



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 29 October 2020

Session 5



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Pàrlamaid na h-Alba

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PUBLIC PETITIONS COMMITTEE

18th Meeting 2020, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Maurice Corry (West Scotland) (Con)

*Tom Mason (North East Scotland) (Con)

*David Torrance (Kirkcaldy) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Rona Mackay (Strathkelvin and Bearsden) (SNP)

CLERK TO THE COMMITTEE

Lynn Russell

LOCATION

Virtual Meeting

Scottish Parliament

Public Petitions Committee

Thursday 29 October 2020

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Johann Lamont): Good morning, and welcome to the 18th meeting in 2020 of the Public Petitions Committee. The meeting is being held virtually.

The first item on our agenda is a decision on whether to take agenda item 4 in private. Do members agree to take item 4 in private?

I see that members are all agreed.

New Petitions

Trampolines (Regulations on Use) (PE1818)

09:30

The Convener: The second item on our agenda is consideration of new petitions, the first of which is PE1818, lodged by Stacey Clarke, calling on the Scottish Government to implement regulations on ownership and use of residential trampolines.

Members will recall that the committee agreed to seek views from the Scottish Government on all new petitions in advance of their formal consideration. Despite repeated requests for the information, the Scottish Government has not been forthcoming with its views on this petition.

We will move to our consideration of the petition. I am not sure about other members' experience, but I have had instances of people complaining about neighbours using trampolines at inappropriate times and other cases where trampolines have been a source of tension. Although we recognise that the area might be a focus of neighbour disputes, the question is whether the solution that the petition suggests is credible and would actually be enforced. It perhaps follows more along the line of how we deal with neighbour disputes, which is obviously a challenging issue in itself.

Tom Mason (North East Scotland) (Con): It is an interesting petition, which I think comes under the category of general neighbour behaviour—trampolines are just a particular instance of that issue. I have had similar complaints about people using lawnmowers, carrying out do-it-yourself activity or just generally making noise. Quite often, complaints come in about excessive noise from kids in gardens.

We need additional information from local government to progress the petition. We should also ask trampoline sports associations—I do not know their names, but there must be organisations that look after the sport of trampolining. It would be a mistake to unnecessarily kill off the development of trampolining at the grass-roots level. We need more information from the Government and from associations that represent trampolining activity.

David Torrance (Kirkcaldy) (SNP): We need more information. It would be a local authority issue if trampoline use were to be enforced as antisocial behaviour, so we should write to the Minister for Local Government, Housing and Planning to find out his views.

Maurice Corry (West Scotland) (Con): I agree with my two colleagues who have spoken already,

and I have nothing further to add. It would be good to get extra information.

Gail Ross (Caithness, Sutherland and Ross) (SNP): I can see both sides of the issue. As you mentioned in your opening remarks, convener, trampolines can be the cause of neighbour disputes. A lot of the correspondence that I have received has certainly pointed to that. I am less sure whether the planning process is a suitable way in which to deal with the issue. Our briefing tells us that licensing is used for issues such as tattooists and taxis. I think that the most recent issue on which licensing was introduced was air weapons, which was done for safety reasons.

If the petitioner had included a safety aspect in terms of trampolines not being tied down in gardens during storms when they can cause damage, that might be considered, but it just seems to be an antisocial factor and we hope that such things are sorted out between neighbours. I have no qualms about writing to the minister. Champions of the future have to start somewhere, so I am quite happy to write to a UK gymnastics body or whatever it might be, as Tom Mason suggested.

The Convener: There appears to be recognition that there might be an general issue here about neighbour disputes, but the solution that is presented in the petition would be costly and not necessarily effective. It feels like over-regulation. We want to encourage younger people to go out and do healthy things, take physical exercise and so on. I am not sure that we can legislate for the management of such neighbour disputes, which often involve a lot of diplomacy from local agencies. There is an evident tension between people living side-by-side who share communal spaces, and young people taking exercise—which of course we want them to do.

This is a good example of why we would quite like the Scottish Government to respond to the committee before we discuss a petition, because we now have to write to the Minister for Local Government, Housing and Planning for information that would have helped to inform our first thinking. However, we will write to the minister.

Perhaps the clerks could look for a national body for trampolining; there must be one. It might be that this is the sort of issue that has been flagged up to that body previously and it might have solutions. I think, however, that I am reflecting the views of the committee if I say that, although we recognise that there can be issues about how neighbours manage these disputes, we are not sure that the solution that the petition has flagged up is credible.

Maurice Corry: Think about how many of us had slides and other play equipment in our gardens for our kids. We need to be careful not to legislate to have everything pinned down in the garden, or what have you. The convener is absolutely right that we should be cautious.

On the point about health and safety, there is an issue if the trampoline does not have the proper netting around it that stops kids from falling from the side of the trampoline; that is a cause for concern.

I think that the committee suggests the right course, but we should be cautious about other kids' equipment in a garden and whether that will or will not be covered. We do not want to ruin the party.

The Convener: We agree to write to the Minister for Local Government, Housing and Planning to seek his views on the action being called for in the petition. Additionally, if the clerks can establish whether there is an appropriate trampolining body, we could find out whether there is a broader issue in our communities; that would be useful.

National Emblem (PE1826)

The Convener: We now move to the second and final new petition for consideration. PE1826 calls for the introduction of a new national emblem of Scotland and is by Catherine Cooper. The petition calls for the Scottish Government to facilitate a national conversation to identify and adopt an additional official emblem for Scotland. The Scottish Government's submission states:

"Scottish Ministers believe that consideration of any further national emblems should be arrived at informally as need dictates and should not be led by the Scottish Government or by any political party."

The petitioner's submission recognises the Scottish Government's stance, but argues that her petition is not about party politics; it intends to align people "behind a common cause" and develop

"a shared cultural vision for Scotland."

I am now looking for comments on the petition. My observation is that I am not sure that there is any means by which it is possible to develop a shared cultural vision for Scotland. People will have their own versions of what their society should aspire to.

I was interested in the commentary from the petitioner, which seemed to be much more about dealing with difficult times and how people pull together in difficult times. I respect that, but it does not feel to me to be about emblems and symbols; it was about how tough things are and how we can find a common endeavour, which is important in

local communities. During the pandemic there have been good examples of people pulling together, so in my head I have separated the petitioner's very interesting commentary from the aim of the petition, which is to establish a new national symbol.

David Torrance: The petition is interesting. There are diverse views out there from members of the public on the subject of an additional official emblem for Scotland, but would they ever agree? The key point is that the Scottish Government does not support the action that is called for, so I am afraid that we should close the petition under rule 15.7 of the standing orders.

Maurice Corry: I agree with David Torrance that we should close the petition under rule 15.7 of the standing orders. All the work that the petitioner has put in and the comments on the petition are interesting. I think that it is something that grows organically—for example, the emblem of the thistle has been progressed by the Scottish Rugby Union—so there is not much more that we can do. We now know the views of Scottish Government, so I am of the mind to close the petition.

Gail Ross: I understand what the convener said at the start about separating the aim of the petition from the discourse that followed it. You are absolutely right about communities coming together, which they have done in spectacular fashion, but the petitioner pinpoints a lot of social issues that I am not sure would be solved by a new national emblem. We have to ask such questions as, "Is an emblem needed? Would it make a difference? Where would it be used? Who would use it?" and "Would it replace anything?" Those things tend to grow organically with community involvement. I would equate that to what has been done in Caithness—we now have our own county flag, which was chosen through a competition run in the schools, with the community voting on the entries. That was nothing to do with Government or local authorities; they did not push it in any way, although they supported it.

The petitioner said that it

"is not about party politics",

which is absolutely right, because if the Scottish Government said that it was introducing a new national emblem, a lot of people would think that it was about party politics, given where we are with the conversation about the constitution. I agree with my fellow committee members that it is an interesting petition and certainly one that the wider population might give cognisance to, but given the Scottish Government's submission, we cannot take it much further. I agree to close the petition.

Tom Mason: The petition seeks to promote unity, but if there were a forced discussion on an

emblem, it would go in the opposite direction; people would become very entrenched in their various views and it would be self-defeating. Taking the issue forward at the moment would not be a good idea and, as indicated by other members, we should close the petition.

The Convener: There is a consensus recognising that what lies behind the petition is quite different from the debate about a national symbol, and a number of colleagues made the point that if the Government conducted such a conversation, there would be a degree of suspicion about it. It feels to me that it is something that should emerge from communities, rather than being done to communities.

As I said, I think that we respect the motivation behind the petition, but I think that we are agreeing that we will close the petition under rule 15.7 of the standing orders, on the basis that the Scottish Government does not support the action called for in the petition and that we think that it is not the role of the Scottish Government to lead that conversation. However, we thank the petitioner very much for submitting the petition and we remind them that there is an opportunity to revisit the petition in a year's time if they feel that that would be worth while. We thank them for raising the matter for our consideration.

Continued Petitions

Public Services (Complaints) (PE1740)

09:45

The Convener: The next item on our agenda is consideration of continued petitions. The first continued petition is PE1740, on improving the handling of complaints about public services, which was lodged by Rachel Lowther on behalf of Accountability Scotland. The petition calls on the Scottish Government to improve complaints handling in the following ways: by allowing the Scottish Public Services Ombudsman to take complaints in any format and by requiring bodies under SPSO jurisdiction—BUJs—and the SPSO to permit complainants to audio record meetings and phone calls and to use the recordings as evidence in any subsequent complaints.

The Information Commissioner's submission advises:

"Where audio recordings are being made and used by individuals acting in their personal capacity regarding their own or a proxy's personal interests, they are unlikely to be Data Controllers for the purposes of data protection. As such, the obligations of data protection law would not apply to them and their use of such data."

It further advises that

"there is nothing to stop individuals from making such recordings at the moment in these circumstances."

The Scottish Government previously advised the committee that it had had discussions with the SPSO about mainly technical amendments to the Scottish Public Services Ombudsman Act 2002. Although the Scottish Government was supportive of the majority of proposed changes, it noted that, due to competing demands and current pressures, it had no plans to progress matters at this time.

A new submission from the Scottish Government confirms that it is not able to advise when it will be able to bring the requested amendments forward. It also advises that it can now not support the proposal to permit complainants to audio record meetings and phone calls and use that evidence in subsequent complaints.

I ask any members who wish to comment on the petition to do so. I think that there is an issue about accessibility in relation to the opportunity for people to engage in the complaints process, as they may be inhibited by the fact that they have to provide everything in writing.

A slightly different issue is that, although a complainant is entitled to record for their own benefit, the question is whether those recordings can then be used as evidence in pursuing a

complaint—I think that that is what the petitioner is looking to establish. The Scottish Government seems to be more ambivalent on that point. It does, however, recognise that there are technical amendments that can be made, and it will progress those in the future.

I am not sure that there is any more that we can do at this point, but we may want to flag up the issue to somebody else in the parliamentary process who could look at it in the future. I would be interested in hearing the views of committee members.

Maurice Corry: I think that, as you rightly say, there is ambivalence about some of the procedures and what is happening at the moment with the whole process. It is a difficult one. I am tempted to say that we should write to the SPSO, asking it about the BUJs and about altering its model of complaints. On the other hand, we have evidence from the Scottish Government that it is aware of the matter and that there are technical issues involved, with technical changes possibly to be made in the future. We are also aware that the petitioner can come back after a year if they see no progress.

I am, therefore, minded to close the petition under rule 15.7 of the standing orders, on the basis that the Scottish Government will take forward the proposed legislative amendments with the SPSO when resources become available. I think that that is the course of action that I would recommend at this stage.

Gail Ross: There seem to be some grey areas. The Scottish Government has said that it is willing to make the legislative changes that are necessary. The convener is right about access to the SPSO; it is quite limited at the moment.

If the Information Commissioner's Office is saying that sessions can be recorded but the Scottish Government is intimating that they cannot be used in evidence, I wonder what the point of recording them is in the first place. I suppose that that would be for a person's own benefit.

I agree that there is no further course of action that we can take as a committee. However, I understand that the Local Government and Communities Committee holds an evidence session with the SPSO. I agree with Maurice Corry that we should close the petition, but could we then write to the LGC Committee, flagging up the petition as an issue that it might want to explore in any future evidence session that it has with the SPSO?

Tom Mason: I agree with Gail Ross's comments. It seems as though the Government has the matter in hand but does not have the resources to deal with it at this time. On the

understanding that action will be taken, I think that we should close the petition.

David Torrance: I am happy to agree with my colleagues' recommendations and close the petition.

The Convener: It seems that there is agreement to close the petition. We note that the Scottish Government has recognised that amendments to the legislation need to be progressed. I think that the recommendation that we write to the LGC Committee makes perfect sense. As was mentioned, the committee has a session with the SPSO, and that would be an opportunity for it to flag up or raise questions about the matter with the SPSO.

In agreeing to close the petition, we thank the petitioner again for raising the matter with us and for their engagement. If they do not consider that sufficient progress has been made, there is an opportunity for them to return the Public Petitions Committee with the issue in a year's time.

I confirm that we are closing the petition on the basis that the Government has said that it will progress the proposed legislative amendments with the SPSO when resources become available and that we will write to the Local Government and Communities Committee.

Listed Buildings (Financial Viability) (PE1749)

The Convener: The next continued petition is PE1749, on the financial viability of listed buildings, which was lodged by Ronald Morrison. It calls on the Scottish Government to ensure that financial viability studies are conducted on listed buildings that require restoration and/or maintenance, that the responsibility of ownership is established for that work and that financial assistance is provided where listed buildings are at risk of falling into disrepair.

The Scottish Government advises that the Scottish ministers have written on a number of occasions to the UK Government on the subject of VAT reduction for repairs and alterations. It also notes that it has consistently taken the view that the UK Government's position is anomalous.

In its most recent letter to the UK Government, the Scottish Government once again called for it to reduce VAT on energy efficiency improvements in homes as part of its commitment to legislating for net zero. The submission confirms that Scottish Government officials will ensure that the members of the "Our Place in Time" built heritage investment group are made aware of the proposals that are made in the petition.

Do members have any comments? I am reassured by the fact that the Scottish

Government has said that it will keep the BHIG informed of the work that it is doing and that it has recognised that the petition raises a serious issue.

Gail Ross: You are absolutely right, convener—the fact that the Scottish Government has flagged up the issue and that the BHIG and the strategic historic environment forum are discussing it shows that the issue is a serious one.

Again, however, I am not sure whether we can take any more action. There is an on-going discussion on the subject of VAT reduction in which the Scottish Government is continually pressing the issue with the UK Government.

Given that those two discussions are on-going, we could close the petition today but invite the petitioner to come back in a year if the matter has not been satisfactorily been addressed. I suggest that we close the petition under rule 15.7 of the standing orders.

Tom Mason: All the relevant organisations have been briefed and understand that those discussions are running, and the Scottish Government has shown some commitment to the issue, too. I think that closing the petition is appropriate at this stage.

David Torrance: The Scottish Government has taken on board the issue that has been raised by the petitioner and is engaging with relevant parties. Therefore, I think that we should close the petition under rule 15.7 of the standing orders.

Maurice Corry: Mr Morrison is a constituent of mine, and I am aware that he has been working hard on the petition. However, the Scottish Government has taken note of the petition and has undertaken to keep the strategic historic environment forum and the "Our Place in Time" built heritage investment group informed. It will also continue to lobby the UK Government on the question of VAT. It is good to see that those three things are going on.

Like my colleagues, I am minded to close the petition under rule 15.7 of the standing orders. Of course, Mr Morrison can submit another petition in a year's time if he feels that insufficient progress has been made. However, at this date, we have made progress. Let us see more progress take place.

The Convener: The committee recognises that the petition deals with an important issue and feels that progress has been made and that assurances have been given by the Scottish Government. We recognise that there is an issue beyond individual buildings, and the issue of energy efficiency is an interesting point in relation to our net zero target.

In agreeing to close petition under rule 15.7 of the standing orders, we recognise that the Scottish Government is going to make the "Our Place in

Time” built heritage investment group aware of the issues that are raised in the petition, and we acknowledge that the issue that the petition deals with is an important one. In thanking the petitioner for engaging with the Public Petitions Committee, we note that, as a number of members have said, if the petitioner feels that there has been insufficient progress after a year, they will be able to submit another petition at that point.

Written Constitution for Scotland (PE1781)

The Convener: The next petition is PE1781, which was lodged by Denis Agnew, calling on the Scottish Government to consider a written constitution for Scotland.

At our last consideration of this petition, we agreed to seek the Scottish Government’s views on the action called for in the petition. The response confirms that, should the people of Scotland vote for independence in a future referendum,

“an early task is likely to be the development of a written constitution”.

The Government’s submission goes on to state that it has paused its work on an independence referendum in 2020 in order to focus on the response to the Covid-19 pandemic.

The petitioner is encouraged by the Scottish Government’s commitment to a written constitution but is of the view that it should be developed regardless of the outcome of a referendum on Scottish independence.

I agree with the Scottish Government that work on these issues should be paused for the moment. I think that every bit of energy at every level of Government needs to be used to address not only the pandemic health issues but the socioeconomic and community issues that are developing as a result of the pandemic. I know that there is an argument around Scotland having a written constitution, but I do not think that it is something that the Scottish Government should be focusing on just now—this is not the time for that work to be done.

Tom Mason: I agree entirely, convener. The trouble with a written constitution is that one spends a lot of time debating it as opposed to getting on with the issues. At this time, dealing with the issues around a written constitution would be counterproductive, given all the other social and health issues that we have to deal with. As time goes on, we may have the luxury of discussing the constitution. However, at this time, it is not appropriate to do so. Therefore, we should close the petition.

David Torrance: The Scottish Government has given a guarantee that what the petitioner has

called for will happen if independence is voted for, so I do not think that we should spend any more time on the petition. Let us just close it.

10:00

Maurice Corry: I agree entirely with what Tom Mason said. I agree that we should close the petition and concentrate on the main issues at hand.

Gail Ross: It is important for a country to have a written constitution, but that is a massive undertaking. The consultation, debate and so on will take up a lot of time and resource. I agree that that is something for a future Government to look at when we are over the worst of the pandemic, and I have absolutely no doubt in my mind that it will happen very soon.

The Convener: That is a consensual note. To be fair, the committee could divide according to our views on a number of constitutional issues, but it is clear that there is unity in agreeing that this is not the time for the Scottish Government to focus on work on a written constitution. Indeed, the Scottish Government has said that it would develop a written constitution if Scotland were to vote for independence in a future referendum. I think that we agree that we should close the petition on the basis of what the Scottish Government has said. We recognise that the constitutional debate remains alive in Scotland, and this is not about closing that down. However, I think that we agree to close the petition under rule 15.7 of the standing orders.

We thank the petitioner for engaging with the committee, and we note that he is able to return with a petition in a year’s time if he thinks that that is an important thing to do.

Stocking of Salmon Rivers (Consultation) (PE1782)

The Convener: The next continued petition on our agenda is PE1782, on full consultation on the stocking of salmon rivers, which was lodged by Robert White on behalf of the Scottish Gamekeepers Association’s fishing group. The petition calls on the Scottish Parliament to urge the Scottish Government to ensure that a full stakeholder consultation is carried out before Marine Scotland formalises its policy on the stocking of Scotland’s salmon rivers.

The Scottish Government’s submission in April explains the background to the current policy, including who was consulted.

The Scottish Government has contacted the clerks to say that the consultation that is referred to in our committee paper was on a different aspect of salmon conservation—on proposing

river gradings for the 2021 fishing season—and was not related to the stocking of rivers. The Scottish Government has also highlighted to the clerks that officials wrote to the petitioner last week, inviting him to an initial meeting in order to hear the views of the Scottish Gamekeepers Association’s fishing group. The intention of that invitation is to help officials to understand the concerns better and to inform a wider consultation on stocking.

The petitioner has questioned Marine Scotland’s approach of gathering evidence and research and then conducting a short, focused consultation. He has said that that

“runs the risk of the consultation being perceived as a fait accompli rather than a genuine”

consultation. The petitioner is also concerned that

“the science which currently influences Marine Scotland policy is ... largely from overseas and this native knowledge gap ought to be part of a wider consultation rather than being the issue around which the consultation is managed.”

I am encouraged by the fact that the Scottish Government has made direct contact with the petitioner and has asked for his involvement. That should help our consideration of the petition.

David Torrance: The petition is a really important one, and it is really important that all stakeholders are consulted. Like the convener, I am encouraged that the Scottish Government is engaged with the petitioner.

We should write to the Scottish Government to ask whether its discussions with the Scottish Gamekeepers Association’s fishing group resolved the issues that were raised in the petition.

Maurice Corry: I absolutely agree with David Torrance. It is an important issue and one that comes up constantly in the mailbags of members whose areas include salmon rivers or coastal waters. I would like us to write to the Scottish Government, asking it to provide a summary of the outcomes of its consultation. We should ask whether anglers groups such as the Scottish Gamekeepers Association’s fishing group were consulted and, if so, what their responses were. I would also like to know about responses from other appropriate groups that were included, in order to give us an all-round picture of the situation. The issue of wild salmon stocking is coming up the agenda, so I am keen that it is looked into in proper detail.

Gail Ross: Like my colleagues, I am happy that the Scottish Gamekeepers Association’s fishing group is being consulted and I would like to know about the outcome, so I agree that we should write to the Government on that. As we discussed when the petition first came before us, all stakeholders need to be involved in discussions and

consultations—Maurice Corry is absolutely right about that. We could ask the Scottish Government to keep us informed when the consultation takes place or when there are chats with the Scottish Gamekeepers Association’s fishing group.

We should keep the petition open. As Maurice Corry mentioned, there is a much wider issue about the grading of rivers and so on. The Rural Economy and Connectivity Committee touched on that in its aquaculture inquiry, which was the result of another petition. We should certainly continue discussions with the Scottish Government to find out whether the petition is being addressed.

Tom Mason: I agree with my colleagues. We should ask for more information on where the Scottish Government has got to in its consultation with various bodies including the Scottish Gamekeepers Association’s fishing group. It is essential that we keep the petition open to ensure that that happens.

The Convener: Just to clarify, I point out that the consultation has not started yet, but there are concerns about the way in which the process is being taken forward. There are concerns that the consultation will be the wrong way round—people feel that the decision has already been made and that the Government will then look for views that confirm that decision. I am sure that the Government will want to confirm that that is not the case.

My sense is that the committee wants to keep the petition open so that we can be confident that the Scottish Government has understood the concerns. If members agree, we will contact the Scottish Government and ask it to keep us up to date with the consultation and the process, and we will ask about the outcome of the engagement with the petitioner and the group that he represents. Obviously, the committee can return to the petition at a later stage.

Childhood Cancers (PE1783)

The Convener: The next continued petition for consideration is PE1783, on public awareness of and funding for childhood cancers with low survival rates. The petition, which is by Fiona Govan, calls for the Scottish Government to raise public awareness of harder-to-treat childhood cancers and to provide additional funding to finding cures.

Since the committee’s previous consideration of the petition, we have received submissions from the Scottish Government, Children with Cancer UK, Abbie’s Army, Cancer Research UK and the petitioner. The submissions are summarised in the clerk’s note.

I thank everyone who has responded on the petition. The seriousness of the submissions was very powerful. In particular, I note the responses from the petitioner and from the charity Abbie's Army, which are based on direct individual experience. It was very emotional to read those submissions and think about how it must be to live through that. As we are aware from many other petitions, it is very powerful when people take their individual tragic experience and try to make things better for others through campaigning.

We have to think about whether the petition can do anything more. We could certainly flag up the petition to the Scottish Government and urge it to recognise the significance of the issues. We have to make a decision about whether we need to keep the petition open or whether drawing the Scottish Government's attention to the submissions would be sufficient.

I was struck by the submission that highlighted the fact that much of the money that is raised for cancer research is not directed towards childhood cancer. Of course, we cannot do a cost benefit analysis of such things, but I was shocked by that. I hope that the Scottish Government would reflect on that in any cancer plan.

I would be interested to hear what other committee members think. Regardless of whether we keep the petition open or we close it, we recognise the importance of the issues that have been flagged up in the petition, which reflects the direct and powerful testimony that has been provided.

Maurice Corry: I concur with what the convener has said. It is a very powerful petition. I was impressed by the submissions from Abbie's Army and Cancer Research UK in particular.

Although the Scottish Government seems to be getting to grips with the issue, the powerful nature of the evidence that we have received is such that I am minded to recommend that we keep the petition open and write to the Scottish Government to request that it consider the key issues that are raised in the petition when it finalises the cancer plan for children and young people. Although we are close to the end of 2020, when the Government is supposed to publish that plan, I would like us to cross the t's and dot the i's. I would feel more comfortable if we had a final shot at writing to the Scottish Government to ensure that the points that have been made are being addressed. Some very powerful statements have been made and we have received some brilliantly written descriptions from people who have experienced childhood cancer, for which I commend them. I also commend the petitioner, Fiona Govan, for bringing the issue to the committee's attention.

I suggest that we write to the Scottish Government and keep the petition open until the cancer plan has been finalised. It might be another month or two before it can submit its final plan, but I think that it would be worth waiting.

Gail Ross: I absolutely agree. It is a powerful petition on an emotive subject, and I thank the petitioner for following up on her petition and making some extremely powerful statements. I was struck by the contrast between the cancer charities' use of children in their marketing campaigns and their lack of investment in finding cures and funding treatment for children with cancer. That is pretty stark and quite disgraceful, and the petitioner is absolutely right to highlight it.

The petitioner makes some further asks. It is not too much to ask that every member of the Scottish Parliament wear the ribbon to mark childhood cancer awareness month, that we hold members' business debates on the issue or that we raise awareness in our constituencies and regions. It might be more difficult to ensure that there is transparency in the materials that are issued by the charities—perhaps the regulator would be the right body to look at that.

Maurice Corry and the convener mentioned the cancer plan for children and young people. The issue must be addressed in that.

The petitioner also suggests that information on the subject could be included in the baby box. She said that leaflets had been put in surgeries and medical centres in Ayrshire. If leaflets are already available, I see no reason why they could not be included in the baby box, the percentage uptake of which is in the high 90s. That would raise awareness among people who have newborns. I think that we should write to the Scottish Government to ask whether it would consider doing that, too.

Tom Mason: It is a very important petition. It is very sad that the issue has had to be raised; it is a no-brainer that children's cancers should be investigated as fully as adult cancers.

To counter the need for such petitions, it is important that the strategy is absolutely transparent, so that everybody is aware of what is going on and people can contribute in various necessary ways. By keeping the petition open, we can force the Government to ensure that it is open about its strategy, so that everybody understands what is going on and has the right information, and so that the emphasis is placed in the right places at all times.

10:15

David Torrance: I thank the petitioner for lodging the petition and everybody who has

engaged with it. It is an emotional subject. I know that the lack of support from major charities worries a lot of parents who have children with cancer. In my area, the charity LoveOliver has raised hundreds of thousands of pounds for research and to help parents of children with cancer.

I would like to keep the petition open and, once the cancer plan for children and young people has been published, I want the committee to engage with the petitioner to see what they feel about it, to hear their views and to get feedback so that we can take it forward.

The Convener: I think that there is consensus on keeping the petition open. We want to flag up to the Scottish Government a range of issues, and I assume that we want it to respond to the idea of using the baby box as a vehicle.

There is a question in my mind. In the past, we have dealt with a lot of rare health conditions that people are not aware of. I do not know whether it is because of the rareness of childhood cancers that research organisations do not focus on them or whether there is another reason, but I hope that it is the former. Some cancer charities are big because lots of us have had direct experience of them helping our loved ones in the past, so we invest some of our charitable giving in those charities. That can mean that the conditions that are known as orphan conditions—those that people do not know much about—are less likely to be funded. I wonder whether that is what is going on.

There is consensus that we will write to the Scottish Government to flag up the issues, and to get a timescale for the cancer plan and reassurance that the Government will take on board the issues that have been highlighted in the petition. That would afford us an opportunity to look at the petition again once the cancer plan for children and young people is in place. As no one is indicating otherwise, we are agreed.

Sheriff Court Fees Order 2018 (Review) (PE1784)

The Convener: The next continued petition is PE1784, which was lodged by Gordon Edwards, on a review of the Sheriff Court Fees Order 2018. The petition calls on the Scottish Government to conduct a review of the order to make self-litigation more accessible for disabled people.

Since our previous consideration of the petition, the committee has received submissions from the Scottish Government, the Faculty of Advocates, the Scottish Courts and Tribunals Service, the Equality and Human Rights Commission and the petitioner. All the submissions, which are summarised in the clerk's note, note that personal

independence payments are not income-related benefits and, as such, do not provide an exemption from the need to pay court fees. I was struck by the number and quality of submissions and the thoughtfulness with which people addressed the questions that were raised by the petition.

The underpinning idea is that there has to be a recovery of the full costs from those using the courts, as the service has to fund itself. My feeling is that there is some inequality in discrimination cases. When somebody wants to pursue somebody in a civil matter, we can question whether that is a matter for the state. On the other hand, sometimes when a person is discriminated against, they have to take a civil case to court to address it. I wonder—I raise this point only because I am sure that all parties have agreed to it—whether the notion that the service has to fund itself is, in some ways, iniquitous.

I found it difficult to get into this, because there are a lot of technical issues and a lot of concerns. I suppose that the test is whether there is a particular impact on disabled people. My feeling is that we would want to ensure that there was some confidence in that regard.

Gail Ross: I think that you have covered the issues well, convener. There were a lot of interesting and thorough responses to this petition, and I thank everyone who has replied. Those responses have added to my knowledge of how the system works. As you said, convener, the possible inequities around who can access the system, who has the ability to pay and so on are interesting.

From our papers, I see that there is going to be a full review of court fees—indeed, it might have already started. I find it difficult to see what more the Public Petitions Committee can do. The issues are the issues, and we have had quite a good explanation of them. I wonder whether the fact that personal independence payments are excluded is a contravention of article 6 of the European convention on human rights. Perhaps we could try to find that out, but I think that, rather than doing so, we should close the petition under rule 15.7 of the standing orders and flag up that issue so that it can be included in the review of fees.

The Convener: Gail Ross is right to remind us that there will be a full review. That gives me confidence that we can take the action that she suggests.

Tom Mason: This is a complicated area, and the issues are difficult to understand, even for lawyers and those involved in the court system generally.

I think that the review will be sufficient, provided that issues such as the one relating to personal

independence payments are taken into consideration. As long as that happens, I am happy to close the petition.

David Torrance: Given that there will be a full review, the issues that are raised in the petition can be considered as part of that. Therefore, I am quite happy to close the petition.

Maurice Corry: I agree with my colleagues, including on the point about the PIP issue being considered as part of the review. I think that, as we close the petition under rule 15.7 of the standing orders, we need to emphasise that it should be.

The Convener: We agree that we recognise that there will be a review of court fees and that, in agreeing to close the petition on that basis, we want to flag up the particular issue of the exclusion of PIP from the list of available exemptions. We will ensure that the information that has been given to us in relation to the petition will be made available to the Scottish Government. We thank the petitioner again for raising these issues of fairness, equality and access to justice, and we note that he is able to return with a similar petition in a year's time if he feels that that is necessary.

Social Work Powers (Review) (PE1785)

The Convener: The next continued petition is PE1785, which was lodged by Shane Hepburn, calling on the Scottish Government to review and reduce the powers of social work departments. The petition was last considered in March 2020, when the committee agreed to write to the Scottish Government and to key stakeholders, including Social Work Scotland.

Our papers explain that actions that are called for by the petitioner are already in place, including that

“apart from some exceptional circumstances ... no child in Scotland can be removed from their home without a legal order issued by a Hearing or a Sheriff”

and that

“local authority social work should properly consider placements with family members (known as ‘kinship care’) first when any placement apart from parents is necessary.”

There has been interesting and useful commentary on the petition, and I was reassured by the responses that we received.

I call Tom Mason.

Tom Mason: Bear with me a moment—*[Inaudible.]*—my notes. Can you move on to someone else in the meantime?

The Convener: I will come back to you, Tom. No worries.

David Torrance: Given that everything that has been called for in the petition is already in place, I think that we have no option but to close the petition under rule 15.7 of standing orders.

Maurice Corry: I agree with David Torrance that we should close the petition under rule 15.7, on the basis that the measures that are called for in the petition are already in place. It is interesting to note that, in its submission, the Convention of Scottish Local Authorities explains that local authorities have a duty to promote upbringing of children within their families and says how important that is.

We are considering the judgments of social workers and decisions that are made in sometimes very difficult circumstances. We wish and hope that every decision that is taken is the right decision for a child and their family. We hear stories about when things have gone wrong in removal of children from families without legal process. That is very poor and I hope that we can make sure that it does not happen.

I am quite satisfied that the measures that are called for in the petition are already in place. We should close the petition under rule 15.7.

Gail Ross: Given that the safety and wellbeing of children is in the remit of social work departments, it is probably one of the most heavily regulated sectors, and rightly so. I agree with my colleagues that we should close the petition, because it appears from our notes that the measures that are called for are already in place.

Tom Mason: I am sorry about earlier—I was having problems with the computer.

This is a difficult area and there is a lot of responsibility on social work departments and on the system generally. I think that we have enough information to be sure that the right mechanisms are now in place, so we can afford to close the petition, under standing orders.

The Convener: Thank you very much, Tom. I appreciate that we all—I, more than most—suffer difficulties with our computers from time to time.

I think that there is a consensus that the petition covers an important issue in a very difficult area in which one almost needs to make the judgment of Solomon in engaging with families and determining the risk that a child might be at, and balancing that against the rights of families and so on. However, like other members, I am reassured by the responses that we got and by the significant recognition that that tension exists and of how important it is that that balance be struck.

We are agreeing to close the petition on the basis that we accept that the measures that are called for in the petition are already in place.

I thank the petitioner for drawing the issues to our attention; I recognise that they are important. The petitioner may wish to take up the opportunity to lodge another petition in a year's time if they feel that they do not have confidence in the measures, despite the reassurance around them. Again, we thank the petitioner for engaging with the committee.

Mental Health Act 2003 (Prosecutions) (PE1786)

The Convener: The next continued petition is PE1786, which was lodged by Andrew Muir. The petition calls on the Scottish Government to investigate why there have been no prosecutions under either section 315 or section 318 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

Since our last consideration of the petition, the committee has received submissions from the Scottish Government and the Mental Welfare Commission, and two from the petitioner. The commission's submission notes that deaths of individuals who are the subject of compulsory treatment does not mean that those patients were ill treated, because the cause of death might be natural reasons, such as a pre-existing physical health condition. However, some of those deaths will be due to suicide. The commission also advises that there might be a variety of reasons behind consent not being obtained from a mental health officer.

10:30

The Scottish Government's submission advises that during the period 2008 to 2020 Police Scotland reported one case to the Crown Office and Procurator Fiscal Service in which the charge was contrary to section 318 of the 2003 act. It further notes that court proceedings under section 315 were taken in respect of 69 charges that were reported to COPFS from 2007-08 until 2018-19. The petitioner believes that insufficient attention has been paid to the importance of ensuring that no one was improperly deprived of their liberty.

This is an important issue. There is a balance to be struck in such judgments between protecting a person and supporting their needs, and not infringing on people's human rights. There are a lot of issues, but one that struck me is that it seems that the role of a mental health officers in signing off decisions varies in different parts of the country. I am not satisfied as to why that would be the case and why what the legislation says should happen does not happen, although an argument was given for why that might be the case. There is a question about how we take the issue forward: is there more the committee can do? I think that we recognise that there are important issues.

David Torrance: I thank the petitioner for raising and highlighting the important issues in the petition, but I wonder whether we can take it any further. I am very sympathetic to the petition, but I would like to close it under rule 15.7 of standing orders, on the basis that the Scottish Government and the Mental Welfare Commission gave sufficient evidence as to why prosecutions under section 315 or 318 of the Mental Health (Care and Treatment) (Scotland) Act 2003 are so low. However, I am open to listening to other committee members; I know that it is a local issue for members, so I am happy to be guided by them.

Maurice Corry: I am well aware of the case; Andrew Muir, the petitioner, and his wife, Claire Muir, are my constituents. I thank Andrew Muir for lodging the petition and for being so resolute in campaigning on the matter—not only for the case in hand, which involves Claire Muir, but for issues that affect other people. I know that fellow members of the Scottish Parliament for the constituency have also been involved.

This is a difficult one, and it highlights the question about the disparities—which you rightly mentioned, convener—among local authority areas in terms of mental health officers' signing-off procedures and oversight of signing off. That is key to the case that Andrew Muir puts in the petition about prosecutions under sections 315 and 318 of the Mental Health (Care and Treatment) (Scotland) Act 2003. I have concerns about that.

However, our position as a committee is about how much more we can do. Having seen the responses from the Scottish Government and the Mental Welfare Commission, and further responses from the petitioner, I still have issues, but I propose that we close the petition under rule 15.7 of standing orders.

However, we must highlight the question about the differences in mental health officers' signing-off situations. I would like more transparency in the COPFS process. Perhaps the Scottish Government could review the process and the situation with signing-off decisions, too.

In addition, we should thank Andrew Muir for his petition and make him aware that he can come back to the committee with a petition in a year's time, if he considers that no progress has been made on the issue.

The action that the committee should take is to close the petition, with those provisos in place.

Gail Ross: The issue seems to be a specific one, but the committee does not know how widely it is arising nationally, which is actually quite worrying.

I agree that the Public Petitions committee probably cannot take the matter any further, but this is probably the wrong time to refer it to the Justice Committee. I am aware that its work programme is chock-a-block until the end of the session, which is unfortunate. As Maurice Corry said, if we close the petition today, the petitioner could bring back the matter in a year. The Public Petitions Committee in the next session might think that that is an appropriate course of action.

We should be more specific: rather than writing to the Scottish Government, I suggest that we write to the Cabinet Secretary for Justice and bring the matter directly to his attention. I am sure that the issue is not arising in just one area, but even if it is, the justice secretary needs to be aware of it. Perhaps he could then do something nationally—an inquiry or review, for example.

I suggest that we close the position and write to the justice secretary.

Tom Mason: This is a delicate and difficult issue. Decisions require that value judgments be made, case by case. The only way to ensure that judgments are kept consistent across the country is for there to be complete transparency and continual review.

Gail Ross is right—the justice secretary should be notified directly, so that he can keep track of the issue and ensure that things are not going awry not just in this case, but elsewhere across the country.

As to whether we can add anything by keeping open the petition, I think that we cannot. Closing it is probably appropriate, provided that transparency continues.

Maurice Corry: I endorse the comments of Gail Ross and Tom Mason. It is an excellent idea to highlight the matter to the justice secretary in writing as part of our closure procedure. As Tom Mason rightly suggested, that would ensure that a finger is kept on the pulse, because the issue could run deeper than we think; there could be more aspects to it. I thank Gail Ross for suggesting that action.

The Convener: The general consensus is that the petition raises really important issues. As Maurice Corry rightly flags up, the issue is a specific one and we need to deal with the general policy rather than an individual case.

We agree to close the position. If we were in a different part of the parliamentary cycle, we might have referred it to the Justice Committee. We agree to flag up to the Cabinet Secretary for Justice the issues that we have identified. We reassure the petitioner that if they do not consider that there has been sufficient progress, they can,

of course, bring back the matter to the Public Petitions Committee in a year's time.

We thank the petitioner for his engagement. We recognise that the issue comes from his experience and is therefore a difficult matter for him. We remind the petitioner of the opportunity to return to the Public Petitions Committee at a later stage.

Makaton Sign Language (Legal System) (PE1787)

The Convener: The final continued petition on our agenda is PE1787, on the use of Makaton sign language in the legal system, which was lodged by Sandra Docherty.

Rona Mackay MSP is in attendance for this petition. Welcome, Rona. You were on the committee for some time and it is good to see you back with us.

The petition, which calls on the Scottish Parliament to urge the Scottish Government to ensure that all parts of the legal system use Makaton sign language, was last considered at our meeting on 5 March 2020. At that meeting, we agreed to write to the Scottish Government and other relevant stakeholders, including ARC Scotland, Police Scotland, the Scottish Commission for Learning Disability, and the Scottish Courts and Tribunals Service.

The committee has received written submissions from the Scottish Government, Police Scotland and the Scottish Courts and Tribunals Service, which explain the support that is available for people when they are engaging with Police Scotland and the Scottish Courts and Tribunals Service. The submissions also highlight that it may not be possible to translate all justice proceedings into Makaton and therefore Makaton cannot in isolation be a solution to providing support to people with additional support needs.

I ask Rona Mackay to speak to the petition and to raise any issues that she wants to highlight to the committee.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I thank the convener and the committee for allowing me to speak briefly to the petition. It seems to be a long time since I was a member of the committee, and it is nice to be back.

Sandra Docherty, who is the petitioner, is a constituent of mine, and I have had contact with her over the past few years. Sandra has a relative who is at a disadvantage because she communicates using Makaton and the people she is in contact with have little or no knowledge of that form of communication. That is a severe handicap to her. Members can imagine that she is

severely disadvantaged when it comes to access to justice.

As the petitioner has said, if someone is unable to communicate dates, times or an account of what happened to them, their basic human rights are denied, as they really do not have access to justice. I understand that Makaton is being taught in some schools and that it can be an easier way to communicate than British Sign Language, for example.

I note the submission from the Scottish Courts and Tribunals Service, which says that the service would be happy to secure a Makaton interpreter in court. That is very welcome. Police Scotland has said that it will adapt its approaches to provide equal access to police support in line with the Equality Act 2010, which is also welcome, and the Scottish Government agrees that

“people need to communicate in different ways”

and that that should be facilitated

“as part of a range of support that should be available to suit the individual.”

Basically, it all boils down to awareness that Makaton is a form of communication that many disabled people use. I am not sure whether I missed a Scottish Parliament information centre briefing or notes, but it would be useful to know how many people use that form of communication.

I ask the committee not to close the petition at this stage. Maybe it could ask the Government whether it would commit to a public awareness campaign, or at least to raising awareness, in some way, that Makaton is an important form of communication. Perhaps COSLA could be contacted to ask whether it could facilitate training for its social and care workers.

I believe that Makaton is not a difficult language to learn, but its use might make a huge difference to a lot of disabled people. On that basis, I ask the committee not to close the petition at this stage. I appreciate the work that has been put into the petition already.

The Convener: Thank you very much.

I have been involved with groups that use Makaton. People with learning disabilities were empowered to engage with transport issues in particular. I know how powerful that can be, and I am struck by the points that Rona Mackay has made.

I would want the issue to be addressed as an equality issue. Rona Mackay has flagged up a lot. I think that we could write to the Scottish Government to ask whether it would consider a public awareness campaign, as has been suggested, and training, which is sometimes made available for advocacy groups, for example.

Perhaps it would be good to refer the petition to the Equalities and Human Rights Committee, which may want to look at the issue in relation to broader issues. The Parliament did a lot of work on British Sign Language and lip reading, for example, in the very early days. This is another area of communication and access. I recognise, as our briefing says, that Makaton is slightly different, but it is very important to be able to support people to engage with issues in their lives. I would quite like to see it preferred, but I would want to write to the Scottish Government about the particular issues that Rona Mackay has compellingly argued for.

10:45

Maurice Corry: I thank Rona Mackay for briefing us and giving us the benefit of her knowledge of the situation, which will help us a lot in our considerations, and I take on board what the convener has said. I am keen that, wherever possible, no person in our society should be disadvantaged and I think that the petition has considerable mileage in it. There are many cases in which people’s communication needs have not been brought to light, and it is important that everybody in our society is given equal rights.

I am minded to recommend that we refer the petition to the Equalities and Human Rights Committee under rule 15.6.2 of standing orders, because I think that a lot more needs to be done on the issue. I think that we should also write to the Scottish Government to tease out what is being done to include Makaton in the process of communication in various aspects of life, as it is important that that is done.

I thank Rona Mackay for the points that she has made, and I thank Sandra Docherty for her persistence. Her petition is an important one, and I would be delighted if we could refer it to the Equalities and Human Rights Committee.

Gail Ross: I, too, thank the petitioner and Rona Mackay for making the issue so much easier to understand. In our papers, there are a couple of instances of people missing the point by referring to the deaf community. Makaton is not really appropriate for the deaf community; it is for people with learning difficulties and disabilities, who can find communication extremely difficult and frustrating anyway. I imagine that not being understood when they are using their method of communication makes the situation much harder for them.

Maurice Corry is right. People have the right to be understood and to communicate in all walks of life, so I think that we should write to the Scottish Government to ask it about an awareness raising campaign in all sectors of society. Rona Mackay is

also right that schools are using Makaton. My son comes home with different signs for words. It is being put out there in the education system.

We should keep the petition open. There are many more questions that can be asked of different sectors and organisations, so referring the petition to the Equalities and Human Rights Committee would be the right course of action.

Tom Mason: I thank Rona Mackay for providing a much clearer explanation than the one that I absorbed from the document that I received.

There are various communication problems with various groups in Scotland. I guess that the secret is to ensure that everybody understands what the range is, and what they have to learn and what they do not have to learn. In others words, there needs to be a definite strategy for development of knowledge that everybody fully understands. Otherwise, people will try to learn too many things, and the level will be substandard.

I think that keeping the petition open but referring it to the Equalities and Human Rights Committee would be an appropriate way forward. We should also write to the Scottish Government to ensure that it is clear about what is going on and that it actively pursues a clear strategy on learning the various languages in the various areas in which that is required. I am talking about not only BSL and Makaton but the languages of the various cultures that we have in Scotland. We need to know where we are going with the various languages that are used. We should drop things that we no longer need and encourage things that we need.

David Torrance: I agree with my colleagues—I think that we should write to the Scottish Government to highlight the issues that are raised in the petition. I think that we should definitely keep the petition open and refer it to the Equalities and Human Rights Committee, which could do a lot of work in helping to resolve the issues that the petition identifies.

The Convener: I think that there is consensus that the petition is important and that it is important that a group of people have a proper understanding of Makaton, that people should be appropriately trained and that there is greater public awareness. Many of the petitions that we have considered today are about access and the barriers to it that exist. PE1787 provides a good example of one of those barriers. I think that the committee believes that, with a little bit of training and understanding, that barrier could be, if not completely overcome, at least partially overcome.

My sense is that there is consensus that we should refer the petition to the Equalities and Human Rights Committee but that we should also write to the Scottish Government to flag up our

endorsement of the call for there to be greater public awareness of Makaton and appropriate training for people who work with people with learning disabilities. There is a broader issue, which relates to how we teach our young people about how different people communicate. We are supportive of the efforts in that area, which the committee has looked at in the past.

We agree to refer the petition to the Equalities and Human Rights Committee and to write to the Scottish Government to flag up the issues of public awareness and training, on which we agree with Rona Mackay. We again thank her for her contribution in helping us to consider the petition.

That ends the agenda item on continued petitions, and we now move into private session.

10:51

Meeting continued in private until 11:17.

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