



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# **Citizen Participation and Public Petitions Committee**

**Wednesday 4 May 2022**

**Session 6**



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**Wednesday 4 May 2022**

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**CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE**

**7<sup>th</sup> Meeting 2022, Session 6**

**CONVENER**

\*Jackson Carlaw (Eastwood) (Con)

**DEPUTY CONVENER**

\*David Torrance (Kirkcaldy) (SNP)

**COMMITTEE MEMBERS**

\*Fergus Ewing (Inverness and Nairn) (SNP)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Paul Sweeney (Glasgow) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

David Avery (Prospect)

Rhoda Grant (Highlands and Islands) (Lab)

Peter Henderson

Monica Lennon (Central Scotland) (Lab)

Liam McArthur (Orkney Islands) (LD)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Adam Smith Room (CR5)



# Scottish Parliament

## Citizen Participation and Public Petitions Committee

Wednesday 4 May 2022

*[The Convener opened the meeting at 09:33]*

### Continued Petitions

#### Air Traffic Management Strategy Project (PE1804)

**The Convener (Jackson Carlaw):** Good morning and welcome to the seventh meeting in 2022 of the Citizen Participation and Public Petitions Committee.

We will take evidence for the first item on the agenda, which is consideration of continued petitions. The first of those is PE1804, which was lodged by Alasdair MacEachen, John Doig and Peter Henderson on behalf of Benbecula community council. The petition calls on the Scottish Parliament to urge the Scottish Government to halt Highlands and Islands Airports Ltd's air traffic management strategy project and to conduct an independent assessment of the decisions and decision-making process of the ATMS project. We last considered the petition on 2 February, when we agreed to write to the Civil Aviation Authority and to hear evidence from the petitioners and Prospect at this meeting, and from HIAL at our meeting on 18 May.

I am delighted that we are joined by the two representative MSPs—Rhoda Grant and Liam McArthur—who have been following the petition at its various torturous stages of progress through our proceedings. I welcome Peter Henderson, who is joining us virtually and is one of our petitioners who will give evidence.

I will ask members whether they have questions that they would like to explore with Peter. Peter, is there anything that you would like to say before we launch into our questions?

**Peter Henderson:** I still have some concerns that I would like to raise. I do not know whether you would like to hear them. I was hoping that someone from HIAL would be at the meeting to answer my points, but they do not seem to be.

**The Convener:** We will move to questions, because that may bring out some of the reservations that you still have. We will see what comes up as we do that. The first question tees that up. What concerns do you have about the agreement between HIAL and the Prospect trade

union on the future development of air traffic control? How might those concerns be addressed?

**Peter Henderson:** The first point is that, on page 11 of the digital assurance office's "Technology Assurance Review, Assurance of Action Plan", which was published in October 2021, it says:

"It has become evident from the RTS procurement and the SCS RIBA 3 design that the Programme in its current form, exceeds the programme budget"

of £48.4 million. I was hoping that HIAL could explain that, because I think that that is probably what drove it back to the negotiating table, rather than anything that the committee or the petitioners have said.

**The Convener:** You want to know whether the change of heart was cost driven rather than being a "Mea culpa, we might have got it wrong" change of heart.

**Peter Henderson:** Basically, I would like to know whether the remote tower procurement process and the design of the remote tower centre at New Century house played a part in the decision to write off the entire programme, rather than anything that we have done. I suspect that that is the truth.

Secondly, HIAL was due to take over the running of the Sumburgh radar from NATS—the national air traffic service—last September. You would think that it is pretty straightforward to transfer an existing radar service into HIAL's control. It was due to take over in September, then in December, then in April 2022. Nobody now knows when, or whether, it will take over the Sumburgh radar from NATS. The story seems to be that it has recruited nine controllers but has not managed to train them and some of them have left. HIAL might not take over the radar until a year from now, which seems to be a bit disastrous, considering that it wants to have a centralised radar service that is based in Inverness. If it cannot recruit staff for one airport, how can it recruit staff for all the airports and guarantee that it can provide a service? Inverness airport already struggles to provide control; the radar part of it shuts twice a day every day, and probably will do so for a year.

My worry is that, if HIAL centralises all radar services, which airports will it prioritise? Will it prioritise Inverness over all the other airports to make sure that it can provide a service there? Will it shut other airports in order to man Inverness and Sumburgh? I do not believe that it is capable of running a centralised service, which is what it wants to do. It cannot staff, recruit or train for Inverness or Sumburgh at present, so how can it do that for all the airport systems?

**The Convener:** I will pause you there. You have looked for an independent assessment. What do you think that that would deliver?

**Peter Henderson:** I think that it would shine a light on the situation. We have a team that has been appointed by HIAL and we have existing HIAL management. It has been exhibited that the ATMS project, which it said was the only way forward, has failed miserably. HIAL still wants to progress an air traffic management system that centralises services. It seems to be failing to do that at the moment. The current management and the teams that are in place do not seem to be able to run that properly. I would like someone from the outside to ask why that is the situation and why there is still a threat to the reliability of our air traffic services.

We do not seem to have progressed. The ATMS still exists in principle. The aims are changing, but HIAL still seems to want to centralise rather than start from scratch and have a proper look at it. None of the project has worked, but HIAL still keeps stumbling on with the same people making the same decisions.

**The Convener:** How should HIAL have approached the development of the project in the first place?

**Peter Henderson:** By listening to its staff and the communities, which it refused to do. That is why we brought the matter to the committee and why our politicians, community councils and councils backed us.

HIAL is now engaging with the staff because it was basically forced into that situation. The union, Prospect, is now actively trying to sort out the mess that has happened. However, it seems that a whole new ATMS is being developed without any oversight from anybody outside HIAL, as far as I can see.

**The Convener:** It is plain from the subsequent submissions that you have made that concerns were expressed. What was HIAL's response to and management of those concerns like?

**Peter Henderson:** Initially, HIAL ignored everything and said that the ATMS was the only way forward. There was a sudden change of heart, which I suspect was brought about by budgetary constraints, which meant that it could not achieve anything, and now it is looking for a way out so it decided to negotiate. HIAL has not been honest and open about anything all the way through, as we have found out.

**The Convener:** My final question sits on the back of evidence that we have received. What evidence do you have that the Civil Aviation Authority would authorise anything that was unsafe?

**Peter Henderson:** It will not authorise anything that is unsafe, but we were at a meeting with the CAA regulator, who summed up the situation by saying, "If you came to me and said that you wanted to fly a rocket to the moon, I would say that, in principle, that was fine. If you then came back to me with a cardboard rocket, I would turn you down." HIAL seems to be coming up with a cardboard rocket most of the time.

The CAA will not sign something off until the final phases. It has encouraged HIAL to scope some trials of the surveillance system that it wishes to use. There has been no word on whether HIAL wants to do those trials and foot the bill. It seems to be sitting back and waiting for regulations to change in its favour rather than actively seeking solutions.

The CAA should not sign off anything that is unsafe, but it will wait until the whole project has been decided on and then sign off on whether it will accept it. It does the same with controlled airspace. You can put everything in place, but the final judgment is down to the CAA. If it decides that something is not suitable, it will tell you why and you can then either try to change it or not.

HIAL is trying to operate outwith existing regulations. It is new territory, for which HIAL needs to fund solutions.

**David Torrance (Kirkcaldy) (SNP):** Good morning. How would you like HIAL to involve communities that are served by its airports in the development of future plans and proposals?

**Peter Henderson:** Rather than coming out with a done deal, it needs at least to put out a public consultation in much the same way as other Government departments do. It should say what its aims and goals are and ask the public whether they want to comment on them. A consultation should mean just that: HIAL should listen to what people say and have a conversation with them.

On the islands, we want a good, reliable service that does not let us down. Coming up with ideas that remove all the resilience from our local areas is not good. HIAL just needs to be a little bit more open. It has not been. It just seems to make a decision and expect everybody to go along with it.

**David Torrance:** I have one final question—this is your opportunity to raise issues. The committee will take evidence from representatives of HIAL and Prospect. Are there any issues that you would like us to raise with them and, if so, why?

**Peter Henderson:** When the digital assurance office's assurance of action plan says that the remote tower procurement and RIBA 3 design mean that the programme "exceeds the current budget", does that mean that two aspects of the entire project cost more than £48.4 million, and is

that what drove HIAL back to the negotiating table?

Why is the takeover of Sumburgh radar a mess and way behind schedule? If HIAL cannot take over an existing radar service for an airfield, how can it be expected to run a centralised radar service for all the airfields?

In evidence that HIAL submitted previously, it said:

“None of the petitioners are directly involved in the programme or directly impacted by it”.

However, we are impacted by everything that HIAL does, because we live in the communities that its airports serve. Had we been involved from the beginning and if HIAL had listened to us, which it refuses to do, the programme might not have developed into the mess that it is.

I have a problem with HIAL management still being the same people who are still making the same bad decisions and trying to run a project. I hope that those people have learned their lesson. As Prospect said, I hope that HIAL will work with and listen to the people, rather than continuing with the bull-headed approach that it has taken.

We have achieved an awful lot. The ATMS programme is basically dissolved—there is nothing much left of it, so that has served our purpose. However, I think that it would have failed anyway, purely on cost, without our even intervening.

**David Torrance:** Thank you.

**The Convener:** We will meet HIAL on 18 May, so we will be able to put some of the points that you have raised to it directly. However, we have received strong representation from HIAL that the change is not window dressing and that, whatever the motivation—we can chase that up—it is not simply a cover in order to bring back the proposal that has been set aside in five years’ time. That position is quite robust and clear in the submission from HIAL. As petitioners, do you accept that?

**Peter Henderson:** I had hoped that, because I asked the questions in the way that I did, HIAL would come back in a robust way and make it clear that it would not revisit the issue, because it was still a bit vague. For example, HIAL still wanted to have a remote tower at Inverness, and I could not see the reason for that.

We probably now accept that HIAL will not go ahead with ATMS, as it said. As I said, we have achieved a lot, but most of the programme has collapsed. HIAL still seems to want to have controlled airspace and radar at some of the airports, which is fair enough. It has withdrawn the applications to the Civil Aviation Authority for the airspace changes. When HIAL has redrawn the

ATMS proposals, we will find out where it intends to go. However, when it comes up with its plan, I ask it please to make that plan very public, to run it by the communities and to ask for our input and ask us whether we think that it is okay.

**Alexander Stewart (Mid Scotland and Fife) (Con):** You have talked about openness and honesty in the process. It is evident from the concerns that you have raised that the community feels that it has not been listened to and has not had the impact that it wanted in the process. You said that you hope that lessons have been learned. How did the management handle the concerns that were expressed about the proposal initially? Were the proposals completely flawed from the beginning, or were there areas within what was produced that the community might have been open to? Would the community have been willing to participate in the process?

**Peter Henderson:** Basically, every single point that we raised initially was rebutted with the reply that ATMS was the only way forward, and there were no other ways—we were told that, without it, nothing else could be done, so HIAL had to do it. The islands impact assessment was very negative about the effects on all the islands, but HIAL said that all it needed to do was mitigate the effects rather than address the problems. There was constant rebuttal of anything and everything that was said, whether by staff or by MPs and MSPs. It has all been in the newspapers, in the evidence that has been submitted and all over the place. There was then a sudden change.

In relation to ATMS modernisation, it would be extremely useful to have radar or some form of surveillance at the airports, but taking people out of the airports was a step too far. When I worked for HIAL, I can remember me and colleagues laying out our concerns. We would raise safety concerns and be told that it was a matter of opinion, so I left—I could not take it any more. I thought, “They won’t listen. What’s the point?” When there is a culture of not listening, you stop raising concerns, which is a worry.

Even though Benbecula community council did an extremely good thing, there is no word yet on whether Benbecula air traffic control will continue. The story seems to be that it will, which it should, and the same is true of Wick air traffic control, but we need something concrete about that.

**Alexander Stewart:** You mentioned the opportunities that the community has had. The community ought to be congratulated on its endeavours, because it has highlighted the issue. You have worked with politicians and other groups in the community to ensure that the issue has been kept live. That is to your credit.

What do you want to be done differently? What do you want HIAL to try to achieve with its proposals for the future?

**Peter Henderson:** Basically, there has been an outcry, with people asking why there cannot be people who live in the communities on the boards of organisations such as HIAL and CalMac Ferries. If you have people who live in the community, interact with it and get feedback from it, as is the case with MSPs and MPs, it is possible to feed in directly to them. People who are remote do not understand what we are going through.

All the airports are run as individual airports, but HIAL needs to get some feedback from the customers—if it decides to make a change, it needs to examine whether that change will be for the better or the worse. It is difficult to say how it should go about doing that, but it could put the issue in the local papers or make some sort of announcement.

All I know is that, with everything that it has done, HIAL's approach has been simply to stonewall. Its attitude has been, "We're doing this and we don't care what you say." Often, the people who work at the airport, who live in the community, are the best measure of what the community feeling is. HIAL just needs to listen to what its staff say, and I fear that it still does not do that.

I could go to my airport manager and say, "This is all a complete shambles"; in fact, at Kirkwall, we got the board members in, talked to them directly and said, "This will never work as you want it to—it's a mess." Their response was, "Yeah, yeah—we'll look into it," and they continued anyway. What are you meant to do?

**Fergus Ewing (Inverness and Nairn) (SNP):** Good morning, Mr Henderson. I joined the committee only recently, so please forgive me if this question covers ground that might already have been covered in the history of the petition thus far. You are asking for an independent assessment to be carried out. Who do you think could conduct such an assessment? How might that person or persons be appointed?

I ask because it seems to me that the Civil Aviation Authority has the role of conducting a proper assessment of any proposal. Given that it is the statutory body that is charged with the responsibility of regulating air safety in the United Kingdom, and given the critical importance of that function, it is not immediately obvious to me who else could be expected to carry out an assessment of a system that, at the end of the day, is designed to protect people against air accidents, which would almost certainly result in fatalities. I would like to get a sense of how, in

practice, an independent assessment could be carried out and who could do it.

**Peter Henderson:** The CAA oversees rules and regulations regarding aviation, so when it comes to safety it is the ultimate arbiter. When it comes to throwing money at a project that was never going to work, which is funded by the taxpayer, is damaging to communities and is run by an organisation that refused to listen to the concerns of its own staff, I suspect that somebody in the Government—because the Government and Transport Scotland fund HIAL—needs to look at how decisions on services that are provided at airports are made and at the ideas that are bandied about.

There is an aviation safety aspect to everything that HIAL comes up with, but to centralise staff to Inverness and to decide to take over an existing radar contract from NATS at Sumburgh, which has run reliably for decades, only to find that it cannot even staff it so that the contract is a year behind schedule, are managerial tasks that seem badly handled.

Ultimately, the HIAL board is meant to examine the management of HIAL and pull them up on mistakes that they have made. However, the HIAL board obviously just rubber-stamps stuff, as it has done all along. It does not seem to understand the things on which it signs off. Is there not a Government—

**Fergus Ewing:** I am sorry to interrupt. I got the gist of that—it is more a question about the financial and managerial aspects of how HIAL has failed thus far, as you see it. To be clear, in your view, should it be somebody in the Scottish Government who carries out that independent assessment?

**Peter Henderson:** I believe so, because £9 million have been chucked down the drain on something that we said all along would not work in the way that HIAL wanted it to work, but we were basically told, "It's the only way—it's my way or the highway." That is not a way to run an organisation.

**The Convener:** That has been very helpful. I thank you for your persistence in pursuing the petition.

We will see HIAL on 18 May, so we will be able to pursue some of your specific questions with the organisation then. I thank you for your time this morning, Mr Henderson.

09:57

*Meeting suspended.*

09:58

*On resuming—*

**The Convener:** Welcome back. We move to our second witness on PE1804, on HIAL's plans. I am delighted to welcome David Avery, from Prospect, whose name has been referred to and brought up numerous times in our deliberations. You are very welcome to the meeting.

We have read Prospect's most recent response to events in our papers ahead of this morning's session, so we will move straight to questions.

**Paul Sweeney (Glasgow) (Lab):** Welcome to the committee, Mr Avery, and thanks for the submission on behalf of your members in HIAL. How confident are you that the arrangements for the development of a new air traffic control strategy will produce results that are acceptable to your members in HIAL?

10:00

**David Avery (Prospect):** I am reasonably confident that the new direction is far more palatable than where we were before. It was not our members' preferred choice—they would have preferred local deployment—but the new direction has achieved all our goals around protecting local jobs and preventing the downgrade of two airports. We have been given assurances that that will be the case for at least five years. If we consider that HIAL is a Government body, which is subject to ministerial direction, five years is a reasonable guarantee of no change.

On whether HIAL is able to deliver, I hope that it is better able to deliver this system than the previous one. This system replicates the one that HIAL has had in Sumburgh for decades. It involves established technology and procedures; the remote tower project proposed by HIAL did not. This system is far simpler and far more likely to be delivered. That is still not easy, but the system has a better chance of delivery than HIAL's previous proposals.

**Paul Sweeney:** In your submission to the committee of 7 March, you said that working groups on the future of air traffic control, particularly at Wick and Benbecula, were yet to be established. Has there been any progress on that? Would you like to see that happen? Is there a need for that?

**David Avery:** I am pleased to confirm that the working groups have not been set up because they have not been needed. The company has given us the same assurance for both airports that there will be no downgrade of service for at least five years, at which point there will be a review. The review will look at the issue with an open mind, rather than with an aim to justify a decision.

Again, that is the goal that members have been seeking.

The airports are not the same—they have very different communities and needs. There will be two separate reviews, because the long-term solutions for the two airports will not necessarily be the same.

**The Convener:** When was the change of view in relation to Benbecula confirmed? That is quite recent and not something that we were aware of from our papers.

**David Avery:** It was subsequent to the last submission that was made. I do not have the exact date. I think that the Benbecula one may have been about four weeks ago and the Wick one is very recent—within the past week.

**Paul Sweeney:** The main consideration for a lot of people in relation to the changes has been aviation safety. What is your union's position on the implications of the changes in air traffic control for aviation safety?

**David Avery:** Our view has always been that radar is a welcome improvement. It is a vital safety tool for any controlled airspace with any scheduled commercial traffic. It will provide an improved safety service and, potentially, open up markets to other airlines that are not prepared to fly without radar. We see all of that as a positive. Controlled airspace is welcome, too. There is acceptance that, were those two things to be done, procedural control could be phased out. That is not something that members are opposed to, assuming that it is done safely and in the right way.

There has always been the aim to seek to make safety improvements. Where we disagreed was on how HIAL was intending to do that and, ultimately, whether remote towers would bring their own set of problems with them.

**Fergus Ewing:** Good morning, Mr Avery. Can any lessons be learned by HIAL about the way in which it has handled the whole thing?

**David Avery:** Absolutely. I hope that HIAL and, indeed, other organisations have learned lessons about the involvement of staff and communities, and being more sceptical of consultants. I have been very critical of the fact that HIAL kicked off the project without public consultation. There was very little staff consultation—frankly, the views of staff were disregarded. The justification for the case was based on the report of one consultant, and that was not the direction in which the rest of the industry was moving. No major remote towers, in the way that HIAL intended to do them, have been announced anywhere else in the UK in the past five years. HIAL's original view was that it was at the bow wave of a tide of change, but that is clearly not the case.

The project has never been subject to public consultation. It involved a major change in the service and in the way that air traffic would be delivered.

I think that there still should be change, but the time to do that would be at the point at which the Transport Scotland infrastructure board has approved the case.

**Fergus Ewing:** As I said earlier, the petition has quite a long history. I have only recently become a member of the committee, but I have been aware of, and have followed, matters. It is plain that progress has been made, partly as a result of the work that Prospect has done and the engagement from MSPs and the petitioners. Do you feel that that progress has covered some of the defects—as you see them—that you have just described? In other words, are you confident that, going into the future, HIAL will listen more to staff and engage more with communities? As I understand it, you have been in the thick of it.

**David Avery:** I hope that that will be the case. HIAL is involving staff far more in the current phase of the project. I am not sighted on community engagement in particular. Currently, the work is of a pretty technical nature rather than the kind of work that we would want to take out to communities for discussion, but that will come in the future. In particular, communities would rightly want to have a view on questions around schedules, deployment, staffing levels and opening hours.

**Fergus Ewing:** Yes. Those issues are hugely important to all the islands that are served by HIAL with what are, in many cases, lifeline services.

What about the financial side? Do you have an idea of how much HIAL has spent on the now-aborted air traffic management strategy?

**David Avery:** No more than what is in the public domain. The papers that I see do not include commercial in confidence numbers, and I would not be able to discuss those. I would suggest that that question needs to be put to HIAL.

**Fergus Ewing:** Okay. Do you think that those figures should be made public, or are there good reasons why that should not be the case?

**David Avery:** It is not for me or the union to say whether they should or should not be. It is a public project, and there has been significant expenditure on it, so it is worth looking into some of the decisions that have taken us to this point. That would include the costs incurred.

**Fergus Ewing:** We heard earlier from one of the petitioners, who confirmed that he felt that the Scottish Government should take charge of an independent analysis. That surprised me a little, because I had thought that he had perhaps

envisaged an individual analysis that was independent of not only HIAL but the Scottish Government. Be that as it may, if you think that the project should be analysed and that the costs incurred to date should be studied, do you have an idea of who the right person or the right body to do that work would be?

**David Avery:** I have thought about that only recently, having listened to Peter Henderson's evidence. My view is that it should probably be Audit Scotland. You do not need to be an aviation expert to look at the problems in the project. I am not an aviation expert—professionally, I am a scientist—but I have learned a lot, having dealt with the project for five years. Advice on specialist issues relating to information technology, air traffic engineering, air traffic control and so on can be sought from various learned sources. The questions around decision making, finance, confidence and risk and management of risk are the types of questions that Audit Scotland is professionally able to deal with.

**Fergus Ewing:** That is very helpful. If you have further thoughts after the meeting, given that these questions are being sprung on you, we would be very keen to receive them.

**Alexander Stewart:** Mr Avery, you have talked about the lack of communication and consultation with staff and communities in the whole process. How are industrial relations progressing? What impact has the handling of the whole affair had on industrial relations between HIAL and Prospect?

**David Avery:** HIAL is very different from almost any of the organisations that I deal with, and it always has been. I have been involved with it for seven years, so I was involved with it for a significant time before the project began. My predecessor, who had dealt with HIAL for far longer, expressed the same view. It is the only air navigation service provider that is run under public ownership in that manner, so its situation is not analogous to that of Prestwick or NATS, which are run as private companies. HIAL is run as a public body, but it is not like any of the other public bodies, because it has significant commercial elements and highly operational staff. Its aim is to achieve service delivery in a way that most other public bodies do not seek to do. HIAL was already a difficult company to deal with because of those challenges.

Industrial relations have been strained, but we have never fallen out or stopped talking—we have always had good discussions, even through the industrial action periods. I hope that, given the new engagement with staff, there will be more staff involvement in decision making, not just within air traffic but across the board in HIAL.

**Alexander Stewart:** You talked about lessons being learned in the process. It is vital that lessons be learned about how to manage the staff and industrial relations in the future. What would you like HIAL to try to achieve to ensure that that becomes a reality?

**David Avery:** I would like HIAL to involve its staff at whatever level whenever it makes any decisions that relate to staffing or service delivery. Whether the decision is about a change of opening hours, a change in a security protocol or something big, such as air traffic control changes, the staff who are involved in the delivery of the service should be involved in it. I would also like the communities to be involved and things not just to be sprung on them as what HIAL is now going to do. I hope that that change will happen, but HIAL is a large and difficult organisation because of the disparate nature of multiple airports, so it will not happen overnight.

**The Convener:** Mr Avery, we explored with the previous witness what has brought about the change of view in HIAL. He was sceptical that it was our investigation into the matters, our representations or your representations, and he thought that it was all down to a realisation that the costs involved in the project were no longer sustainable. What do you think the cornerstone of HIAL's change of approach is?

**David Avery:** I have to say that I was not inclined to look a gift horse in the mouth and question HIAL's motivations when it came to us for a discussion on a more positive note, given the previous five years, in which there had been no discussion about the strategic direction.

It is probably not one thing. I hope that the HIAL board's view on why a change of direction was necessary was not down to any one factor. I think that it was the result of a combination of the committee's work, the industrial action from staff, the islands impact assessment, the constant negative stories about HIAL—it was struggling to get any positive media coverage about other things that it was doing because the matter was driving them out—costs, and the fact that the project was still not going anywhere. Ultimately, it is very hard to implement such a project without the buy-in of staff.

**The Convener:** I invite our two parliamentary colleagues who have joined us and have been with us at various stages during our consideration of the petition over an extended period to ask you anything.

**Rhoda Grant (Highlands and Islands) (Lab):** Thank you, convener. I have a question for clarification. Prospect has worked well on the matter and I am pleased that we are where we are and are making progress. We talked about

replicating the Sumburgh service. Peter Henderson, the petitioner, had some concerns about what might happen in Sumburgh with radar being centralised to Inverness. Does that have staffing implications and do you see issues with it?

**David Avery:** As Peter Henderson said, HIAL has hired staff in Inverness who are working on delivering the radar service for Sumburgh. It is being delivered as a so-called greenfield radar—as if it had not existed before. HIAL is not transferring any staff or procedures from NATS: it is being done almost from scratch. That is not an easy thing to do, so the regulator is rightly taking a significant interest. HIAL might well need more staff than it has. It will take as long as it takes.

The proposal is a far more achievable prospect than the previous remote-towers proposition and at least replicates something that HIAL has already done. The controllers at Sumburgh do not have to learn new procedures; they are handing over to another provider—this time, in Inverness rather than Aberdeen—but there will not be a significant change for them. That is far easier to manage than what would have happened had HIAL centralised the tower and the radar.

**Rhoda Grant:** NATS currently operates the radar service for Sumburgh from Aberdeen. Is that right? No one is based in Sumburgh; there are no job implications for Shetland.

**David Avery:** There are no job implications at all—the roles of the staff in Sumburgh will remain as they are. As I understand it, the roles in Aberdeen can be redeployed to other work in NATS—it has other work that it would like the staff to move on to when the HIAL contract ends.

10:15

**Liam McArthur (Orkney Islands) (LD):** I will make a couple of observations before I turn to the issue on which Rhoda Grant was pressing Mr Avery.

I still cannot get my head round the fact that we were told for years by HIAL management that its air traffic management strategy project was the only show in town and the only credible option. It has backed off from that much later in the day than I and many others hoped it would. Mr Avery's assessment that that is the result of a number of factors is probably fair, but the cost and delivery of the project were always seriously under question, which might well have driven HIAL back to the negotiating table.

However, there has been no reckoning with those who marched us up that hill then marched us back down again. The earlier point about Audit Scotland casting its eyes over the matter seems to be entirely sensible and reasonable. The cost is

one component; another aspect is how decisions were made. The cost to the public purse is a real concern. I have had discussions with Audit Scotland, which suggested that that is more a matter for Transport Scotland to deal with. However, in a sense, Transport Scotland has skin in the game, given its responsibility for HIAL. I am keen to understand the extent to which Audit Scotland could provide satisfaction that due process was followed and that public money was not needlessly wasted, as appears to have been the case.

On centralising radar, which Mr Henderson mentioned and Rhoda Grant pursued just now, similar concerns, although they are a little different, are now being raised. Mr Henderson spoke about those concerns. The issue seems to fall into the same category—that is, it concerns a review or a decision that has been predetermined. Although it appears to be consulting more, HIAL is asking how to deliver what it has already determined that it will deliver. I wonder whether work needs to be done to get HIAL almost to go back to first principles.

HIAL might have delivered on that, but the matter is not completely alien to it. If the concerns that Mr Henderson raised are legitimate—they seem to be borne out by evidence—I would hope that the committee and Prospect, in its discussions with HIAL, might be able to persuade HIAL to go back to first principles and determine whether a centralised model for radar surveillance is more practicable and in the interests of the island communities that rely on the lifeline services. Does Mr Avery agree with that? Might Prospect be able to carry forward that approach in its negotiations?

**David Avery:** The preferred model of our members was local deployment, but they have agreed to a remote system from Inverness. You need to bear it in mind that I am not a controller, but my understanding of the technical feasibility of delivering radar from Inverness and delivering radar from a room downstairs in Sumburgh tower is that they are not wildly different. The questions that you would have to ask are around procedure; validation of staff and training are largely the same. The challenges that HIAL would face doing a greenfield radar implementation on site—whether at Sumburgh or at any other airport—versus doing it remotely are the same.

Prospect, as a union, does not have a particular view about whether the associated jobs would be better based in Inverness or in Sumburgh—or, indeed, in Aberdeen, where they are currently based. There are Prospect members in all those areas; I would not want to speculate about which option was better than another.

I highlight that the greenfield radar application is genuinely a difficult thing to do. HIAL currently has

only one radar base, which is at Inverness airport. Inverness is short staffed and cannot share the experience of those controllers in the project. Delivering the service is not easy, but that is a far more doable challenge than the one that HIAL previously embarked on. I do not take a view on the jobs question.

I will expand on the point about Audit Scotland. My previous industrial relations work involved the creation of Marine Scotland. Audit Scotland audited that when it was finished. That provided insights into lessons that can be learned from machinery-of-government changes. Audit Scotland is probably the appropriate body to look at the matter. As Liam McArthur said, Transport Scotland is involved in decision making in HIAL; it sits on the board and will, ultimately, sign off—or not—the changes to the project. I am not sure that it is in a position to audit itself.

**The Convener:** Does Prospect retain confidence in HIAL and its existing board?

**David Avery:** We have never put to our members the question whether they have confidence in HIAL's board, and I do not want to speculate on how they would vote, were we to do so.

**The Convener:** That is one gift horse that you are prepared to look in the mouth. Thank you very much. That has been extremely useful and helpful.

Colleagues, I think that we will probably consider the evidence afresh after we have met HIAL. Liam McArthur made general comments in addition to the points that we put to Mr Avery. Rhoda Grant asked a specific question. Do you have general comments to add for us to bear in mind before I draw the discussion to an end?

**Rhoda Grant:** I have a comment about community involvement. I have spoken to Prospect members and the like. They seem to be happier with their current involvement, but we have heard from Peter Henderson that he is concerned about community involvement. He is representing the community—albeit that he is doing so as a previous employee of HIAL. We need to get everybody on side. The issue is so important that we must ensure that, whatever comes from the discussions, there is buy-in from everyone, and that they all have confidence in the system that will be put in place.

**The Convener:** Do you have a final point, Liam?

**Liam McArthur:** I will make a final point to follow up what David Avery said about not having a particular concern about where radar surveillance jobs are based. I understand that, and that the primary concerns are that jobs are secure and well paid, and that training is in place. As

representatives of the various communities that HIAL serves, we have an interest in where the jobs are based. If there are not overwhelming arguments for their being based centrally as is proposed, rather than being dispersed round the network, HIAL needs to explain why that is happening. The expectation should be that, as far as possible, HIAL and other public bodies disperse jobs around the region. Peter Henderson has also set out real concerns about the practicability of what is proposed.

**The Convener:** As that flag has been run up the mast, I will draw this evidence session to a conclusion. Thank you all very much. I suspend the meeting briefly.

10:22

*Meeting suspended.*

10:27

*On resuming—*

### **Ancient, Native and Semi-native Woodlands (Protection) (PE1812)**

**The Convener:** Next is consideration of PE1812, on protecting Scotland's remaining ancient, native and semi-native woodlands and woodland floors, which was lodged by Audrey Baird and Fiona Baker. We have already taken considerable evidence on the petition, which calls on

“the Scottish Parliament to urge the Scottish Government to deliver world-leading legislation giving Scotland's remaining fragments of ancient, native and semi-native woodlands and woodland floors full legal protection”.

We last considered the petition on 23 March, when we took evidence from the Minister for Environment and Land Reform, Màiri McAllan, and Doug Howieson from Scottish Forestry. That session followed evidence that, as members will recall, we heard from the petitioners on 9 March, and from the round table with NatureScot, the Woodland Trust Scotland, Scottish Forestry, the Confederation of Forest Industries and the Royal Society for the Protection of Birds.

At the meeting with the minister, she indicated that work would be under way this summer to develop the register of ancient woodlands. The minister remains open minded on how existing protections and enforcement measures could be improved.

During that meeting and at the round table, we heard about the importance of ancient woodlands for biodiversity and carbon capture. We also explored how forestry standards are currently enforced and what needs to happen to ensure

continuing protection of ancient and native woodlands.

We agreed to reflect on the evidence that we had heard and to consider our next steps this morning. I wonder, colleagues, what we might do next.

**David Torrance:** I would like to visit one of the ancient or native woodlands to see what the problems are.

Also, as a sitting MSP, I have heard complaints from constituents about trees being removed that had been protected by tree preservation orders, on which the response from Fife Council—I will put this on record—was that it was not in the public's interest to prosecute. I would like to write to all the local authorities in Scotland to see how many prosecutions they have undertaken with respect to TPOs for native woodland or trees in their areas, just to see what response we get.

**The Convener:** Thank you. I see that nobody else has suggestions. On that first point, we previously indicated that we might like to undertake a site visit, so I formally suggest that we would like to do that.

David Torrance's second point is well made. The evidence that we received from the minister was that additional legal protections are not necessary because protections are in place, but as is often the case, we might want to inquire whether those protections are being used.

Are members content to proceed by writing to local authorities?

**Members indicated agreement.**

10:30

**Fergus Ewing:** It would be good to write to Scottish Forestry, too, because it has various enforcement responsibilities in respect of inappropriate felling, which was one of the issues that was raised.

**The Convener:** I am happy to do that, too.

**Paul Sweeney:** I recall the petitioners presenting a particular case study. If we are planning a visit, it might be interesting to visit that location to see the situation on the ground.

**The Convener:** We are going to get some recommendations from the organisations that we are going to. I do not think that we want to be in the deepest darkest hinterlands on a Wednesday morning, abandoned in the forest with a compass. I am not quite sure where we would end up.

### **Autism Support (PE1837)**

**The Convener:** Our next continued petition is PE1837, on providing clear direction and

investment for autism support. The petition calls on the Scottish Parliament to urge the Scottish Government to clarify how autistic people who do not have a learning disability and/or mental disorder—that is the key idea—can access support and to allocate investment for autism support teams in every local authority or health and social care partnership in Scotland.

When the committee wrote to the Minister for Mental Wellbeing and Social Care on 17 November, we were particularly interested to find out whether the proposed learning disability, autism and neurodiversity bill would address the petitioner's concerns, and to know, in the interim, what support measures will be put in place for individuals who have autism but do not have a learning disability or mental illness. We also wanted to know how the minister intended to collect and disseminate examples of good practice.

The minister provided examples of current work and recent pilots, all of which are set out in full in members' papers. The minister indicated that, should a new commission or commissioner be created via the proposed legislation, detailed consideration would be required on what their powers and duties should be. In the meantime, the Scottish Government plans to collate and analyse good practice from health and social care partnerships.

The petitioner has responded, stating that the minister's submission, once again, did not explain specifically where autistic people who do not have a learning disability or mental health issue can access support. He notes that the pilot projects that were mentioned are time limited and area specific; that post-diagnostic support is required on a lifelong basis and not only at the point of diagnosis; and that the petition is due to be discussed at the next meeting of the chief social work officer committee, later this month.

Do members have any proposals? I suggest that we go back to the minister with the points that have been made. The minister told us that the powers and duties of a commission or commissioner would be reviewed. That might suggest that responsibility for the petitioner's particular objective might be allocated within that framework, but it has not actually been said. I would be happy to go back to the minister and ask again, very specifically, about the petitioner's concern about what is proposed for people who do not have a learning disability or mental health issue.

Are members content with that?

**Members** *indicated agreement.*

## **Rural Scotland (Healthcare Needs) (PE1845)**

**The Convener:** PE1845 was lodged by Gordon Baird on behalf of Galloway community hospital action group. Rhoda Grant again joins us to discuss the petition, which calls on the Scottish Parliament to urge the Scottish Government to create an agency to ensure that health boards offer fair and reasonable management of rural and remote healthcare issues.

When we last discussed the petition on 8 September, we agreed to write to the Scottish Government and the remote and rural general practice short-life working group, as well as to rural health boards. We have received various submissions from stakeholders and a late submission from Finlay Carson MSP, all of which have been shared with members.

The chair of the remote and rural general practice short-life working group highlights its recent report and its recommendation that a national centre of excellence for remote and rural health and social care be established. Work on implementing the recommendation is under way, including work to explore the potential role of a rural health commissioner, which is a position that has been successfully established in Australia.

The responses from NHS Shetland and NHS Orkney and from NHS Grampian provide information on their respective approaches to public engagement. We have also received a further submission from the petitioner, which is included in full in members' papers, and a submission from Claire Fleming in support of the petition.

Before the committee comes to a view on what to do next, I ask Rhoda Grant whether she wants to say anything.

**Rhoda Grant:** I still have a huge number of concerns about rural healthcare. I am concerned that the nature of the proposed centre of excellence is still being defined and considered, and we are a long way from it becoming a reality. Meanwhile, in my region, fast-track midwifery training has been removed from the University of the Highlands and Islands even though we know that there is a huge lack of staff.

Maternity care is a big issue in the Highlands and Islands. The maternity unit in Caithness was downgraded to a midwife-led unit and the same thing has happened at Dr Gray's hospital in Elgin, although they are quite different places. Caithness patients go to Raigmore hospital in Inverness and there is agreement that, at some point in the future, Moray births will go to Inverness too, at least for a period. However, Raigmore hospital does not have enough staff for the births that it

has, let alone taking on more. We need to have people in the communities.

The submission from the community in Caithness talks about the distances that people have to travel. I am taking part in a Caithness group that is looking at the cost of living, the impact of price rises and especially fuel costs. It was put to me that people are getting 15p per mile—with the first £10 top-sliced off—for travel to Raigmore. I wrote to NHS Highland on that topic and it has increased the rate by a couple of pence per mile in recognition of fuel costs, which are worse in rural areas. However, that presupposes that the person has a car and can afford to put fuel in it. It takes no account of rural deprivation.

One of the submissions to the committee makes the point that people think that living in rural areas is a lifestyle choice—someone moves to a rural area and it is lovely, and if they are going to do that, they have to accept that they are not going to have an accident and emergency department around every corner. Everyone knows that. However, we are talking about people who have been born and brought up in deprived communities in rural areas being expected to travel hundreds of miles to access healthcare. On top of that, with the Covid situation, there are restrictions on access to hospitals, even during childbirth.

In Inverness, in the height of summer, even budget hotels cost about £400 for a room. That means that people on limited incomes cannot be with their loved ones in hospital. It has huge implications for families and for people accessing healthcare for themselves, and there is a cost attached to that. We need to do better.

I urge the committee to keep the petition open and push for people in rural areas to get the health services that they need. How we supply them should be a case in point, rather than people just receiving the crumbs from the edge of the table. Access to health services should not depend on people's wealth.

**David Torrance:** I definitely want to keep the petition open. I know that my colleague Emma Harper has been working with the petitioner, Gordon Baird. However, before we invite him to come to the committee to give evidence, perhaps we can check whether there is anything on the subject in the Health, Social Care and Sport Committee's work programme. There are two similar petitions.

**The Convener:** Implicit in that suggestion is that we are at a point when, in other circumstances, we would hear from the petitioner.

**David Torrance:** Yes.

**The Convener:** Are we happy to say that, in principle, we would like to hear from the petitioner, but we will first establish whether there is a work programme issue involving our partner committee?

**Members indicated agreement.**

**Alexander Stewart:** As Rhoda Grant has indicated, the region is so sparse that it is almost a postcode lottery. I concur that it would be useful to get the petitioner in to give evidence on the process in order to inform how we can progress the petition.

**The Convener:** Thank you.

### **Island Community Representation on Boards (PE1862)**

**The Convener:** PE1862, which was lodged by Rona MacKay, Angus Campbell and Naomi Bremner on behalf of Uist economic task force, calls on the Scottish Parliament to urge the Scottish Government to introduce community representation on the boards of public organisations delivering lifeline services to island communities, in keeping with the Islands (Scotland) Act 2018.

When we considered the petition on 2 February, we agreed to write to the Cabinet Secretary for Rural Affairs and Islands. I am pleased to say that, since that meeting, we have received a response from the Minister for Transport that outlines the process for agreeing who should sit on the selection panel for each public body recruitment exercise. The minister notes that the current process involves a selection panel making recommendations to the minister on all aspects of the recruitment exercise, including what the key criteria for each vacant position should be. The minister therefore indicates that she does not believe that legislative change is required.

Do members have any suggestions? Would we like to hear from the minister and the petitioners to see whether that resolves the issue, or are we satisfied with the minister's response?

**Alexander Stewart:** I suggest that we take evidence from the minister. That is important because, although the response covers some aspects, more could be teased out.

**The Convener:** Is that agreed?

**Members indicated agreement.**

### **British Sign Language (National Qualification) (PE1867)**

**The Convener:** I highlight that our consideration of PE1867 is available to watch on the Scottish Parliament's BSL channel. The petition calls on the Scottish Parliament to urge the Scottish

Government to encourage the Scottish Qualifications Authority to establish a national qualification in British Sign Language at Scottish credit and qualifications framework level 2.

When we last considered the petition on 2 February, we agreed to write to the Scottish Government, the SQA, Deaf Action, Enquire, the National Deaf Children's Society Scotland and the Scottish Children's Services Coalition. We have now received detailed responses from the SQA and the Scottish Government that clarify their processes.

The SQA's response notes that assessment of demand is based on the number of learners who have been entered by schools for the existing range of qualifications. The SQA and the Scottish Government hold joint responsibility for the development of new and/or revised national qualifications. The response from the Scottish Government notes that schools have broad discretion in determining which additional languages to offer and that, although there is currently no national qualification for BSL, there is nothing in policy to prevent schools from teaching it from as early as primary 1.

Members may wish to note that we have also received submissions from Children in Scotland and Deaf Action.

I note from the response from the SQA that it is often the case that support for a qualification among those who are lobbying for it is not always reflective of demand or matched by the demand that is secured, which is a reasonable point.

Do members have any comments or suggestions on how we might proceed?

**David Torrance:** We could write to Derek Todd at the Scottish sensory hub, who is a lead BSL consultant with the Health and Social Care Alliance Scotland.

**The Convener:** The Alliance will potentially have something to offer for our consideration of the petition. Is that agreed?

*Members indicated agreement.*

### **Rural Healthcare (Recruitment and Training) (PE1890)**

**The Convener:** Rhoda Grant was going to join us for our consideration of petition PE1890, but I think that she made the points that she might have wished to make in relation to the petition on rural healthcare that we considered earlier. PE1890, which was lodged by Maria Aitken on behalf of Caithness Health Action Team, calls on the Scottish Parliament to urge the Scottish Government to find ways to provide localised training, recruitment and retention of healthcare

staff in difficult-to-recruit positions in Scotland. We have received a written submission from Edward Mountain, which was circulated to members in advance of the meeting.

10:45

At our previous consideration of the petition, we agreed to seek NHS Highland's views. It has now responded, outlining a number of key challenges for rural healthcare in Scotland and the steps that are being taken to address those challenges, which include local accommodation shortages and a lack of affordable housing, challenges in attracting people to social care roles, and an ageing workforce. Those are familiar challenges indeed.

Members will recall that, when we considered the petition previously, we agreed to consider it alongside PE1845. We have talked about taking oral evidence on that petition at a future meeting. Are members content for us to invite the petitioners of both petitions to provide evidence at a future meeting?

*Members indicated agreement.*

### **Domestic Abuse (Gender) (PE1909)**

**The Convener:** PE1909 calls for the removal of the gender-based domestic abuse narrative and for it to be made gender neutral and equal. The petition, which was lodged by William Wright, calls on the Scottish Parliament to urge the Scottish Government to make domestic abuse policies, guidance, agendas and practices gender neutral; to introduce equal domestic abuse provision and funding for everyone in Scotland, regardless of any protected characteristic; and to ensure that all domestic abuse joint protocol guidance, policies and practice for Police Scotland and the Crown Office and Procurator Fiscal Service are gender neutral.

At our previous consideration of the petition, we agreed to write to stakeholders to seek their views. We have now received submissions from the Crown Office and Procurator Fiscal Service, Police Scotland, ASSIST, the Minister for Equalities and Older People, the petitioner, and Abused Men in Scotland—AMIS—which is a male domestic abuse charity that operates a helpline service across Scotland. The submissions have been shared in full in advance of the meeting.

Some key points are raised in the submissions. COPFS says that the current definition of domestic abuse

"includes abuse of male victims by female perpetrators".

Police Scotland states that there is no sex or gender variance in the level of service that a victim will receive. The Minister for Equalities and Older

People states that, in September this year, the Scottish Government will engage and consult on a “national strategy on ending intimate and sexual violence against men”.

ASSIST states that a gendered approach is important in recognising that men and women

“may require different services and service approaches.”

AMIS recommends that, instead of domestic abuse approaches being gender neutral, they should be gender inclusive, and that measures should be proportionate instead of equal. It raises a concern that the sharing of the overall funding for services that support men and women gives the misleading impression that male services are adequately funded. It also advocates

“Revised gender-informed training for all in the justice system”.

The petitioner’s most recent submission provides further information about his experiences as a male victim of domestic abuse. He also suggests several other stakeholders that the committee may wish to hear from.

There is quite a lot for us to consider. Do colleagues have any suggestions?

**David Torrance:** The clerks suggest that we write to the Scottish Government to ask how the petitioner can engage with the development of the national strategy on ending intimate and sexual violence against men and boys. We should also write to Police Scotland to ask about its approach to gender-informed domestic abuse training, and to the stakeholders that are outlined in the petitioner’s recent submission.

**The Convener:** We should also write to the petitioner, in particular, given that the national strategy will be established with a view to considerations being taken from September this year. It would be very useful for the petitioner to contribute to that. Are we content?

**Members** *indicated agreement.*

### **Human Tissue (Scotland) Act 2006 (Post Mortems) (PE1911)**

**The Convener:** PE1911 calls for a review of the Human Tissue (Scotland) Act 2006 as it relates to post mortems. The petition, which was lodged by Ann McNair, calls on the Scottish Parliament to urge the Scottish Government to review the 2006 act and relevant guidance to ensure that all post mortems can be carried out only with the permission of the next of kin; that brains are not routinely removed; and that tissues and samples are offered to next of kin as a matter of course.

We hope that Monica Lennon will join us, but she has been delayed. She might well join us during our consideration.

I remind members about the very difficult circumstances in which the petitioner brings us her petition. The petitioner’s child died suddenly and underwent a post mortem that was much more extensive than the petitioner had originally thought that it would be.

The committee last considered the petition on 1 December 2021 and heard that, in England and Wales, next of kin are given a choice about how they would like small tissue samples to be handled. The committee agreed to write to the Scottish Government and the Royal College of Pathologists. We have now received responses to that correspondence.

The Scottish Government responded in consultation with the Crown Office and Procurator Fiscal Service. They explained that, if tissue samples are returned to next of kin, it might impair their ability to investigate the circumstances surrounding a death or establish a definitive cause of death.

The Royal College of Pathologists suggests that returning tissue samples would provide only a marginal gain and would need to be

“traded off against further complexities in the authorisation and consent processes”.

Those complexities are listed in its submission.

The petitioner’s recent submission reiterates the key points of her petition, expressing that being told that samples of her child belong to no particular person is the cruellest thing that she has ever heard. On the issue of invasive post mortems, the petitioner suggests that an alternative would be to use a scanner that provides results that are more than 99 per cent accurate.

The committee has received several submissions from individuals stating their strong support for the petition and its aims. Notably, submissions were in favour of authorisation for retention of tissue samples and using scanners for non-invasive post-mortem examinations where possible.

Consideration of the petition and submissions falls into two distinct areas. One is the authorisation of post mortems and the extent to which discretion can be granted to next of kin in that process. The second relates to the final determination as to what befalls tissue samples that might have been retained.

Monica Lennon has now been able to join us. Welcome, Monica. I am delighted to have you with

us. Would you like to say anything as we consider the issues afresh?

**Monica Lennon (Central Scotland) (Lab):**

Thank you, convener. It is good to be with the committee. I am grateful to have the opportunity to speak in support of the petition. I will not repeat your points, which were well made. I am here on behalf of my constituent, the petitioner, to assist and answer any questions that the committee might have.

My constituent and her family really appreciate the committee's consideration so far, which has been thoughtful. I am pleased that your deliberations in December led to more people making submissions. The petition was not put out for public signature, so it has been done quite quietly. However, as we can see from the responses, people have some strong views based on their experiences.

The issues that the petition raises are sensitive. I commend the petitioner's courage. The loss of her adult son, Richard, has been devastating and traumatic for the family, but what happened after her son's death was also really traumatic.

I was handed a bundle of papers on my way in this morning. Ann McNair had been awaiting further information from the Crown Office and Procurator Fiscal Service. I will not go over the papers here, but it has taken a long time for the family to piece together what happened. For example, Ann had asked questions about body scanners, which would allow for a less invasive post mortem. The Crown Office has come back and identified some training issues, which mean that staff in Scotland do not have the skill set.

Looking at all the submissions and the work that Ann continues to do, along with people such as Lydia Reid, who I think is known to the committee as well, I think that more questions need to be answered.

It would be good to hear more from the Royal College of Pathologists. I note the submission that it has made. The royal college does not give its full support to the petitioner, but it is concerning that it says what it says in the context of what it calls

"significant pressures on pathology, post mortem and forensic services across Scotland".

The submission talks about

"grossly inadequate facilities and staffing levels being the reality of current provision"

and highlights an issue that I raised in the previous parliamentary session, which is the

"recent failure of the Crown Office and Procurator Fiscal Service procurement exercise to identify compliant bidders for forensic services"

putting more light on the challenges that the system faces.

We have to question whether the system is fit for purpose. You mentioned some submissions that agree with the petitioner that tissue samples should not be taken and retained without the consent of the next of kin. There is support, including from Dorothy Barr, for the use of body scanners, which are used much more routinely in England and are believed to be less invasive, while being 99 per cent accurate.

In her submission, Yvonne Logan says that it is "offensive" that people are being told

"that tissue samples 'belong' to the procurator fiscal or pathologists for research, without consent."

Most people would find that really troubling.

Melissa O'Sullivan, a nurse practitioner, supports the rules on tissue sampling being aligned with UK standards, with samples

"being offered back to next of kin".

The petitioner has opened up an important conversation. In the end, it comes down to dignity. No one would question the important role and responsibility of the Crown Office and Procurator Fiscal Service in the investigation of sudden, suspicious, accidental and unexplained deaths in Scotland. However, many people feel that the system is not always compassionate, that it is hard to get information and that communication is not always as good as it should be. We have heard from the Royal College of Pathologists that the system seems to be unable to cope. More questions should be asked.

I will end by looking at the submission from Gerard Stark. He asks:

"Where is the dignity for the deceased"?

The Parliament is about to have a big discussion about dignity in dying. We have to extend that to look at dignity for the deceased and for bereaved families.

The petitioner says that her son was "butchered". That is her view. She asks why body scanners are not an option in Scotland. She does not want another mother or family to go through that "unbearable heartache and pain".

I said that that would be my final word, but it is important to refer to the thoughtful submission from the Scottish Council of Jewish Communities and to the council's disappointment. It is important that we listen to SCoJeC's views.

I appreciate that it is difficult to talk about this issue. I feel that I have just skimmed over the top of it, because so much of it is upsetting. Everything is there to be read. The petitioner might feel able to be more public about her story in due

course. The work that the committee has done so far has helped to show that there are questions to answer. If we can improve the law, policy and practice, we should absolutely do that.

**The Convener:** Thank you, Monica. If we have not already done so, it would be useful for the committee to receive some of the submissions to which you refer.

You are right: the suggestion that the procedures and processes that are followed might be governed by an underresourcing of pathologists' work rather than by a freshly determined view of what best practice and policy might be is concerning. The committee might want to pursue that.

Body scanners are now being routinely used elsewhere. If a submission that we might be yet to see vindicates the view that we cannot have scanners in Scotland because of an argument that people are not adequately trained to use them, that would seem inadequate. Use of a body scanner would, obviously, be a far less invasive way to undertake a post mortem.

We might come back to those questions if we can consider the matter. We might want to write to the Crown Office and others to establish whether all that is correct.

Do colleagues have any suggestions in relation to the other evidence and submissions that we have received?

11:00

**Alexander Stewart:** I thank Monica Lennon for her evidence. It has shone a light on the process and identified some of the failings and the lack of support that individuals believe exist.

It would be appropriate for us to write to the Coroners Society of England and Wales seeking details of its approach to tissue sample retention and how it mitigates the challenges that are set out by the Royal College of Pathologists. That will give us an idea of where we are with the matter, because there seems to be a lack of support, training and identification. By writing to the society, we would at least get an idea of what is happening south of the border, which seems to work much better for individuals who face the issue.

**The Convener:** Yes. Some of the complexities that the Royal College of Pathologists details seem to be issues that will have been faced and addressed elsewhere.

**Paul Sweeney:** I fully agree with that idea. The petitioner and several respondents to the petition have been trying to establish parity with other practices in the UK, and it is important to investigate where practices should align.

I felt that the Royal College of Pathologists submission was a bit excessive in making the point about potential legal reasons for retaining samples from bodies. The implication that next of kin might want to defeat the ends of justice by denying a post mortem was potentially quite offensive. That would be the case in a limited and significant set of circumstances only. It is not relevant to the petition.

We need to understand exactly what the Royal College of Pathologists means by that. A thorough investigation is probably needed into the circumstances in which samples would be retained for a criminal investigation. In due course, once it is established that there is no foul play in relation to a death, the samples could be released for burial or whatever the family wishes to do with them.

**The Convener:** Is the committee content for me to invite the clerks to come back to me on where we might obtain further information about body scanners? That seems relevant to our consideration and, although they have been alluded to, we might benefit from a proper briefing on their availability, the costings and their use. That would allow us to pursue with the Crown Office and others why we are not deploying scanners in the way that we might do in Scotland.

**Members indicated agreement.**

**The Convener:** If there are no other suggestions, we will keep the petition open and pursue all the questions that we have been asking.

Does Monica Lennon want to add something?

**Monica Lennon:** Yes, convener. The petitioner and some of the respondents to the petition have raised an issue about death certificates. The term "unascertained" is not popular. Many families—I have personal experience of this, too—feel that it is empty and meaningless. Some of the respondents have made that point very well. Gerard Stark talked about it not being a meaningful term and said that "uncertain" would be a more appropriate word to use. There are different practices in other parts of the UK. If the committee could get views on that from the Scottish Government and the Crown Office, that might be useful.

**The Convener:** Thank you for drawing that point to our attention. As a constituency MSP, I have heard examples of that, too. It is very disturbing. That word possibly leads people into a degree of conjecture. In the instance that I encountered, it was more that the constituent felt that something was being covered up in terms of not being able to determine what had led to a death in hospital. It would be useful for us to pursue that as well.

Thank you very much for joining us, Monica. We will return to the petition when we have further information.

## New Petitions

### Pavement Parking Ban (Advertising Campaign) (PE1929)

11:04

**The Convener:** Item 2 is consideration of new petitions, of which we have two. PE1929, which was lodged by Bob Downie, calls on the Scottish Parliament to ask the Scottish Government to run an advertising campaign to raise public awareness of the forthcoming pavement parking ban. It notes that in order for drivers to change their behaviour and comply with the forthcoming ban, they “must ‘buy-into’” and “accept” that the needs of pavement users should be given priority over the “desire to park as close as possible to their destination” or to park at all.

Bob Downie suggests that, as the ban is not due to come into effect until 2023, the Scottish Government should use the intervening period to run an advertising campaign to alert motorists to the ban and highlight the negative effects of pavement parking.

In its submission, the Scottish Government has restated its commitment to running an advertising campaign to highlight the effects of inconsiderate parking, with a campaign planned for the six months preceding the date on which local authorities can begin issuing penalty charge notices for the new offences in 2023.

Quite unusually, therefore, we have before us a petition for which the objectives have actually been realised before we have had a chance to consider it.

**David Torrance:** Considering that the Scottish Government is committed to advertising before the ban comes into force next year, we can close the petition under rule 15.7 of standing orders.

**The Convener:** Are colleagues content to do so?

**Members** *indicated agreement.*

**Paul Sweeney:** I agree with our closing the petition, but perhaps we could advise the petitioner that the facility of contacting their local member or members of the Scottish Parliament is available to them for lodging written questions closer to the time to get more detail on the nature of the advertising campaign. If there is further dissatisfaction with how the campaign is running, that could be addressed through their local members of the Scottish Parliament.

**The Convener:** That is a fair point—we can do that as well.

### **Digital Exclusion (Rural Households) (PE1931)**

**The Convener:** PE1931, which was lodged by Ian Barker, calls on the Scottish Parliament to urge the Scottish Government to prevent digital exclusion for rural properties and their households by giving priority in the reaching 100 per cent—R100—programme to properties with internet speeds of less than 5 megabits per second. All legislative and regulatory responsibility for telecommunications rests with the UK Government and Ofcom. The Scottish Government has, however, introduced a programme of work to improve digital connectivity in Scotland, which is what the petitioner seeks to influence.

The petitioner aims to ensure that priority is given to properties with slower internet speeds in rural areas, in particular, and he explains that rural households should have fair access in order to prevent digital exclusion.

The Scottish Government's initial response sets out the measures that it has taken to date in relation to rolling out internet connectivity in rural areas. The response highlights the R100 Scottish broadband voucher scheme, which was created to ensure that everyone can access a superfast broadband service.

Do members have any comments or suggestions for action?

**Alexander Stewart:** The petition is very important, especially for people who are in rural areas. It would be advantageous if we were to write to the Scottish Government to ask whether an impact assessment was carried out in advance of the R100 programme and the R100 broadband voucher scheme—which you mentioned, convener—being introduced to ensure that the people who are most at risk of digital exclusion were prioritised.

In addition, we could ask the Scottish Government how, in drafting such an impact assessment, it assessed which rural properties had the slowest internet speeds. That is the crux of the matter: the problems that are caused for individuals in rural areas who do not have digital access.

Thirdly, we could ask the Scottish Government whether it has taken any other measures to prioritise boosting connectivity for rural households with the lowest internet speeds.

Those issues are all vitally important, and it is incumbent on us to ask the Scottish Government where we are with all that, because—as I said—it is an area that is causing huge concern across many rural areas.

**Fergus Ewing:** I suppose I should declare a former interest, in that I was minister with responsibility for what has developed in respect of R100, or at least parts of it.

In addition to the recommendations from Alexander Stewart, with which I thoroughly concur, it might be helpful to approach the contractor—I think that BT has been awarded the contracts—to seek more practical information as to how it goes about the difficult task of sequencing and prioritising the roll-out of the work. The amount of work is considerable in each of the three areas, which all have separate contracts, so the matter is not straightforward at all.

Given that the programme is regulated by contracts, it might be helpful if, in writing to the Scottish Government—and, if colleagues agree, to the successful contractor, which I understand is BT—we were to ask specifically whether the relevant contractual provisions could be shared with us. I do not see any reason why they should not be; now that the tender process has been completed, they should be in the public domain. I just wanted to flesh out and expand on Mr Stewart's suggestions.

**The Convener:** I am very happy to add those points to our list of considerations. Are colleagues content to proceed on that basis?

**Members indicated agreement.**

**The Convener:** That concludes the public part of our meeting.

11:11

*Meeting continued in private until 11:19.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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