



OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 15 June 2022

Session 6



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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE
11th 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:

George Adam (Minister for Parliamentary Business)

Tom Arthur (Minister for Public Finance, Planning and Community Wealth)

Gerald Byrne (Scottish Government)

Rhoda Grant (Highlands and Islands) (Lab)

Doreen Grove (Scottish Government)

Andy Kinnaird (Scottish Government)

Neal Rafferty (Scottish Government)

Brian Whittle (South Scotland) (Con)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 15 June 2022

[The Convener opened the meeting at 10:01]

Participatory and Deliberative Democracy

The Convener (Jackson Carlaw): Good morning. I welcome everyone to the 11th meeting in 2022 of the Citizen Participation and Public Petitions Committee.

Our first agenda item is an evidence session with the Scottish Government on its response to “Report of the Institutionalising Participatory and Deliberative Democracy Working Group”. Members will recall that the working group’s report sets out a range of recommendations on

“how the Scottish Government’s ambition for transformative change can be delivered to make Scotland’s democracy more participative and inclusive”.

We last considered the issue at our meeting on 20 April, when we took evidence from the working group itself, which was very interesting.

I am delighted to welcome to the committee George Adam, the Minister for Parliamentary Business. He is accompanied from the Scottish Government by Doreen Grove, who is the head of open government, and Gerald Byrne, who is team leader in constitutional policy. Good morning to you.

I understand that the minister would like to say a few words by way of opening, before we pursue our questioning and see where we get to.

The Minister for Parliamentary Business (George Adam): With your indulgence, convener, I will say a few words to start with. Thank you for the invitation to give evidence to the committee. I welcome the opportunity to talk about the IPDD working group’s report, the Scottish Government’s response to it, and our ambitions for the future of participatory and deliberative democracy in Scotland.

I thank the members of the IPDD working group for all their hard work. We value their input, which will help us to build on the range of good work that we have done so far on participatory and deliberative democracy—that’s easy for me to say, convener.

In many ways, Scotland is, among the nations of the United Kingdom, leading in strengthening our

democracy. We recognise that innovation in participatory and deliberative democracy offers a range of benefits. For example, people feel listened to, their trust in Government improves, we are better equipped to take complex and difficult decisions, policies are better informed and more successful, and Scotland’s democracy is strengthened.

Scotland has so far held two citizens assemblies, both of which were established to deal with complex issues, on the basis that the policy outcomes would be improved. We know from the evaluations of each assembly that members, including the children who were involved in the climate assembly, enjoyed their experience, learned a lot, and want to take part in more such activities.

The combination of benefits is why we have committed to running more regular citizens assemblies, including a citizens assembly for under 16s. We have also committed to offering people more opportunities at a smaller scale in order that they can be meaningfully involved in decisions that matter to them. Those are big commitments, and we recognise that they represent new parts of our democracy. We know that we will need infrastructure and new processes to deliver on those commitments and to learn lessons from the previous assemblies. That is why the IPDD working group was convened in summer 2021.

We are now considering the working group’s recommendations and will publish our response in due course. As always, I am happy to take questions.

The Convener: It is worth noting that the whole process began with the previous Presiding Officer’s parliamentary commission, which I sat on and which looked at the whole question of public participation and deliberative democracy. I know that a lot of work has been done here in Parliament and by the Government in the time since.

We have a series of questions. Just last week, we had at a focus group at a deliberative democracy event in order that we could understand the issue. One of the issues that everyone will be wrestling with is the expectation that is created in the minds of people who participate that something will follow, which will be a challenge in relation to the reputation and sustainability of the concept, over time. We will touch on that later. I will start off with some technical questions, before colleagues come in.

We met the group and had a very productive and worthwhile evidence session. How did the Government decide on the composition of the group? I know that Scottish Government officials

were involved; were they active and equal members of the group or were they there in a supporting and advisory role? What was the structure and how was it put together?

George Adam: I could talk on that for five minutes, but I had probably better ask Doreen Grove, who was at the coalface, to answer.

Doreen Grove (Scottish Government): Thank you for that important question. We looked at bringing in expertise that could be seen as being independent but could also provide ministers with very clear advice that was relevant to Scotland's experience and the international experience, based on learning from research in the field.

About one third of the group were practitioners on the ground, many of whom were from Scottish organisations. However, we also brought in European expertise and expertise from the US and Australia, as well as academics who have done really solid study—not least through their involvement in work on assessing our two citizens assemblies—so that we could make sure that we were learning properly.

There were not only Scottish Government public servants; we also brought in someone from the Convention of Scottish Local Authorities and people from the Parliament's participation working group. That was very deliberate and was approved all the way through, because we had clear terms of reference that were about setting out standards and values and about looking at the overall picture.

There is a big appetite among people in Scotland to be more involved. However, as the convener suggested, that involvement cannot simply be random; it has to have focus and real impact. The working group was very clear that it was considering how that would happen; that was what sat behind its work.

Public servants were on the working group and it was chaired by Kelly McBride, whom the committee has met. There was a set of equal voices, but we needed expertise that does not sit in the Government, which is why we brought in external expertise.

The Convener: Obviously, the Government has not yet published a response, but what, in general terms, is your overall reaction to the report?

George Adam: Doreen Grove and I were talking about that on the way here. As with all things in life, it is probably best that we step back and look at the information, at this stage. Given the public's expectation, if we get it wrong at this stage we will not recover. The convener alluded to that earlier. We will therefore take our time to make sure that we get the process correct so that we can deliver for the people who will be involved.

It struck me, when I was talking to people who were involved in previous citizens assemblies, how enthusiastic they were about absolutely everything to do with the process and how they felt that it had engaged them politically again. For us, that is obviously important. Politicians can all fall out and discuss the various points of the day, but the public can take a step back from the process, which is one of the advantages of participatory democracy. We will make sure that we get it right and will take time to deal with the issues.

Doreen Grove might have something to add—or she might contradict everything that I said.

Doreen Grove: Oh, would I dare? I would, in fact, to be fair.

It is important to make sure that we learn the lessons, and there is a lot of work to do to make sure that we do. For example, we really have to learn in relation to independent governance of such processes. Independent governance must be at a distance from the Government and the Parliament, but we need to ensure that there is an impact. In putting the processes in place we have created a set of standards and values that have been set out by the IPDD group. We are working our way through them, so that we can come back to the committee with a clear view of how things will operate, and so that we avoid creating expectations that cannot be met.

The Convener: Although you are being slightly circumspect about your overall reaction to the report, would you go so far as to say that you feel that the group fulfilled your expectations and fulfilled the brief that was set for it?

George Adam: We would. As I said in my opening remarks, we thank the group for its work, which gives us an opportunity to reflect; it has given us pause for thought. You might be surprised to hear that the Government does not believe that it has a monopoly on good ideas. It is always interesting to hear what others have to say.

The short answer to your question is yes.

The Convener: That is now in the *Official Report*; I am sure that we will all take great pleasure in quoting that back to you.

George Adam: You will. It will not be the first time or the last time.

The Convener: We will do that at the appropriate time, to test the water. I will dabble my toes in the waters of that statement and will see what response I get, at the appropriate time.

I understand, having participated in the work of the parliamentary commission and in other events, that it is easy to set up a timeline. We set up timelines using parliamentary structures because we anticipate, in a sense, what we might be about

to hear, and we therefore think that we can benchmark when the next milestone will be. However, in the evidence that you are hearing, you will hear fresh thoughts, challenges and ideas that might contradict views that people have held before. As you are reflecting, do you have in your mind an idea of when the Government will be able to indicate formally what its thoughts on the report are?

George Adam: As I said previously, I cannot give you a timeline at this stage, because I want to ensure that we get things correct right from the start. I am a strong believer in public participation in the political process, but we need to ensure—exactly as the convener said at the beginning of the meeting—that people’s expectations are correct. I cannot commit myself at this stage. I am not being difficult; had I an idea in my head about a timeline, I would tell you. I want to ensure that we get things correct.

The Convener: I conclude from what you have said that we are not looking at anything happening imminently; there will be a reasonable period of time before we see a properly considered response.

George Adam: Yes.

The Convener: Thank you.

Paul Sweeney (Glasgow) (Lab): A major point has been raised about wider and deeper engagement with local government. What is the Government’s response to the recommendation about deeper engagement?

George Adam: I come from a local government background. I was previously a councillor, and my first experience of such engagement was as a councillor. Local authority staff went to various groups and said, “These are our plans for the next year. What do you think?” I was one of the few councillors who turned up at every event, which was mainly because I enjoyed the engagement and liked seeing what was happening.

I can give a perfect example of that. Following the Bute house agreement, one of the subjects that the citizens assembly discussed was how to deal with local government finance. It will be interesting to see what the public come up with. Let us not kid ourselves: as politicians, that is something that we have discussed and have had various ideas about—certainly, over the past decade. It will be interesting to see what the public do when they get all the facts and everything is put in front of them. I will be interested in that. We will always work with COSLA on that area, in particular.

I am always one for considering different ways to approach things. This is not necessarily just about citizens assemblies. We can also consider

using people’s panels, at which we could have engagement on a smaller scale. It is about engaging with the public and ensuring that they feel listened to.

As a politician, one of the things that I was interested in when I first came into post last year was work on the citizens assembly and Scotland’s future—it was one of the first bits of work that I read. I said to Doreen Grove then that I was, as a politician, trying to find bits on which I can deliver. That was in order to ensure—as the convener said—that we could meet the expectation that something will be delivered. I found it very difficult to pick something on which I could say, “I can deliver X, Y and Z”, because the subject is so complex.

10:15

One of the things that I have learned is that, as ministers, when we are asking questions, we should define things clearly. The question that was posed on local government finance in the citizens assembly was defined so that people could consider it. I could give examples of questions—such as on end-of-life choices—that we politicians have difficulty with, on which there are differences of opinion, and which people feel passionate about. I use end-of-life choices just as an example; I am not saying that there is a plan for a citizens assembly on that, but that considering such questions gives us real ideas about where we can go with them.

I have learned that less is more when asking such questions; you can get more value that way, from my perspective. I have gone off on a tangent, Mr Sweeney. In effect, what I am trying to say is that I believe that we should engage with local government on that example. However, we can work with local government on public participation in other ways as well.

Paul Sweeney: What is the Government’s view on how that fits into the wider open government plan? In particular, how do you see monitoring and evaluation working?

George Adam: We talked about evaluation earlier on. We must ensure value for the people who are involved. It has struck me, when speaking to people who have been involved in a citizens assembly, that it is as though their eyes have been opened to a whole new world. Previously, politics and the political process were not for them, but all of a sudden their eyes have been opened. I want to keep that going.

However, at the same time we need to ensure that we can deliver something. If I am critical of how questions were asked previously—although I was not in post at the time—it is because they were massive questions, so it was difficult to distil

information and deliver something, so that we could say, "You said that, and we have delivered on it."

Mr Carlaw might be thinking that I am going back to our car sales backgrounds in saying that, but it is important. A councillor in Paisley, Jim Mitchell, used to say, "George Adam thinks it's like selling cars all the time", but the process is about people and we have to work with them in a certain way. The important thing is that we deliver, so that people feel that they get value from the process. As a minister, I hope to be able to move things in that direction.

Paul Sweeney: I want to ask more about the Government's specific governance arrangements for the exercise, to ensure that you achieve the satisfactory outcomes that you envisage.

George Adam: I will bring in Doreen Grove.

Doreen Grove: I am also happy to answer the general open government question, if that would be helpful. Open government is something that we, as a country, signed up to four or five years ago. It is about how we do government—how we are held to account and why transparency is important. However, the last little bit of open government is about how people can participate. Therefore, absolutely front and centre of what we are trying to do is the creation of a public service that is confident and competent, in order that it can involve people effectively. That does not mean having everybody in every room; it means looking across the piece at how we create effective ways to get people involved.

We see that as being very strongly supportive of representative government, much as the participatory work that you in Parliament do is. It is about getting the right questions answered. Transparency around the process also provides the scrutiny that Paul Sweeney just asked about. We are very clear about that. The IPDD working group proposed an oversight committee, much like the one that oversees the participatory budgeting process, of which I am sure members are aware. That committee will bring in a range of expertise. Because of the importance of Parliament, you will see that the IPDD report recommended a role for this committee, or whatever committee is relevant to the issue that the citizens assembly is considering. The work should be on that sort of scale and there should be a clear route for the process.

As we form the response, we are keen to set out for the committee where the lines will be, who will do what, how it will be done and how we can demonstrate the clear independence of governance that would give you that satisfaction.

Paul Sweeney: Thank you very much for that. I want to ask a bit more about how that fits into the

wider agenda on participative and deliberative democracy. How does the report fit into that wider vision or objective?

Doreen Grove: It does so very clearly. The working group emerged because, as Mr Adam said, the Scottish Government is already leading in the UK, and we work quite a lot internationally with the Organisation for Economic Co-operation and Development and others, on looking at how deliberative democracy can be established and how it can be supportive in helping to work through complex issues. The working group was set up in order to learn those lessons, bring in the examples and set out how we can do deliberative democracy here in ways that support the Government's priorities and support better decision making. It is about how we create that infrastructure and what it means to have a responsible way of thinking about how to involve people in decisions that affect their lives. If the infrastructure does not do that, it is wasted. Therefore, the work absolutely fits with the community empowerment agenda and the development around participatory budgeting. We are trying to make sure that it links right across to outcomes because, if outcomes are not improved by it, we have to find another method.

However, it is not just about one method; we use all sorts of methods, including user research, design thinking, our improvement processes, citizens juries, citizens assemblies and people's panels. It is about finding the right one to tackle the scale of the task. As Mr Adam said, it is about being really thoughtful about what that task is. Not everything needs to go to a citizens assembly, because not everything is appropriate for that scale of event. However, we are really thoughtful about how we make sure that all of that kind of work is properly inclusive. What mechanisms will get people involved who are not generally involved in decision making? How do we do that? How do we make sure that we are going to the people who are furthest from Government, in order to make sure that we pick everyone up on the way back in?

At the committee's most recent session on this subject, you heard from Talat Yaqoob, who set that out very carefully. Within Government, we are trying to look at all of the advice from the Royal Society of Edinburgh, Talat and others to make sure that inclusivity is meaningful and that it is not just a word. It is about fitting that advice into how we develop the participants, how we think about the ways that the participation happens and how we present ourselves in the room. It is also about being thoughtful about where we hold the events, whether that is online or in person. In addition, it is about what support we put in place for participants to make sure that they can take part. That kind of pastoral care makes sure that participation can happen effectively.

George Adam: Doreen Grove brings up a valid point, which is one of the points that I brought up earlier about the make-up of citizens assemblies and various organisations. From my time in local government, I remember that, a lot of the time, the usual suspects turned up at absolutely everything. David Torrance is nodding, because he remembers that from those days as well.

In relation to the young people's assembly that we were talking about, one of the first things that I asked Doreen was, "How do we get the young man and woman from Ferguslie Park?" I used the term "the hard-to-reach people", and Doreen, quite rightly, corrected me at that stage and said, "That language is part of the problem, because you are saying that they are hard to reach." That is just shorthand that we use as politicians.

How do we make those assemblies valid and get those people involved? It goes back to ensuring that that requirement is enshrined as part of the process of how assemblies are delivered, and making sure that the question that we are asking means something to the individuals. I am not saying that it will be easy, because it is challenging, but it is one of the things that I want to make sure of. I do not want to have a room full of people for whom it is yet another organisation or thing that they have got involved in, because I do not think that we would get the value that we really need.

Paul Sweeney: In reflecting on those points, you raise a valid point about the inherent tension between representative democracy and participative democracy. There are inevitably conflicts. We can all sit here and notionally say, "Oh, it'd be great if everybody just agreed"—we might think that, if we just throw everybody into the process, it will spit out a harmonious outcome. In reality, however, that is very rarely the outcome. In politics, there are relationships and dynamics in conflict, and the potential for tyranny, whether by a majority or a minority.

I am keen to understand a bit more about, and hear your honest reflections on, the limitations of this approach. I will highlight one example that always strikes me—well, there are actually two. In my experience, participatory budgeting can often be an exercise in which those with the sharpest elbows win. Whoever can hustle the most people to an event—

George Adam: Doreen Grove has sharp elbows, right enough.

Paul Sweeney: There are things like that.

Another example that I often encounter relates to the planning process. There are consultation events and opportunities to engage, but it is only when people suddenly realise that construction has started, and wonder why they did not know

about it, that we get the emails and the agitation about why something is suddenly happening. We might say, "Well, you should have got in touch six months ago when the guy was at the community centre with those notice boards about it all." They say, "I know, but I didn't know anything about it."

There are already these types of defective examples. Does the Government recognise where the limitations are and how to address them?

George Adam: I agree. Sometimes, we are going to ask questions, and we will get answers that we probably do not expect, as you say. As I have already said, it will be extremely interesting to see what a citizens assembly on local government finance comes back with when its members are presented with all the facts in front of them. It might not necessarily be an answer that any of us in this room would think that it might be.

On how we deal with and manage these things, I always use this example. Again, when I was a councillor, I was on Renfrewshire access panels for those with disabilities—there were such panels all over Scotland. Initially, I went into the room and found angry people who were not being listened to by the local authority. I got to the stage of getting them involved, exactly as you say. I said, "The town hall's being renovated and you're part of the planning process—get in there and find out how we can make it accessible." It is about ensuring that people can be involved and actually deliver something. That is always going to be the most important thing.

Is that easy to achieve? No. Is it challenging? Yes, but nothing good in life that is worth doing is easy. We are all used to the political process—as you quite rightly said, Mr Sweeney—and how we deal with such things, but this is a completely different animal. It is a situation in which the public may, on certain occasions, give us answers that we will be surprised by. Is that a bad thing? Not necessarily. Does Government need to take those answers seriously when they come in? Yes, it does. Will that be challenging as we go forward? Probably, but we need to roll up our sleeves and get on with it.

Doreen Grove: I will add to that, if it would be helpful. There are examples around the world of where politicians are involved in this sort of thing. In Brussels, some members of Parliament are involved in their citizens assembly. We will get the learning from that; it is really important that we learn from such examples.

Power is not a zero-sum game. We have clear evidence from the World Bank that, where politicians get involved in putting in place effective ways for the public to get involved, they are more likely to be elected. Some of the beliefs are myths, and we need to be mindful of that. What we are

trying to do is build a process that fits with our current representative processes. It is not about creating something that is in competition with them.

David Torrance (Kirkcaldy) (SNP): Good morning, minister. What is the Government's view on the group's definitions? Does the minister see any issues with not being definitive? The reason that I asked that is because when I asked Kelly McBride about that point, the group acknowledged that there was no one set of agreed definitions that could be used as best practice. How does the Government see that working?

George Adam: Best practice in regard to what?

David Torrance: With regard to all the actions and international best practice that makes sense for the definitions.

10:30

George Adam: As Doreen Grove said, we regularly look to international experience to try to find out what is best practice. I am sorry if I am repeating myself, but this is not going to happen overnight. We need to ensure that we get to a place where it is right, proper and delivers what we and—more important—the public want it to deliver. Will that always be simple? Probably not. It would be difficult to define it, but I understand why they came to that conclusion. Doreen, do you want to come in on that?

Doreen Grove: The working group considered a set of definitions, and Kelly McBride is right that there is no internationally agreed set. The OECD did some fantastic work—which Scotland was part of—that looked at what has been described as the “deliberative wave” around the world. There are a set of definitions of process, and we can define what we mean by that, but it is important that we do so collaboratively, in Scotland, so that it makes sense here and so that everyone's understanding is the same.

We have a set of definitions of what a citizens assembly, a citizens jury and a people's panel are, and those definitions will change, but the point is about innovation and finding better ways to do stuff. Those definitions will change and we will constantly look at international parallels. Scotland has played an active part in that international work and in thinking about how we align it to existing systems, because every system is different. Definitions kind of matter, but they are a moving target and we will keep our eyes on that. We will also try to agree on what the definitions mean in Scotland. This is not about Government setting out a blueprint that others have to follow; it is about doing things collaboratively.

You will have seen that some of the ambitions in the IPDD are about collaborative work in future, and that is because we recognise that the Government does not have all the answers and that Scotland needs to look at the longer-term strategy to build capacity and understanding—as the RSE said.

George Adam: If David Torrance is looking for a definition, I like what Doreen said: “Better ways to do stuff.” That sums up everything we have spoken about for the last few minutes.

Doreen Grove: Sorry, I am a fairly basic Geordie.

George Adam: Well, it works for me.

David Torrance: Does the Government agree that the commitments in the programme for government and the Covid recovery strategy can be more effectively delivered with routine use of participative democracy, and if so, how?

George Adam: The perfect example comes from one of the people's panels that we did on the lived experience of those with Covid, because it was an example of horses for courses. At that stage, we thought a people's panel would be the best way to get the information that we needed from members of the public who lived with Covid. Politicians get caught in the bubble of Parliament, so the panel gave us an opportunity to look at how the public dealt with Covid. The long and short answer is that participatory democracy is an important part of Covid recovery and we could use it as an option to enable us to deliver the commitments and listen to people.

Fergus Ewing (Inverness and Nairn) (SNP): As the minister knows, I am keen to get out of the bubble from time to time.

George Adam: I know that only too well.

Fergus Ewing: Indeed. Citizens assemblies are one of a number of different ways to achieve that objective. What key lessons have been learned from them?

George Adam: The lesson that I learned from the ones that we have had is on the complexity of the questions. We need to find ways to allow the public to debate complex issues.

I think that it was the Republic of Ireland that held a citizens assembly on abortion. It looked at a very difficult question for people in Ireland, and the process delivered on that. Sometimes, it might be helpful for us as politicians to do that to consider issues that we have had difficulty with, regardless of party politics. That might be a way for us to listen to what the public say. I used the example of end-of-life choices as a perfect example of a matter on which, we are led to believe, the public has a specific opinion. However, the Parliament

seems to see the issue differently, considering the votes on Margo MacDonald's bill on end of life assistance in the previous parliamentary session. Citizens assemblies can be very helpful on that front, but, again, it comes down how the question is put. It is not so much about keeping the question simple but about having the assembly in a way that allows us to have the discussion and move on.

The first two citizens assemblies on climate change and Scotland's future were complex. Scotland's future and saving the planet: those are big, big questions. If you have read what came out of those assemblies, you will know that they were very complex. There was no definitive statement, such as, "We want you to do X, Y and Z." It might just be me, but I am trying to think about how I can deliver on what the public have said. For me, that is the big important part. Doreen Grove has been involved on a daily basis with all the groups, so she will probably be able to give you more detail.

Doreen Grove: One of the things that I would like us all to learn is how effective people were at dealing with very complex issues. A response that we often get from experts is: "This is too complicated for people to understand." That is simply not the case. I will use the example that the minister gave. The Irish Convention on the Constitution met to consider a series of difficult constitutional issues, and the convention said, "We will do that, but we would also like to look at these other two issues", which were abortion and same-sex marriage. The processes were designed to set matters out in a way that people could properly understand. The issue of abortion in particular was very toxic for almost any politician in Ireland to deal with. However, in the end, the whole process of a citizens assembly is about respectfully hearing each other's views, getting a shared understanding of the evidence and coming to some conclusions.

Therefore, the recommendations from our two citizens assemblies are being looked at across Government. As Mr Adam says, those will not be delivered in one big bang, but we are absolutely taking them seriously and looking at how they can be delivered. It is a mix of a much more credible set of policies around particular issues, because you are dealing with people who will be most affected by the policies. People are able to look at complex issues, provided that they are given sufficient evidence and time to debate them.

We are all facing more populist Governments and misinformation. This process gives people the opportunity to hear evidence and to hear really clear explanations. It is really important that the process is balanced—it must be a cross-party process. It must be set out in a way that allows the

participants to look at the issues and not the politics around them—that really matters.

George Adam: I will back up what Doreen said. The process gives Government the opportunity to look at complex and difficult problems and to make decisions on those, once the public has considered them.

Fergus Ewing: How is the Government going to address the report's points on inclusion and equalities?

George Adam: I will ask Doreen Grove to answer that.

Doreen Grove: That is part of a really clear programme of work in Government on inclusion and the mainstreaming of inclusion. The work will connect to the process. As I am sure that you are aware, citizens assemblies are randomly selected, but, in all instances, they are also weighted to ensure that we have a broad cross-section of the population, and we specifically seek to overrepresent people who will be more seriously affected by the matter that we are dealing with. Therefore, we will work that out in each instance, but we have a set of principles that will be applied. That work connects clearly to that whole programme of mainstreaming equalities, which absolutely runs across Government.

George Adam: I remind Mr Ewing what I said about the children and young people's assembly that we plan to do. We will ensure that young people from throughout Scotland will be included regardless of where they come from and live. That is important. The equality and inclusion aspect of the work is extremely important to get a balanced view. It also means that we do not get the usual suspects turning up at various events.

Fergus Ewing: Is it not easy to reach out to children in what I think you said we can no longer call "hard-to-reach areas"? At least everybody knows what "hard to reach" means. Children tend to be in schools and, if you visit schools, you can reach the hard-to-reach children there because they have to go. Is that not a simple answer to a question that has been made too complex?

George Adam: Many of the children and young people whom we are talking about have, we would admit, a cynical view of politicians and politics. I will use the example of young people in Ferguslie Park in Paisley. I might get away with going into Ferguslie Park as I am one of them, but you might have difficulty, Mr Ewing. I have given a perfect example: because I am one of them, they would talk to me. However, we need to ensure that, as Government, we can engage with them and get them involved in the process.

Doreen Grove seems to be itching to say something.

Doreen Grove: Government talks mostly to proxies: people who head up organisations that work with certain groups of people. The work that we are discussing is about going beyond that. That is not to say that working with stakeholders is not right. In some places, that is exactly what we will do but, in the sort of circumstance that we are discussing, we will find people who are not involved in any particular way.

Yes, of course we can go to schools. The Children's Parliament did the work on the children's element of Scotland's Climate Assembly, which was extraordinarily impactful. It did that in a really different way. It reached out to the islands, Highlands and urban centres.

We are trying to address the issue in a range of different ways but it will certainly be about reaching people that we do not normally reach.

The Convener: We return to where we began, to an extent, because Mr Stewart is keen to pursue some of the issues that relate to the recommendations and press a little further.

Alexander Stewart (Mid Scotland and Fife) (Con): A wide range of recommendations on participation and understanding of the shared process have come out of the review. It would be good to get an overview of the Government's views on the recommendations. Are the recommendations to be implemented in full? Do you have any timescales for implementation? Are there any that you would find difficult to deal with and might disregard?

George Adam: No, we have no timescales at this stage. We appreciate the work that the IPDD did, and we will need to consider it in detail and ensure that we get things right. There will probably be difficult things in among all the recommendations. Nothing is ever easy if you are going to do it properly but, as Government, we need to suck it up, get on with it and do it at various points. As I said in response to the convener's question, we will step back, look at the recommendations and ensure that we create the process that will deliver what the public wants.

Alexander Stewart: Does the Government have a top priority from the recommendations? Is there one area where you think, "That's where we need to be going and where we are going to go first"?

George Adam: Nothing jumps out from the recommendations as being the go-to, other than the fact that I want to get this right. I want the work to be of value to those involved in the process and I want to ensure that I, as a minister, can say that I was part of that process and that we managed to deliver something that changed our democracy for the better.

10:45

Alexander Stewart: In the report, there is the idea of creating a unit with responsibility for participation. Has the Government done any costings of the implementation of the report's recommendations, including in relation to the proposed new unit? It is important to ensure that the recommendations can be effectively managed, and that can happen only if there are resources and proposals to support that unit and make it a reality.

George Adam: Doreen Grove and I were having that very conversation as we came in. She will articulate that a lot better than I could.

Doreen Grove: There are a couple of things in there. We know how much staff and resource went into each of the citizens assemblies. We know that there is a need for some of that and that, if we are to make good use of skills and expertise, we need to centralise things. At the moment, we are looking across Government at where the existing expertise is, what can be pulled together in order to properly support the unit, and what more we need. That is not set out very clearly at the moment, but we will look carefully at that recommendation in order to see how that expertise be brought to bear, to make sure that we have independent governance and oversight.

We have not done a direct costing of that, although the committee has of course seen the published costs of the citizens assemblies and it will not be so different from that. In the end, it will save us funding if there is central expertise, because we are not building it up and then losing it.

In addition, this kind of participative work creates a way of getting policies that deal with the problem of fiscal failure. If we have better policies, that will help us with our budget in the longer term.

Alexander Stewart: As you identified, it will take time, but there is a track record of how things have been managed previously.

Some of the recommendations have implications for the Parliament itself. It would be good to get a flavour of how you are engaging with the Parliament to ensure that the recommendations that have an effect here become a reality, and that we will see improvements in the process for the Parliament in managing the situation.

George Adam: I agree, Mr Stewart. This committee, and its evolution into what it is now, is a perfect example of the Parliament being involved in participation. As you know, it has obviously gone from being the petitions committee to now being the key committee for all such engagement.

The Scottish Government believes that we need to work with the Parliament to ensure value for the process, which is what it is all about. If we are to deliver anything that comes from the citizens assemblies or any of those types of groups, we need to have in Parliament the processes through which we can do that. It goes without saying that we need to ensure that we work with the parliamentary authorities, of which—as I said—this committee is a perfect example.

The Convener: The “key committee”—I am sure that you flatter to deceive, minister.

Mr Byrne, you have been listening patiently to the evidence presented by the minister and your colleague. Do you want to contribute any reflections as we come to the end of our evidence session?

Gerald Byrne (Scottish Government): On that last point, as the committee will have noted, in the response to the Citizens Assembly of Scotland—for which my team was the sponsor division—we pointed to the constitutional significance of some of the recommendations for the Parliament, and that it needs to work with Parliament in taking those forward.

To pick up Mr Sweeney’s point about how a participative democracy system works with the representative parliamentary democracy system, making those two systems match together is the challenge for this committee as it looks forward. That is my contribution, which is, obviously, poorer than those of Doreen Grove and the minister.

George Adam: That shows Mr Byrne’s years of civil service training. [*Laughter.*]

The Convener: Since members have no final thoughts or additional questions, I thank the minister and officials. We very much appreciate your contribution to the key committee that is considering these issues this morning.

10:50

Meeting suspended.

10:52

On resuming—

Continued Petitions

Rural Scotland (Healthcare Needs) (PE1845)

Rural Healthcare (Recruitment and Training) (PE1890)

Caithness County Council and Caithness NHS Board (Reinstatement) (PE1915)

Women’s Health Services (Caithness and Sutherland) (PE1924)

The Convener: Welcome back. Agenda item 2 is consideration of continued petitions.

Members will recall that, at our meeting on 8 June, we held a round-table discussion that embraced four petitions related to rural healthcare. We heard from all four petitioners: Gordon Baird, Maria Aitken, Billy Sinclair and Rebecca Wymer. We also welcomed the participation of our MSP colleagues Emma Harper, Rhoda Grant and Colin Smyth.

During that round-table discussion, we heard about a range of challenges that face rural communities in accessing health services, including the distances that are involved in travelling to appointments, particularly in emergency situations. It was vividly demonstrated in a way that we, sitting here in the central belt, might more easily understand, when it was said that a journey would be the equivalent of us going to Newcastle and back for a minor check-up. That brought home the difficulties that are faced, with which we are not familiar, because of the distances that are involved.

We heard about problems in recruiting and retaining staff, which has become an issue, and we discussed how to ensure that, as new services are framed and developed, the voices of communities are properly heard, rather than new policies being imposed on them without proper consideration.

We agreed to consider at this meeting the evidence that we have heard on all four petitions. I am delighted that Rhoda Grant joins us again, in particular for consideration of PE1890, which we will come to shortly.

We considered the four petitions together, and one of the options that we were asked to consider was the potential to refer the petitions on. I will summarise the four petitions, then we will take a collective view.

We heard evidence on PE1845, which was lodged by Gordon Baird and calls on 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. I was struck last week by what Mr Baird said about what he felt were the inadequacies of the existing routes for ensuring that the views of rural residents are heard by decision-making bodies.

Mr Ewing tackled the question whether a single agency can manage the responsibility that could arise from issues that are common across health boards that are far flung across Scotland. Dr Baird also welcomed the Government's commitment to establishing a national centre of excellence for remote and rural health and social care, but felt that that would address only part of the issue that he raised because, without his proposal, there would be nobody advocating for such services, as opposed to being part of their delivery.

PE1819, in which Rhoda Grant is interested, calls on Parliament to urge the Government to provide more localised training, and to find ways to recruit and retain healthcare staff in difficult-to-recruit positions. Often, communities have limited housing and other services, which means that it can be unaffordable for some people to contemplate accepting positions that are on offer.

The petitioner highlighted how technology had enabled distance and remote learning for teachers, which has supported recruitment of teaching staff to rural areas. She suggested that a similar approach be taken to training, recruitment and retention of healthcare staff to positions in rural Scotland.

Members will also be aware that Rhoda Grant secured a members' business debate on NHS staff recruitment and retention last Thursday. As she has joined us, I invite her to contribute to our reflection before I touch on the other two petitions.

Rhoda Grant (Highlands and Islands) (Lab): I do not want to repeat what you have said, convener, but I will echo it. From the start of training for staff all the way through the system, there seems to be a systemic fault, which is that the system is totally geared towards urban areas and does not focus on rural areas. It is clear that, if we base the structure on a rural area, that works in an urban area. During the Covid-19 pandemic, health boards throughout Scotland started using the NHS Near Me system, which was devised especially to save people in Caithness from travelling long distances.

We need systems to be put in place; there is talk of a commissioner or the like. Someone needs to advocate to ensure that the whole system considers rural areas and that we look after their

needs initially, which would translate to urban areas. A root and branch approach is needed.

The Convener: Thank you very much. We will come to solutions in a second or two.

The next petition is PE1915, which was lodged by Billy Sinclair. It calls on Parliament to urge the Scottish Government to reinstate Caithness County Council and Caithness NHS Board. Billy's position is that local delivery has suffered greatly since services fell under the aegis of NHS Highland and the Highland Council. That is evidenced by the 120-mile journey to Raigmore hospital in Inverness that many expectant mothers have to contemplate. Following his evidence last week, he has provided a further written submission, of which members have a copy.

The final petition is PE1924 from Rebecca Wymer, which calls on Parliament to urge the Scottish Government to compete an emergency in-depth review of women's health services in Caithness and Sutherland. Rebecca has stated that the services that are now being provided are in breach of basic human rights, and she is concerned that there could be loss of life due to failures in gynaecology care provision. In the wider round-table discussion, she echoed the point about it being difficult and unattractive for people to move to professional positions in Caithness due to the lack of women's healthcare and maternity services. People who are coming from areas where those services are taken very much for granted suddenly become aware that the absence of them is potentially quite a serious issue.

11:00

I should add that the journey that I mentioned earlier was the equivalent of a journey from Edinburgh to York, not Edinburgh to Newcastle. I understated the scale of the journey that was used by way of illustration.

Rebecca, too, has provided a further written submission. It was suggested—I think by some of our MSP colleagues—that the way forward for the petitions might be for us to consider whether to refer them. Do colleagues have any thoughts on that?

David Torrance: As a member of the Health, Social Care and Sport Committee, I can say that we are finalising our work programme just now, so I would like to refer PE1845, PE1890, PE1915 and PE1924 to that committee, in the context of the committee's wider consideration of health inequalities.

Alexander Stewart: I would certainly agree with all that.

We have seen in all the petitions the dilemmas that communities face, even with the technological

advances that we have seen in medicine and the opportunities that can be dealt in relation to urban areas and rural areas, but that does not seem to be working in many communities. A more in-depth look by the health committee might well bring to the fore areas that have been addressed and concerns that have been raised by petitioners.

The communities have not received the continued support that is vitally important for their livelihoods in relation to any medical process. The health committee could do a much more in-depth analysis of some of the areas that have been brought to our attention, which might help to unravel the issues and to support the petitioners.

Fergus Ewing: I support David Torrance's suggestion to refer the petitions to the health committee. In the evidence that we heard, many concerns were enunciated about particular issues that are affecting people in rural Scotland; most of Scotland is actually "rural Scotland", in terms of geography.

As I understand it, as a constituency MSP with a partly rural constituency, some of the issues have not been raised in evidence; that is no criticism of the petitioners. For example, provision of vaccination services by local general practitioners is not available any more because of the terms of the GP contract. Many people feel that that is an unfair restriction on general practices that would like to provide vaccination services as well as other services. That is a hot issue right now; it was not raised by the petitioners, but I raise it as an example from my casework of an important nitty-gritty issue.

It was raised in evidence by the petitioners and by Rhoda Grant that travel allowances for people who must undertake operative treatment in Inverness—people who have to travel from the Western Isles, for example, who must stay in hotels and who have probably driven—are woefully inadequate and do not cover costs. I suspect that that is because of the UK tariff, because I have looked into the matter before for constituents who have had to travel from Inverness to the central belt. The level of travel allowances and travel costs are unfair. I mention that in the hope that, if the committee agrees to refer the petitions to the Health, Social Care and Sport Committee, those issues could be considered, as well as the particular ones that are raised by the petitioners.

The Convener: Thank you, Mr Ewing. That is an important point that is well made. It is challenging for people for whom such travel is the only option when provision that they rely on is inadequate. That came across quite strongly.

Paul Sweeney: A common theme that came across from all the petitions is governance and the

need for checks and balances in relation to the structures of health boards. The rights of rural communities would be better enshrined in a formalised setting by creating some sort of statutory body that advocates for them and places obligations on health boards. We need to set a safety standard that identifies very clearly that driving such distances to access critical care is inherently unsafe.

That would place an obligation on the health board to address that as a standard issue. Perhaps some reflection is needed on how that might look. The petition does not make that demand, but an issue emerged in conversation during the evidence session about whether some sort of body could say, "This is a defective system for these reasons. You need to address it." Such a body might be equivalent to the Scottish Housing Regulator, for example, and it could place such obligations on health boards. It seems that the idea that that could be done through the health board was challenged—there was a feeling that boards might be prone to groupthink and that what is needed could not necessarily be achieved just by having a rural representative on a health board, because their voice would be drowned out.

The Convener: Thank you. I think that the committee agrees to refer the four petitions to the Health, Social Care and Sport Committee in the context of its wider consideration of health inequalities. Are we agreed?

Members indicated agreement.

The Convener: Please could the clerks encapsulate the essence of the discussion and members' reflections on the evidence this morning in such a way that we can offer that to the Health, Social Care and Sport Committee for its further consideration? Rhoda Grant has a final thought on the matter.

Rhoda Grant: I have not spoken to Mr Sinclair in detail, but I spoke to him after the committee meeting last week. He pointed out that his petition is half about health and half about local government. I think that he is a wee bit concerned that the local government aspect of his petition might be lost. The committee might want to look at that further; I just wanted to make that point.

The Convener: With regard to the general themes that arose from members' discussion, referring the petitions to the Health, Social Care and Sport Committee is the best way forward from our point of view at this stage, but I take note of that.

New Petitions

Smoking Ban and Vaping Strategy (PE1932)

11:06

The Convener: We now move to new petitions, the first of which is PE1932, which is entitled “Ban smoking in Scotland and develop a strategy for vaping”. The petition was lodged by Doug Mutter on behalf of VPZ. It calls on the Scottish Parliament to urge the Scottish Government to impose an outright ban on smoking and to develop a transformative public health strategy for vaping.

Doug Mutter notes that

“The Pandemic has triggered an increase in smoking rates.”

He suggests that “Scotland has lost momentum” in creating a tobacco-free generation by 2034. He suggests that

“Vaping is the best way to quit smoking”

and “strongly believes” that a public health strategy for vaping will help to realise that target.

In its submission, the Scottish Government indicated that, as yet, there is little evidence on the long-term effects of vaping because of the relatively short time for which these products have been available, although evidence has been growing over the past decade. There has been some time in which to collect evidence, but it is a short time. As such, the Scottish Government is not considering an outright ban on smoking in favour of a pro-vaping policy. Do colleagues have any comments?

David Torrance: I would like to close the petition under rule 15.7 of standing orders, on the basis that the Scottish Government is not currently considering an outright ban on smoking in favour of vaping.

The Convener: Colleagues, are you all of that view?

Members *indicated agreement.*

Redress Scheme (Fornethy House Residential School) (PE1933)

The Convener: PE1933 is entitled “Allow the Fornethy Survivors to access Scotland’s redress scheme”. The petition was lodged by Iris Tinto on behalf of the Fornethy survivors group and calls on the Scottish Parliament to urge the Scottish Government to widen access to the redress scheme in order to allow the survivors to seek redress.

Iris Tinto notes that

“Survivors need acknowledgement, closure and compensation.”

She states that, despite being

“‘in care’ of Glasgow Corporation”

the decision to exempt groups such as the Fornethy survivors group has “magnified that suffering.” The group has provided a powerful and detailed account of the range of abuse that they suffered and the outcomes associated with that in the written submission that members will have seen among their papers. In its submission to the committee, the Scottish Government states that it

“recognises that the abuse of children in all circumstances ... is wrong and harmful.”

Despite that recognition—I am thinking of a petition that we heard not long ago; herein lies a common theme—the Scottish Government states that the exclusion of people who were abused in short-term respite or holiday care is

“in keeping with the core purpose of the redress scheme”.

It states that

“eligibility for the scheme is not based on how long a child was in care ... Instead, it is based on how the child came to be in care and the type of care setting”

that they were in.

Members will recall the petition that we have been considering about the abuse inquiry and the terms of reference in relation to that. Although this is a different petition and a different set of circumstances, I was struck when reading the notes that it seems again to be the case that drafting of regulations is tight and allows groups to fall through the net, which is acknowledged but not followed by any resolution. What views do colleagues have, having read the notes?

David Torrance: We should write to the Deputy First Minister to draw his attention to the issues that are raised in the petition and ask that he consider adjusting the current eligibility criteria to allow Fornethy survivors, and other survivors with similar experiences of short-term respite or holiday care, to access the redress scheme.

Fergus Ewing: I very much endorse the course of action that has been recommended by David Torrance about writing to the Deputy First Minister. In the letter, I wonder whether we might seek clarification of why the criteria seem to be based on how people came to be in care rather than on the experiences that they had in care. If an individual suffered a wrong, surely that individual should be entitled to receive remedy of whatever sort—a monetary compensatory award, an apology or something else. It seems that the criteria that are being used to restrict groups of people are, at least, open to question.

I also want to raise a point that relates to a constituency case that I had about not dissimilar circumstances. Although I will perhaps need to go back and check, my recollection is that part of the Scottish Government's answer as to why a category of potential claimants was excluded from entitlement to claim a remedy was that that was what Parliament had judged during the passage of the relevant legislation. If that is the case, I wonder whether a little bit more work needs to be done to check the evidence and the basis on which Parliament came to its conclusion. That is my recollection; if it is faulty, I must apologise, but I think that that was part of the reasoning that the DFM adduced in reply to me on a very similar issue. If that is the case, it suggests that Parliament has, in fact, considered the principle of the issue before.

Perhaps the clerks could check that in order to see whether I am rambling incoherently and talking complete nonsense or have a nugget of a point.

Alexander Stewart: Mr Ewing makes a very valid point with regard to how we should examine the issue. I also agree with David Torrance's recommendation to write to the Deputy First Minister. The entire saga continues to unlock and show survivors and individuals across the care sector and support sector how they were dealt with in that entire area. We should examine the matter as much as we possibly can so that we can capture it.

As the convener identified, organisations and individuals are falling through the net, which is the last thing we want. We want to encapsulate as much information as we can so that we bring together the broadest range of views and opinions. We will achieve some of that through the suggestions of Fergus Ewing and David Torrance; I am therefore very supportive of those proposals.

Paul Sweeney: I concur with what Mr Ewing said with regard to a need for remedy, which is clear in terms of natural justice.

I think that there is another stakeholder, because Glasgow City Council is the successor body to Glasgow Corporation. Any question of liability would probably need to be discussed, which therefore requires a response from Glasgow City Council as well as from the Scottish Government. We should therefore also make inquiries of Glasgow City Council.

The instincts in bureaucracy are to defend against liability and against extending liability, but that is the wrong approach in this instance. We should therefore try to establish a remedy for a group that has clearly suffered harm.

The Convener: Thank you. I wonder whether we might also write to some of the bodies that

represent victims and survivors, just to call in aid to the argument and to get some understanding of their views on widening the eligibility criteria. They must be aware of the particular circumstances of the groups that are falling through the net, and might be able to identify others that they would say are in a similar situation. Do we agree to write to those bodies, together with the suggestions that have already been made?

Members indicated agreement.

The Convener: Thank you. It is an important petition; we will keep it open and see what progress we can make.

I will suspend the meeting briefly. The minister is now with us, so we will be able to discuss our final continued petition in a moment.

11:15

Meeting suspended.

11:17

On resuming—

Continued Petitions

Onshore Wind Farms (Planning Decisions) (PE1864)

Wind Farms (Community Shared Ownership) (PE1885)

The Convener: Welcome back. Item 4 is consideration of continued petitions. We will cover two petitions together, which focus on planning proposals and decisions on wind farm developments.

The first is PE1864, which was lodged by Aileen Jackson on behalf of Scotland Against Spin. The petition calls on the Scottish Parliament to urge the Scottish Government to increase the ability of communities to influence planning decisions for onshore wind farms by adopting English planning legislation for the determination of onshore wind farm developments, to empower local authorities to ensure that local communities are given sufficient professional help to engage in the planning process, and to appoint an independent advocate to ensure that local participants are not “bullied and intimidated during public inquiries”.

We last considered the petition on 2 February, when we agreed to write to the Local Government Association. Unfortunately, the LGA has not been able to respond to us ahead of today’s meeting.

We have coupled that petition with PE1885, which was lodged by Karen Murphy and calls on the Scottish Parliament to urge the Scottish Government to make offering community shared ownership a mandatory requirement of all wind farm development planning proposals.

Our last consideration of PE1885 also took place on 2 February, when it was agreed that we would invite the relevant minister to join us this morning to give evidence on both petitions. Therefore, I am delighted to welcome Tom Arthur, Minister for Public Finance, Planning and Community Wealth; Andy Kinnaird, head of transforming planning, Scottish Government; and Neal Rafferty, senior adviser on the heat in buildings strategy, Scottish Government. Good morning to all three of you. The minister has made a hot dash across the Parliament campus from another committee in order to join us. We very much appreciate that effort; the timings have all worked out very nicely.

We also welcome back our MSP colleague Brian Whittle, who has a particular interest in the latter petition. I will turn to Brian once the committee members have had the opportunity to

put their questions to our guests. He will be well used to the format and protocols of our procedures.

Members have a number of questions that they would like to explore this morning, so we will go straight to those. Some of it is familiar territory, so we are trying to focus the questions on the issues that are specifically raised in the petition.

David Torrance: This is probably a key question for both petitions: does the Scottish Government have legislative competence to increase or abolish the 50MW threshold for renewable energy developments that can be considered by planning authorities and, if so, has that been considered? If it has not, have you spoken with the UK Government about devolving that power?

The Minister for Public Finance, Planning and Community Wealth (Tom Arthur): Good morning. You will appreciate that matters pertaining to planning in the Town and Country Planning (Scotland) Act 1997 sit with me, but for developments over 50MW, as you alluded to, they sit with the Electricity Act 1989, which is a reserved piece of legislation. I will ask Neal Rafferty to come in on whether there are flexibilities within devolved competence to modify that threshold.

Neal Rafferty (Scottish Government): My understanding, although I do not work in that area any more, is that we do not have any competence to do anything with the provisions in the Electricity Act 1989 that affect consent applications for electricity stations. I could not say whether that has been explored, but the hard-and-fast fact when it comes to electricity generation, supply, transmission and so on is that there are reservations, so there is no flexibility for the Scottish Government to do anything differently on its own.

Tom Arthur: That reflects the general reservation of energy in the Scotland Act 1998. The processes that pertain to the consent process in line with that legislation are reserved, too, so we in this Parliament do not have any direct influence over it.

The Convener: That was a technical question and a technical answer in relation to our understanding of things.

Alexander Stewart: I will move on to talk about the treatment of pre-application consultations, because that area creates some difficulty for individuals, organisations and communities. Is there any evidence that how wind farm developments are treated when it comes to the pre-application consideration is anything other than a tick-box exercise? That is the perception

that some people have. What is the Scottish Government doing to improve such engagement?

Tom Arthur: The procedures and process are clearly set out but, as a consequence of the reforms in the Planning (Scotland) Act 2019, significant change is happening around the PAC process. I will ask Andy Kinnaird to come in and narrate those points.

Andy Kinnaird (Scottish Government): Some changes are being made with effect from this October in the pre-application consultation arrangements. That is a follow-on from the Planning (Scotland) Act 2019. Coming into force on 1 October will be a requirement to apply for permission within 18 months of the pre-application consultation having taken place. That is about making sure that the consultation that has happened with communities is still relevant at the point when the application goes in. At the moment, that is much more open ended.

Also, crucially, in the new provisions, we are setting in statute the requirements that need to go into the pre-application consultation report and, by doing that, what has to happen through the process. The regulations will add a second mandatory public event as part of that process; at the moment, only one event is required.

The statutory provisions had been suspended by coronavirus legislation, which expires at the end of September, which is why the new process will come into effect at the start of October. The entire point of all those new provisions is that we want to make sure that the content and quality of that consultation with communities is much stronger.

Alexander Stewart: I will follow up on that. There is a question about whether the Scottish Government would consider providing legal and technical support to individuals and community groups who appear before public inquiries on proposed wind farms and developments. Is there any opportunity for that to become reality?

Tom Arthur: We already provide support to Planning Aid Scotland, which can provide a range of different support in relation to the planning system to individuals and community groups. I recognise the concerns that the member articulates; we will all be familiar with examples of excellent work that community groups have done in engaging with the planning system, and they have set forth their views robustly, competently and with a great deal of expertise and consideration. Andy, do you want to add anything?

Andy Kinnaird: I want to pick up on the fact that, through the inquiry itself, there is an important role for the reporter in managing the whole process. The reporter will ensure that those who are less experienced in the planning system

will be supported to enable them to give their evidence as best they can.

Alexander Stewart: It could put individuals off if they do not have that technical support or legal advice. That is in comparison to developers, who might have access to all that and be able to bring it to the table. That situation creates disadvantages for individuals. Therefore, the Scottish Government's support for that process might help to support the communities and individuals who want to put forward their views.

That can be developed slightly further, minister. There are already opportunities for things to happen, but that support is still not at the level where communities and individuals feel as though they are able to participate and have that support mechanism. There is still a gap between what is perceived and what is achieved. How does the Scottish Government see itself reflecting that and supporting that, to ensure that the gap is reduced?

Tom Arthur: On that specific point, I have articulated how support is provided through PAS and Andy Kinnaird has addressed the role of the reporter. Your points speak to a bigger issue, which is the culture of interaction with the planning system overall. A priority for me is to shift the dial and to move away from conflict towards collaboration. That is about earlier engagement with communities in the planning process.

Earlier this year, we introduced regulations to establish local place plans, which are a mechanism for communities to feed their priorities for their area into their local planning authority as part of the development of the local development plan. We are considering the responses to the consultation on new-style LDPs, which, again, will provide opportunities for greater community involvement and engagement. I recognise that all members are in agreement on that issue. We want to see more engagement in the planning system at an earlier stage for our communities so that the conversation moves from being one of conflict and discussions about what developments people perhaps do not want to see to one about what people want to see for the future.

Therefore, yes, there are specific points to be made about the role of the reporters and support through funding for PAS, but there is also that broader cultural change in the planning system, which we are seeking to take forward with specific actions such as the introduction of local place plans. Do you want to add anything to that, Andy?

Andy Kinnaird: No, I think that that is fine.

The Convener: Mr Sweeney, I will wind back slightly, because I think that you have a supplementary question to Mr Stewart's first point.

Paul Sweeney: My question relates to the question on the 50MW thresholds for devolved versus reserved planning applications. Has the Scottish Government engaged with Alister Jack at the Scotland Office or Greg Hands at the Department for Business Energy and Industrial Strategy on that issue—perhaps to seek a remedy through planning reform? I sense that, on the occasions when these issues are raised, they are discussed and, potentially, discrete elements could be devolved as a result or at least a mechanism could be established. It might be worth taking that action. If that is not happening, perhaps the committee could support that effort by calling for those ministers to come before the committee in due course.

Tom Arthur: I am sure that committee members will understand the Scottish Government's position on where a whole range of powers should rest. However, I am happy to write to the committee to provide further detailed information on what the Scottish Government's position on that area has been, historically. Obviously, I am happy to respond to any further correspondence that the committee might send on that issue.

The Convener: Mr Kinnaird, I heard you say that a second public event was to be incorporated. Is there a definition of what constitutes a public event?

Andy Kinnaird: It is not defined in law, but it is expected that the developer will advertise that it will engage with people in the community and hear what they have to say, and that that will happen before developers finalise their proposals and submit their applications.

The Convener: Do you expect that to be a physical public event that members of the public can engage with, or can a public event be a more holistic affair?

Andy Kinnaird: Since the provisions were introduced, it has been a physical public event. The coronavirus legislation removed that requirement temporarily and advised that virtual events should be happening; that is what we have had for the past two years or so. When the coronavirus legislation halts, we will be going back to the physical public events. There has been a lot of support for the virtual events; they seem to have attracted larger numbers of people to participate, so there is a question to be asked about whether both events need to be physical events.

11:30

The Convener: Have you been able to evaluate whether, when a public event is virtual as opposed to physical, that affects the developers' ability to influence the conduct of the public engagement? I

am genuinely interested to know whether it has affected the balance and added a different dynamic which is pro or anti one particular aspect of the outcome that might be arrived at.

Andy Kinnaird: We have heard suggestions from both sides but, on whether it is an advantage to one side or the other, the evidence is all anecdotal. That is why we have not just gone straight on to continuing with a virtual event as we introduce the new regulations.

The Convener: So there has not been any research as yet as to what that balance might be.

Andy Kinnaird: No.

The Convener: My experience is the same—I am not sure. At some stage, as virtual events become more commonplace, it might be useful for us, beyond the context of this discussion, to understand the material impact on the management and control of the outcome of the discussions.

Fergus Ewing: The Scottish Government has very much supported community ownership. When I was energy minister in 2014, there was a programme for government commitment that stated that we should secure the co-operation of energy developers to offer a stake in developments to communities as a matter of course.

This is seen as a very worthy objective—across the board, I think, in politics—and one where much progress was made in 2014 and 2015, when a target that we then had of achieving 500MW of locally supplied energy was met five years early. It is not always the case that Government targets are met five years early, I have noticed, minister.

There were 154 projects and £10 million of investment and things were going really well, until the UK Government decided on the abrupt cessation of renewables obligation certificates, meant that that just fell off a cliff. That is in the past now, but the response from the Government as to why we cannot mandate community ownership of energy is that the Electricity Act 1989 makes that challenging.

I wonder, minister, whether you or the energy minister have approached the UK Government to seek approval for changing the necessary legal format—including the 1989 act, if necessary—to enable the mandating of community energy having a stake? For example, if there are 10 turbines in a wind farm development, you could very often have one or two which would be owned by the community. The developer would still proceed with the development, but the community would get a stake. Back in 2015, banks such as Triodos, the Co-op and the Close Brothers—as Mr Rafferty will remember from his good work then—were very

willing to lend. They even brought the major banks to the table, funnily enough, to lend money—it is an extraordinary proposition that major banks lend money, but even they became slightly willing to do so towards the end.

Therefore, because there is an income stream, there is a bankable proposition for communities. It is entirely doable, and if I have gone on for too long, it is because I think that this is one of the big unmet challenges of our time across the UK, given the commitments to renewable energy.

Is this not the time for the Scottish Government to bring the UK Government to the table to mandate community ownership of renewables developments, which would be a tremendous achievement and legacy for people throughout these islands?

Tom Arthur: I know for a fact that Mr Ewing and I are completely aligned on this. We are undertaking a process where I hope we will not have to ask a UK Government for these particular provisions to be devolved, because we will have the powers in the Parliament and we can have those conversations in full.

I am conscious of my responsibilities as planning minister to ensure that we all have a clear understanding of what the planning system is for in relation to land use and what it is and is not appropriate for the system to ask of developers in terms of planning obligations.

With my community wealth hat on, I recognise the importance of community ownership of, and participation in, renewables. I have seen at first hand examples right across Scotland, whether at a vast, awe-inspiring scale, as in the convener's constituency, or the impact that a single turbine can have in supporting fragile and remote communities in northern Lewis not only to sustain populations but to grow them and support local economic development.

From a community wealth building perspective I recognise the importance of community energy. Although I realise that, as things stand, that involves voluntary agreements, I am alive to the huge contribution that they can make locally and the role that community energy can play in advancing the community wealth building agenda.

I invite Neal Rafferty to say a bit more on interactions with existing legislation.

Neal Rafferty: I will probably end up repeating what I said earlier. As far as I am aware, there has been no engagement on that issue. However, it is worth pointing out a couple of things.

First, the UK Government has recently followed behind the Scottish Government in publishing its own facsimile of our good-practice principles and guidance for community energy and shared

ownership and extolling the same principles for the same reasons. There is a common understanding on the matter.

It is also worth highlighting that, because of the guidance that we have had for several years—which you introduced when you were a minister, Mr Ewing—huge quantities of community benefits are going to communities. I think that, over the past year, £23 million went to communities. We find that developers are generally quite front footed about that. In more than half of the applications that are currently in the system, discussions about shared ownership are taking place.

There is a lot of momentum in the system. I do not know whether the Electricity Act 1989 could be amended to compel discussion about shared ownership and community benefit, to be perfectly honest. However, my understanding is that we have not had any such discussion. I am not sure what kind of reception it would have or what openness there would be to it.

Tom Arthur: As I said in response to Mr Sweeney, I would be happy to update the committee in writing on those matters.

Fergus Ewing: That would be helpful.

I have one further area of questioning that is also important and lies within the minister's portfolio. The Scottish Government's response seems to have been that it cannot mandate community energy but that it can use the planning system at least to encourage or require it. I have not read the draft national planning framework 4, I must confess, but I read in our papers that it makes no reference to community benefit and only one passing reference to community ownership of renewable energy projects. If I am right in assuming that we want to use planning law as a tool or compulsitor to try to deliver more community interest, whether ownership, benefit or a mixture of the two—both are desirable, although ownership is immensely preferable in the long term—why is there is scant reference to it?

I would also say in passing—I know that this is not the minister's responsibility—that the same criticism applies to the Bute house agreement, in which, extraordinarily, there seems to be no strong emphasis on delivering that policy. I had no part in the drafting of the agreement, but one would have expected that the issue might have been a prime candidate, given the political support for community ownership from the constituent parties to the Bute house agreement.

Can the Scottish Government do more in NPF4? I will put you on the spot, minister: can we use the final version of NPF4 as the means to deliver the policy by including a much stronger reference to the need for community ownership or,

if that is for whatever reason not possible, strong and major community benefit, so that communities really benefit from the natural resources that, to many people's way of thinking, are theirs?

The Convener: Before the minister comes in, I will bring in Mr Sweeney, who is interested in this theme, although I do not know whether that interest will match Mr Ewing's passion.

Paul Sweeney: I think that Mr Ewing covered the matter fairly comprehensively. I am intrigued to hear the minister's response.

Tom Arthur: Just over two months ago, we concluded the public consultation and parliamentary scrutiny process for the draft NPF4. My officials will correct me if I get this wrong, but we received, I think, more than 780 responses. It has been great to see such engagement on the framework. Throughout the consultation process, officials and I engaged directly with a range of stakeholders, including representatives of the renewables sector.

Addressing our contribution to climate change and the nature emergency are central to the draft NPF4. In the draft document, policy 19, on green energy, sets out our position. It is consistent with our ambition to increase onshore wind capacity by between 8GW and 12GW by the end of the decade, and it sets out some detail about how planning can contribute towards achieving that aim. NPF4 is, of course, currently a draft document, and I cannot speculate on what will be in the finalised version that we will bring back to Parliament. However, I assure the committee that we are giving careful and detailed consideration to all the representations that we have received.

I recognise the points that Mr Ewing has articulated. We have to be careful to remember that the role of the planning system relates to the use of land, and planning obligations have to be linked to a material concern about a development. That is a long-standing principle of how the planning system in this country operates, and it operates in that way for very good reasons.

I do not know whether Andy Kinnaird wants to add anything.

Andy Kinnaird: I will just sum up what has been said. In any decision in the planning system, a material matter must relate to the development or use of land and must fairly and reasonably relate to the development that is proposed. They must be about the development and use of land—they cannot be about who might benefit as a result of consent.

Tom Arthur: Again, they cannot relate to a general concern about ownership; they must relate to the use of land. It is very important to remember that. I am sure that members understand the

reasons why the planning system operates in that way.

The draft NPF4 also contains a clear commitment to onshore wind and recognises that it has an incredibly important role to play in meeting our obligations to reach net zero by 2045 and, indeed, to achieve our reductions by 2030.

Paul Sweeney: I note an interesting interaction between this session and the previous evidence session with Mr Adam, the minister dealing with the Government's participatory and deliberative democracy agenda. There is a big concern about the attachment of community benefits to big planning projects, whether they relate to energy or something else, and it is an issue that needs to be addressed much more rigorously in NPF4. For example, I know from planning decisions made in Glasgow that there is real concern about funding disappearing centrally in council budget lines and not being attached to material and tangible improvements in the community that is the locus of the development.

There are clear issues that need to be tightened up and considered. There is also a potential interface with the agenda in Mr Adam's portfolio.

Tom Arthur: I take your point about broader engagement and participation in the planning system, which we touched on earlier in general terms. As you will be aware, we are continuing to review planning obligations, and there are provisions relating to an infrastructure levy in the Planning (Scotland) Act 2019. We will consider how we take those matters forward later this parliamentary session. I thought that it would be useful to bring that to the committee's attention.

The Convener: Mr Ewing, did you want to come back on that?

Fergus Ewing: We can consider our response later, but it occurs to me that one option would be to invite the minister back after he has had an opportunity to finalise the process. I entirely understand that he cannot prejudice the process and that he must properly consider the 780 consultation responses before coming to a conclusion. I also appreciate the evidence that we have heard about the planning system being able to do only so much. However, in life, things have always been difficult. As Seneca said more than 2,000 years ago,

"It is not because things are difficult that we do not dare; it is because we do not dare that things are difficult."

I leave that helpful thought with the minister.

11:45

Tom Arthur: Did Seneca not throw himself into a volcano?

Fergus Ewing: Maybe he just found things too difficult. *[Laughter.]*

The Convener: This little exchange is showing the benefits of classical education all round. I am very impressed.

The minister might have heard me say in opening that the first of the two petitions is keen to appoint an independent advocate to ensure that local participants are not, in its words,

“bullied and intimidated during public inquiries”.

We have received written evidence that suggests that some individuals participating in public inquiries feel that they have been treated with contempt and abused by some of the legal representatives of wind farm developments and that, somewhat to their disappointment, the reporter has not intervened when that has happened. Is the Scottish Government aware of such instances? This sort of thing is always difficult—individuals have made submissions to us that this has been a practice and that the reporter has not intervened. Can anything be done to validate that evidence and, if indeed such a practice is taking place, to ensure that there is a remedy for it, given that it seems unreasonable?

Tom Arthur: As Andy Kinnaird outlined earlier, the reporter has a key role to play in that process. All our expectations would be that the reporter would ensure that the behaviour and conduct that the convener has related from the submissions that the committee has received did not take place and would not be accepted. We want to ensure the greatest opportunity to participate. As has been discussed, the reporter has a role to play in that and in recognising the respective backgrounds and positions that people are coming from in the process.

Do you want to add anything, Andy?

Andy Kinnaird: No. That is our understanding.

The Convener: We might well summarise the evidence that we have received so that the Government is made aware of the experience of those who have written to us. You might care to have a look at that, minister.

As I have said, Mr Whittle is with us for this item. It has been my practice as convener to invite colleagues joining us to make a statement. However, before we hear finally from our witnesses, if anything has occurred to Mr Whittle that he would like to put by way of a question, I am content for that to be the case, too.

Brian Whittle (South Scotland) (Con): Thank you very much, convener. I would just start by getting the committee to recognise that I represent the South Scotland region, which has, as my postbag reflects, a high propensity of wind farms. I

was very interested in the question of the 50MW limit, given that we have Whitelee wind farm, which is the second biggest in Europe and sits just down the road from your constituency, convener, and up the road from mine. It is therefore obviously perfectly feasible to—

The Convener: Hold on a second, Mr Whittle—what has overtaken Whitelee? It used to be the biggest.

Brian Whittle: It was the biggest, but I have since been corrected, as there is apparently now a bigger one in Holland.

The Convener: I am not keen on being second best.

Brian Whittle: I am not a silver medallist myself.

As the convener alluded to in his question, what people often share with me is the lack—or the feeling of a lack—of consultation with local communities, as well as their being bullied and steamrollered. In addition, even when the council declines to give planning permission, the decision is often and routinely overturned by the Scottish Government. There is just a lack of connection between local communities and the planning decision itself.

With regard to Mr Ewing’s point, communities have to benefit. The current situation has been described to me as the energy being taken on motorways away from where it is generated and into the central belt, leaving the communities where it is generated running on B roads. It is a very good analogy. It is extremely important that communities feel engaged and that they benefit, which brings us to the point that has been discussed about community shared ownership and whether it should be made mandatory.

I was interested in Mr Ewing’s questions, which I want to follow up on, about using the planning process to encourage wind farm operators to ensure benefit to the local community. Andy Kinnaird responded by highlighting the fact that planning decisions relate to the use of land. Surely the use of land requirement is there for the benefit of the community at large, so I do not see how the two can be divorced. If planning applications were passed, or not, depending on whether there was a shared community benefit element to the proposal, that would surely encourage wind farm operators to follow that route.

The Convener: Thank you for that, Mr Whittle. Minister, do you and your colleagues want to pick up on that point? Given that our formal questioning has finished, we would also be happy to hear any concluding remarks that you want to make.

Tom Arthur: Certainly, convener.

I will make two points. First, I recognise the perceptions of your constituents, Mr Whittle, and their feeling that there is a lack of engagement or consultation in the planning system. I touched on that earlier, and I recognise that need. With the new national planning framework coming forward, and with the rolling out of the provisions in the Planning (Scotland) Act 2019, we have an opportunity to increase that important engagement with communities.

Earlier this morning, I was giving evidence on town centres and their future. Town centres offer solutions to so many of the big problems that we face around climate change, living local, decarbonising, reducing our carbon emissions and a range of other areas. However, for those solutions to be successful, we need community engagement. People need to feel that they have an opportunity to shape their places. In urban environments, in more rural environments and when applications for energy developments come forward, it is important that communities feel that they have a role in shaping their place. I will not repeat what was discussed earlier, but that is why various measures, such as the reformed PAC process and local place plans, have been introduced—they seek to enhance community engagement and involvement.

My second and broader point is that the planning system is about use of land. That is fundamental. Ownership is not really a part of it; instead, the system is about how we use our land, and it is that way for very good reasons. For example, it is why planning obligations are used; they are quite tightly defined and must relate to an aspect of the development and use of land. It is an established process and, for very good reasons, has been so for quite some time now.

Andy, do you want to say a bit more on that?

Andy Kinnaird: I just want to back up that point. The existing guidance that we have on community benefits and community ownership of wind farms is already supported or encouraged through the planning system. We have to be very careful, because there is a fine line here with regard to what planning is there to do. It relates to the development and use of land; it is not about who might be the beneficiaries.

The Convener: I thank the minister, Mr Kinnaird and Mr Rafferty for joining us this morning, and I thank Brian Whittle, too, for his participation.

Colleagues, are we content to consider the evidence that we have heard this morning at a future meeting of the committee?

Members *indicated agreement.*

The Convener: I close this morning's meeting. We will meet again on 29 June, which is the last Wednesday of the parliamentary session.

Meeting closed at 11:53.

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