the impact that it has had on you. I appreciate the time that you, Anne Speak and Maggie Mellon have taken to be here.

*Meeting closed at 11:37.*



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