OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 19 December 2019

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

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CONTENTS

PUBLIC PETITIONS COMMITTEE

22nd Meeting 2019, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Maurice Corry (West Scotland) (Con)
David Torrance (Kirkcaldy) (SNP)
*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dr Catherine Calderwood (Scottish Government)
Jeane Freeman (Cabinet Secretary for Health and Sport)
Jamie MacDougall (Scottish Government)
John Swinney (Deputy First Minister and Cabinet Secretary for Education and Skills)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

Committee Room 1

Scottish Parliament

Public Petitions Committee

Thursday 19 December 2019

[The Convener opened the meeting at 08:45]

Continued Petitions

Myalgic Encephalomyelitis (Treatment) (PE1690)

The Convener (Johann Lamont): I welcome everyone to the 22nd meeting of the Public Petitions Committee in 2019. The first and only item on our agenda is consideration of continued petitions.

The first petition for consideration today is PE1690, which calls for a review of treatment of people with myalgic encephalomyelitis in Scotland. The petition was lodged by Emma Shorter on behalf of #MEAction Scotland. When we previously considered the petition in May 2019, the committee agreed to invite the Cabinet Secretary for Health and Sport to give evidence, and I am delighted to welcome her today, as well as her officials from the Scottish Government. Dr Catherine Calderwood is the chief medical officer and Anita Stewart is team leader for clinical priorities.

I invite the cabinet secretary to make a brief opening statement before we move on to questions.

The Cabinet Secretary for Health and Sport (Jeane Freeman): Thank you, convener, and good morning to you and committee members. As you know, I wrote to the committee in September. The opening statement that I am about to make touches on some of the points in my letter, but it also covers the recently published neurological care and support in Scotland plan.

I start by reiterating our commitment to ensuring that everyone in Scotland who is living with a neurological condition, including ME, is able to access the best possible care and support and benefit from healthcare services that are safe, effective and person centred.

Since I spoke in January, there have been a number of developments that are relevant to the petition. In March, Healthcare Improvement Scotland published its revised “General standards for neurological care and support”, which we worked closely in partnership to deliver. The revised standards, which are based on the 2018 health and social care standards, represent significant collaboration across statutory bodies, third sector organisations and people with lived experience. The standards stipulate that people should expect to receive the same high-quality service from health and social care organisations that support them, regardless of their condition, geographical location or individual circumstances.

Yesterday we launched Scotland’s first framework for action on neurological care and support, and over the next five years we will work closely with partners including HIS, NHS Education for Scotland and key stakeholders across the neurological community to implement the 17 commitments to improve access to care and support. The framework is not condition specific, but we recognise ME as a neurological condition. During the development of the framework, we heard from the ME community through both the lived experience survey that was led by the Health and Social Care Alliance Scotland and the responses to our public consultation.

I hope that people who are affected by ME will identify with the framework’s five aims, which include ensuring equitable and timely access to high standards of person-centred care, establishing a sustainable workforce model and improving the co-ordination of care and support for people with neurological conditions. Underpinning those aims are commitments setting out the actions that we will take. For example, the petition seeks further research on ME, and the neurological framework outlines how we will support the neurological research agenda.

As I highlighted in my letter to you in September, the chief scientist office has been in dialogue with ME research organisations, researchers and various ME third sector groups to explore how we can specifically do that for ME, including with opportunities through the existing research that we are co-funding at the University of Edinburgh. We have also told ME organisations that we would consider a funding proposal from them to contribute support to the creation of a priority-setting partnership through the James Lind Alliance, and I understand that organisations see the value in pursuing that.

This is also partly about understanding the prevalence of neurological conditions—I know that the petitioner is keen that we make progress on that—so another commitment is to improve the recording of neurological conditions such as ME in people’s routine health and care records so that they are visible to appropriate services. We have prioritised the continuation of the prevalence work that we started with the Information Services Division in 2018, recognising that, to make progress, we are subject to developments that are under way, particularly with regard to primary care systems. I still expect progress to be made over the next year.

On awareness of the information and resources that are available on neurological conditions for both patients and professionals, we have committed to actions that support shared decision making and access to supported self-management, building on and learning from existing provision including peer support networks. My officials have been supporting and will continue to support ME organisations to explore opportunities with NHS Education for Scotland and other bodies to develop training materials for professionals about ME. That includes understanding the context of undergraduate, postgraduate and continuous development resources generally for neurological conditions.

I hope that the petitioner will also welcome the focus that the framework will bring to the testing and evaluation of generic community-based, multidisciplinary team models to assess innovative ways of delivering care, including new roles and new arrangements for co-ordinating care and support for people with neurological conditions. Another relevant commitment is our intention to work with others to develop nationally agreed, regionally and locally applied guidelines for health services and referral pathways. In addition, we will explore the potential of national care frameworks to inform neurological care and support. I know that some of the third sector ME organisations are already considering the potential of an existing framework for another condition and how it might be beneficial to people with ME. When implementing the commitment from the framework, we will be mindful of the need to consider how different types of neurological conditions, such as ME, can be represented in that work.

Another area that is relevant to the petition is the commitment to improve the use of digital technology to ensure that integrated services seamlessly meet the needs of people with neurological conditions and those who provide care and support to them. It has been demonstrated that the introduction of technology can make a huge difference for some neurological conditions, and we will look to learn from and build on that over the next years.

Implementation of the framework and the improvement actions is being informed by quality management, and specifically quality planning, control, assurance and improvement that is linked to leadership and learning systems and processes that will promote collaboration with people who have lived experience and are involved with the services.

Over the past year, my officials have been in regular communication with the petitioner, Emma Shorter, and #MEAction, as well as with healthcare professionals with relevant experience, individuals who are living with the condition and other organisations that represent those who are affected by ME. As I highlighted in my letter to the committee, we have commissioned two pieces of work. The first is an updated needs assessment by the Scottish Public Health Network to understand the practices and provision for ME in Scotland, which will cover both adults and children and young people. The second is a views-gathering exercise facilitated by the Scottish health council to find out what good care and support would look like for people with lived experience of ME. On advice from ME organisations, we have kept the scope of that second piece of work to adults.

When the findings of that work are available next year—I believe that we expect it early in 2020—we will convene a short-life group that will include people with lived experience and clinicians to consider what practical steps we can take to make a difference in advance of the draft National Institute for Health and Care Excellence guideline. The group will consider what can be done ahead of the NICE guideline being available. I understand that NICE recently provided an update on the timing of its revised guideline on ME that postponed publication of the draft until July and the final version until December 2020. I know that that will be disappointing for those who are already frustrated by the wait, but I understand that the reason behind the delay is the need to take account of the additional work that NICE has commissioned on patient experience. In light of the recognised limitations on available clinical evidence and the calls for greater emphasis on lived experience, I hope that that reassures people that NICE is undertaking a comprehensive review of the latest evidence.

That is why we do not plan at this point to make any changes to the advice in the Scottish good practice statement on ME ahead of considering the NICE findings, including guidance on graded exercise therapy and cognitive behavioural therapy. Our previous submissions have set out the reasons for that but, to summarise, I note that those therapies are reported as being effective for some people, but not all. I note that, in the submissions that you have received from health boards, many refer specifically to the Scottish statement, which provides clear information about the appropriateness of and circumstances for using those therapies. We highlighted the Scottish statement to health boards when it was introduced and we will do that again if we update it.

In setting out all of that, I appreciate that there will be questions about the acceleration of progress. I recognise and share the frustration behind people’s need for change at pace, but it is important to ensure that change is enacted based on appropriate evidence and shared principles to support the co-production of services with those who are living with ME. That is why we have invested time to ensure that the work that we are commissioning is shaped by people with ME and the third sector organisations that represent them.

I hope that that was a helpful opening statement. We are, of course, very happy to take questions.

The Convener: Thank you for your statement. We received a further submission with some questions from the petitioner. I think that you have a copy of it. If we do not manage to cover those questions, we would appreciate it if you could respond to them at a later stage. The petitioner will be interested in your responses, but we might not be able to get through all of that now.

In your letter of 26 September, you said that the chief scientist office and the chief medical officer were to meet Action for ME and Professor Ponting in October to discuss the progress that is being made through the current project on biomedical research on ME. Can you provide an update on that?

Jeane Freeman: Given that the chief medical officer was involved in that, I am happy to ask her to respond.

Dr Catherine Calderwood (Scottish Government): I met Professor Chris Ponting, who has a long interest in research on ME, and officials from the chief scientist office and Action for ME. We had a very helpful meeting and we discussed where the charity groups and support groups would like to go forward with research. The discussion focused on the priority-setting partnership with the James Lind Alliance. Under that well-known methodology for research prioritisation, if there are a number of requests for research, they are considered by a group of researchers from outside the speciality, who look at how research would be carried out in a prioritised way. We support calls for research on ME with people with lived experience and the charities that are involved, and the Scottish Government will enable some funding for the James Lind Alliance to go through that priority setting process. We will then need people to come forward with suggestions for the research.

Gail Ross (Caithness, Sutherland and Ross) (SNP): Cabinet secretary, you mentioned in your submission and your opening statement that the Scottish Government continues to liaise with NES to explore opportunities to raise awareness of ME among healthcare professionals. Will you give us an update on the kinds of opportunities that you were referring to? Can you also give us an update on the letter that was sent to Sir Peter Rubin a year ago? Do you intend to follow up on that to find out what impact it has had?

Jeane Freeman: NES has a practice-based small group learning membership that includes general practitioners. That group has prioritised ME as a module for NES to produce in 2020-21. The intention was that the timing for that would be determined by the new NICE guideline publication, but I understand that it will do some advance work and will be able to make progress on the basis of the draft guideline that will appear in July 2020. When it produces the module, it will make sure that GPs in particular, as well as others, are aware of it, and we can back that up by encouraging health boards to draw the module to the attention of their relevant clinicians.

Sir Peter Rubin has shared the letter that was sent to him with the heads of the Scottish medical schools. As you know, undergraduate curricula are determined by individual medical schools and are quality assured by the General Medical Council. I had a meeting with our medical schools yesterday, at which we talked about the programme for government commitment on a new medical school. I have undertaken to meet the medical schools again early in the new year to pick up on a number of issues with them, including the one that we are discussing, as well as other aspects of the curriculum, widening access and so on. I will be very happy to update the committee following that further meeting.

The medical schools are aware of the work on ME and are currently giving some consideration to their curricula, but as you will appreciate, there are many demands on the curricula. It is partly a question of looking at some of the training placements that are offered to undergraduate medical students and potential training for foundation level graduates.

09:00

Gail Ross: On continuing professional development of our medical staff, I was concerned that NHS Forth Valley said in its response that it sees the diagnosis of ME as a historical diagnosis. How can we make sure that doctors are diagnosing ME and not other diseases?

Jeane Freeman: That is not uncommon, to an extent, with neurological conditions. Yesterday, I had a discussion with some of our clinical advisers and colleagues on attention deficit hyperactivity disorder, for example, and I think that the right phrase—Dr Calderwood will correct me if I am wrong—is “neurodiversity”. There is a range of neurological conditions, of which there is a growing understanding among our clinicians.

Gail Ross: But if the health board as a whole is not even recognising a diagnosis of ME, we are not talking about misdiagnosis; the board is simply refusing to diagnose it in the first place.

Jeane Freeman: I understand what you are saying. In publishing the framework for action, we want to raise the issue directly with all those who have been involved through our regular contact with boards, chief executives and medical directors, and through Dr Calderwood's network. In particular, we want to raise directly with NHS Forth Valley the response that it gave, which is out of line with what we would expect. We need to understand better from NHS Forth Valley why it is in that position and, more importantly, how it will address the situation and change things so that it is in line with all the other boards.

At the same time, there is a degree of inconsistency in how our boards respond, as I am sure that the committee has picked up. That is not unusual—the same applies in other areas. We need to look at where variation is acceptable and where it is not with a view to ensuring that there is a degree of consistency.

Maurice Corry (West Scotland) (Con): I note the comments that you made in your opening statement, cabinet secretary. The committee understands that you have spoken to many stakeholders from the ME community to explore variation in the provision of services and the different practices that exist across Scotland. Can you give us an update on what progress has been made in the course of your meetings with stakeholders? You made a general reference to that earlier, but I would like to know what has come out of that process.

Jeane Freeman: Part of the reason for commissioning the pieces of work by the Scottish Health Council and the Scottish public health network that I referred to towards the end of my introductory remarks is to understand the detail of various practices across the country and where the variation lies. I expect to have the results of that work early in 2020, at which point we will look at what the variation is and what we might do about it, so that we have a clear core patient pathway that runs alongside what Gail Ross was talking about—education and awareness in the clinical community.

Maurice Corry: That will help to address NHS Forth Valley's comments.

Thank you—I am happy with that.

Brian Whittle (South Scotland) (Con): In January, the chief medical officer told the committee that the Scottish Government was creating a working group to look at the provision of services. You echoed that in your submission of 30 January 2019, and you mentioned the on-going work in your opening statement. However, in your most recent submission of 26 September 2019, you stated that the group would not start work until early 2020. Can you explain the reason for what seems to be a bit of a delay in the implementation of the short-life working group?

Jeane Freeman: Part of what the short-life working group will have to work with are the two pieces of work that I have commissioned, which will provide it with evidence on the range of services that exists. I will ask the CMO to update us on exactly how that group will be formed and the specific work that it will do.

Dr Calderwood: There will be some frustration about the delay, but we are starting from a baseline of very little data. We want to know about the number of people who have been diagnosed and to find out about the level of care across our health boards at the moment, or rather the variation in the provision of care, which has already been described.

As well as gathering evidence, we have written to all our health boards to ask about the education of healthcare practitioners. We did that in response to the comments that were made by NHS Forth Valley. We have had 10 responses out of the 14 health boards and, unfortunately, the education of healthcare professionals seems to vary a lot, as I suppose we might have expected, given the variation that we have found in other areas.

We have been gathering information to enable the working group to set some priorities and to start work. We could not just produce a group and then decide to get the evidence that was needed. We will work with that group, which will include people with lived experience and people from the ME charities, as well as Government officials and multidisciplinary healthcare professionals who are providing care across our health boards. We will take the data that we have—one of the next things that we will need to do is strengthen the collection of data—and the evidence on the range of pathways of care for patients right through to healthcare professionals' education so that we can map out how we can follow best practice across Scotland and be consistent in all our health boards.

The NICE guidance is long awaited, as you know. There has been a further delay for good reason—to capture evidence from those with lived experience—but our working group will not be delayed by waiting for the new guidance, because we already know what work we have to do, as I have outlined. Once the NICE guidance is produced, we will be ready to go. We will have the draft guidance in July.

Brian Whittle: Cabinet secretary, you mentioned in your opening statement the two pieces of work that the Scottish Government has commissioned. Forgive me if I missed this, but do you have a timescale for when you expect those pieces of work to be completed?

Jeane Freeman: You are referring to the updated needs assessment by the Scottish public health network and the Scottish Health Council's work on what good care and support for people with ME would look like. I expect to have those pieces of work next year—early in 2020, I understand.

Brian Whittle: What has the Scottish Government done to ensure that the ME community is kept up to date with the timescale and the developments that are in progress?

Jeane Freeman: A number of meetings have taken place between my officials and stakeholders in the ME community, including the petitioner. We will continue that process of keeping stakeholders up to date. They know all the information that I provided in my statement about the work that is under way, including what Dr Calderwood has mentioned, and the research discussions that are taking place through the chief scientist office. We will continue to keep stakeholders up to date as progress is made; they will, of course, be involved in much of this work as we develop it.

The Convener: I will reflect on some of the comments that have been made to us in submissions. In one anonymous submission, a person said that they did not feel there was any sense of urgency for change to relieve their suffering, and we have heard that from various people. In his submission, Stuart Brown concludes:

> "ME patients have every reason to believe that the NHS doesn't understand them, doesn't care about them and has no intention of changing."

Can you respond to that? It is a theme of the concerns that have been flagged up to us.

Specifically on the pacing, graded activity and cognitive behaviour therapy—PACE—trial, you suggested that you thought that there was some benefit from the treatments that are being offered, but one of the contentions from the petitioner and others is that not only are the treatments not beneficial—there is no evidence that they are beneficial—but if they are persisted with, they cause further problems in some circumstances.

Professor Brian Hughes has looked at the methodology on the PACE trial. It is probably beyond this committee to understand a lot of the technical details to do with methodology—I would certainly not want to pretend to be an expert on that—but what reassurance can you give us that such questions are being addressed through the national health service? Gail Ross made the point that some health boards are now saying that there is no such thing as ME and that the world has moved on. The difference in the approach of different health boards must undermine people's confidence. I am not asking you to deal with the specifics of the issues that have been flagged up, but what reassurance can you give the committee that those concerns will be addressed?

Jeane Freeman: Thank you for that, convener. Your questions are important for those who are suffering from ME, and it is important for our wider clinical community to hear and understand my answers.

I completely understand the frustration that people feel about what they perceive to be a lack of urgency and pace in this work. The core reason behind that is partly what the CMO has already said and what I have said. As the committee knows, we need to move with pace on the basis of the data and the evidence that we gather. That is why the work that we have commissioned is so important, a significant amount of which we will have in the early part of 2020. The short-life group will have the data that the CMO has outlined so that it can begin to look at what good-quality care is.

I said at the outset that people who are suffering from ME have as much right as anyone else to consistent, high-quality care across the country. The piece of work that the Scottish Health Council is undertaking to understand what good looks like will be really important in mapping out what the right patient pathway would be for diagnosis, potential treatment and support. In parallel with that is the work with the clinical community that NES is leading, so that people's understanding and awareness of ME as a neurological condition—I said this at the start and I want to repeat it—is well understood.

All of that is taking place in the context of our plan and the framework for action. It is important that the ME community knows that it has been involved in the construction of the plan, along with other stakeholders, and that it knows that we are very clear that ME is a neurological condition. If we have boards that believe that ME is a historical matter and that the world has moved on, we need to correct their understanding. We also need to ensure, through undergraduate and postgraduate training and continuing professional development, that our clinical community is aware and has a degree of understanding of how to distinguish between different neurological conditions in diagnosis, and that a consistent pathway is delivered across the country to provide the support that people need and are looking for. All of that is the end goal. To get there, we need to have the better data that we are currently trying to gather in order to map out the necessary steps.

09:15

We have said that the GET and CBT treatments are controversial treatments that certainly do not work for everyone; I completely understand that. It should not be the case that they are expected to be helpful and effective for everyone with a diagnosis of ME. I say again—we need to make sure that our clinicians understand this—that patients should be the drivers of decisions about the treatment that they are given or are prepared to undertake. When patients say, "This not only does not work for me but is positively unhelpful to me," clinicians' responsibility is to have that conversation and to see what else might be helpful, which might go beyond their immediate role to that of a wider multidisciplinary team. That is part of the work that we need to undertake.

The Convener: In its submission, NHS Lothian resists the critique of the PACE trial that has been provided by the ME community. The argument is that something should be built into the methodology that will bring about a conclusion that many in the ME community would not accept, which is what you have said about people not being expected to have various treatments. It is beyond the capacity of this committee to look at the technical details of that, but would the CMO and others at least look at that?

If we have a methodology that results in a conclusion that is then used as an argument against those who say that the treatment in question is not working for them, we can see where the problem is. I do not pretend to know who is right about this, but I would seek a commitment from you to look at what the petitioner and others who have criticised the PACE trial have said, and the response by NHS Lothian, to see whether you are ending up with an outcome that has come from something inside the trial. NHS Lothian's response is very robust, but is that something that you would at least look at?

Dr Calderwood: Yes, I agree that we will need to look at that carefully. We could write to the committee. I can ask Chris Ponting and others to help me to look at the PACE trial. Like the cabinet secretary, I do not find it acceptable that patients are reporting that a certain treatment is unhelpful for them but are being encouraged to continue with it, with no other offer being made. We must work in partnership with patients and must share decision making with them. In all trials, there will be some patients who benefit and some who do not, and it disturbs me greatly to hear that patients are being forced to continue certain treatments before being offered an alternative, even when the treatment might not only be unhelpful but might be causing them side-effects and harm.

The Convener: Thank you very much for responding to our questions. We will have to reflect on what we have heard. If there are points on which you want to respond further, particularly the last point, that would be helpful. As there are no more questions, at this point we will simply agree to reflect on what we have heard today. People will be able to respond to what they have heard, and we will come to further conclusions on the petition at that stage.

Thank you very much for your attendance. I appreciate how early you had to be with us this morning. It has helped the work of the committee to be able to deal with the matter in that way. I wish you a happy Christmas.

I now suspend the meeting briefly.

Jeane Freeman: Before you do that, convener, I would like to say that we will answer all the questions that the petitioner submitted on 17 December, and we will copy you into our answers so that you have our responses. I offer my best wishes to you all for Christmas.

The Convener: Thank you. I appreciate that.

09:20

Meeting suspended.

09:23

On resuming—

First Aid Training (Primary School Children) (PE1711)

The Convener: The committee will now take evidence from the Deputy First Minister and Cabinet Secretary for Education and Skills on three continued petitions. The first of those is PE1711, on first aid training for all primary school children in Scotland, which was lodged by Stuart Callison on behalf of St Andrew's First Aid. The petition was considered previously in June 2019, when the committee agreed to invite the Deputy First Minister and Cabinet Secretary for Education and Skills to give evidence. I am pleased to welcome the cabinet secretary to the meeting. We appreciate how much time he is giving to the Public Petitions Committee so late in the year. I also welcome the cabinet secretary's official, Laura Meikle, who is the head of the Scottish Government's support and wellbeing unit. I invite the cabinet secretary to provide a brief opening statement before we move to questions.

The Deputy First Minister and Cabinet Secretary for Education and Skills (John Swinney): Good morning. I welcome the opportunity to be with the committee to address three petitions on important issues that the committee is considering.

I am grateful for the opportunity to make an opening statement on the petition on the provision of first aid training in schools. I am aware of the petition and familiar with its contents, having responded to a letter from the committee convener in June this year and met with the petitioner in person since then.

Under the curriculum for excellence, there are three key subject areas that are the responsibility of all staff in schools—namely, literacy, numeracy and health and wellbeing. The provision of first aid training in school would fit under the health and wellbeing subject area. It is vital for our children and young people to be given the opportunity to positively engage with health and wellbeing issues at school and I recognise that being trained in first aid can help them to develop the skills that they may need to respond in an emergency situation.

Earlier this year, all 32 Scottish local authorities made a commitment to provide cardiopulmonary resuscitation training to young people in all secondary schools under their management. I see that as an important strand in Scotland's wider out-of-hospital cardiac arrest strategy. A crucial factor in helping someone to survive a cardiac arrest is how quickly they can be treated; for every minute that passes before cardiopulmonary resuscitation is given, the chance of surviving falls by 10 per cent.

Under curriculum for excellence, the Scottish Government does not prescribe the content of any lessons taught in schools. Therefore, since we have no statutory curriculum, it is not my intention to mandate first aid training in schools. I confirmed that as the Scottish Government's position when I met the petitioner recently. However, we encourage the delivery of first aid training in Scottish schools as part of the health and wellbeing element of the curriculum. Local authorities and schools currently have the flexibility to provide first aid training in schools if they wish and it would be for them to decide how best to deliver it, taking into account the needs and priorities of all children and young people in attendance. One example of that is the dinky doctors programme in Aberdeenshire, where children are taught first aid using teddy bears in special training sessions. I am aware that a Scotland-wide tour is planned for 2020 due to the interest that the programme has generated.

I recognise from submissions to the committee that there are concerns over the capacity of teachers to deliver first aid training to their pupils on top of their existing workloads. The outcome of my recent meeting with the petitioner is that officials at the Scottish Government and Education Scotland will meet and liaise with the petitioner to decide how we can best recognise those matters, including the possibility of hosting first aid training resources online. Education Scotland's website hosted material on cardiopulmonary resuscitation before all local authorities agreed to provide training in their schools.

In doing this work, it is important to be mindful of the learning experience of children and young people in schools. That includes treating learners as individuals with their own interests. I look forward to discussing with the committee the St Andrew's First Aid petition on providing first aid training in schools.

The Convener: Thank you. We welcome the progress that has been made. It is useful that you have already been in dialogue with the petitioner. I have a couple of questions.

The petitioner makes the point that, if children and young people gain first aid skills at an early age in school, they will become lifelong advocates of first aid, which I think goes beyond CPR, and that would make a huge difference in their families and the local community. To what extent do we equip our primary school children with those skills now?

As well as pointing to the fact that many people do not have CPR skills, the petitioner makes the point that people who live in poor communities are more likely to suffer a cardiac arrest out of hospital and less likely to have somebody who can support them. In the work that you take forward, will you reflect on that issue for disadvantaged communities and target support at those communities or begin support there if there were to be a roll-out? The figures are shocking. There is a gap created by disadvantage, with some people more likely to have a problem and less likely to get help. Will you consider targeting schools in disadvantaged communities in the first instance?

John Swinney: There were a number of points there.

First, on the general coverage of first aid training in the curriculum, I do not have empirical data that I can share with the committee. We have not gathered that data. However, in all honesty, I cannot suggest that first aid training will currently be comprehensive in the primary education system. I have discussed with the petitioner the importance of encouraging more of it. First aid training is perfectly compatible with the curriculum and with the health and wellbeing issues, and there are specific issues that arise out of that in relation to the second part of your question, which was on areas of deprivation.

09:30

There is nothing inherently contradictory—it is all entirely compatible—but we have to try to raise awareness of and participation in first aid training in schools. I hope that the dialogue that I am establishing with Education Scotland and the petitioner—I also met with the Red Cross along with St Andrew's First Aid—will result in materials, guidance and training being made available to enable the teaching profession to see first aid training as a way of illustrating the curriculum. Schools look at what they have to do individually to fulfil the expectations of the curriculum, particularly the benchmarks, and first aid training will obviously help in that respect.

We can make progress if we can make the materials more readily available, boost the confidence of staff to be able to undertake such activity and establish convenient contacts with St Andrew's First Aid. We will all be familiar with the fact that it is sometimes difficult for organisations to access schools, as people have busy lives. If we can make that contact a bit easier, some of the training resources and other resources of the organisations that are behind the petition can perhaps be drawn into schools, which might overcome some of the confidence issues that teachers have. There are many examples of external organisations coming into schools to provide specialist input, and I am keen to encourage that as part of this exercise. I hope that, as a consequence of that dialogue, we get to a position in which we have much more participation than I can set out for the committee this morning.

The second part of your question was about areas of deprivation. You make an unarguable case on that. There is clearly a necessity to ensure that, in areas of deprivation, we have the capability and capacity to support individuals where there is the likelihood of a greater incidence of emergency assistance being required. As part of the curriculum, schools have flexibility to respond to that, although I suspect that we need to reinforce the particular dimension that you raise more directly with the education system. However, given what schools are undertaking in creating resilience among young people—that is a particular focus in schools in general, but particularly in areas of deprivation, where schools are making determined efforts to build the resilience of young people in their communities—there is an opportunity to address the issue that you have raised. I will certainly reflect on that in my discussions with Education Scotland.

The Convener: We are talking about schools not just because it can be argued that the issue is part of the curriculum but because schools are trusted intermediaries. They are a way into communities and probably have unique access to young people. Although I can understand teachers' reservations, it would be useful to have schools hosting such provisions.

I suppose the question that follows is: what discussions have there been with communities, health bodies and departments across the Scottish Government to ensure that they understand that they may have a role, with schools hosting the work, and that it is not just an educational matter? Have you looked at that?

John Swinney: I see that coming out of the dialogue that we intend to take forward. You are correct that many resources are available in our society, not just in the organisations that have brought the petition to the committee but in community health resources and the wider health service, which we can consider for discussion. Ultimately, your point is about the practical effect of early intervention. Can we properly equip young people to be part of a solution in providing early stage intervention when individuals may face a health difficulty? If we can do that, we will be contributing towards a wider policy agenda of acting earlier, making the earliest possible intervention and equipping young people to be part of the solution.

Maurice Corry: In your written submission, you said:

> "It is ... up to individual schools and local authorities to decide if they wish to provide first aid training and ... how best to deliver it".

Would you say that it is a bit like the curate's egg, in that training is provided in some places and not in others? Some local authorities are clearly embracing first aid training but others do not provide any. Why is that?

John Swinney: I accept that there will be differential participation around the country. A lot depends on the confidence levels of individual members of staff in schools and on the expertise to which they have access. We ask our teachers to do a lot. They have to cover a broad range of issues in the curriculum and they exercise their professional judgment as to how best they can fulfil the requirements and expectations of the curriculum. Every young person has to reach particular levels against the benchmarks that are stipulated by Her Majesty's Inspectorate of Education, which are clearly set out to the teaching profession, and teachers have discretion about how to get young people to those levels of proficiency. Some teachers will choose to do that in a particular way that incorporates first aid training; others will not.

I hope that, in my first answer to the convener and in my opening remarks, I gave the committee confidence that we are keen to encourage progress through dialogue with the petitioner and Education Scotland so that we can make it easier for schools to have access to the materials that can support such teaching and to some of the contacts who may be able to help with the delivery of the education in schools where teachers feel that they do not have the skills that they require to provide the training. Not every teacher will feel confident about delivering first aid training and we have to think of the many things that I ask the teaching profession to do. I ask them to do a lot of things, so I must be careful not to ask them to do too many things. There may be external resources they can draw on to deliver the element of the curriculum that we are talking about.

Maurice Corry: I absolutely understand what you say, but a consistent approach is obviously important. Bearing in mind what you say about how you can implement first aid training without overly bearing on teachers, where do you see the problem in getting that consistent approach? Is there something lacking that we need to address?

John Swinney: I imagine that a teacher with wider interests—perhaps being a volunteer with St Andrew's First Aid—will be super confident about delivering first aid training in the classroom. Lots of teachers have lots of special interests and they bring them into the schools and make a tremendous contribution with their expertise. If you are not one of those people, you might feel a bit reticent about delivering first aid training. I can understand that nervousness. However, if we can get volunteers from the organisations to come forward to support that effort or if we can boost the confidence of teachers to deliver the training, that would help us to address some of the issues.

Maurice Corry: How will you persuade volunteers to come forward?

The Convener: I do not think that they would need much encouragement.

John Swinney: I want us to establish good contact networks between the organisations and schools. Taking the model of developing Scotland's young workforce as an example, over the past five years, we have prioritised establishing greater contacts between schools and the world of work. Today, we have much better contacts between schools and businesses and businesses regularly participate in the lives of schools. That did not happen systemically pre 2014, but it happens systemically now, which is a really good thing, because schools benefit from the external input from companies and local employers get the benefit of seeing young people and perhaps identifying potential talent. Great career pathways are being created as a result, but we had to invest the effort to create those contacts and discussions. It has taken a number of years for the effort to bear fruit, but that is an example that demonstrates how it can be done.

Gail Ross: The suggestion of getting the Red Cross or other outside organisations into schools is certainly not new, because that is what happened when I was in primary school. When we were younger, the training was simplified and was about how to put somebody in the recovery position or how to put on a triangular bandage. As we went on to secondary school, the training went up a level and included how to spot signs of a stroke and so on. That has been done and I am sure that, as the convener said, organisations would not need much persuasion to go into schools.

What materials are available now to those teachers who are confident enough to deliver first aid training and how do you see those materials evolving? Could any improvements be made to what is already available?

John Swinney: There is some limited material available through Education Scotland. St Andrew's First Aid has a lot of proficient material, but it is a case of making sure that it is presented in a manageable fashion to the profession. I am keen to make sure that we present that material in a way that can assist the teaching profession and boost capacity and capability to take such training forward where it is judged appropriate to do so.

Gail Ross: Where would the lessons take place in secondary schools? Would they happen across the curriculum or would they be part of an update in personal and social education?

John Swinney: Up to the end of secondary 3, young people are entitled to a broad general education that covers eight curricular areas, the three pre-eminent elements of which are literacy, numeracy and health and wellbeing. That clarity was provided by the chief inspector of education in August 2016. The school system should be in no doubt that among the eight curricular areas, health and wellbeing is one of the three pre-eminent areas to which young people have strong entitlement until the end of S3. In the secondary sector, young people would experience first aid training in the appropriate PSE elements of health and wellbeing.

Colleagues will be aware that a very broad cross-section of choices and options are available to young people as they move into the senior phase. Some qualifications, which are different from the qualifications that existed when I was at school, are there for young people to take forward and receive other awards. We increasingly see young people taking those qualifications, in which they may be able to develop skills in first aid and acquire a greater level of skill as a consequence. There is a general entitlement up to the end of S3, and then there is the opportunity for young people to specialise in the senior phase if they choose.

Gail Ross: On the back of that—and this is a hypothetical situation—if there was a cohort of pupils in the broad general education phase, or indeed in any of the secondary school years, who wanted to take some kind of qualification or training in first aid but the school did not have a member of staff who was capable or confident of delivering the course, how would the pupils access that training?

John Swinney: It depends on location in many respects. Increasingly, in the senior phase, schools are working with colleges to make sure that the school best meets the needs of individual young people. It is not just a case of what goes on in an individual school.

09:45

For example, in part of the area that I represent in the city of Perth, there are four secondary schools and a college that work on a collaborative timetable. Geography is a great help here because none of the sites is more than a mile away from any other. In Ms Ross's constituency, the geography is somewhat more challenging.

Every endeavour should be made to try to ensure that young people's curricular choice aspirations can be met within the education system. That should not be viewed as being about having an individual member of staff and a school to be able to deliver that. The subject might be available in another school or through a college and there are, of course, opportunities for distance learning, which we are encouraging more and more.

Brian Whittle: I note that the petitioner estimates that to deliver first aid education across Scotland would cost just £1.36 per pupil. I recognise, of course, that every penny is a prisoner when it comes to any portfolio, but I think specifically your portfolio. Given the benefits that we have heard that such training would bring to children and young people and the wider community—you mentioned resilience, building empowerment, confidence and personal pride, and how learning such skills outside the classroom can have an impact inside the classroom—how is the case being made to the education system? Why would you not provide this kind of training within that environment?

John Swinney: First, I reassure Mr Whittle that the arguments here do not hinge on money. Lots of the arguments that I wrestle with hinge on money, but this one does not. Fundamentally, for me, the question is to what extent we prescribe the curriculum. That is the key point. When we adopted curriculum for excellence, we opted, as an education system, to take an approach that relies exclusively on teachers' professional judgment: teachers make a judgment about what should be covered in their lessons to satisfy the needs of the curriculum. I do not want in any way to undermine the flexibility available to teachers and the professional judgment of teachers in that respect. That is the key decision-making factor here.

I want to be helpful and to try to make it more practical and possible for first aid training to be available in schools. That is why I am taking the action that I am taking through dialogue with the petitioner and discussions with Education Scotland. I recognise that if members of the teaching profession have access to practical and tangible materials and training to build their confidence and expertise, they will be more likely to share that with pupils or access the resources that might come in from St Andrew's First Aid. It is about trying to build up the capacity within the system to deliver this within the framework of the curriculum that we have designed.

Brian Whittle: I fully accept the idea of not being prescriptive in an education system—I think that that is why I said "encourage" rather than "impose". How do we enhance and encourage that? How do we make sure that the benefits of that type of approach are recognised? I will have asked you this question many, many times, cabinet secretary: does this matter perhaps fall within the attainment fund? I know that schools themselves are always very aware of their own budgets.

John Swinney: I genuinely do not think that money is the obstacle and I am not altogether sure whether, even if I made some more money available distinctly for this purpose, that it would solve the issue. We have to address the issue by making sure that schools and teachers feel confident enough to be able to deliver this level of training. I am very keen to see where we get to in our dialogue with St Andrew's First Aid and the British Red Cross because I think that, out of that, we might be able to create a collaboration that enables us to make the type of progress that I can clearly see that the committee is encouraging us to make. I am keen to be as helpful as I possibly can be in that respect.

The Convener: I think that those are all of our questions. I am not sure whether the committee agrees with me—I suspect that it will—that what the cabinet secretary said today is very encouraging, as is his commitment to an on-going dialogue with the petitioner in particular, but also with other organisations that may be able to help. My sense is that the Government has made a commitment and understands that not just education, but other Government aims will be delivered through such training. You have acknowledged the issue of targeting—or prioritising, I would argue—areas of deprivation for the gap in skills that will be more needed in poorer communities. I am very encouraged by the fact that there is clearly a plan coming out of this, with the petitioner.

As a result, I feel that this is perhaps an opportunity to close the petition, recognising that the petitioner, St Andrew's First Aid, and other organisations are working with Government on the aims of the petition. I do not know whether anybody wants to add to that or has the same sense that I have.

Brian Whittle: Yes, absolutely. The cabinet secretary has clearly demonstrated that there is a desire and a pathway that the Government wants to go down, especially with the external organisations and the petitioner. I agree with you, convener, that the petitioner has probably got everything out of the petition that they possibly can at this point. It will take time for this to roll, but the petitioner is perfectly entitled to come back in a year's time or in future if they do not feel that progress has been made, but I am very encouraged by what the cabinet secretary has had to say today.

The Convener: In that case, I think that we will agree to close the petition and to thank the Government for engaging so directly with the petitioners. I thank the young volunteers from St Andrew's First Aid, who made a presentation at a previous session. The cabinet secretary talked about young people having resilience and confidence. Those volunteers absolutely modelled for us what that might look like and gave a very clear view of how, with a bit of investment, that kind of work will have huge benefits in developing in young people not just skills in first aid, but lots of confidence. We want to thank those young volunteers, St Andrew's First Aid, and the petitioner. I note Brian Whittle's point that it is possible to bring back a petition in similar terms in a year's time.

We thank everyone for their work and agree to close the petition on that basis and underline our recognition that the Scottish Government has engaged so positively and directly with the petitioner.

I will suspend briefly to change witnesses.

09:53

Meeting suspended.

09:56

On resuming—

Restraint and Seclusion in Schools (National Guidance) (PE1548)

The Convener: The next continued petition is PE1548, on national guidance on restraint and seclusion in schools, lodged by Beth Morrison.

At our previous consideration of the petition in November 2019, the committee agreed to invite the Deputy First Minister and Cabinet Secretary for Education and Skills to give evidence at a future meeting. I am pleased to welcome back the cabinet secretary, and his Scottish Government official, Melanie Lowe, who is the supporting learners team leader.

Members will be aware of media reports earlier this week suggesting that the Government is changing its policy position on restraint and seclusion. I am sure that the cabinet secretary will speak about that as he provides his brief opening statement. We will then move to questions.

John Swinney: I am grateful for the opportunity to update the committee on the work in this area.

There have been a number of significant developments since my previous appearance in April 2017 to discuss the petition and the previous time that the committee discussed it on 7 November 2019. Over the past few months, we have made significant progress, reaching agreement with the Equality and Human Rights Commission and the Children and Young People's Commissioner Scotland that the Scottish Government will produce new national guidance that will provide a clear human rights-based policy on physical intervention and seclusion in Scottish schools. That will sit in the suite of documents in the "Included, Engaged and Involved" series that places at its core positive relationships and behaviour and early intervention and prevention to minimise the use of physical intervention and seclusion.

The approach has been agreed by the Scottish advisory group on relationships and behaviour in schools, which includes representatives from the Convention of Scottish Local Authorities, the Association of Directors of Education in Scotland, all the main teaching unions, the Equality and Human Rights Commission and the Children and Young People's Commissioner Scotland.

The Children and Young People's Commissioner Scotland report, "No Safe Place: Restraint and Seclusion in Scotland's Schools", made a number of recommendations to the Scottish Government. Although the Government agreed with many of the recommendations, we were unable to agree with them all. In our discussions it has become clear, by listening and engaging with stakeholders, that the guidance can be delivered in a way that meets everyone's needs. The guidance that we develop will maintain the position that physical intervention and seclusion should only ever be used as a last resort and should never be used for disciplinary purposes.

I am pleased to confirm that we have reached agreement on the membership of the working group that will develop the guidance. The membership will ensure that key stakeholders representing a range of perspectives will contribute to its development.

We have also agreed a timescale for the development, consultation and publication of the guidance. I am pleased to confirm that we anticipate its publication in January 2021.

In order to establish the impact and effectiveness of the guidance, we will conduct a review of its implementation one year after publication. The review will be informed by a wide range of evidence and perspectives. Concurrently, we will work with partners to establish a standard data set for the recording and monitoring of the use of physical intervention and seclusion. The new data set will be used to inform improved practice across Scotland.

I look forward to working together with our key partners, to ensure that an effective approach continues to be adopted in Scotland's schools when considering the use of physical intervention and seclusion. This new collaborative approach will provide additional clarity and evidence on the use of physical intervention and seclusion, supporting the appropriate use of approaches, extra reassurance to parents and strengthened support for children and young people.

10:00

The Convener: Thank you very much for that. I am interested in testing what the change means—perhaps I am testing some of the comments that were given to us at the previous evidence session. You will be aware that the children's commissioner and the petitioner are both clear that "Included, Engaged and Involved Part 2: A Positive Approach to Preventing and Managing School Exclusions" is a narrow framework of exclusion and behaviour management. The commissioner said:

> "It is problematic to put the guidance within a narrow framework of exclusion and behaviour management."—[*Official Report, Public Petitions Committee*, 7 November 2019; c 3.]

Is it now your position that you will take the guidance out of the "Included, Engaged and Involved" framework?

John Swinney: I do not intend to take it out of that framework, but I do intend to provide a more substantive set of guidance on these questions in the suite of material that is represented by the "Included, Engaged and Involved" framework.

I will explain what I mean by that. In some respects and for some time, we have not been, frankly, speaking the same language with the petitioner, the EHRC and the children's commissioner. I have always wanted to make sure that any guidance that we put in place about restraint and seclusion is not apart from but very much part of our overall approach on supporting behaviour and the correct approaches to addressing behaviour in our schools.

I do not want restraint and seclusion to be separate from our overall approach but to be very much part of it. I do not think that we have properly set out our position to the petitioner, the EHRC and the children's commissioner of our intention to do that in sufficient detail, with sufficient clarity, in order to address the issues that underpin the petition.

I said in my opening remarks that the guidance would sit in a suite of documents in the "Included, Engaged and Involved" series. I do not want in any way to minimise or trivialise the significance of the guidance that we are about to embark on. I recognise that we have to do substantive work in order to put in place substantive guidance, but I want that to be within a wider framework about how we support behaviour in our schools. For me, that is part of how we fulfil our commitment to all young people in school, to enable them to be included, engaged and involved.

There are particular issues that have to be addressed in relation to restraint and seclusion. I want to make sure that that is done properly and comprehensively. I hope that I have now put in place the mechanisms that enable us to do that.

The Convener: The argument is that, by placing the guidance inside a framework of exclusion and behaviour management, you are not addressing what the commissioner has argued for. The Office of the Children and Young People's Commissioner Scotland is of the view that the Scottish Government needs

> "to produce something that addresses restraints in the context of additional support needs, child protection and safeguarding, and trauma-informed practice."—[*Official Report, Public Petitions Committee*, 7 November 2019; c 4.]

This is not about dealing with poor behaviour and what action you are allowed to take; it is about recognising that behaviours are emerging from young people's additional support needs, the trauma that they may be in and the fact that some of the restraints may be creating an even more difficult situation for them. To what extent will the commissioner's view be embedded into the Government's thinking?

John Swinney: Let me be absolutely clear: I want to make sure that we fulfil that expectation of the commissioner. I also want to reassure you about another matter. We have to encourage a change in thinking about the coverage of the "Included, Engaged and Involved" series of materials. I do not want them to be seen as being about behaviour management. I want the "Included, Engaged and Involved" documentation to be viewed as, I suppose, the guarantees that we give to children and young people about how we ensure that they can be properly and fully included, engaged and involved in our education system.

That is about looking at the matter from a different perspective. That means not looking at it from the point of view that the series is about behaviour management, but in terms of how we give very solemn commitments to children and young people about how they can be included, engaged and involved in our education system.

Gail Ross: We heard some really distressing evidence at our previous session, when the petitioner highlighted the data that she had collected from 430 families across every local authority since June 2017. Every child involved has a disability. She stated that children are

"being injured, being dragged along corridors and being held forcefully enough to cause bruises, scratches, abrasions, broken limbs, noses and teeth."—[*Official Report, Public Petitions Committee*, 7 November 2019; c 14-15.]

Can you give a guarantee to our children and young people that the updated guidance will ensure that that never happens again in schools?

John Swinney: I do not, under any circumstance, want any of the examples that were cited by the petitioner at that session to be the experience of children and young people in our schools. School must be a place of safety and reassurance to every child and young person in Scotland. Young people will not be able to learn effectively if that is not the case, particularly in addressing some of the issues the convener has put to me about the trauma and disadvantage that young people may have experienced. School must be for them, whatever else is happening in their life, a place of safety, security and reassurance.

All the examples that Gail Ross has put to me are not acceptable. We have to ensure that the practice is such that we do not have those experiences. The thinking behind the guidance will be heavily influenced by the importance of the de-escalation of circumstances, including ensuring that staff are properly trained and equipped in order to deliver de-escalation approaches.

I cannot say to the committee that there will never be a circumstance in which some form of restraint may be applied, because there may be issues of personal safety for a child or a member of staff involved. However, I can say that I do not think any of the issues that Gail Ross raised are in any way justifiable.

We have to ensure we have good practice in place. Earlier, I indicated that the guidance places at its core positive relationships and behaviour, early intervention and prevention to—I chose my words very deliberately in describing this crucial part—minimise the use of physical intervention and seclusion. That is not to say that it will not ever happen, but we have to ensure that, if it has to happen, it will do so only once all the other options have been exhausted and it will happen in a safe and appropriate fashion. A "safe and appropriate fashion" would not be the words that I would choose to describe the examples that Gail Ross has put to me.

Gail Ross: Thank you. Have you ruled out making the guidance statutory?

John Swinney: That has been one of the rather fraught issues that we have had to wrestle with. I have been at pains to explain this to both the Equality and Human Rights Commission and the children's commissioner, and I am grateful for the fact that they have accepted the reality of the position that we are in today. I do not have the power currently to make statutory guidance in this area—I simply do not have the power in statute to do that.

The children's commissioner asked me to make statutory guidance within six months, but before I could make statutory guidance I would have to have the statutory power to do that in the first place, and I cannot do that within six months. MSPs know how long it takes us to put primary legislation through the Parliament, and I would have to do that to make statutory guidance. From a standing start, that would take me at least a year, if not more, and then secondary legislation would have to follow. If we wanted to go down the statutory guidance route, we would be looking at the start of that process being at least 18 months away, at the very earliest, with the guidance coming probably a year after that.

By January 2021, I hope to have in place guidance that arises from good, open dialogue involving all relevant stakeholders, including children and young people who have experience in this area. That is quicker than it would take to formulate statutory guidance. I appreciate that the character of statutory guidance is different from that of the guidance that I am putting in place.

However, I have secured the agreement of local government, ADES and our professional associations to work with us, along with children and young people, the EHRC and the children's commissioner, to put guidance in place by January 2021. I am trying to move as quickly and as authoritatively as I can in the absence of a statutory power to act in the area. It is not that I am unwilling to exercise a statutory power; it is that I do not have such a power to exercise.

Gail Ross: How do we ensure that, rather than the guidance being another document that sits on a shelf gathering dust, all headteachers, teachers, school staff and everyone who is involved in schools are aware of it, actually read it and follow it?

John Swinney: I have gone through a very careful set of steps over the past few months to make sure that I could get to the point where I am today, sitting in front of the committee and saying that I have agreement to proceed on the basis that I have set out from Scotland's local authorities, from ADES, from the professional associations that represent the teaching profession, from the EHRC and from the children's commissioner. That gives me the widest possible agreement.

We then have to make sure that the guidance is translated into practical effect, that it is the subject of discussion at local level, and that it is understood in schools. I know from my experience around schools that it is perfectly possible to get strategic messages across to all schools in the country and to have them participate in all that effort. We just have to make sure that that happens. Crucially, we have all the necessary agreement in place to enable us to do that, as a consequence of what we have been doing for the past few months.

The Convener: I will follow up on the issue of statutory guidance, At the evidence session with the children's commissioner, it was suggested that there had been advice that making the guidance statutory was not going to be considered and was off the table. The First Minister later said that she would not resist the idea completely—it was not something that she would not consider. I hear what you say about timing and so on. Are you taking steps, or is it possible to take steps, to have that as a fall-back position—at least as an option—so that if your approach does not work, you could then move to bringing in statutory guidance? Have you explored what you would need to do now to take that power, so that if you were to realise in a year and a half that what looked like a way forward was not going to work, you would not then have to wait another 18 months? Is it possible to do that kind of belt-and-braces work now?

John Swinney: I know what would be involved because I have taken advice on the statutory position. I know what statute we would have to put in place to enable that to happen. I have said to the EHRC and the children's commissioner that if, after the 12-month review of the implementation of the guidance, we do not see changes in practice, I would consider moving to statutory guidance.

I had not previously considered your question, which is whether I should just set that train in motion now to secure the statutory power in light of the possibility that the guidance is not seen to be effective at the review stage. Having now considered the point, that is the only thing that I could add to the measures that I am taking forward just now, given that I agreed with the EHRC and the children's commissioner that we would work together to get the guidance in place, review it after 12 months, with very involved participation, to see how it prevails, and then consider the statutory question.

10:15

The Convener: If the argument is that it will all take too long, the logic would be to take the power, as you do not have to exercise it. Will you reflect on that?

John Swinney: Certainly, in the light of the question that you have put to me, I will reflect on it.

Maurice Corry: In previous evidence sessions, the commissioner and the petitioner have stated that mistakes have been made when staff have been using restraint or seclusion. Bearing in mind the question from my colleague Gail Ross on what has happened to some children, do you regard it as important that there is proper training and support in the proactive strategies that you have talked about, alongside the development of guidance and so on? There is obviously an element of support for teachers and those who handle children.

John Swinney: Those issues have significant importance—that will be part of the roll-out of the guidance that we take forward. I was keen to ensure that the guidance is part of the suite of documents in the "Included, Engaged and Involved" series because they are predicated on the importance of applying de-escalation approaches in all circumstances. That is the culture I want to prevail in Scottish education.

Tense situations and situations of conflict in our schools are best addressed by the de-escalation of the tensions involved. I think that that is better for everybody. It is better for children and young people, because if they experience some of the anxieties that were underpinned in the first question that the convener put to me, reacting in a way that does anything other than de-escalate the situation will be detrimental to them. That applies equally to members of staff. I am keen that we have the de-escalation approach that is reflected in our policy thinking and our policy approaches. It needs to be reflected in the training approaches that we take forward as well.

Maurice Corry: Is enough emphasis being given to that in your thinking and deliberations around training and support in this area? I understand that some cases can be very difficult.

John Swinney: I carry responsibility at a policy level; responsibility at the operational level is carried by local authorities and schools. That is why I have gone through those steps. It is all very well for me to formulate a policy position, but I have to have the operational teams and groups in support of that direction as well. We have now reached a position where local government directors of education are entirely supportive of the direction of travel, as are the professional associations. They can provide members of staff with the guidance and support that they require to enable them to take forward the agenda. I am confident that we have all the ingredients in place to enable us to do that.

Maurice Corry: What are the main issues that the directors of education or local authorities have come back to you with in trying to get that support to teachers?

John Swinney: The challenge in our education system is that every teacher needs to know how to handle any given circumstance. Anything may just emerge in their classroom today—something might never ever have emerged in their classroom before but that might happen today. There are more than 52,000 teachers in our classrooms. My approach is about encouraging continuous professional learning within our teaching profession because the world is changing around us. Some of the challenges arising from the experience of children in our society today results in young people presenting with more complex circumstances and backgrounds than has been the case in the past. The teaching profession has to be equipped to deal with those issues. If that results in conflict, they need to be able to de-escalate that and to handle all those questions. That is why there has to be an atmosphere of continuous professional learning within the education profession.

Maurice Corry: Thank you. That is an important point.

Brian Whittle: Further to Maurice Corry's questions, I have a couple of family members who are involved in the area—one as a teacher and one as a support teacher—so I am glad to hear that we are talking about support and training for teachers. I recognise, as I am sure the cabinet secretary does, the pressure situations in pupil-teacher interaction that we are speaking about.

The petitioner was critical of the membership of the Scottish Government's short-life working group because it did not include people with learning disability expertise. I know that the cabinet secretary agrees with me that it is important to have lived experience in a working group. My question, which I ask on behalf of the petitioner, is why that expertise was not included in the working group.

John Swinney: That is one of the areas where we have benefited from the dialogue that we have had with the EHRC and the children's commissioner. I have seen the EHRC and the children's commissioner, or their representatives, at least twice in the past few months. I have listened to their perspective, and I accept that we did not have, in our original approach, sufficient breadth around the table to assist us in that discussion. I have ensured that there will be lived experience around the table to enable us to hear those voices, and that is how we will proceed to develop the guidance.

Brian Whittle: One of the key elements in developing policy will be data gathering and recording. The Commissioner for Children and Young People and the Education and Skills Committee have recommended to the Scottish Government that it considers ways to improve data gathering on the use of seclusion and restraint. Will you comment on that and say what action you will take to address those issues?

John Swinney: A lot of data is collected on the area, but I do not think that it is collected in a comparable fashion at local authority level, so we will do some work on ensuring that there is compatibility and comparability in the data that is collected. As part of the agreement, we will ensure that local authorities fully participate in that approach.

Brian Whittle: The petitioner has highlighted that the United Nations Convention on the Rights of the Child recommends that Governments should record and monitor all incidents of the use of restraint and seclusion. Given your answer and the Scottish Government's commitment to incorporate the UNCRC into domestic law, can you give a commitment that data will be recorded and monitored in the way that you have indicated?

John Swinney: The first part of that will be to make sure that we have comparable data across all local authorities, and we will take that forward as a consequence of the work that we are doing. Bearing in mind that, as I said in my introductory remarks, I want to minimise the use of seclusion and restraint, it is important that we properly monitor and interrogate any examples of that happening, because we do not want to see it happening unless it is an absolute last resort.

We have to be careful, however. One of the things that troubles me about the data issue relates to how that data is handled, and that is why I cannot say to the committee that there will never be restraint. I do not think that it will help the situation if we almost get to a point of having a league table that shows the worst local authorities for restraint, for example, because its use may be justified in any case. However many there are and however much we would like them not to happen, there may be a justification for the use of restraint. I am not sure that characterising restraint in that fashion will help to advance the objective of minimising its use, which we are all interested in.

I want to make sure that the data is available to be interrogated so that it can inform good practice and so that we can learn from it and try to find ways in which we can further minimise the use of restraint. I am not interested in collecting data so that we can have a league table and make some bodies and organisations feel that, somehow, despite the fact that they believe that they are delivering good practice—perhaps independently verifiable good practice—they are subjected to public criticism when that is not warranted. I accept that there is a fine line in all of that, but it is only right and proper that I express my unease to the committee on the question.

Brian Whittle: I agree with you that it is important that the way in which the data is recorded and interrogated does not cause undue pressure within an environment that is functioning properly. However, I think that you would agree that, if the data is recorded and utilised properly, it can highlight areas where there are issues.

John Swinney: I have absolutely no issue with what Mr Whittle has just said. I agree entirely with his comment, and that is why we will collect the data. However, I want the committee to be aware of the unease that I feel about how the data could be mishandled if that is not done in the way that Mr Whittle set out.

Brian Whittle: I think that you will get agreement on that point.

My final point on data gathering is on ensuring that the data is recorded in a way that means that it can be properly utilised. Will that require investment in a data processing and information technology collaboration platform? Will investment be required to bring all the local authorities together so that the data can be recorded in the way that you want it to be recorded?

John Swinney: We already have the SEEMiS system, with which the committee will be familiar and which enables recording on a pupil-by-pupil basis around the country. Therefore, the major infrastructure is there. There may be additional elements that we need to consider adding to the system as the issue develops.

Gail Ross: I have a quick supplementary on the back of the questions on data recording. In some of the evidence that we have heard, we have been told that the parents and families only found out about what was happening in school when the children came home with physical evidence such as bruises and so on. Will the data recording system be operated a way that involves families? How will we ensure that families are involved right at the outset, as opposed their involvement not happening until the child comes home?

John Swinney: There is a pretty fundamental point in that question, which is about school and family dialogue. School and family dialogue should be very open. Whenever there is an incident that a school believes a family needs to know about, the family should be advised about that incident. Off and on, my wife and I get phone calls during the day about things that have gone on as a consequence of the antics of our son involving play equipment in the school playground—that dialogue is immediate. Good practice tells us that schools should be in contact with parents at the earliest and most appropriate opportunity.

In the formulation of the guidance, I hope that, by listening to the voices that I have said we will listen to, we will get the perspective that Ms Ross encourages us to have in taking forward the issue.

10:30

The Convener: That is the end of our questions. We need to think about how we take the petition forward. I think that there is a sense of progress—the petitioner has been positive about that. I note that we have had the petition under consideration since February 2015.

I know that there is an independent review into the implementation of additional support for learning. I do not know whether there is a context there for the petition and for the specifics on the progress that have been identified by the cabinet secretary. Do members have suggestions on how we might take the petition forward?

Gail Ross: Given the evidence that we have heard today and the commitment that the cabinet secretary has given us on behalf of the Government, I think that a lot of the issues are being addressed. The issue is one that still needs to be monitored but we may have taken it as far as we can. I would like to refer the petition on to the Education and Skills Committee, which can keep it open and keep an eye on where the guidance is going and how it pans out.

The Convener: We could put it in the context of additional support for learning, which I know that the Education and Skills Committee is looking at.

Brian Whittle: I agree with that. I add one caveat, which is that the continued input of the petitioner and those with lived experience is crucial. I would like to ensure that that input continues if we are to pass the petition on to another committee.

The Convener: I seek members agreement to flag up to the Education and Skills Committee not only that we are referring the petition to it in the context of the review of the implementation of additional support for learning, but that there is benefit in positive engagement with the petitioner and those who have been involved in the debate. In addition, we should flag up that, if the guidance as it develops is not effective, the Government has made a commitment to look at what may be done to ensure that there is a means by which the guidance can be put on a statutory basis. Is that agreed?

Members *indicated agreement.*

The Convener: We agree to refer the petition to the Education and Skills Committee under rule 15.6.2 of standing orders. We will write to the Education and Skills Committee in the terms that members have highlighted. We thank the Government for the presentation that it made today and the petitioner for her persistence in pursuing the matter over what has been quite a significant period of time. We thank the petitioner for her engagement with the committee.

I suspend the meeting briefly to allow the witnesses to leave the table.

10:32

Meeting suspended.

10:36

On resuming—

In Care Survivors Service (PE1596)

The Convener: Our final continued petition for consideration today is PE1596, on In Care Survivors Service Scotland, which was lodged by Paul Anderson, James McDermott and Chris Daly. At the previous consideration of the petition in September 2019, the committee agreed to take evidence from the Scottish Government. I welcome back the Deputy First Minister and Cabinet Secretary for Education and Skills to give evidence alongside Jamie MacDougall, deputy director, social care support. I invite the cabinet secretary to provide a brief opening statement before we move to questions.

John Swinney: Thank you, convener. I welcome the opportunity to provide assurances to the petitioner and the committee of the Scottish Government’s on-going commitment to providing high-quality, sustainable and person-centred support to all survivors of childhood abuse.

Future Pathways provides support to survivors by working closely and successfully with a network of service providers across Scotland. I spent time recently with Future Pathways and with some of the survivors it supports. I appreciate that there have been challenges along the way. However, we have made very good progress on meeting those challenges.

What is clear to me is the commitment of the staff of Future Pathways to provide a high-quality service to survivors. At our meeting, the support co-ordinators emphasised how they work alongside people and that concept struck a chord with me. I will continue to encourage everyone who seeks to support survivors that we should be working collaboratively to ensure that our efforts are focused where they should be, on delivering support to survivors of childhood abuse.

My officials advise me that we are finalising the details of a contract between Future Pathways and Wellbeing Scotland. The aim of that agreement will be the same as many other agreements that are already in place: to ensure that survivors are able to access the support of their choice. A formal agreement between Future Pathway and Wellbeing Scotland will also improve the process of referrals between the organisations.

There are now over 1,200 people registered with Future Pathways, with a steady increase in registrations of approximately 35 per month. That, and the feedback from survivors, indicates to me that the support that is provided by Future Pathways is welcomed by survivors.

There have, of course, been criticisms from survivors, particularly about waiting lists. I have always been very clear that we must listen carefully to the voices of survivors across the range of actions that the Scottish Government is taking in response to the “Action Plan for Justice for Victims of Historic Abuse of Children in Care”. That is why I took action to address waiting lists, and I will continue to listen to feedback from survivors.

Let me conclude by assuring the committee that I have heard many encouraging personal stories from survivors on the positive impact that the person-centred rather than service-led approach has made on their lives. The Scottish Government is committed to ensuring that the support that survivors receive through Future Pathways is the right support for them.

The Convener: Thank you very much. What do you think is the difference between a person-centred and a service-led approach? What does that refer to?

John Swinney: A person-centred approach is one in which we listen carefully to the experience and circumstances of survivors and help them to identify what assistance they require to progress. A service-led approach is one in which we, as the public sector, essentially say that we provide this service, that service and the next service, and hope that those services meet the needs of those individuals. In my experience, that works in many aspects of public services, but I am less confident that it does so in the case of many survivors of historical abuse. That is why I am more confident in the person-centred approach, in which the support co-ordinators are able to identify what is needed in dialogue with survivors—that is why I was taken by the comment from the support co-ordinators that they work alongside individuals to help them to gather together the support that they require to allow them to progress.

The Convener: Is the implication of what you are saying that the service that was provided by Wellbeing Scotland was not person centred?

John Swinney: No. I am making an observation about public services in general. It is not a comment at all about Wellbeing Scotland; it is a comment about how I think public services tend to be organised. We decide what it is that we are doing and we go out and do it, but, given their complex experiences, I am not sure that that meets the needs of the survivors of historical abuse.

The Convener: There was a move by the Scottish Government to what is called a brokerage model, and there were some concerns by people in the system already that that was not person centred. Some of the argument was about the role of Future Pathways and the role of Wellbeing Scotland which, it would be argued, was person-centred and trauma-informed and would go with somebody on a journey, whatever the holistic support that perhaps the petitioner has highlighted. Do you accept that there are concerns about that?

You have created the impression that there is a difference between person centred and service led. The argument that I think would be contended by the petitioner is that the petition was prompted by a concern that Wellbeing Scotland was not able to continue in its person-centred work, from which the petitioner had benefited.

John Swinney: That is an entirely fair characterisation of the petitioner's perspective. What I would try to explain is that we listened carefully to survivors, who gave us the strong view that a person-centred approach was the way to proceed. I am not sure that I understand or could explain the difference between a person-centred model and a brokerage model, because I think they are one and the same thing.

Having listened to survivors, we went to procure a service to operate under that person-centred approach. Wellbeing Scotland in its previous identity did not tender for that. Several organisations came together under the umbrella of Future Pathways to offer that service. I accepted that we started off by saying, "We have procured this; let us now operate on this model," which obviously created distress among people who were using the services of Wellbeing Scotland. I have taken the pragmatic decision of financially supporting Wellbeing Scotland to continue to support those with whom it has established relationships, to avoid causing any distress or disrupting the continuity of support for people who were previously using the services of Wellbeing Scotland and are currently still able to do so.

The Convener: We will deal with the specifics of the relationship between Future Pathways and Wellbeing Scotland in a moment, but it feels to me that some of this is about the decision to establish Future Pathways, having listened to survivors. The implication of that is that your previous support for survivor strategy was not person centred. That is fundamentally not the case, because it came out of development of a strategy that recognised lifelong trauma and the way in which that would need to be supported in different ways, and organisations other than Wellbeing Scotland were engaged with that.

I am not sure whether the concerns that have been expressed by the petitioner are being understood by the Scottish Government. The implication is that the new Future Pathways model was a new thing with people at the centre of it, when in fact the argument is that there has been a change from a person-centred approach to one that directs people towards different kinds of services through a brokerage model.

10:45

John Swinney: As I said, convener, I am not sure that I could explain what the difference is between a brokerage model and a person-centred model because, fundamentally, it is about trying to answer the question of how we assemble the support that an individual survivor needs to help them to progress. It has always been the policy intention of the Government to enable us to create that. If, in the process of the procurement method that we took forward, it was suggested, inferred or assumed that there was a change in the direction of our approach, I hope that we have rectified that by the way in which we have acted subsequently.

The Convener: Perhaps we will need further explanation of what that change was for, given that a lot of people in the system feel that the change was not created with the intention that you have identified. I do not think that the discussion is really about how an individual organisation has been treated, but we will look at the questions that may come out of that deeper question.

Gail Ross: You mentioned that there is a contract in development now—is that correct?

John Swinney: Yes.

Gail Ross: We heard that Future Pathways will not refer survivors to Wellbeing Scotland, as they were not able to agree a contract. Tell us a little a bit more about the contract that is in development.

John Swinney: Essentially, the purpose of the contract is to ensure that individuals are getting the support they require. I do not think that it would be healthy or appropriate for Future Pathways to be supporting an individual and Wellbeing Scotland supporting an individual, which would make no sense whatsoever. We have to have a certain amount of understanding of who is supporting whom to make sure that individuals can get the support they require.

As I indicated in my earlier answer to the convener, Wellbeing Scotland received financial support from the Government and so did Future Pathways. Between them, they should be able to meet the demand that there is within the community.

Gail Ross: One of the barriers that we heard about appeared to be the level of personal information that Future Pathways was requesting about survivors, which seemed to be more specific than what was required by Wellbeing Scotland. Is it appropriate that Future Pathways can set higher thresholds for data than the Scottish Government? Why does it need that level of information?

John Swinney: I do not think that Future Pathways is asking for information that is inappropriate. What I have seen is that it is asking for basic contact information. Obviously, organisations need to have contact information to enable them to undertake their work. I certainly would not want people to feel put off accessing the service because of the information they had to provide but, from what I have seen, it looks to be pretty basic contact information.

Gail Ross: If survivors are saying to us that they feel that the level of information is inappropriate, will you look at that?

John Swinney: I am happy to look at that, yes. Recently, I met some survivors who are using Future Pathways support and they did not raise that issue with me. It certainly was not raised with me by the support co-ordinators, who struck me as being devoted to trying to get good outcomes for the individuals concerned.

The Convener: One of the things that have been flagged up is that some survivors are not comfortable giving postal addresses or access to national health service records. That was certainly the view of the Anchor centre, which has concerns about that. The issue is what is being done with the data.

John Swinney: Any organisation that holds data on an individual is bound by the requirements of the general data protection regulation. It has to hold that information for a purpose and can use it only for particular purposes. The onus is on the organisation to act within the law on the handling of any of that data.

The Convener: Do you accept that survivors in particular lack trust in organisations that have let them down in the past or in a system that has let them down, so they have anxiety about being asked for information that they do not want to share? For example, Wellbeing Scotland allowed survivors to use false names until trust was established. If you are dealing with people who have no trust, is it reasonable to ask people for what you said was basic data? The suggestion is that they are being asked for a lot more than that; in particular, the question of access to NHS records is a concern.

John Swinney: I am advised that Future Pathways allows individuals to use pseudonyms and to offer basic contact information. In relation to further information, that would depend very much on whether that was relevant or required to provide access to other services.

The Convener: If someone cannot access the service until they provide that information and folk do not have the trust to give that information, do you accept that that is a barrier?

John Swinney: I can see that, but what I also see is the energy and commitment of Future Pathways co-ordinators to build that trust, because they realise that they cannot properly support and assist individuals without it.

The Convener: Therefore, providing that information should not be something that has to be done before that initial trust has been built.

John Swinney: I would not see it as being required for that.

The Convener: That would be something that we could reflect back to Future Pathways.

John Swinney: Yes, I am happy to do so.

Brian Whittle: I wish a good morning to Jamie MacDougall, and thank the cabinet secretary for hanging in there for so long.

The convener and I met survivors. It looks to me as though what we are talking here about is two organisations having a power struggle, and in the centre of it are people with care issues that are very specific to them. One issue that has been raised with the committee by care survivors is the ability to access services anonymously. That can currently be done within Wellbeing Scotland but not Future Pathways. Would the cabinet secretary consider that and suggest to Future Pathways that if care survivors ask to access services anonymously they must be able to do that?

John Swinney: I am certainly happy to consider that and to raise it with Future Pathways. I have no problem with that.

I understand that Future Pathways accepts people accessing its services using a pseudonym and with partial contact details, so there is some acknowledgement of the situation, but I will clarify the position for the committee.

Brian Whittle: I am merely reporting to the cabinet secretary that care survivors' perception is not what you have described, so that has to be addressed.

John Swinney: I will check on that.

Brian Whittle: Future Pathways repeatedly highlighted to the committee that a commitment was made that the support that 134 people would receive from Wellbeing Scotland as of 30 October 2016 would continue without disruption, and it communicated to us that it did not wish those support arrangements to change. Does that commitment hold?

John Swinney: I will go back to what I said to the convener earlier. We listened to the survivors who asked us to ensure that person-centred support would be put in place. We procured that as we are obliged to do for public expenditure and public services, and a consortium of organisations, representing Future Pathways, came forward. Wellbeing Scotland did not enter that procurement process. The contract was awarded to Future Pathways to develop a person-centred model. Essentially, we reached a position that fulfilled exactly what Mr Whittle is arguing for, and which I agree with. We procured such person-centred support and Future Pathways was contracted to deliver it.

Wellbeing Scotland then told us that it had people with whom it works who did not want to be disrupted—they did not want to have to create a new trusting relationship because they had such a relationship with Wellbeing Scotland and did not want to go elsewhere. Despite Wellbeing Scotland's having not tendered for the contract, I took the pragmatic decision to support Wellbeing Scotland financially so that it could continue to support the individuals with whom it was working at that time. That commitment remains in place. Wellbeing Scotland is in receipt of £200,000 a year from the Government for its service.

Brian Whittle: To tie up loose ends, was Wellbeing Scotland invited to tender?

John Swinney: It was an open tender process; anyone could have come forward.

The Convener: You know that Wellbeing Scotland did not want to dispense the discretionary fund and so did not tender. Why was the change made from the In Care Survivors Service Scotland, which worked for over seven years and used a person-centred approach in which one person would deal with a wide range of things? There was a change that you put out to tender. There was nothing inevitable about the Scottish Government putting the service out to tender: it was an active choice. We lack clarity on why that was done.

Jamie MacDougall (Scottish Government): The committee should be aware that in moving from the agreement with Wellbeing Scotland, as Open Secret was, to the new model, we expanded the model extensively.

The Convener: It did not need to be expanded in a brokerage model, however, did it? The model that was developed over seven years and which had come out of the strategy was effective, so organisations other than Wellbeing Scotland could have done it, with one person doing all the work with people. There was no obligation to move to a brokerage model; that was an active policy decision. We lack clarity on why that was done and what assessment was made of the impact on survivors. That is what the petition is about. The petitioners are saying that change in how the service was being developed had a direct impact on them—on their ability to access group work and to access services over a long period with a person who could take a holistic approach and was trauma informed. First, why was the change made and, secondly, to what extent was the impact on individual survivors assessed? The answer is not about the service being person-centred because it was—as I think you will agree—previously person-centred. Why was that change made?

Jamie MacDougall: The change was made because demand was outstripping supply. We have moved from an arrangement that cost about £200,000 a year to one that costs in the region of £3 million a year. That will give members a sense of the scale of expansion of the operation. As a result of that, only one set of organisations came forward to tender. A consortium came forward because no single organisation could provide the service at such scale. We are now actively supporting more than 1,200 people. As a result of the transition to Future Pathways and the agreements that Mr Swinney has set out, we are also directly supporting Wellbeing Scotland to continue to support individuals.

As a result of the expanded model, Future Pathways has in place agreements with more than 30 organisations. Individual survivors who come forward have access not only to the support that Wellbeing Scotland provides, but to the whole suite of organisations with which we have active agreements. That is the nature of the contract that we are trying to put in place.

11:00

As well as the Scottish Government directly grant funding Wellbeing Scotland to continue to support survivors, we are looking to put in place a contract with Future Pathways, at a set amount, so that Wellbeing Scotland has certainty about who it can employ in order to take on referrals. There is a difference in what Wellbeing Scotland provides to the Scottish Government in that we are grant funding it for the range of services that it provides. We are not interested in the details about what happens to every individual, per se.

However, in respect of the agreement between Future Pathways and Wellbeing Scotland, it is important that we understand what happens with individuals because we need to make sure that we are providing the right support to individuals, that we are not providing it twice and that we are not missing it. We need to know that what we are doing over there is the same as what we are doing over here. We are close to reaching agreement on that.

The Convener: I hear what you say about expanding the amount of money. The question is how that money is directed towards meeting the needs of survivors: 30 organisations offering different things is not necessarily comparable to one organisation that can provide to an individual with a range of support for as long as they need it. However, we are not going to resolve that matter today.

Brian Whittle: We welcome the fact that you have expanded the service. However, you had a long and successful working relationship with Wellbeing Scotland. Why not expand that model with Wellbeing Scotland? With the greatest respect I say that what we are hearing in evidence is that there is a power struggle, which will obviously be detrimental to survivors who require services.

John Swinney: The question of scale is very material. It might not be possible for an organisation like Wellbeing Scotland to support the number—

Brian Whittle: You have not supported Wellbeing Scotland, cabinet secretary.

John Swinney: We have. We invited tenders, but Wellbeing Scotland did not tender. I cannot force people to tender.

The Convener: The issue is what the tender asked for. I do not think that anybody has suggested that Wellbeing Scotland would do all the work itself. There was the old In Care Survivors Service Scotland. I presume that it need not be that just one organisation delivers the service. If the argument from Wellbeing Scotland is that it was precluded because of what the tender asked for, you cannot then say, “If it didn’t tender, there is nothing we can do about that”.

John Swinney: I am agreeing with the committee that person-centred support must be the consistent element in all this. We offered a contract to provide person-centred support—as the committee has suggested Wellbeing Scotland was providing, which I accept. Wellbeing Scotland decided not to tender and I could not oblige it to do so. Subsequently, I have pragmatically accepted that Wellbeing Scotland has existing relationships with survivors, so I have financially supported it to provide continuity.

I am interested in providing support for survivors—I am not the slightest bit interested in a power struggle, and do not care if there is a power struggle going on. I am interested in whether survivors are getting the support that they require. I accept that it would have been disruptive to have required all Wellbeing Scotland clients to transfer to Future Pathways, but I did not do that. I allowed Wellbeing Scotland to continue with direct financial support from the Government, to the tune of £200,000 a year, while also providing £3.7 million in financial support to Future Pathways.

I am at a bit of a loss to understand what the issue is. I want people to get the support that they require. We have had to expand the service substantially, so we have let a contract to do that. Wellbeing Scotland did not tender for that contract, but I have put in place money to enable Wellbeing Scotland to continue to provide services to the people whom it was supporting. All that we are trying to establish now, in the relationship between Future Pathways and Wellbeing Scotland, is that the organisations are not both supporting the same individuals, because that would make no sense whatsoever, if we believe in focusing support on every individual.

Brian Whittle: What I am saying is that, according to the evidence we have gathered from both organisations and from care survivors, there is a strained relationship between the two given that Wellbeing Scotland relies on Future Pathways to give it the support that it needs through referrals. The person-centred care that we all want to happen is not necessarily happening for all. In fact, we understand that Wellbeing Scotland has received no confirmation of its funding beyond March 2020. As the Wellbeing Scotland service will perhaps stop in 2020, there is anxiety among the care survivors it is currently supporting that they might have to change service. Do you recognise that, cabinet secretary?

John Swinney: We do not yet have a budget for beyond March 2020 in any part of the public sector, so there are obviously issues with funding.

The Convener: Does that mean that no organisation has been given confirmation of its funding beyond March 2020?

John Swinney: I am saying simply that it is an issue.

The Convener: Is it not possible for you to give that confirmation?

John Swinney: I am coming to that. Due to the delay to the budget, the Government is looking at what clarity we need to give to organisations to enable them to function effectively. This is not just about Wellbeing Scotland; it is about countless organisations that would have expected some funding clarity by now. The Government is in the process of looking at that question, and we will provide reassurance to organisations in due course.

Brian Whittle: With all due respect, I think you know full well that your budget is certainly not going to go down, so that is a moot point. The fact of the matter is that Wellbeing Scotland currently does not have any funding clarification beyond 2020 whereas Future Pathways does. People who are currently being supported by Wellbeing Scotland are concerned that their support will stop in March 2020.

John Swinney: I will take that issue away and clarify it.

Maurice Corry: Are you comfortable with the decision that you have made to substantially increase the cost to the public purse instead of using the existing capacity that Wellbeing Scotland could have given? It has explained to the committee that, had Future Pathways referred survivors to it, it could have helped to eradicate the waiting list earlier this year.

John Swinney: Yes, I am very comfortable with the decisions that we have made.

Maurice Corry: Can you explain how Future Pathways will be evaluated in relation to the work that it is providing to you and what will be considered as success in relation to Future Pathways now that you have taken that decision?

John Swinney: We have to consider the outcomes that are achieved for individuals. The fundamental judgment on the work of Future Pathways and Wellbeing Scotland is the outcomes that are being achieved for individuals and how they are being helped as a consequence of the services that are in place and the support that is being offered.

Maurice Corry: Do you have a feeling for how it is going so far?

John Swinney: I think that some very good outcomes are being achieved. Some people who have used the Future Pathways service are no longer using it, because they are feeling well supported within their community and feel that they have been assisted. For example, of the 1,273 people who were registered with Future Pathways in November 2019, 317 were not actively using the service at that time but are able to do so should they feel the necessity.

Maurice Corry: Were the 317 or so people who were not using the service getting a better result by using Future Pathways rather than Wellbeing Scotland?

John Swinney: I do not have comparable data for Wellbeing Scotland and Future Pathways.

The Convener: I will ask about some anecdotal evidence we have had about payments from the discretionary fund. Are you confident that there is an effective process in place to evaluate requests for such payments? We have heard of people receiving quite significant appliances or whatever and then struggling to pay their rent or bills, with those items sometimes ending up being repossessed. Are you tracking that?

John Swinney: I would certainly want effective judgment in the making of commitments under the discretionary fund. We rely heavily on the judgment of support co-ordinators, in dialogue with a survivor, about what will assist that survivor to make the progress we would want all individuals to make. That is a fine judgment, not a precise science, and some decisions will not be the correct decisions—I have to accept that. We will consider the effectiveness of discretionary fund interventions as part of the work that I cited to Mr Corry about the outcomes achieved by individuals.

Maurice Corry: To what extent is the Scottish Government engaging with survivors?

John Swinney: We have a range of different engagements with survivors of abuse. On a personal level, I see individuals quite frequently. Also, the interaction review group has survivors on it. It is vital that we hear about the lived experience of survivors. I recently chaired the national steering group on trauma training, which includes survivors of abuse. We are trying to hear that voice consistently across the different policy interventions of Government.

Maurice Corry: Given what you have said, what expertise is there within the Scottish Government in understanding the complex trauma issues and needs of survivors? You have talked about how the Government is engaging with people who have experienced those issues.

John Swinney: We have professional civil servants who build expertise in a variety of different areas, and that work is supplemented by a range of advisory groups that we have. I have mentioned the national steering group on trauma training, which brings together a range of interested parties and those with lived experience to ensure that our steps, policies and processes are informed by that lived experience. We have to be always conscious of the importance of hearing those voices and acting upon them.

Maurice Corry: You also have to impart continuing professional development training to your officials for that. Your officials will benefit from having worked with care survivors and will, hopefully, sharpen their skills even further.

John Swinney: Training is available to our officials through different organisations, which enables them to be trauma informed. There is a lot of work going on within the Government, right across the board, to ensure that there is a wide understanding of the impact of adverse childhood experiences, and that is reflected across a range of different aspects of the Government's policy agenda.

11:15

The Convener: What about when a survivor does not consent to their data being shared and cannot, therefore, register with Future Pathways to be referred to Wellbeing Scotland? Is it of concern to you that, because of where the contract is, some people cannot access the services they would like to access?

John Swinney: The key point is whether an individual wishes to access some degree of support. If they do, I cannot see how we can provide that support without holding some basic information on them. That would not prevent their gaining access to the support that would be available under Future Pathways. If somebody was unwilling to give any contact details—I will have to check with Future Pathways whether that is its experience—I cannot see how—

The Convener: They could do that with Wellbeing Scotland. Wellbeing Scotland is thoroughly audited. It is not as though it has pretend clients who do not really exist—they exist. It has managed a system through which it builds trust and gets more information. If a survivor is, because of the nature of their experience, reluctant to give more than what I think you are calling basic data, although it is perceived as being more than the basic data that they might have given in the past, they are excluded from services from which they would benefit. Do you accept that that is a problem?

John Swinney: I am advised that Future Pathways requires a name and contact details but that those can be a pseudonym and partial contact details. I do not see how that is different from what Wellbeing Scotland requires.

The Convener: Do you accept that, if a survivor thinks it is different, there is a problem? We are working on assumption. Folk who want to receive support and have been getting support now feel they cannot access that support because they are reluctant to provide the evidence or data that is being asked of them—which, unless they are imagining things, is different from the data that was asked of them before.

John Swinney: Nobody who was getting support before cannot now get support because of this issue.

The Convener: Wellbeing Scotland cannot get referrals because people are not registering with Future Pathways due to the perception that the level of data that is required of them is higher, greater, more substantial or more significant than it was in the past. Given the time constraints that we have—I appreciate that there is a lot to discuss here—could you clarify the situation for us?

John Swinney: I can tell the committee that there were 171 new referrals from Future Pathways to Wellbeing Scotland between October 2018 and October 2019. I do not understand the point that has been put to me, because referrals have been made.

The Convener: I presume that those referrals involved people who agreed to give that level of data. This is a point that has been made to us.

John Swinney: I do not understand.

The Convener: Maybe it would be easier for the Scottish Government to establish why there is concern. I understand that the issue has been flagged up already. If the request is reasonable and nothing has changed, why is anybody raising it as an issue?

John Swinney: If the committee furnishes me with the detail of what the issue is, I will have it explored. As there were 171 new referrals in 12 months from Future Pathways to Wellbeing Scotland, I am not sure that I understand what the problem is. If the committee writes to me about that, I will be happy to—

The Convener: Do you accept that there is a problem if a survivor is saying that there is a problem?

John Swinney: I would like to see the detail of the issue before I comment. I have tried my best to deal with it today.

The Convener: The committee is presenting something to you as a concern, not trying to find a way to ask a question that you do not have an answer to. I am sure that you would agree with me that, if somebody is saying that the level of data that is now required is different from before and that it is an inhibitor to somebody accessing services, that is a problem.

John Swinney: I would like to see the detail of the issue, because I do not understand how that can be a problem for somebody who previously used services. I have taken the pragmatic decision to continue to support Wellbeing Scotland, so existing clients can get support from Wellbeing Scotland—none of that has changed.

The Convener: It may be an inhibitor for future applicants.

John Swinney: There were 171 new referrals from Future Pathways to Wellbeing Scotland between October 2018 and October 2019.

Brian Whittle: I want to clarify where I am coming from. It is not about the 171 new referrals; the concern is about whether others have not been able to be referred because of a particular issue. It is not about trying to catch anybody out. We are passing on to you things that have been reported to the committee.

John Swinney: I have said throughout the evidence session that I am very keen for any survivor of historic abuse to get the support that they require. I am prepared to look at the data requirements of Future Pathways, but I have been advised that it requires names and contact details and that pseudonyms and partial contact details will be acceptable. The organisation has to be able to get in touch with people. It has to know who it is dealing with.

The Convener: With respect, I think that everybody knows that. The idea is that people are resisting access to services because they are not giving very basic data. There is an issue there that might relate to the nature of survivors. It has been flagged up to us that the new referrals that Wellbeing Scotland has received have been not for counselling but for finding records. I think that it is the Anchor centre that asks for access to NHS records. People cannot access that service. Those things are all bound up together.

I appreciate how much time you have already given us, cabinet secretary. We will not resolve the issue or deal with all the details now, but I ask you to recognise that the issue has been raised as a serious concern. It might be difficult to understand what the concern is, but I am looking for a commitment from you that you will at least look at the issue as a serious one for people.

John Swinney: A number of very specific points have been put to me in the latter part of this evidence session that involve a level of detail that I simply do not have in front of me today. If the committee wishes to send me a letter that sets out those detailed points, I will have them addressed.

My fundamental point is that I want survivors of historic abuse to be able to access services. The Government has substantively expanded the ability to do so, but if there are impediments to how people are able to access those services, I will want to consider how they might be addressed.

The Convener: I appreciate that very much.

The request for information from Future Pathways says:

> “Please tick this box to give permission for Future Pathways to collect and securely store personal information; including sensitive information that you provide, which is necessary for coordinating the services you may wish to access (No service can be provided without this box ticked).”

That is the question. Your suggestion that we write to you with details about that to get a response from you is extremely helpful.

My last question reflects what we have been wrestling with today and over a period of time. I think that you would accept that some adult survivors have significant concerns about the support that has been provided. If there is the sense of a breakdown of confidence, what would a way forward be for a possible solution to address the issues that the petition raises? Even if Future Pathways does not recognise those concerns—it might be entirely fair for it not to recognise them—the issue still has to be resolved, because it is a matter of confidence and trust in the organisation.

John Swinney: Obviously, Future Pathways supports a large number of people. It is a matter of fact that lots of people out there get support from it. That is my first point.

My second point is that I have sat down with support co-ordinators and found them to be a wonderful group of people who are deeply engaged in providing support to individuals. I found them to be hugely impressive and highly motivated, and I thought that they were a credit to the organisation. I want as many people as possible to have access to that support, because it is of enormous value to individuals. I heard that from survivors, as well. I do not accept that there is a breakdown of trust, because people are quite clearly using the service in abundance. Therefore, there must be a lot of people who trust the organisation for what it does.

As I said earlier, I accept that there are tensions between some of the organisations. If the committee wishes me to consider and try to address specific issues, I will happily consider them, but we should recognise that a large number of people are benefiting significantly from the excellent support that Future Pathways offers.

The Convener: The committee would certainly agree that those on the front line in Future Pathways, as in other organisations, are doing a really important job. We have heard that for some survivors—maybe many survivors—the experience has been very positive. People can work extremely well even though the structure around about them can be challenging. However, people continue to be concerned. Frankly, I do not think that it is about tensions between organisations; rather, I think that it is about whether a service that was provided for survivors in the past will be available in the same way in the future. That is really what the petition explores.

I hear what you say, but we will want to write to you about some of the issues that have been flagged up. I think that the petitioner acknowledges the help that he has had from his co-ordinator. I suppose that the question is how we get to people who are not able to engage because of the way in which the structure operates and who are, in a sense, excluding themselves because of things that have been asked for from them.

On taking forward the petition, I think that we agree that we should write to the cabinet secretary. We very much appreciate the time that he has taken over the issue. Obviously, that will afford an opportunity for others to respond to the evidence session. We might hear from others, and we will reflect in a future meeting on the substantial evidence that we have heard today. Is that agreed?

Members *indicated agreement.*

Brian Whittle: The cabinet secretary is completely correct: our interest lies in adult survivors of abuse getting the support that they require with the easiest access possible. We have made some progress today, but there is still quite a bit of discrepancy in the evidence that we are getting. To me, there still seems to be a power struggle. My concern is that that is affecting the service that is being delivered.

The convener is right: we can write to the cabinet secretary about some things that he can consider and report back to us on. The solution does not seem that far away. It seems that we need to get a couple of people in a room and knock their heads together to get back to the person-centred approach that the cabinet secretary has said is so important.

John Swinney: For the record, I do not think that there is any need to get back to a person-centred approach, because there is a person-centred approach. However, if there are issues that the committee wishes me to explore further, I will explore them to try to reassure it.

The Convener: The question is whether the changes in the way in which services are procured have created a challenge for some survivors in how the services are delivered. That has been explored.

I thank you very much for your attendance, cabinet secretary, and for the seriousness with which you have addressed all the petitions. You have certainly been extremely helpful with two of them in progressing matters, but there have been some challenges with this one. Given the pressure on you with your much broader responsibilities, your spending such an amount of time with the Public Petitions Committee is very much appreciated.

I thank everyone on the committee for making the year an excellent one for it. We have got through a lot of business. We have a particular role in being outward facing and responding to the huge range of concerns and interests of petitioners. I thank everybody for their personal support, and I thank the clerking team.

I wish everybody a very happy Christmas and all the very best for 2020. Our first meeting after Christmas will be on 16 January.

Meeting closed at 11:30.

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