



OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 22 March 2023

Session 6



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Pàrlamaid na h-Alba

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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE
5th Meeting 2023, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Fergus Ewing (Inverness and Nairn) (SNP)

*Carol Mochan (South Scotland) (Lab)

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

*attended

CLERK TO THE COMMITTEE

Andrew Mylne

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 22 March 2023

[The Convener opened the meeting at 09:31]

Decisions on Taking Business in Private

The Convener (Jackson Carlaw): Good morning, and welcome to the fifth meeting in 2023 of the Citizen Participation and Public Petitions Committee. Our first—I hope, very easy—decision is whether to take item 4 in private. Are we content to take that item in private?

Members *indicated agreement.*

The Convener: In that part of the meeting, we will consider the beginnings of our draft report. I hope that, if we cannot complete that work today, we will be content to arrange for it to be completed in private at later meetings. Do members agree to that?

Members *indicated agreement.*

Continued Petitions

Rape Charges and Convictions (Record of Sex) (PE1876)

09:32

The Convener: Item 2 is consideration of continued petitions. First, PE1876, which was lodged by Lucy Hunter Blackburn, Lisa Mackenzie and Kath Murray, calls on the Scottish Parliament to urge the Scottish Government to require Police Scotland, the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunals Service to accurately record the sex of people who are charged with, or convicted of, rape or attempted rape. We last considered the petition almost a year ago, on 23 March 2022, so I apologise to the petitioners that we have not given it further consideration before now. At that stage, we agreed to write to a number of bodies to gather information on recording practices and the guidance underpinning those practices. That has taken some time.

Members will be aware that issues relating to the collection and use of data were discussed during consideration of the Gender Recognition Reform (Scotland) Bill. To assist us in our consideration of the petition, the Scottish Parliament information centre has published an updated petition briefing that highlights the consideration that was given to data collection during the passage of that bill.

We have now received responses from the Cabinet Secretary for Justice and Veterans, the Crown Office and Procurator Fiscal Service and Police Scotland, copies of which are included in our meeting papers. The cabinet secretary's response reiterates the Government's position that recording practices are operational matters for the relevant bodies to determine. The cabinet secretary also refers to the chief statistician's guidance, "Data collection and publication guidance—Sex, Gender Identity, Trans Status", and he notes that there are no current plans to revise that guidance, which was published in September 2021.

Similarly, Police Scotland refers to its previous response to the petition, stating that police

"do not routinely ask the gender or sex of people with whom they interact",

with records based on how a person presents to officers at the time of engagement. The response from Police Scotland also notes that DNA samples are obtained from all individuals who are accused of a sexual offence, with the DNA profile obtained from those samples indicating the person's biological sex.

The committee has received a new submission from the petitioners, which offers their reflections on the various responses that we have received. The petitioners highlight a freedom of information response that shows a discussion between the Scottish Government and Police Scotland on how sex should be recorded. The petitioners understood that area to be the responsibility of the Scottish crime recording board, so there is, in effect, a contradiction. The petitioners have also raised concerns about Police Scotland's policy for recording sex being developed and approved in advance of reforms to gender recognition coming into effect.

That summarises the submissions that we have received. What comments, thoughts or observations do colleagues have? I certainly feel that the petition deserves to remain open, but I look forward to hearing what colleagues have to say.

Fergus Ewing (Inverness and Nairn) (SNP): We should keep the petition open. I would like the opportunity to hear from the petitioners. Plainly, we have had responses to the petition, including a submission from Michelle Thomson and an oral contribution from Ruth Maguire, my predecessor on the committee. Ruth Maguire pointed to the importance of data being accurate and, perhaps more important, to the very sensitive nature of the issue. There must be a risk of retraumatising a victim of rape by failing to record the perpetrator as male and possibly recording the gender of the perpetrator as female. We should not underestimate the harm and trauma that that could cause.

Given that the replies have been somewhat dry and technical, I would be interested in hearing what the petitioners have to say, because, after all, this is the petitions committee, which is a gateway for people to seek clarity. It is a well-focused petition, and there would be an opportunity for us, after taking evidence, to pursue matters further. I therefore hope that we can hear from the petitioners in order to get their response to the information that we have gleaned from the various authorities.

Carol Mochan (South Scotland) (Lab): I agree that we should keep the petition open. It is well thought through and put together, and it is evidence based. The convener mentioned the Scottish crime recording board, and we should pursue the matter with it to see what information it records and how it will take things forward. Along with hearing from the petitioners, which would be immensely helpful, it would be worth while to make a formal approach to the Scottish crime recording board.

Alexander Stewart (Mid Scotland and Fife) (Con): I concur with my colleagues that more

information is required. We have already discussed data collection. Police Scotland talks about "operational" procedure, but it would be interesting to get more clarity and to seek further information from Police Scotland on the process of updating and recording the policy, including whether there has been a wider consultation on the policy change and how such work is progressing. I acknowledge that the police see it as one thing, but I think that we and the petitioners see it as something else. Clarification is required, and we need to ensure that we get the full information, so I add that to what my colleagues have recommended.

The Convener: It might be worth asking Police Scotland to reflect on its previous response, in which it said:

"there are no known cases where a biological male has been charged with the physical crime of rape and has self-identified as a woman."

That might have been its view at the time, but, as the Parliament knows from subsequent events, it is not a robust basis on which to form a policy judgment. Police Scotland wrote to us in January 2022, so we might want to hear from it further on that, as well as from the board, as Carol Mochan suggested.

Are we content to invite the petitioners to meet the committee when we have received responses to the various further inquiries that we will make? At this stage, are we content to approach the relevant bodies that have been suggested?

Members indicated agreement.

The Convener: We will therefore keep the petition open. We will seek further information from those bodies, and we will invite the petitioners to join us at a future committee meeting in order to discuss directly with them their views on the responses that we receive and where we might take the petition. Do we agree to take that approach?

Members indicated agreement.

Whole Plant Cannabis Oil (PE1884)

The Convener: PE1884, which was lodged by Steve Gillan, calls on the Scottish Parliament to urge the Scottish Government to make whole plant cannabis oil available on the national health service or provide funds for private access to it for severely epileptic children and adults where all other NHS epileptic drugs have failed to help.

At our previous consideration of the petition, we agreed to inquire, on behalf of the petitioner, how he could participate in the upcoming clinical trials of cannabis-based products for medicinal use—CBPMs. We have received a response from the interim chief pharmaceutical officer, who has

indicated that individuals who are interested in taking part in the trials should mention that interest to the specialist clinician in charge of their care, who will be able to keep them updated once the trial set-up has been confirmed.

The last time the committee considered the petition, a degree of sympathy was expressed on the general issues connected to it. However, the fact that the trials are in prospect may lead to a way forward. There could be an opportunity for the petition to come back at a later date if nothing much materialises.

Alexander Stewart: As you identified, convener, at this stage in the proceedings, we do not have many options, so I suggest that, under rule 15.7 of standing orders, we close the petition.

As you identified, clinical trials will be carried out with a view to building an evidence base that is connected with CBPMs. Unlicensed products are not routinely available on the NHS, and licensing is the only way to ensure safety, quality and efficacy. Pending results from the clinical trials, there is no further action that the committee can take.

In closing the petition, the committee could write to the petitioner to highlight the eligibility of Scottish patients for the upcoming clinical trials and the information provided by the interim chief pharmaceutical officer about the process. That would be useful. However, there is not much further action that we, as a committee, can take at this stage. As you identified, the petition could come back in some other format.

The Convener: I would like to do more, but I do not think that there is any more that we can do at this point. We can draw the information to the petitioner's attention and point out that, in the event of its being felt that that route was not open or that the trials had not materialised, there is the opportunity to bring the petition back to us. Do members agree to close the petition?

Members *indicated agreement.*

Potholes (PE1936)

The Convener: PE1936, which was lodged by Leslie Roberts, calls on the Scottish Parliament to urge the Scottish Government to improve road surfaces by creating an action plan to remove potholes from trunk roads across Scotland and providing ring-fenced funding to local councils to tackle the problem.

We last considered the petition on 28 September, when we agreed to seek the views of a number of organisations involved in the maintenance of the road network. The committee has received responses from the Scottish Road Works Commissioner, the RAC Foundation, the

Society of Chief Officers of Transportation in Scotland and the Civil Engineering Contractors Association.

The Scottish Road Works Commissioner notes that road authorities such as Transport Scotland and local councils are responsible for decisions relating to the repair and maintenance of roads. The commissioner does, however, have the power to impose financial penalties on road authorities that systematically fail in their duty to co-ordinate or co-operate when undertaking roadworks.

In its response, the RAC Foundation highlights call-out data that indicates that a United Kingdom motorist is now 1.6 times more likely to suffer a fault or damage caused by a poor road surface than they were in 2006. The RAC Foundation also notes cuts to transport budgets. That point was also highlighted in the submission from the Civil Engineering Contractors Association, which expressed disappointment that the Scottish Government has reduced the budget for motorways and trunk roads by more than £75 million in the 2023-24 budget. In the context of those financial pressures, the CECA states:

“we are rapidly approaching a tipping point for some local authorities whereby they will never catch up on the structural repairs on their network”.

I seem to recall that, in my local authority area, it was estimated that it would take 120 years to get the roads up to spec at the current level of spend.

09:45

The Society of Chief Officers of Transportation in Scotland submission highlights guidance for local authorities on taking a risk-based approach to their inspection and repair regime but notes that not all local authorities follow that approach. The response also notes previous investigations carried out by Audit Scotland on the condition of Scotland's local and trunk roads.

We have also received two new submissions from the petitioner that raise further concerns about the deteriorating condition of the road surface and the impact that it is having on motorists. In particular, the petitioner highlights safety concerns about driving at night or in wet conditions, and the impact on female drivers. The petitioner also wishes to draw the committee's attention to concerns that were raised about road conditions in Glasgow ahead of the Union Cycliste Internationale cycling championships, which are due to be hosted by the city later this year.

My only suggestion, in the first instance, is to note that, in last week's UK Government budget, the chancellor announced an additional £200 million for pothole repairs, presumably with a consequential coming to the Scottish Government of about £20 million. The Scottish Government has

to decide what it wishes to do with those funds, but I think that we might legitimately inquire, on behalf of the petitioner, whether the Scottish Government intends to commit that consequential towards the repair of potholes, in addition to raising with the Scottish Government the concern expressed by the Civil Engineering Contractors Association that spending on motorways and trunk roads was seriously reduced in 2023-24 by £75 million, and ask what action it is taking to help build resilience into the road network across Scotland.

Do colleagues agree with that or have suggestions that might complement it?

Alexander Stewart: I agree with that. In the past, Audit Scotland published its “Maintaining Scotland’s roads” report. It would be useful to follow up on any recommendations in the report and to get an indication as to what action is planned in future to try to tackle the issue.

The Convener: I know that “potholes” as a word can engender a degree of hilarity at times in certain quarters, but there is nothing funny about it if you drive through one and significantly damage your vehicle. It is becoming an almost anticipated experience for most motorists, which is not as it should be, and deeply concerning and worrying.

Fergus Ewing: I concur with the suggestions that have been made thus far. The petitioner has pointed out that, as well as the inconvenience and the risk of damage to vehicles, there is the risk of potholes leading to a personal injury. For obvious reasons, cyclists, for example, are more prone to accidents, such as falling off their bike, where there are potholes, and if a car has been incapacitated by being driven into a pothole and, therefore, the motorist has to stop by the kerb, perhaps in a remote rural area, there is a risk of anything happening, frankly, when they are waiting for an emergency vehicle to come along. In extremis, there is the risk of someone losing their life as a result of an accident occasioned by a pothole.

I am not sure whether the police or anyone else records whether poor road maintenance is listed as a contributory factor when they do their analysis of fatal accidents, but I would be interested to at least ask the police whether that is the case.

I am very much attracted to the idea that, if additional funding were to come to Scotland, it should be used for this issue. I am not suggesting that it necessarily be used for the motorways, which, in my experience, are pretty well maintained—they have to be, given the speed of the vehicles that use them—but it could be used for the roads in cities, not least in Edinburgh. The roads here are in an appalling state, as are the

roads in Glasgow, sadly. The situation is becoming considerably worse.

The problem has bedevilled Scotland since devolution, as seen in the various audit reports over the years and the backlogs that you have alluded to, convener. It is something that affects people; obviously all of us, as MSPs, frequently receive complaints from constituents about the effects of accidents that have been occasioned by poorly maintained roads.

The Convener: It would be interesting to inquire of Police Scotland the extent to which the condition of the roads has been a contributory factor in accidents that police have had to attend. Dipping back into my now long-distant past career in the retail motor industry, I recall that, as a large repairing operation, we did not routinely have to undertake repairs as a result of damage caused by potholes. To be fair, there were considerably fewer automobiles on the roads 30 years ago than there are today. Notwithstanding that, all of us can see a deterioration.

The word “pothole” can mean so many different things. It can mean just a little bit of rough texture on a road, which is messy, but it can also be quite a heavily disguised but large and fairly dangerous pothole, which, if the road is busy, people will often not have advance sight of until they find themselves in it. That needs to be taken far more seriously as it becomes a potentially more dangerous experience.

Are we agreed that we will write to the various organisations and keep the petition open?

Members indicated agreement.

Peer Support Programmes (Public Sector) (PE1942)

The Convener: PE1942, which was lodged by Fiona MacAulay, calls on the Scottish Parliament to urge the Scottish Government to promote the use of peer support programmes such as TRIM and STRAW—I am sorry, but I do not know what the acronyms stand for—in public sector workplaces to promote better mental health. We previously considered the petition on 26 October, when we agreed to write to stakeholder organisations to ask for their views on the petition.

We have now received responses from the Scottish Recovery Network and the Samaritans. The Scottish Recovery Network tells us that it has a strong track record of promoting and supporting the development of peer support in communities. The work includes the Peer2Peer training resource, which was mentioned in the Scottish Government’s initial response to the petition. The response goes on to say that, although the Scottish Recovery Network has some awareness

of TRIM and STRAW, and the private sector psychology consultancy company that delivers them, the network has no experience of the models or products in practice.

The submission from the Samaritans highlights the value of peer support and the need to ensure that people have access to that support when they need it, which it indicates could be achieved through sustainable investment in talking therapies and wider third-sector community support.

Before I ask for comments, it is worth mentioning that the TRIM and STRAW packages that are referred to in the petition appear to be commercial products, so whatever action the committee takes should focus on the general merits of the petition rather than on those commercial products in particular, as it is not our practice to promote such products.

Are there any comments from colleagues?

Alexander Stewart: Once again, I think that the petition has probably gone as far as we can take it in the process. It would be appropriate to close it under rule 15.7 of standing orders, on the basis that the Scottish Recovery Network is continuing to develop a peer support training resource, Peer2Peer, about which we have had information from the Scottish Government and others, and it can be adapted to support the needs of different organisations. Given that, I propose that we close the petition.

The Convener: We thank the petitioner for raising the issue with us, but we have taken it as far as we can. Do members agree to close the petition?

Members indicated agreement.

Brownfield Sites (Remediation and Reuse) (PE1943)

The Convener: PE1943, which was lodged by Victoria Mungall, calls on the Scottish Parliament to urge the Scottish Government to introduce financial support mechanisms that would enable local authorities to work alongside developers in bringing brownfield sites back into use while also discouraging developments on greenfield land. When we last considered the petition, on 26 October, we agreed to wait until the national planning framework 4 was finalised. We also agreed to write to a number of organisations seeking their views.

Members will be aware that NPF4 has now been finalised and was approved by Parliament on 11 January. We have also received responses from Clyde Gateway, the Royal Town Planning Institute Scotland and the Royal Incorporation of Architects in Scotland. I also note that the Convention of Scottish Local Authorities declined

to provide a formal response to the petition on this occasion.

The responses that we have received detail some of the challenges of developing long-term vacant and derelict sites, such as fragmented land ownership and ground conditions, while highlighting the funding streams that are available to support the redevelopment and regeneration of those sites. In particular, the Royal Town Planning Institute highlighted the work of the Scottish Land Commission on the matter and the recommendations to review and evaluate funding streams to ensure that they incorporate criteria that will help direct investment to parts of the country that need it most.

On that basis, do members have any suggestions?

Fergus Ewing: National planning framework 4 has been published. Funding streams are available, such as the vacant and derelict land investment programme and the regeneration capital grant fund, which provide, in principle, what the petitioners are looking for, namely a means to incentivise the restoration of brownfield sites as opposed to always going for new greenfield sites. When we considered the petition previously, Paul Sweeney said:

“the renovation and retrofitting of existing buildings is subject to 20 per cent VAT, but demolition and new builds are zero rated, so a handicap is imposed on what should be the right thing to do.”—[*Official Report, Citizen Participation and Public Petitions Committee*, 26 October 2022; c 35.]

That is a fair point, but it is not really within the power of the Scottish Parliament to deal with the VAT on that, as I understand it.

The Convener: No, it is not.

Fergus Ewing: Mr Torrance suggested that we wait until NPF4 was finalised. Given that it has now been finalised and that there are funding vehicles, we have perhaps taken the petition as far as we can. If it subsequently emerges that the petitioner feels that those funds are insufficient, she could raise the matter again. I am not sure, however, that we can go any further with the petition, given the inquiries that we have made and the evidence that we have received.

The Convener: That is a sympathetic and comprehensive response. Are colleagues agreed that we will write to the petitioner, confirming the information that we have received and the fact that NPF4 has been published, and that we will close the petition?

Members indicated agreement.

Engine Idling Ban (Enforcement) (PE1944)

The Convener: PE1944, which was lodged by Alan Ross, calls on the Scottish Parliament to urge the Scottish Government to enforce the engine idling ban and to take action to introduce instant £80 fines for offences, reclassify idling as a high traffic offence, legally oblige local authorities to enforce the engine idling ban, create contact points for public reporting, and increase anti-idling signage in public spaces.

At our last consideration of this petition, the committee agreed to write to COSLA, the RAC Foundation and Professor Adrian Davis of Edinburgh Napier University to seek their views on the petition. Professor Davis's response states that citywide or nationwide banning of idling, combined with fear of fines and environmental awareness, appears to be the most effective method of reducing engine idling. In its response to the committee, COSLA stated that many local authorities simply do not have the additional resources or staff capacity that would be required to enforce the engine idling ban on a statutory basis consistent with the comprehensive scheme of suggestions proposed by Alan Ross.

In light of the responses that we have received from Professor Davis and COSLA, do colleagues have any suggestions on how we might proceed?

Alexander Stewart: Once again, I think that this petition has probably come to its conclusion and that we need to close it under rule 15.7 of standing orders. As you have identified, the feedback from local authorities to the Scottish Government suggests that the vast majority of idling drivers switch off their engines when requested to do so. The SPICe briefing indicated that fixed penalty notices are rarely issued. The Scottish Government has stated that it considers the current approach to enforcement to be fit for purpose and appropriate.

As you indicated, convener, COSLA said that local authorities do not have the resources to manage a statutory duty to enforce the engine idling ban and that, because of the additional resources and staff capacity that would be required, local authorities would not be able to manage that process.

For all those reasons, rule 15.7 of standing orders should come into effect and the petition should be closed.

The Convener: Colleagues, are we content with Mr Stewart's suggestion in relation to this petition?

Members *indicated agreement.*

The Convener: We thank the petitioner but we now draw that petition to a close.

New Petitions

10:00

Social Work Students (Work Placements) (PE1993)

The Convener: Agenda item 3 is the consideration of new petitions. As always, before I introduce the first of the new petitions, I say to petitioners who may be with us or watching our proceedings that we do a considerable amount of work in advance of our first consideration of petitions. Part of that work is getting an initial view from the Scottish Government. That does not necessarily determine the outcome or the actions that we might subsequently take—it is simply an initial view of the Scottish Government's perspective on the petition. We also receive a briefing from the Parliament's impartial research service, SPICe. Petitioners should know that that work is done in advance.

The first of the new petitions is PE1993, which has been lodged by David Grimm and Lucy Challoner. It calls on the Scottish Parliament to urge the Scottish Government to ensure that social work students have access to adequate financial support during their studies by providing bursaries to all third and fourth-year undergraduate social work students on work placements, reforming the assessment criteria and adequately funding the bursaries for postgraduate social work students on work placements.

By way of background information, the petitioners highlight that social work students spend nine months on placements during their third and fourth years but that, unlike, for example, student nurses and paramedics, there are no bursaries to support them.

In its initial response to the petition, the Scottish Government notes that the relevant minister met the petitioners and representatives of the Scottish Association of Social Work, the Social Workers Union and the British Association of Social Workers to discuss support for social work students—I might refer to the summary of that meeting later. The Scottish Government's response also states that, while a preference for bursaries over loan payments is likely to be shared by most students, there should be recognition of the wider funding landscape and the pressures across the Scottish Government's budget, and of the challenges that that brings to ensuring that the student support package is fair while maintaining the overall affordability of the student support system. The response also highlights that social work students have access to living-cost grants that are not available to nursing, paramedic and midwifery students.

We have also received a submission from the petitioners in response to the Scottish Government. In that submission, the petitioners highlight that the support that is available for social work students currently comes in the form of a repayable loan and depends on household income. That differs from the support available to nursing, midwifery and paramedic students, who are eligible for a bursary totalling £37,500 over four years. The petitioners tell us that, while undertaking work placements, social work students work just as hard as their colleagues who are on nursing, midwifery and paramedic courses. They recognise that social work students undertake placements only during their third and fourth years, while nursing and midwifery students do so throughout the entirety of their courses, which is why the petition calls for bursaries to be made available for those in the later stages of their study.

The petitioners call for a review of the funding and assessment criteria for postgraduate bursaries administered by the Scottish Social Services Council. As noted in the SPICe briefing, it has not been possible to locate details of that scheme on the SSSC's website, but individual universities provide more details of the scheme.

I want to refer to one comment by the minister in the Scottish Government's response that caught my eye:

"The points raised by the petitioners in their meeting with Mr Hepburn were captured and will be taken into consideration when progressing current work to review the support available. The Minister also expressed to the petitioners that he and his fellow Ministers would welcome maintaining an open line of communication on this matter."

I was slightly entertained by the idea of things being "captured". That expression does not necessarily indicate that there will be a subsequent course of action.

Do members have any comments?

Carol Mochan: This area—the support that is available to students—is really important right across the board. We are trying to attract people into these important jobs, particularly in the public sector. Having met social work students and the social work organisations, I can say that they are at crisis point. People believe them to be good career options, but it is incredibly difficult to finance yourself through that process.

When speaking to social work students, I noted, in particular, that, at that late stage when they are heavily invested in their placement, other people in academic life may be able to get a balance by doing some work to support themselves financially. Are we really asking social work students doing a nine-month placement in the workplace, as they must do, to also take on

additional work? That should not be the case if we want them to have the ability to do that well and to get the qualification and experience. It is such an important area: people need to have good experiences as they learn the ropes and go through their career. We need them to be available to our public sector.

I absolutely support keeping the petition open as we seek guidance from social work organisations such as the social work unions and the SSSC on what we could do to help the petitioners with this.

The Convener: I am struck by the work placement point, because we really want individuals at that stage to be focused on delivering their best and getting their best from the work placement. Encouraging them to try to find alternative income streams through work while on a nine-month secondment is not really a healthy prospect or route in those circumstances, so I am inclined to agree.

Alexander Stewart: I agree, convener. There is definitely a gap in the bursary provision. Trying to encourage someone to go into that sector is, in reality, tough enough, but putting extra obstacles in front of individuals will make it much more challenging for them to fulfil the course. As Carol Mochan suggested, it would be useful to get some of that information so that we can identify much more clearly what happens with bursaries for placements in the third and fourth year of social work practice. The petition requires more information to be captured. The minister may have captured that, but we need to capture some information as well to make sure that we are fulfilling our role and getting the full information that is required.

The Convener: I would certainly be interested in writing to the minister to ask him what form he expects his open line of communication to take and whether he is able to confirm a structured and ongoing basis for that. As Carol Mochan suggested, we also want to write more formally to the Scottish Social Services Council to seek its views on the issues raised in the petition. We want a view on providing bursaries to all third- and fourth-year undergraduate social work students on work placements; an explanation of the criteria for assessing bursary applications for postgraduate students; and clarification on where members of the public can access information on the assessment criteria, because SPICe seemed to find that more problematic than it ought to be. If SPICe found it problematic, I do not quite know how other people are meant to find it more readily.

Are we content to keep the petition open and proceed on that basis?

Members indicated agreement.

The Convener: The petition raises important issues. We will write to the minister and to the Scottish Social Services Council, as suggested, and consider the petition again when we consider the responses that we have received from them.

Drink Spiking (Support for Victims) (PE1995)

The Convener: PE1995 has been lodged by Catherine Anne McKay. The petition calls on the Scottish Parliament to urge the Scottish Government to develop a multi-agency approach to investigating spiking incidents to ensure that victims are given access to appropriate testing and that incidents are investigated robustly. A member of the petitioner's family feels failed by the system after her negative experience of reporting a suspected spiking incident. I read, with some concern, about the incident as described.

The SPICe briefing notes that the Education, Children and Young People Committee held a round-table evidence session on spiking at its meeting on 26 January 2022.

In response to the petition, the Scottish Government outlines its work to address spiking, and that includes an investigative strategy to provide guidance and direction to staff responding to and investigating incidents of spiking; senior investigating officers leading on local spiking-related investigations; and round-table, cross-organisation meetings.

Do members have any comments or suggestions for action? Bear in mind that we cannot pursue the individual circumstance that the petitioner identified, because it is not competent for us to do so. There is a general issue in there, however, and that general issue certainly raised concerns within me about a potential variable attitude to such incidents.

Fergus Ewing: I, too, read the petitioner's description of the experience that a member of her family underwent and was struck by how serious it was, and must still be, for that family.

The Convener: It is about that person's reputation as well.

Fergus Ewing: Yes. I was just going to make a distinction—perhaps a fine distinction—which is this: although it is not really open to us to investigate individual circumstances, nonetheless a couple of general points arise, namely why a urine test was not carried out and whether one should have been carried out. Is that an issue to which we should get a reply? If a urine test was not carried out because the police formed the view that there was insufficient evidence to proceed, that delimits any later possibility of establishing that there was spiking, because the medical

evidence, which would have come from a urine test, would not be available if the test had not taken place fairly promptly. We should therefore be asking the police whether urine tests should be routinely taken. Is that part of the advice that they have got? To be candid, I am not quite sure, but I would like clarity on that.

The petitioner also states that hospital personnel appeared to form the view that spiking may well have taken place, so, although we cannot look at that particular issue in that particular case, where there is apparently some corroborative evidence, or potential corroborative evidence, surely that should make the conducting of a urine test almost routine.

It is our duty to pursue properly petitioners' pleas. When a very serious incident has occurred, that duty is a higher level of duty. I am therefore keen that we investigate the matter further and ask the Scottish Government and the police whether a urine test is something that should be routinely carried out or carried out where there is any evidence available or where more evidence may emerge. Evidence is not always necessarily available from the first 24 or 48 hours, and, after that, it is too late to conduct a urine test.

Carol Mochan: I have friends who have children of the age when this is perhaps happening. It is a serious issue, because those young people have said to me that, when they go out, they make preparations with one another to make sure that drinks are not being spiked. If young people are looking out for one another, and raising the issue as a concern among themselves in those groups, it must be taken to be a serious issue by the police.

I would be interested in getting some feedback from the police, as Fergus Ewing indicated, but also some feedback on how seriously they take the issue and whether they have training for police officers in that area.

The Convener: I absolutely agree.

Alexander Stewart: Some work has been done on that already. We note that Police Scotland has had support. Universities have done a lot of work themselves to support any student in that situation. I note from the report that the Scottish Government has had round-table discussions. Those are all good. It would, however, be useful to get a summary from SPICe about what happened at the Education, Children and Young People Committee's evidence session on drink and needle spiking, because it has done a lot of work on that already. We could capture some of that information and use it to our benefit, because what Carol Mochan and Fergus Ewing have said is very valid, but we could maybe—I am going to use the word again—capture some more clarity.

10:15

The Convener: I am very concerned that I have now planted the word “capture” in your vocabulary, Mr Stewart. You are now capturing everything in every petition. I encourage you not to be led down such a dangerous path, but I fully support the sentiments.

That round-table discussion, however, was 14 months ago, and I will tell you what struck me. First of all, this Parliament has a duty to try to ensure that, although the composition of its membership is not youthful, we understand and respond to issues that are of direct concern to many young people, and this clearly is one such issue. In my ignorance, I had assumed that a urine test was probably a fairly routine process, but I was struck by the issue of there being possible reputational damage done to the individual in question, who was thereafter unable to evidence that their drink had been spiked, that was the issue, and that, as a consequence, it was open to others to suggest that they had just been irresponsible or reckless in their behaviour. That was very damaging, and it would be avoidable if processes were in place to try to properly identify the experience that people had been subject to. I think that we are all minded to pursue the petition further and to make inquiries. Mr Ewing suggested contacting Police Scotland, which is perfectly sensible.

Fergus Ewing: In addition, I did not catch anyone suggesting it, but a good recommendation in the briefing paper is that we should request a SPICe summary.

The Convener: Mr Stewart raised that.

Fergus Ewing: He said that?

The Convener: Yes, he wanted to capture it. *[Laughter.]*

Fergus Ewing: I failed to capture what he said.

The Convener: We will do that. This is an important petition, and we will keep it open. I hope that I am not being too light as we discuss it because, actually, the issues are quite significant, and we want to find out more.

I do not know who to write to about this, but there is another issue. It was suggested, in the instance that the petitioner discusses, that the hospital staff thought that the drink might have been spiked, but that did not seem to lead to any process or test. I do not know whether there is anybody who could help us to understand the practice around that.

Fergus Ewing: We could certainly ask the Government.

The Convener: Yes, we could ask the Government. I was wondering whether to write to

every health board, but that would be quite cumbersome. We could maybe ask the Government whether there is any standard practice on this, identifying the fact that, among the young people who are petitioning us, there is a sense that it is an emerging and growing concern. It may well be that it is something that needs to happen because of a growing number of incidents.

Do we agree to the suggested action?

Members indicated agreement.

Abortion Law (Disability) (PE1996)

The Convener: PE1996, which has been lodged by Calum MacKellar on behalf of the Scottish Council on Human Bioethics, calls for action to prevent discriminatory abortions for disability in Scotland. The petition calls on the Scottish Parliament to urge the Scottish Government to legislate to ensure that abortions cannot take place after 24 weeks in circumstances where the child is likely to have a disability.

The petitioner highlights that section 1(1)(d) of the Abortion Act 1967 enables termination up to the point of birth if the fetus has a disorder but restricts termination to 24 weeks if the fetus has no disability. The petitioner feels that that sends a discriminatory message that a non-disabled child's life has more worth and value than that of a child with a disability.

Responding to the petition, the Scottish Government has said that it recognises that the issue of terminating a pregnancy where a fetus is likely to have severe physical or mental abnormalities is a deeply emotive one. It has stated:

“The Scottish Government equally values the contribution of all members of society and opposes any discrimination on the basis of disability.”

The committee will be aware from its consideration of related petitions that the Scottish Government currently has no plans to amend the Abortion Act 1967.

In response to the view that the Scottish Government has offered, the petitioner has highlighted the lack of explanation for why the provision exists. He suggests that section 1(1)(d) of the 1967 act enables a woman who could arguably cope with a disabled child to terminate the pregnancy because she believes that having a non-disabled child is preferable to having a disabled child.

The petitioner notes the Marie Stopes UK position paper that is referred to in the SPICe briefing, which suggests that introducing an upper gestational limit for abortion on the ground of fetal abnormality could have the unintended consequence of pressuring women to make a

difficult decision in a relatively short period of time, potentially increasing the number of abortions. The petitioner feels that the Marie Stopes UK position paper does not develop or emphasise the legal context of the 24-week limit. He notes that the 24-week limit reflects an important and meaningful fetal development stage at which it is considered that a healthy fetus is deserving of protection, whether or not the fetus may eventually become a burden.

Do members have any suggestions for action in relation to the petition? I certainly studied the briefing that we received with some care.

Carol Mochan: I, too, read the briefing thoroughly. It is an important and sensitive issue. The Government has indicated that it has no intent to change the law on abortion. I believe that the right to choose and to get appropriate healthcare throughout pregnancy is important for women. In this instance, therefore, I do not believe that the petition should go forward. That is my balanced view.

The Convener: Thank you. I note the reference in the briefing that we received to the October 2021 case that was heard in the High Court in respect of the UK Secretary of State for Health, in which an effort to strike down section 1(1)(d) of the 1967 act was dismissed. At that time, the court dismissed the argument that that section of the act perpetuated negative stereotypes of people with disabilities as it focuses more on the rights of the pregnant person and their medical treatment. I found the briefing interesting in presenting different sides of the argument that the petitioner was seeking to represent, which, in itself, was well expressed.

We have heard Carol Mochan's position. Do other colleagues have any suggestions? It appears not. Carol Mochan proposes that, in this instance, particularly given the Scottish Government's position that it does not intend to amend the Abortion Act 1967, there is nothing that the committee can meaningfully do to pursue the petition and we should therefore close it. Are we agreed?

Members indicated agreement.

The Convener: We will write to the petitioner to explain that we cannot meaningfully advance the petition.

Braille Food Labelling (PE1997)

The Convener: PE1997 has been lodged by Fiona McDonald on behalf of Sight Scotland and Sight Scotland Veterans. I understand that the petitioners are with us in the public gallery, and I welcome them. The petition calls on the Scottish Parliament to urge the Scottish Government to

introduce new legal requirements on retailers to provide Braille labelling on food products detailing the name of the item and its use-by or sell-by date. The petitioners highlight that Braille labelling is currently required only for medicines, leaving Braille users at a disadvantage when identifying food products that they wish to purchase.

Responding on behalf of the Scottish Government, Food Standards Scotland states:

"As the body with policy responsibility for general food labelling FSS recognises that having access to adequate food information is essential to enable consumers to make informed choices when shopping for food."

The response highlights the intention, following the exit from the European Union, for general food labelling legislation to be considered for review on a UK-wide basis. However, it is noted that the scope of the legislation is considerable and that any such review may be unlikely to take place in the foreseeable future. In the meantime, Food Standards Scotland has invited Sight Scotland and Disability Equality Scotland to meet it to improve its understanding of the needs of blind and partially sighted consumers.

We have also received a submission from the petitioners that notes that a meeting with Food Standards Scotland took place in early March. The petitioners tell us that the meeting provided an opportunity for them to offer clarity on the numbers of people living with sight loss in Scotland, while exploring the importance of offering a variety of accessible formats to match consumers' individual needs and preferences. The petitioners also mention that Food Standards Scotland is considering a public consultation that would be aimed at providing further insight on the impact of mandatory Braille labelling for food products that are sold in Scotland.

Do members have any suggestions? It is an interesting petition on an issue that had not occurred to me, until I read the detail of it, as being meaningful. I can see the practical issues that are associated with it but, nonetheless, I am pleased that meetings have taken place to at least explore matters further. What more might the committee do?

Alexander Stewart: There is no doubt that there is an opportunity to deal with the petition and seek some clarity as to what is taking place. You touched on the consultation that is anticipated. It would be useful for the committee to write to Food Standards Scotland to ask it to update us on its plans for the consultation that is to take place with reference to the labelling of food products that are sold in Scotland having mandatory Braille labelling, and the timescale for that consultation to be carried out.

We should also write to the Food and Drink Federation Scotland to seek its views on the issues that the petitioners have raised, and specifically on the anticipated additional costs of adding Braille to labelling on food products. That will also give us an indication as to where this is going. In addition, it would be useful to find out from the Scottish Government what its views and feelings are on the process, because it has a role to play as well.

The Convener: I am interested in having a bit more understanding as well. The response from FSS says that a review is unlikely to happen in the foreseeable future, but what discussions are taking place about the process that might underpin a wider UK comprehensive review of food labelling? FSS refers to a review happening on a UK-wide basis, but I would like to understand whether the Scottish Government expects to proceed on that basis in this instance. What further information can it give us? We might ask it who in the UK Government is potentially leading on the matter. It may well be that, having received confirmation of that, we should write to the UK Government in due course to ask for its views on the process that would underpin a review. The proposed review is not as immediate a response as the petitioner is looking for, so I am very much in favour of Mr Stewart's suggestions.

Are there any other thoughts from colleagues? As there are none, I propose that we keep the petition open and write to the various organisations, the Scottish Government and potentially the UK Government on the basis that we have described. We will maintain contact with the petitioners so that they have an opportunity to feed in their responses to any responses that we receive, and we will have that information before us when we next consider the petition. Are we agreed?

Members indicated agreement.

United Nations Convention on the Rights of Persons with Disabilities (PE1999)

The Convener: Our final new petition this morning is PE1999, which has been lodged by William Hunter Watson. It calls on the Scottish Parliament to urge the Scottish Government to ensure that the UN Convention on the Rights of Persons with Disabilities, which is referred to as the UNCRPD, is fully implemented in Scotland. The petitioner believes that treatment for mental disorders without consent should not be permitted. He states his view that covert medication and chemical restraint are incompatible with the UNCRPD, as he interprets article 25 as meaning that persons with disabilities have the right to refuse treatment. The petitioner highlights the

importance of the right to refuse treatment in care homes and mental hospitals.

We have received two submissions from individuals who have shared their experiences in relation to treatment without consent. In particular, Barry Gale expresses his view that there is a gap between policy and practice. He states that patients and carers should be empowered

“to make their own discretionary decisions about their own lives, and to put the onus on the professionals to appeal against them—instead of the other way around.”

The committee has received a response to the petition from the Minister for Mental Wellbeing and Social Care. He states that, for some individuals,

“compulsory treatment is used to provide the person with medical treatment to alleviate suffering and for the protection of both the person and others”.

He adds:

“Compulsory treatment is only allowed under mental health legislation in Scotland in very strict circumstances.”

The minister's submission highlights safeguards that are in place, such as the right to independent advocacy and the Mental Health Tribunal for Scotland. The minister states that other interventions should be considered before restrictive practice is proceeded with, as such action should be a last resort. He notes that the Scottish Mental Health Law Review's report proposes reforms to help to drive reductions in the use of coercion, including restrictive practices, while recognising the potential need for it in certain circumstances.

I should have recorded David Torrance's apology for the meeting earlier. I do so now. I feel that, if he was here, he would recollect some of these themes being raised in petitions on such issues before, as I do. Do colleagues have thoughts as to how we might proceed?

10:30

Fergus Ewing: I note the reference in our papers to the independent Scottish Mental Health Law Review, which was chaired by John Scott KC and which published its final report on 30 September. The Scottish Government states in its response to the petition that it is taking time carefully to consider the recommendations. That is fair enough, because the issues are by no means straightforward.

It would make sense for the committee to inquire as to when the Scottish Government expects to respond to the mental health law review. As I understand it, the review recommended that a human rights approach be taken to these matters but it acknowledged that there may still be instances where treatment may require to be administered without consent—for

example, for health reasons, as has been alluded to. It would be useful to ascertain—I am sure that the petitioner would like to know this—when the Government is going to respond. I think that its response will very much dictate how the petitioner will wish us to proceed in relation to any possible recommendations that may arise from the Government's response to the review.

The Convener: I agree. Do we have any other suggestions? As there are none, are we content to keep the petition open and proceed on the basis that Mr Ewing has advocated?

Members *indicated agreement.*

The Convener: That concludes the public section of our meeting. We will next meet on Wednesday 19 April. I thank all those who have joined our proceedings this morning.

10:31

Meeting continued in private until 11:32.

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