OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 17 April 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Wednesday 17 April 2024

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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE

6th Meeting 2024, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Foysol Choudhury (Lothian) (Lab)
*Fergus Ewing (Inverness and Nairn) (SNP)
*Maurice Golden (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jackie Baillie (Dumbarton) (Lab)
Professor Justin Borg-Barthet (University of Aberdeen)
Alex Cole-Hamilton (Edinburgh Western) (LD)
Graeme Johnston (UK Anti-SLAPP Coalition)
Roger Mullin
Ahsan Mustafa (Law Society of Scotland)
Colin Smyth (South Scotland) (Lab)
Tess White (North East Scotland) (Con)

CLERK TO THE COMMITTEE

Jyoti Chandola

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 17 April 2024

[The Convener opened the meeting at 09:34]

Decision on Taking Business in Private

The Convener (Jackson Carlaw): Good morning, and welcome to the sixth meeting in 2024 of the Citizen Participation and Public Petitions Committee. I begin by thanking my deputy convener, David Torrance, for convening the previous meeting of the committee, which had quite a packed agenda of engagement and evidence taking. I am grateful to him.

Our first item is the customary one to agree on whether to take business in private. Under items 4 and 5, we will consider the evidence that we will hear this morning. Do colleagues agree to take those items in private?

Members *indicated agreement.*

The Convener: We expect Fergus Ewing to join us shortly, so there is no apology there.

Continued Petitions

Strategic Lawsuits against Public Participation (PE1975)

09:34

The Convener: Agenda item 2 is consideration of continued petitions, the first of which is PE1975, which is on reforming the law relating to strategic lawsuits against public participation, which are sometimes, or probably more commonly, referred to as SLAPPs. The petition, which was lodged by Roger Mullin, calls on the Scottish Parliament to urge the Scottish Government to review and amend the law to prevent the use of strategic lawsuits against public participation.

We last considered the petition on 4 October last year. At that time, we agreed to take evidence from stakeholders and, later, from the Minister for Victims and Community Safety. I am pleased to welcome as our witnesses the petitioner, Roger Mullin, who will address the meeting shortly; Justin Borg-Barthet, who is the convener of the anti-SLAPP research hub; Graeme Johnston, a member of the Scotland anti-SLAPP sub-working group of the UK Anti-SLAPP Coalition; and Ahsan Mustafa, a member of the Law Society of Scotland's civil justice committee.

Good morning to you all, and welcome to our proceedings. As we get into this, if you wish to come in on any of the questions that colleagues ask, please indicate to me. When colleagues are speaking, they will take note that you are seeking to come in. We will clarify who is coming in, so that those who are noting for the *Official Report* understand who is contributing at any given point. Rather than just speaking extemporaneously, please make sure that you are introduced through the chair.

We have received a written submission from Michelle Thomson MSP, who is unable to attend the meeting. The submission reiterates her support for the petition and notes that the Strategic Litigation Against Public Participation Bill passed its second reading in the United Kingdom Parliament in February. She argues that Scotland has fallen behind other jurisdictions and that we risk becoming a destination of choice for SLAPP action, which may very well form some of the discussion that we are going to have.

I would be grateful if Roger Mullin would say a few words by way of introduction.

Roger Mullin: Thank you, convener. First, I thank the committee for the opportunity to discuss the need for anti-SLAPP legislation in Scotland. When I was a member of Parliament, I became increasingly aware of the most malign people,

including oligarchs, who were abusing the law to oppress and silence investigative journalists and authors in particular, but also academics and anti-corruption campaigners. Such abuse of the legal system is aimed at preventing the publishing of material that is in the public interest. The growth of expensive legal threats is an attack on free speech and some basic human rights. Scotland is in danger of becoming a jurisdiction of choice unless urgent action is taken.

The abuse is exercised through the commencement or threat of civil lawsuits using whatever laws seem convenient, including privacy and data protection laws, and in whatever jurisdiction suits. The abusers buy the expensive services of compliant legal firms and so-called reputational management firms and seek to make any defence as expensive as possible, in financial and psychological terms, for those whom they wish to harass. That is why the majority of cases never come to court—the costs of defence prove too great and the abuser wins.

Other countries in Europe and the UK are now addressing the problem with anti-SLAPP legislation. I therefore appeal to the committee to protect freedom of speech by supporting the case for such legislation here in Scotland.

The Convener: Thank you, Mr Mullin.

I see that Mr Ewing has arrived. You have not missed anything, Mr Ewing. We have just heard the introduction to our evidence session on the petition regarding SLAPPs. I know that you are particularly concerned about that and will wish to come in with questions shortly.

Fergus Ewing (Inverness and Nairn) (SNP): My apologies, convener.

The Convener: We have a series of areas to explore in detail, but my first question is just meant to ensure our broad understanding of the issue. The committee was engaged by the petition when we saw it. Therefore, we have taken the unusual step of convening this evidence session, which we do not do in relation to every petition.

We have also had a briefing from the Parliament's independent research unit, the Scottish Parliament information centre. When I read that, I was struck not by the principle of the argument that you are making but by the question of whether, in practice, the different genetic code that Scotland's legal system has as a result of the way in which it was established means that it is less likely to be overwhelmed by the type of threat that you envisage and that, therefore, a reactive rather than a proactive Government approach to the issue, in the light of evidence, would be an arguable way to go.

What is your view on that? I put that question to you, Mr Mullin, and any of your colleagues.

Roger Mullin: I will allow my colleagues who are legal experts to respond on the detail of the issue, but I will respond from a more political perspective.

The reason why I think that it is likely that we will become a jurisdiction of choice in the way that I have described is because it has happened to Scotland before. When I was a member of Parliament, I tried to run a campaign for the reform of a thing called Scottish limited partnerships, which were used as the front for a huge amount of corruption by international players, including Russian oligarchs and people from the Baltic states, Israel, America and the like.

How did that situation come about? Scottish limited partnerships were formed in 1905, thanks to Asquith. However, around the time of the financial crash in 2008, people from other countries found that they were the ideal vehicle to hide their ill-gotten gains. Some of you may be aware of what became known as the Russian laundromat, which was effectively a huge multibillion-pound fraud on the people of Russia and was fronted by about a dozen or so Scottish limited partnerships. So, we already have experience of people who are able to look around for jurisdictions of choice that will make it easy for them to pursue their malign interests. I think that we should reflect on that.

We are in what is very much a global community today, and different jurisdictions know only too well what is happening by way of laws being put in place elsewhere in the UK, throughout Europe and elsewhere. As things stand at the moment, where will be the softest touch? It is going to be Scotland.

The Convener: Is a governmental position of taking a reactive rather than a proactive approach to that possibility not a reasonable one?

Roger Mullin: I do not think so, because that would mean that you are allowing people to exercise those threats first, before you start to respond. That would be a completely unfortunate position to take, and would certainly not be in the interests of the innocents.

The Convener: I hear what you say there. Might not the Government argue that, in an otherwise congested legislative environment, to act and to prioritise that when other matters need to be progressed might not be wise in terms of its use of resource and time?

Roger Mullin: I do not know what its arguments will be, but I cannot think of anything that is more important than protecting the good name of Scotland internationally and protecting the people of Scotland from those types of threats.

The Convener: It is good to have that on the record.

Graeme Johnston (UK Anti-SLAPP Coalition): Good morning. I used to work as a litigation solicitor in one of the big international firms and did a lot of cross-border type litigation—not about defamation but about all sorts of other things.

The reality is that, when people look at the options for bringing actions against people, they make a table or list of pros and cons, and as particular jurisdictions get tighter on a particular topic, it is natural for those that are not so tight to rise to the top of the table, as it were. Now that the European Union and England and Wales seem likely to tighten this up, the reactive move is to move relatively quickly and not wait for several years, when you might have had a great influx of litigation here.

Quite apart from the harm that can be done, which Roger Mullin pointed out, you might find things harder to fix later. As people start doing more of these things, lawyers will get attached to it; you will no doubt get a Scottish society of media lawyers being formed; and the problem will be harder to deal with. It will make things easier if you just nip this in the bud.

09:45

The Convener: It is as if you are suggesting that our legal profession always has an eye to the main chance. That is the conclusion that I am drawing from that.

Graeme Johnston: I would not wish to imply that.

Professor Justin Borg-Barthet (University of Aberdeen): In addition to the points that have already been made, there are a couple of things that we need to consider. First of all, the comparison being made is a little unfortunate, in that we are constantly looking at what is going on in England and saying, “Oh, we’re not as bad,” or, “There’s just this SLAPP hub, so it must be a fringe issue in Scotland.”

The better question to ask is not what is different about Scotland compared with England and Wales but what is unique about Scotland compared with every other legal system in Europe. I suggest that, in this specific respect, the answer to that is: nothing. Therefore, the onus should shift to showing whether Scotland is immune to problems that every other legal system is not immune to. I cannot see how it could be.

I also suggest that this is not a prospective problem of Scotland becoming isolated as the only jurisdiction without anti-SLAPP laws, but a current problem that we perhaps do not see, given that most SLAPP practice never makes it to court. We know from discussions with lawyers on the side of the media that, even in Scotland, stories are changed or are not published, because of threats of lawsuits. Currently, then, we do not know things that we should know, and things go unreported that should be reported.

As for the legislative environment, Roger Mullin spoke to the important political point. That is an issue for politicians, but there is also the legal point that what is being addressed here is the basis of a functioning legal system. We are talking about a system without a free press or a fully functioning rule of law, and it is incumbent on legislators to ensure that the rule of law is advanced in every legal system.

The Convener: Is there anything that you would like to say, Mr Mustafa?

Ahsan Mustafa (Law Society of Scotland): Yes, thank you, convener. The Law Society of Scotland believes that a justice system that maintains the rule of law and ensures public confidence should not tolerate SLAPPs, just as it should not tolerate vexatious litigation or abuse of the legal process, generally. The Law Society appreciates the concerns that have been expressed by the petitioner.

The Convener: Yes, that aspect is at the heart of the petition.

Mr Borg-Barthet, I want to understand—you alluded to this—the extent to which the issue is a problem about legal threats rather than about court action. Is that where the centre of gravity is in this matter?

Professor Borg-Barthet: Court action is the tip of the iceberg with SLAPPs. The core problem is the credibility of a threat. If somebody were to threaten me with a lawsuit that was going to cost me several thousand pounds, I would probably give very serious thought to not appearing in court, no matter how right I thought I was. The income of a professor is a matter of public record. It is more than the minimum wage, and it is more than a freelance journalist who is getting started on investigating things that we should know about would earn. Most people on a normal income would be very cautious about engaging in litigation about anything.

We have normalised the threat of litigation in relation to a basic democratic function, which is public discussion and public exposition of facts in the public interest. The effect of that is that things disappear—they are not published or they are published in sterilised form. That has significant effects on governance because we do not know what our local authorities are doing, we do not necessarily know what our Governments and politicians are doing and we do not know what

businesses, which often affect our lives to an equal extent, are doing.

We do not know the extent of that—we cannot quantify it. However, from preliminary data that my colleague Francesca Farrington is collecting, we know that all journalists receive such threats. We can surmise that journalists often respond to those threats by limiting what they publish.

The Convener: Although we cannot talk about live cases, colleagues who were members of the Scottish Parliament in the previous parliamentary session will remember the case of our former colleague Andy Wightman, who was very much involved in and affected by such litigation.

I have a final question about the issue that you have just touched on. Are legal claims that relate to journalists and campaigners the type most commonly associated with SLAPPs? Is that what they are generally deployed in respect of?

Roger Mullin: Yes. The ones that I am most familiar with are used, first of all, against the journalistic community, and that is mostly in relation to investigative journalists. However, they also involve campaigners and, on occasion, academics, where the intention is to stop them from conducting or publishing research findings. As far as I am aware, journalists are the largest community that is affected by that, but they are not alone.

Graeme Johnston: In addition to what Roger Mullin said, another angle is that there is an increasing number of private individuals who get threatened or sued, for example, for leaving a bad review for a service—there have been some rather obnoxious cases about that—or for reporting on assaults that they have suffered from ex-partners and so on.

The Convener: There are other applications. I was just trying to understand where the centre of gravity is in relation to their use.

David Torrance (Kirkcaldy) (SNP): Looking at other legal systems across the UK, do you think that the action that is being taken in England and Wales goes far enough to adequately protect journalists and campaigners?

Roger Mullin: From my perspective, I doubt that it does at the moment, but I would rather defer to people who are legally trained to give a more detailed response.

Graeme Johnston: The main issue with the bill that is before the Westminster Parliament is that it has a subjective standard that applies to an intention to harass, for example. The criticism of that is that it does not go further than existing abuse-of-process law. There is a proposed amendment to create an objective test for things that can be reasonably understood as having a harassing intent or impact, and we will have to wait to see how that goes. There is a secondary issue about the definition of public interest in the bill.

Those are the main points. There are other enhancements that one could make. For example, other aspects are covered in the anti-SLAPP model law that the UK Anti-SLAPP Coalition has put together, but those are the two big live issues in Westminster at the moment.

David Torrance: Does the Council of Europe initiative put pressure on the Scottish Government to do more on the issue?

Roger Mullin: I will give a very short answer to that: yes. I think that Justin Borg-Barthet, in particular, is aware of what has been happening on the European front, so he might want to expand a little on my response.

Professor Borg-Barthet: I am not sure that it is necessary to expand a huge amount on your "yes". To be clear, I was involved with the European Union law-making process rather than that of the Council of Europe, but, essentially, the answer is yes.

The reason for that is that there is a model recommendation that should be adopted by all legal systems in the Council of Europe. That is not binding, but it is something which should be done. The Council of Europe takes the view that that would constitute a sound standard for the protection of fundamental rights in Europe. We also need to consider what is going on in the European Union, where just yesterday the anti-SLAPP directive was published. It must be adopted within two years by the 27 member states of the EU.

There is significant pressure, in that 27 states will certainly adopt anti-SLAPP legislation, we expect further anti-SLAPP legislation in England and Wales, and there is the recommendation that is applicable to the rest of the Council of Europe states, with the expectation that there will be some movement there—for example, significant pressure is being brought to bear on Switzerland, as well. So, in a word, yes.

David Torrance: Thank you for that. In drafting anti-SLAPP legislation, what are the key factors that will make it successful?

Graeme Johnston: One key factor is that it should focus on process abuse rather than on particular substantive types of claim. For example, in 2013, a statute was passed in England to restrict the law of defamation, in effect, and a similar statute was passed in Scotland in 2021. The history in England has been that that has not been particularly effective in getting cases kicked out early, partly because the standards are very

fact-sensitive—matters of serious harm, for instance, usually has to go to trial. That is also partly because people have become very imaginative in using all sorts of causes of action: privacy, data protection, trespass, confidentiality, copyright—you name it.

Therefore, the focus must be on process rather than on particular substantive causes of action. That would be a good start. Then, everything really turns on the definition. There are examples in various things, which I will not elaborate on, but that is the starting point.

10:00

Maurice Golden (North East Scotland) (Con): I am interested in the comments that Professor Borg-Barthet made about the Council of Europe initiative. The Scottish Government is committed to aligning with EU law. Therefore, in theory, there is no need for the petition, because the Scottish Government should align with EU law. What options for intervention are open to the Scottish Government? There is the legislative route, but what about non-legislative routes, such as via solicitor regulation? Would that assuage the requirements of the petition?

Professor Borg-Barthet: No, that would not be sufficient, but you have raised an important point. In addition to legislative intervention, a sound response to SLAPPs would include several flanking measures, such as education—both of the legal profession and of people engaging in public participation—support for SLAPP targets, changes to legal aid and additional measures that would ensure that we are dealing not only with what happens in court but with the effects of what happens in court and the issues that precede anything making its way to court. However, legislation is absolutely needed, because we cannot do the things to which Graham Johnston referred without Parliament's say-so.

Roger Mullin: It would be very helpful if the Law Society were to issue advice to law firms in Scotland on the things that they should look out for. That would be another mechanism, but it is in addition to the need for proper legislation.

Ahsan Mustafa: I will expand on what Mr Mullin said. In relation to England and Wales, the Solicitors Regulation Authority, has issued a warning to solicitors regarding raising any litigation that can be viewed as a SLAPP, but I will make reference to the solicitors code of conduct in Scotland. Rule B1 requires solicitors to act at all times with trust and personal integrity. They are also required to refuse improper instruction by a client, which comes under rule B1.5.

Following on from what Mr Borg-Barthet said about legal aid, no legal aid is currently available in defamation cases in Scotland. If a respondent in receipt of legal aid has legal expenses, they will be covered, and that can create another level of protection.

Foysol Choudhury (Lothian) (Lab): I have a couple of small questions. How are SLAPPs identified, and what differences are there between SLAPPs and legitimate cases?

Professor Borg-Barthet: In order to identify a SLAPP, you first need to establish that the respondent is engaging in public participation. That is not about publication; it is about all forms of public participation. That could involve a demonstration or publishing something—assembly or expression.

Once you have established that, you then need to look at the claimant's behaviour and consider whether the claim is unfounded, in whole or in part, or whether there are elements of abuse other than the claim simply being unfounded. There are different definitions in different legal systems, but the standard in the Council of Europe recommendation—which I would suggest is the absolute minimum that Scotland should be aiming for—includes consideration of different types of abuse, such as exaggerated claims. That could involve a claim that might be founded but where someone is claiming several millions of pounds for £10,000-worth of damage, for instance, or it could involve someone who is engaging in multiple claims when the matter could be consolidated in a convenient and efficient manner for the respondent and for the court.

When it comes to persisting in litigation when there is a possibility of resolution outside the court—I will not take you through the whole list of such scenarios—we begin by considering whether there is an act of public participation. If there is, we then consider whether the claimant's behaviour reveals any elements of abuse.

Foysol Choudhury: How prevalent are SLAPPs in Scotland, and what damage has been done?

Roger Mullin: I will have a first go at answering that. I am aware of a case that has never reached the public—and it probably never will—because the people who were going to publish it received such strong threats that they decided that they did not feel able to carry the risk. There are examples that you will be familiar with—and this was first referred to at the outset of this evidence session by Justin Borg-Barthet—and there are things that we are unaware of, because they never reached the public arena, although there are cases that do reach the public arena from different areas.

I will mention one thing that concerned me, long before I became a member of Parliament for a short time of my life. I used to chair the research

ethics committee at the University of Stirling in the early 2000s. Some of you may remember that the University of Stirling had a research group in one of its institutes, which did research into tobacco use and the effects on young children of smoking, of advertising and so on. Some of that group's research will have informed the Scottish Parliament in the past, as tobacco legislation was pursued.

The university was threatened legally by a major tobacco company, which spent a long time pursuing it—two or three years, if memory serves me correctly. The company wanted access to original information, including details of interviews with 16, 17, 18 and 19-year-olds. It wanted to take everything, and it wanted to quell and silence the research, stopping it from ever being made public. It was unsuccessful in that, but we do have such cases—and that was a case beyond the realm of investigative journalism.

There are also cases involving individuals. One individual campaigning lady in Scotland was campaigning on behalf of people who had been subject to major fraud, and she was threatened. We know that there are cases of various types in Scotland. The concern that I have, and that I think many people have, is that, while there are cases that we know about, there is a strong suspicion that there are many more cases that we do not know about. Something needs to be done to protect the interests of public participation in Scotland.

Foysol Choudhury: Is it possible for non-governmental legal intervention to tackle SLAPPs?

Graeme Johnston: What sort of thing do you have in mind?

Foysol Choudhury: Non-governmental—so, as in the example just given.

Graeme Johnston: Civil society-type things?

Foysol Choudhury: That is correct, yes.

Graeme Johnston: Various types of support can be provided to journalists and others, and legal regulators can do things. It is a complex problem, and there is no single magic solution to it. The heart of the problem is what the law permits, and everything else refers to that, really. There are many things that can be done, but the legal one is the central one, I would say.

Professor Borg-Barthet: If I could respond—

The Convener: Briefly, please, as I wish to bring in Mr Ewing.

Professor Borg-Barthet: There is room for non-governmental intervention but, ultimately, non-governmental intervention cannot shift costs, and proceedings cannot require the claimant to provide security for costs, nor can they require claimants to pay damages for having brought a SLAPP, and so on. There is only so much that can be done by anything other than a Parliament.

Fergus Ewing: I apologise to the witnesses for being slightly late and not hearing all of Roger Mullin's opening statement, but I did read yesterday's "Thunderer" column, which I think bears a certain similarity to the arguments therein.

Roger Mullin: Indeed.

Fergus Ewing: I want to focus on some practicalities. This is helped by Mr Mustafa's evidence that there is no legal aid in Scotland for someone defending a defamation action, and that is very important.

10:15

The responses to the petition from the Scottish Government were made in October 2022 and on 2 March 2023. In each case, the Government's main argument for doing nothing was that the Defamation and Malicious Publication (Scotland) Act 2021 will provide protection and additional tests. That is true in the sense of certain defences, which is a good thing. My point, however, is that in order to defend an action, you need to be able to pay for it. Being taken to the Court of Session is completely beyond the means even of someone who is quite well off. I know of one case where a Court of Session action cost an individual £350,000. That is probably by no means unusual.

The Minister for Community Safety, in her reply of 2 March 2023, said that a solicitor said that it costs only £25,000 to pursue a defamation action in a sheriff court. Only £25,000? Who has £25,000 to blow on legal fees at this time of austerity? I want to put that on the record, because it seems to me to be an utterly hopeless defence—so hopeless that I am surprised that the Scottish Government put it forward.

Therefore, we are talking about David versus Goliath, but David with no sling—and no nothing—and Goliath with nuclear weapons. Having set that scene—

The Convener: I was going to ask whether you are a witness or are asking questions of the witnesses, Mr Ewing. [*Laughter*.]

Fergus Ewing: I thought that it would be useful, in seriousness, to refer to the Government's response to the petition because of what it said, and now we are 19 months on. Would it not be a completely impossible task for an ordinary individual who is threatened with such a legal action to defend it? As Mr Borg-Barthet quite rightly said, most individuals would just fold, even if they think that they are absolutely innocent of any charge and have a perfect defence against it.

The Convener: I will assume that none of the witnesses disagrees with Mr Ewing, but I wonder whether anyone would like to expand on anything that he said that they think would help the committee.

Roger Mullin: I could add to that. What struck me as being rather narrow about the view of the Government, if I may put it that way, was that it only mentioned defamation in its response, whereas we know that SLAPPs can be applied in different types of legal routes, such as privacy law, data protection and the like. People such as me would like to see more general anti-SLAPP measures being considered because it is open to abusers to choose different legal routes, and they often do.

Professor Borg-Barthet: An excellent paper has just been published by Stephen Bogle and Bobby Lindsay from the University of Glasgow that addresses that specific point. Essentially, they say that the Defamation and Malicious Publication (Scotland) Act 2021 does not, and could not, address the SLAPP problem fully.

Although the 2021 act is welcome because it improves the environment for freedom of expression, it does so only in respect of a particular type of claim and, as Graeme Johnston explained earlier, SLAPPs can come in any form. In addition, the tests, including the serious harm test, come far later in the process, at which point several thousand pounds—which people do not have to spare—have already been spent. Therefore that legislation does not and could not address the problem in and of itself. That is not to say that it is not a useful law in the general sense of protecting freedom of expression, but by itself it is insufficient.

Fergus Ewing: We have established that the Government's main defence is, to be frank, pretty hopeless as far as I can see.

Moving on from that point, the petition is 19 months old, and in the course of that time, while the Scottish Government has been busily doing nothing, the UK Government has passed an act called the Economic Crime and Corporate Transparency Act 2023, which enables SLAPPs to be struck out. It has also announced its support for a private member's bill, the Strategic Litigation Against Public Participation Bill.

Meanwhile, I am told that the European Parliament has recently agreed a directive dealing with SLAPPs. I have not studied the detail, but I wonder whether I can ask the witnesses the following question: does this mean that in England and Wales and in the EU as a whole—which covers most of mainland Europe that is likely to be used as the jurisdiction of choice—effective legislation will very shortly be in place and therefore something that was a danger very much lurking on the horizon 19 months ago is now coming close to the harbour of Scotland and very close to our country? If it was necessary to do something 19 months ago, is it not far more urgent to do something now rather than continue to do nothing at all?

Roger Mullin: My petition was published by the committee 19 months ago—I started preparing it months before that. Therefore, it was, let us say, roughly two years ago that I was getting increasingly concerned about the moves in other jurisdictions while no apparent moves were being made in Scotland. Before I could issue a petition, I had, quite properly, to demonstrate that I had approached and sought information from the Government, and I was told that it had no plans to review any matters in relation to that.

This is not something that has suddenly arisen and which the Government has not been aware of; it has been aware for a considerable amount of time of what I would say is a need to protect Scotland. When I set out, my hope was that, by raising a petition, I would encourage a focus on the issue so that we could gather support for proper reform in Scotland. That is why, in my opening remarks at the outset of the meeting, I said that I genuinely thanked the committee for taking the petition on board and allowing it to progress. From my point of view, this evidence session is very important in raising the issue not only publicly but among parliamentarians. Surely it is time for action.

Fergus Ewing: I have one final question. Let us assume that the Scottish Government—which, to be fair, said in its first submission that it was not ruling this out—were to say, "Right, we're going to solve this problem." Would it be able to do so through a legislative consent memorandum, or something close to it? In other words, could it rely on, borrow, plagiarise or copy the approach being taken down south, bearing in mind, of course, that it would have to be adapted to Scottish circumstances? In other words, is it a fairly simple task—well, perhaps not simple, but reasonably straightforward—because the work has already been done by others and can largely be translated into Scots law? Is that fair?

Graeme Johnston: I would say so. There is not only the UK legislation, but the European materials. There are plenty of examples that have been thoroughly debated and discussed.

Fergus Ewing: Thank you very much.

The Convener: Just before I ask whether any of you have anything further to offer, I wonder, following on from the exchange with Mr Ewing, whether there has been any further contact with the Scottish Government, beyond the two

instances that have been referenced. In fact, before we meet and have the opportunity to put these issues to the minister, can you say whether it is, as far as we are publicly aware, still the Government's position that it has no plans to do anything or that this is something that is very much on the back burner? Is that still its perception, as you see it?

Roger Mullin: Well, I have not had any communication—

The Convener: You have had nothing to the contrary.

Roger Mullin: The only official position that I know is what has been recorded.

The Convener: Before we come to a conclusion, is there anything further that it would be useful for us to understand or that you wish to add for our consideration?

Roger Mullin: I just want to thank the committee again. You have given us a very fair hearing—I cannot ask for anything more. I simply encourage you to be on the right side of this very important argument.

The Convener: Well, we have a reputation for being tenacious when it comes to pursuing ministers in relation to petitions. I always say that our mandate comes not from any party political manifesto but from the petitioner, on whose behalf we are acting when we are able to pursue and discuss the issues with ministers.

Does anybody else want to say anything?

Graeme Johnston: I have not been here before, and I was not quite sure what to expect. I am just grateful for the very thoughtful and engaged discussion that we have had. Thank you very much.

The Convener: Thank you very much for your time. Before I suspend the meeting, are members content to consider the evidence later?

Members *indicated agreement.*

The Convener: Thank you very much.

10:24

Meeting suspended.

10:26

On resuming—

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

The Convener: PE1812 seeks to protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors. This is a long-standing petition with which the committee has been engaged for quite some time. It was lodged by Audrey Baird and Fiona Baker, on behalf of Help Trees Help Us, and calls on the Scottish Government to deliver world-leading legislation to give Scotland's remaining fragments of ancient, native and semi-native woodlands, and woodland floors full legal protection before the United Nations climate change conference of the parties—COP26—in Glasgow, in November 2021. Members will therefore understand that it is a petition of some standing.

The petition's ask demonstrates how long it has been in progress, and we have heard from many different parties, including ministers, along the way. That includes a fresh response from the Cabinet Secretary for Rural Affairs, Land Reform and Islands, which indicates that while

"Scottish Government officials are progressing plans"

for a new register of ancient woodlands, it

"will be a significant and long-term undertaking."

That follows our site visit. I am not sure which members of the committee were on that—perhaps it is only David Torrance and I who survive from our walking tour of the ancient woodlands. It is certainly a long-standing petition.

The cabinet secretary's response also indicates that,

"The Scottish Government, Scottish Forestry and NatureScot are in agreement that protections in place for ancient woodlands against tree felling are adequate",

with protections having been "further strengthened" by policies that are included in the fourth national planning framework.

In preparation for the introduction of the natural environment bill, which we expect will be forthcoming during the current session of Parliament, the Scottish Government ran a consultation on aspects of the Scottish biodiversity strategy and proposed natural environment bill between 7 September and 14 December last year.

We have also received three submissions from the petitioners, who continue to share research on the impact of invasive non-native species on Scotland's ancient and native woodlands, as committee members saw on site and through illustration. The petitioners have also expressed concern at the lack of urgency to develop an ancient woodlands register, and about international investors buying land for carbon offsetting and then planting non-native conifer. They also call for the creation of an environmental court to address concerns about the lack of enforcement of protections, including those that national planning framework 4 provides.

The petitioner's most recent submission draws our attention to the impacts of further tree felling in the local area, despite tree protection orders being in place, and encourages us to invite further evidence from the Confederation of Forest Industries on the action that the industry is taking to protect ancient woodland and remove invasive species. Members might remember that a representative from Confor attended a round table that we held two years ago, in March 2022.

Before I ask members for suggestions, I am pleased to say that we have been joined by Jackie Baillie MSP, who, I think, has been pursuing the petition longer than some of the members of the committee, because she has been with us when we have heard about the petition at its various stages. Jackie Baillie, is there anything that you would like to say to the committee?

10:30

Jackie Baillie (Dumbarton) (Lab): Absolutely, and thank you for your forbearance in allowing me to come back repeatedly. I also thank the petitioners, Audrey Baird and Fiona Baker, for their determination to see the petition through.

As you rightly said, convener, it has been four years since the petition was lodged. In that time, very little action has been taken by the Scottish Government to prevent the further destruction of our natural historic environment. As we deliberate the petition, the Government drags its feet and time runs out to stop vast monoculture plantations destroying our biodiversity, environment and heritage. One of the suggestions that was made when the petition was last discussed was that the committee could consider holding a debate in the chamber on the petition, because ancient woodland touches every part of Scotland.

In August 2023, the Cabinet Secretary for Rural Affairs, Land Reform and Islands said in a submission to the committee that Scottish Government officials are progressing plans for a new register of ancient woodlands but that it is not possible to provide a timescale for completion. That is disappointing, and it reflects a distinct lack of urgency in so many of the Scottish Government's actions in this regard.

It is interesting that the cabinet secretary's submission points to a native woodland survey that was last done in 2014. That survey identified that 5 per cent of native woodlands were non-native species, yet another survey carried out much more recently, the Caledonian pinewood recovery project,

"showed that non-native trees were found on just under 30% of plots per site".

That is a substantial increase in less than a decade and it should have us extremely worried.

Apparently, the project is doing wonderful things. It is going to remove non-native species from X number of hectares, but what does that mean in real terms? What percentage is that of the problem that needs to be tackled, and has it survived the recent round of budget cuts? There is a lot to be concerned about there, and there is also a lot to be concerned about in the lack of regulatory powers. I am astonished at the complacency in the cabinet secretary's response, because, frankly, the protections are not adequate.

I will make three small points as I draw to a close. First, in 2022, the committee did some work to test the effectiveness of tree preservation orders. The petitioner's latest submission asserts that TPOs do not actually protect trees. Trees with TPOs are being felled, then developments are taking place in those localities. We have examples to illustrate that. There is nothing at all in the biodiversity strategy, which is the forerunner to the proposed natural environment bill, to deal with strengthening TPOs.

Secondly, I bring to the committee's attention a Royal Society of Edinburgh inquiry. Members of the RSE are currently lecturing on behalf of the Royal Scottish Geographical Society to educate the public about all the points that the petitioners have raised in their petition. The forestry mantra of having the right tree in the right place is not what is happening across the country.

Finally, there is the disenfranchisement of communities. Petitioners have often mentioned that communities are absent from dialogue about what to do with trees in their local area and changes in the forestry industry. The example I would cite is in my constituency. At Torr farm wood in Rhu, there was an incident of illegal felling, after which the landowner and Scottish Forestry responded to an event organised by the community council, which I attended. Scottish Forestry promised that it would introduce a revised management plan for that ancient woodland and that it would consult the community council. What we have now, more than a year later, if not two years later, is a fait accompli simply handed to the community council.

I remind members that trees with TPOs were illegally felled. Action is required quickly, because time is running out. Scottish Government action is terribly slow, so we need to urge it on because, at the moment, our ancient woodlands are disappearing because non-native species are taking over, and that is happening at pace. We need action now before the situation becomes any worse.

The Convener: Thank you for that passionate exposition in support of the petition. I wonder whether it is too corny of me to say that we have

had two COPs and that, if we have a third, that will be more than I have in my constituency.

Colleagues, can we have suggestions about how we might proceed?

David Torrance: I wonder whether the committee would consider writing to the Cabinet Secretary for Rural Affairs, Land Reform and Islands to ask when the Scottish Government will publish its analysis of its consultation "Tackling the nature emergency: Consultation on Scotland's Strategic Framework for Biodiversity". We should also seek an update on the Government's plans to introduce a natural environment bill.

Will the committee also consider writing to the Confederation of Forest Industries to highlight the petitioners' latest submission and to seek information on the action that the forestry industry is taking to remove invasive non-native species and ensure the protection of ancient woodlands?

As somebody who always likes to grant Jackie Baillie's wishes, I also wonder whether the committee would add the petition to the shortlist of topics on which the committee might wish to seek parliamentary debate, and we can consider that further when the committee next meets to consider its work programme.

The Convener: I wonder whether we might be slightly stronger with the Cabinet Secretary for Rural Affairs, Land Reform and Islands. I would like to express some disappointment on behalf of the committee at the suggestion that the work on a register can be done only as a significant and long-term undertaking. That seems to me not to demonstrate the urgency that has been evidenced in everything that we have heard and to be very non-specific. It seems incredibly open ended and, from my reading, clearly means that the matter would not be progressed during the current session of Parliament. That is not entirely acceptable.

Fergus Ewing: I should probably declare an interest, in that I am the convener of the cross-party group on the wood panel industry, which tends to consider the interests of the 25,000 people who are employed in sawmills and the panel products sector and related sectors and who are a key part of the economy. They rely on the continued supply over decades of species such as Sitka spruce, which are essential for what they do and without which they would not be in Scotland.

I have just been checking the long history of the petition, and I could not see any contribution from anyone on—I do not want to say "the other side", because it is not a case of sides; everybody wants to see a combination of productive and native species, and everybody values both. There must be a balance. However, we have not heard from the commercial side or from the panel products or sawmill sectors. Confor should be given a chance to be heard. Before we consider whether it is appropriate to have a debate, I would prefer to hear what Confor has to say. It has the right to be heard that belongs to everybody.

The other point that I would make—and I do not say this every day—is that I have some sympathy with the Scottish Government in this instance. I do not expect the Government to come along and repair my gas boiler or a broken roof on my house, and most of the ancient woodlands do not belong to the Government but to private landowners. Therefore, from a legal point of view at any rate, the obligation is not on the Scottish Government. Yes, there is a societal interest, as Ms Baillie has rightly highlighted. However, we do not want taxpayers to pay for things that owners should be doing as part of the silvicultural handling of their property.

I thought that I should mention that, just for the sake of balance. I am not against a debate or, in any way, against the eloquent arguments that have been made, but we need to hear from both sides.

The Convener: I am happy for us to write to that organisation again in the first instance, but we are talking about a register of ancient woodlands and not responsibility for the maintenance of woodlands. It is in relation to the register that I think—

Fergus Ewing: But we seem to have strayed into an argument of them against us, and of ancient woodlands versus introduced or commercial species. That is a difficult and sensitive argument that needs to be handled with sensitivity. My point is that we need to hear from both sides—that is all.

The Convener: I certainly think that, in our committee visit, those conflicts were not evident. There was physical evidence of the invasive nature of the issue and the lack of urgency in relation to producing the register of ancient woodland, which obviously exists, because otherwise we would not have a register that is capable of being updated.

Are members content to proceed with those suggested actions?

Members *indicated agreement.*

The Convener: I will suspend the meeting briefly, because we have a large party that wishes to join us in the public gallery. I also have to excuse David Torrance from proceedings for the rest of the meeting.

10:40

Meeting suspended.

10:41

On resuming—

Universal Free School Meals (PE1926)

The Convener: PE1926, which was lodged by Alison Dowling, calls on the Scottish Parliament to urge the Scottish Government to expand universal free school meals provision for all nursery, primary and secondary school pupils. It was last considered by the committee at our meeting on 28 June 2023. At that point, we agreed to write to the Cabinet Secretary for Education and Skills and to the Convention of Scottish Local Authorities.

The Convention of Scottish Local Authorities notes that planning is under way for the delivery of expansion of free school meals to pupils in primary 6 and primary 7, with the school estate's readiness to accommodate the expansion looking significantly different depending on each individual school. It has also been clear that, in order for the expansion to be deliverable, the full resource and capital costs of the programme must be provided by the Scottish Government. The Convention of Scottish Local Authorities does not have an agreed position on further expansion to include secondary school pupils, but it noted that any new commitments in the area would require full resourcing to enable successful delivery.

The cabinet secretary stated that it is her priority to roll out universal provision of free school meals to primary 6 and primary 7 pupils, starting with those who are in receipt of the Scottish child payment. The response also indicates that the Scottish Futures Trust surveyed the resource and capital needs of local authorities to deliver a phased roll-out of free school meal provision.

Since our last consideration of the petition, the 2023-24 programme for government has been published, with a commitment referring only to the roll-out of universal free school meal provision to primary 6 and primary 7 during 2026, with no further mention of the plans to deliver a pilot in secondary schools.

In the light of that, do members have any suggested options for action?

Maurice Golden: We should write to the Cabinet Secretary for Education and Skills to seek an update on action that is being taken to ensure that the phased roll-out of free school meal provision proceeds without delay, including further information on the outcomes of the Scottish Futures Trust survey on the resource and capital needs of local authorities to deliver the commitment.

It might also be helpful to ask the cabinet secretary to confirm, in respect of the commitment that is included in the programme for government—as the convener mentioned—whether the Scottish Government still intends to take forward a pilot of universal free school meals in secondary schools during the current parliamentary session.

The Convener: We would particularly like to know whether that is the case, given that that was a Government commitment.

Are colleagues content with the proposals from Mr Golden?

Members *indicated agreement.*

Redress Scheme (Fornethy House Residential School) (PE1933)

10:45

The Convener: PE1933, on allowing the Fornethy survivors to access Scotland's redress scheme, has been 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 Scotland's redress scheme to allow Fornethy survivors to seek redress.

It is obvious that a considerable number of the survivors have joined us for today's contributions, and I welcome them all to the meeting. We have also been joined by parliamentary colleagues Colin Smyth and Alex Cole-Hamilton, who have an interest in the petition, and we have received statements of support from Martin Whitfield, who I believe was present at the previous discussion of the petition, and Brian Whittle. Both are unable to join us in person this morning.

The committee last considered the petition at our meeting on 20 March, when we heard evidence from the Deputy First Minister. I again offer my apologies, as I was at a funeral that morning, but I very much congratulate my colleagues, particularly our substitute member Oliver Mundell, for the tenacious way in which they put the relevant issues to the Deputy First Minister. Having heard that evidence, we now have an opportunity to consider what we might do further.

Following the evidence session, we received a written submission from the petitioner in response to the Deputy First Minister's evidence. Evident in that submission is the concern that the change of Deputy First Minister from John Swinney to Shona Robison appears to have led to a shifting of the goalposts by the Scottish Government, with the lack of official records from Fornethy preventing survivors from pursuing applications to the redress

scheme, despite Mr Mundell's points on why that was not an obstacle that, he thought, could not be overcome. The petitioner also draws our attention to potential inconsistencies between the findings of Dr Fossey's report and the findings of Professor McAdie's research on how Fornethy house operated.

We are not taking evidence this morning but, as is my custom, I seek to hear from colleagues with an interest in the issues that have been raised. First of all, I invite Colin Smyth, who has been quite closely involved with the petition for some time, to offer some thoughts to the committee.

Colin Smyth (South Scotland) (Lab): Thank you, convener, for the opportunity to address the committee, and I also thank the committee for its very robust and thorough approach to this important petition.

I have the privilege of being one of Marion Reid's regional MSPs in South Scotland. As you will be aware, Marion established the Fornethy house residential school survivors group, and she is here today, along with as many of the survivors that we could find seats for. Because of that group, hundreds of women have bravely come forward. In many cases, they were sent as wee girls by the state to Fornethy in the 1960s to be subjected to unimaginable physical, mental and in some cases sexual abuse, under the care of the state. That is not in dispute.

The women's bravery has, I believe, exposed how fundamentally unfair the redress scheme is. As you have said, convener, the then Deputy First Minister told the Education, Children and Young People in January 2023:

"I reject the idea that the scheme is not for Fornethy survivors; I think that it is possible for Fornethy survivors to be successful in applying under the scheme."—[*Official Report, Education, Children and Young People Committee,* 12 January 2023; c 14.]

Last month, however, the current Deputy First Minister confirmed to the committee that the circumstances at Fornethy were explicitly "excluded from the scheme" by the Government. As she told the committee, regulations that were brought in by the Government after the primary legislation was passed in 2021 mean that so-called short-term respite care was excluded, but as the women themselves say in their latest submission to the committee,

"It only takes one event, one day to change your world view of life forever and the lasting trauma that brought. ... Are we not worthy because we were only abused for a short period?"

The Deputy First Minister said to the committee that, because the personal records in Glasgow City Council's archives have not been found, it would, even if the circumstances and the criteria were changed, be difficult for survivors to meet the evidential requirement. However, what about the collective memory of those survivors—their painful stories, their recollections and, in some cases, the photographs and letters that they have? These women are not making it up, and redress has been made in other similar circumstances where records have been destroyed.

The Deputy First Minister told the committee that Fornethy survivors are excluded because of parental consent, but we cannot and should not apply modern-day notions of consent in the historical context that we are dealing with. Those wee girls were sent to Fornethy by the state, and they were abused by the state, and no one except those responsible for that abuse consented to that happening.

As the Scottish Human Rights Commission has consistently argued, all survivors who have been abused where there was state responsibility have the right to an effective remedy, and we are failing to provide that. For those women who were abused before 1964, in particular, civil court action cannot legally be pursued and, as time passes, criminal cases become less likely as the perpetrators pass away. For many, redress is their only remedy and their only shot.

The Deputy First Minister cannot come before the committee and put on record her acknowledgement of that abhorrent abuse that those wee girls suffered at Fornethy but then say that there will be no redress. I hope that the committee will stand by your very robust calls for change, if need be through a new scheme or a change to the scheme that prioritises pre-1964 survivors, and that you stand by these brave women.

We meet many people in our role as MSPs, and I doubt that I will meet a braver group of women than the Fornethy survivors. I pay tribute to them. In their latest submission, the women said:

"Trust is sacred. Our trust was broken as little girls and now again our very trust in the justice system that is there to help us and has the power to do the right thing by us, has been shattered."

We need to do the right thing and restore that trust to those women.

The Convener: Thank you, Mr Smyth. I know that those in the public gallery will be keen to join in and show support, but let us say that, as a committee, we understand that that is implicit.

I call Alex Cole-Hamilton. Is this your debut at the Citizen Participation and Public Petitions Committee, Mr Cole-Hamilton?

Alex Cole-Hamilton (Edinburgh Western) (LD): It is.

The Convener: Welcome. I invite you to address the committee.

Alex Cole-Hamilton: Thank you for your indulgence in allowing Colin Smyth and me to address the committee this morning.

There is, of course, a legal dimension to this issue, so there is an element of detail that we cannot go into around the cases, the survivors and the abuse that they suffered. There is much that we cannot say but want to say and I hope that, in the fullness of time and upon the conclusion of the legal proceedings, there will be an opportunity for those stories to be told in full.

I, too, pay tribute to the Fornethy survivors and, in particular, to Marion Reid. As you say, convener, many of them are joining us in the public gallery this morning. Many of those whom we can see before us today joined Colin Smyth and me on a trip back to Fornethy house last summer. It was a very emotional but cathartic visit.

I first met the women more than two years ago. The accounts that they imparted to me of the brutality and sexual abuse that they suffered as young children are absolutely horrendous and harrowing, and they still keep me awake at night. The courage that the women have demonstrated in telling us about what happened to them and in fighting for justice, sometimes against the prevailing wind, has been truly inspiring. They have said that it has never been about money, but what they want more than anything is an acknowledgement of the abuse that they suffered, and to receive a full and meaningful public apology.

In her remarks to the committee last month, the Deputy First Minister said that the women should be excluded from the redress scheme, arguing that they were sent to Fornethy for short-term care. However, that runs contrary to the accounts of countless women. We know that thousands of girls from disadvantaged backgrounds were sent by Glasgow council to Fornethy as "educational pupils"—I quote the phrase that was used—at a residential school, not as children attending a respite care centre or holiday home. It has been suggested that these girls' parents sent them to Fornethy voluntarily, but they were largely from vulnerable and impoverished families who put their children into the care of the school system and facilitated their attendance at Fornethy.

Even the former Deputy First Minister, John Swinney, said:

"I find it difficult to reconcile"

placing a young person in Fornethy house with

"some form of voluntary endeavour".—[*Official Report, Education, Children and Young People Committee*, 12 January 2023; c 14.]

He also rejected the idea that the scheme is not for the Fornethy survivors. It would be a grave injustice to bar these women from the redress scheme. I hope that the committee recognises the stories of these courageous women and, at the very least, allows them to tell their story to the world, recognises their victimhood and recognises that the redress scheme should apply to them.

It has been one of the privileges of my parliamentary career to bring light to their story. I stand with them today. I have stood with them for the past two years, and I will continue, along with Colin Smyth and other parliamentarians named in your opening remarks, convener, to stand with them for as long as it takes for them to find justice.

The Convener: I was not able to be present but, ahead of the funeral that I had to attend, I was able to watch the proceedings live and I have had an opportunity to consider the *Official Report*. Therefore, before I invite colleagues to make any proposals, I have two that I would like to make.

First, I would like the committee to agree to write to John Swinney MSP to draw his attention to the suggestion that was made, as a result of the evidence, about the potential shift in opinion that has happened between his period as Deputy First Minister and the current Deputy First Minister, and to ask whether he recognises, supports or understands the position that the current Deputy First Minister is taking.

Secondly, I propose that we invite Redress Scotland to come before the committee to explain its position so that, under interrogation, we can come to understand further what we believe might be done. Are members content with those two proposals? Are there any other suggestions?

Maurice Golden: It is probably worth reflecting that the evidence that we received at the previous meeting was disturbing and deeply troubling. We should look to ensure that the petitioners are properly recognised.

Convener, you are right to highlight what appears to be a difference in the approach of the current Deputy First Minister and that of the previous one. We reached a recognition of the harm to the survivors from Fornethy but, beyond that, the Scottish Government was going to take no further action on the basis that there might be many more victims out there, and that, according to the Deputy First Minister, those victims experienced the abuse only for a very short time, which is quite a harrowing suggestion to have made.

I agree with your point, convener, but it would also be worth writing to the Law Society of Scotland and Thompsons Solicitors to seek their views on the issues raised by the petition, including any advice that they provide to potential

applicants to the redress scheme about evidential requirements.

Fergus Ewing: I agree with all that. I also recognise the sentiments that were expressed by Mr Smyth and Mr Cole-Hamilton, and I entirely agree with everything that they said.

At the meeting where we heard from the current Deputy First Minister, I felt that the arguments that were presented were insupportable, unjustifiable, inexcusable and quite impossible to defend on any basis, frankly. I have seen the petitioner's written submission of 10 April, some of which has been alluded to, and I want to make two additional suggestions, which at this point are contingent. In other words, we might not require to resort to them, but we should, if necessary.

First, I think that your suggestion, convener, that we raise with John Swinney the apparent contradiction between the positions adopted by the current and the previous Deputy First Ministers is excellent. However, at the end of the day, where those who are second-in-command adopt two apparently different positions, what do you do? You go to the boss and say, "Look, your two deputies cannae agree with each other." Okay, one was the previous deputy and not the current one, but he was still the Deputy First Minister of Scotland. We should indicate that we might be minded to seek evidence from the First Minister, if we cannot get justice for the people who are here today and those who cannot be with us.

11:00

In addition, it would be helpful to signal that, if all of those things prove to be ineffective, we would not be doing our job if we did not go back to the floor of our Parliament and debate the issue there.

The Convener: I do not wish to be unkind, but I sometimes feel like a judge in one of those TV programmes. I have to keep reminding counsel that he is not a witness. He is here to make constructive suggestions as a member of the committee.

Thank you, Mr Ewing. We will take on board the spirit and sentiment of that—I think that the committee was very unanimously of the view underpinning that.

Foysol Choudhury: I asked the current Deputy First Minister whether she would change the regulation. What is her current position on that? I do not think that we have had a clear answer.

The Convener: I read the *Official Report*. You said,

"Good morning, Deputy First Minister. Could you change the regulation, even though the current position is not to change it?",

to which Shona Robison replied,

"Technically, yes."—[*Official Report*, *Citizen Participation and Public Petitions Committee*, 20 March 2024; c 16.]

That was followed by a long treatise.

I believe that Mr Swinney's position was slightly different, so I am inclined to wonder whether, in the letter that we write to Mr Swinney, we should ask whether, in fact, he was minded to consider that when he was in office.

Mr Ewing is correct. There is an opportunity at the biannual Conveners Group meeting with the First Minister for me, as convener, to put to the First Minister the issues of a particular petition. If we get to that point, and we are not satisfied with the response, it is perfectly possible for us, as a committee, to lead a debate in the chamber. However, there are few petitions on which the committee has been so robustly unanimous in its view of the way in which matters have progressed and the outcome that we think is achievable and ought to be pursued.

We agree with the various actions that have been suggested this morning. I thank Mr Smyth and Mr Cole-Hamilton for joining us, and I thank those in the public gallery who have joined us as well. I will not suspend the meeting, because we have quite a lot of business to get through. If you are planning to leave, I ask you to be as discreet in your exit as you can be. Thank you all very much.

Wheelchair Accessible Homes (PE1956)

The Convener: PE1956 seeks to increase the provision of wheelchair-accessible homes. The petition has been lodged by Louise McGee and calls on the Scottish Parliament to urge the Scottish Government to review the existing wheelchair-accessible housing target guidance, and to explore options for increasing the availability of wheelchair-accessible housing in Scotland.

The petition was last considered on 28 June, when we agreed to write to the Scottish Government and to organisations involved with the "Dying in the Margins" exhibition. The Scottish Government has responded to say:

"Good progress has been made by local authorities in not only setting wheelchair accessible housing targets but in delivering more wheelchair accessible homes."

As a result, the Government has no plans to review the wheelchair-accessible housing target guidance at this time.

The response also notes the Scottish Government's

"consultation on proposed changes to Part 1 of the Housing for Varying Needs design guide",

which will

"continue to provide design criteria for housing designed specifically for wheelchair users."

We have also received submissions from academics involved in the "Dying in the Margins" study and from the end-of-life charity Marie Curie, which share information on the impact of inadequate housing on those who are nearing the end of life and who are diagnosed with a terminal illness.

The responses also set out the recommendations that national and local government should address the housing needs of terminally ill people and their families and carers. Many members of the committee understand that there is not much point in a response coming after a terminal illness has run its course and the person who needs housing is, unfortunately, no longer with us. Responses must be prompt and decisive.

Notwithstanding all that, do members have any comments or suggested actions in respect of the aims of the petition?

Maurice Golden: Unfortunately, I think that we have come to the end of the road with the petition, and I think that we should close it under rule 15.7 of standing orders on the basis that, first of all, the Scottish Government has no plans to review the wheelchair-accessible housing target guidance at this time; secondly, it has recently consulted on changes to part 1 of "Housing for Varying Needs: a design guide", which includes the design criteria for housing specifically designed for wheelchair users; and finally it is considering the housing-related recommendations contained in the dying in the margins policy briefing.

The Convener: Are colleagues content with that proposal?

Members *indicated agreement.*

The Convener: In closing the petition, I thank the petitioners for raising the issue and say to them that we have only two years of this session of Parliament left and that they should hold in reserve the option of submitting a fresh petition in the next parliamentary session, if the progress that the Government believes it is making proves to be insufficient and if, at that time, the issue remains just as live.

Perinatal Mental Health Support (PE2017)

The Convener: PE2017 is on extending the period that specialist perinatal mental health support is made available beyond one year. The petition, which has been lodged by Margaret Reid, calls on the Scottish Parliament to urge the Scottish Government to amend section 24 of Mental Health (Care and Treatment) (Scotland) Act 2003 to extend maternal mental health support beyond one year; to introduce a family liaison function at adult mental health units across all health boards; to introduce specialised perinatal community teams that meet perinatal quality network standard type 1 across all health boards; and to establish a mother and baby unit in the north-east of Scotland.

We are joined this morning by Tess White, who, we understand, has been supporting the petitioner's pursuit of her petition. Good morning, and welcome back to the committee that you were once a member of.

Tess White (North East Scotland) (Con): Thank you.

The Convener: The Scottish Government provided the committee with information back in August of last year. In that submission, the Government noted its intent to publish an initial plan on options for changes to the 2003 act by the end of 2023. Moreover, last November, the Health, Social Care and Sport Committee followed up on the recommendations from its inquiry into perinatal mental health services.

The Minister for Social Care, Mental Wellbeing and Sport provided an update in January in which she noted that a draft service specification for perinatal mental health services was being developed and that the NHS National Services Scotland's report on mother and baby unit provision was with the Scottish Government for consideration. The update also noted that the Scottish Government was continuing to collaborate with mother and baby units to conduct a review of the mother and baby unit family fund.

Before I ask committee members to say how they think we might proceed, I invite Tess White to address the committee.

Tess White: Good morning. I thank the committee for its consideration of the petition.

I have been deeply moved by Maggie Reid's campaign to improve perinatal mental health services in Scotland. The campaign began because of the horrendous experience of her sister, Lesley. Maggie and Lesley could not make it today, but they are watching, and this is what they wanted to say to you.

Lesley wants you to know:

"Having been admitted to both a MBU and an adult mental health unit, in my experience the environments and care are miles apart. From what I experienced the adult mental health unit was a horrible environment for someone with my condition. I was one of 2 females on a male dominant ward which made for intimidating and difficult conditions.

Although I can understand why I was 'locked up' and separated from my family, in the MBU the environment was softer and I had a focus as I had my baby with me."

This is from Lesley's sister, Maggie, who submitted the petition:

"After experiencing Lesley's terrible care when she was sectioned it made me want to make a change so that it did not happen to anyone else.

It disappoints me and frustrates me how little the government has done to support the petition I put in. I keep asking myself the same question how many more women need to become so unwell that they need the system which fails them or how many more sadly die from being so ill. It is all over the newspaper just now regarding women's mental health and suicides"

so

"why are you not acting faster"?

To date, we have heard warm words from the Scottish Government about establishing a mother and baby unit in the north-east, but national health service building projects have now been put on hold for up to two years.

A key message from organisations such as the Maternal Mental Health Alliance is that the changes are so desperately needed. Suicide is the leading cause of death for new mothers. One in four mothers develop a mental health issue as a result of pregnancy or childbirth, and many of those women are being failed every day, with a postcode lottery in service provision.

I urge the committee, on behalf of Lesley and her sister Maggie, to hold the Scottish Government to account on those issues and to help Maggie to secure the urgent change that she is hoping for.

The Convener: Thank you, Tess, for that impassioned address. In view of the submissions that we have received and the evidence from Tess White, do colleagues have any suggestions as to how we might proceed?

Maurice Golden: I should highlight that I know the petitioner and her sister. I raised this matter with the First Minister previously. However, it is my colleague, Tess White, who has primarily been supporting the petition, and she raises some very pertinent points.

Our first course of action should be to write to the Minister for Social Care, Mental Wellbeing and Sport to seek updates on the development of a draft service specification for perinatal mental health services; on progress on the Scottish Government's consideration of NHS National Services Scotland's options appraisal report on mother and baby unit provision; on the review of the mother and baby unit family fund; and on the publication of the mental health and capacity reform programme, which was initially expected at the end of last year.

The Convener: Are we content with those suggestions? Are there any other complementary suggestions from members of the committee?

Ordinarily I would not invite suggestions from non-committee members, but if you have a suggestion for some further action, Ms White, I am sure that the committee would be happy to hear it.

Tess White: I do have a suggestion—thank you, convener.

I will mention two things. First, you said earlier that you would take the First Minister a list of petitions that the committee feels are very important. I ask whether PE2017 could be included in that list.

Secondly, I asked representatives of NHS Grampian, at their most recent meeting with us, if it could consider ensuring that design for the purposes discussed could be included in its architects' drawings when the new hospital goes ahead and is built. If that could be included, that would be welcome.

The Convener: I am sure that colleagues would be happy to include the latter and to reflect on the former.

Tess White: Thank you.

The Convener: We will keep the petition open on that basis and pursue the actions as suggested.

Disposable Vapes (PE2033)

The Convener: Our next petition is PE2033, on introducing a full ban on disposable vapes. My apologies, but I have a bit of an introduction to make for this one.

The petition was lodged by Jordon Anderson and calls on the Parliament to urge the Government to legislate for a full or partial ban on disposable vapes in Scotland and to recognise the dangers that the devices pose to both the environment and the health of young people.

I am conscious that there is quite a public debate around the whole issue of vapes, so it is important that I set out the following information.

We previously considered the petition at our meeting on 4 October last year, and we agreed to write to the Scottish Government and Action on Smoking and Health (Scotland)—known as ASH Scotland—Forest, representatives of the UK vaping industry and other vape manufacturers.

We have received a response from the Scottish Government, which notes that its commitment to consult on a proposed ban on single-use vapes has been taken forward through the four-nations joint consultation, which ran from 12 September to 6 December 2023.

We have also received a submission from ASH Scotland, which notes its support for a ban on disposable e-cigarettes and provides survey data on the increase in the number of young people using disposable e-cigarettes.

Responses have also been received from the Independent British Vape Trade Association and the UK Vaping Industry Association, both of which caution against the unintended consequences of banning an entire vaping product category and argue that a ban on single-use vapes would have a detrimental impact on adults trying to quit smoking.

11:15

I also draw members' attention to the publication of draft regulations to ban the sale and supply of disposable vapes, which were published in February and are expected to come into force next April, and to the ministerial statement provided to Parliament just a few weeks ago, on 26 March, updating us on the Scottish Government's work to tackle youth vaping.

We have also received a submission from the petitioner, expressing scepticism about Scotland's aim to be tobacco-free in the next 10 years and suggesting that marketing campaigns are not enough to deter young people from vaping. Although the petitioner welcomes the introduction of the Tobacco and Vapes Bill to the UK Parliament, he is concerned that regulation of online sales of vaping products has not been included in the bill.

It may also be pertinent to note the actions to control tobacco consumption that are currently being progressed by the UK Government at the Westminster Parliament.

In light of those various initiatives and the responses that we have received, do members have any suggestions about how we might now proceed?

Maurice Golden: I think that we should close the petition, but not yet. I think we should wait to see whether the regulations proposed by the Scottish Government, which would achieve the aims of the petition, come into force. I believe that the regulations are at the draft stage at the moment and will be introduced. For the comfort of all, I think that we should wait until that occurs before closing the petition.

The Convener: To summarise, we are taking a decision in principle to close the petition, but we are deferring the taking of a formal decision until the regulations are introduced, or at least until we are told that regulations will be introduced, at which point we will either close the petition or inquire why the regulations have not been introduced.

Does that meet with members' approval?

Members *indicated agreement*.

Legal Control of Generalist Predators (PE2035)

The Convener: PE2035, to recognise legal control of generalist predators as a conservation act, a petition on which we took evidence recently. It was lodged by Alex Hogg on behalf of the Scottish Gamekeepers Association.

The petition calls on the Scottish Parliament to urge the Scottish Government to officially recognise legal control of abundant generalist predators as an act of conservation to help ground-nesting birds in Scotland. Members will recall our meeting with Mr Hogg, who called for a ministerial statement recognising predator control and the value of gamekeepers in addressing the biodiversity crisis. He also suggested ways that the Scottish Government could actively support predator control activity.

In the light of the evidence that we heard from Mr Hogg, do colleagues have any suggestions as to how we should proceed?

Fergus Ewing: I suggest that we write to the Minister for Green Skills, Circular Economy and Biodiversity to highlight the petitioner's evidence, to which you have alluded. In that, as I recall from having briefly re-read some of it, he not only asked for a ministerial statement—which I will come to in a moment—but postulated that the good work that his members and others do in the control of predators in order to encourage biodiversity and a reduction in the number of other species being lost should, perhaps, be recognised financially in the forthcoming decisions about the restructuring of agricultural support in Scotland. I mention that because I think it is an innovative suggestion and one that deserves to be considered.

I would invite the minister to consider that specific suggestion, and I have four other points for her.

First, if she gives a ministerial statement, as Mr Hogg suggested—in which he would like her to recognise predator control and the value of gamekeepers in addressing the biodiversity crisis—I would like to know whether information is available about the costs and outcomes of each conservation method. In her statement on 28 November, the minister dealt with various conservation methods, but I got the impression that she did not prefer predator control, at all; that screams out from the page. Therefore, I would ask the minister to commission research to compare the costs of each method against the outcomes.

That would surely assess whether we are getting value for money.

The other points are these: what financial support is available for predator control activity? What is the minister's view on whether more funding should, as alluded to, be made available for keepers to carry out that work to support conservation aims? Has consideration been given to area zoning to allow for targeted predator control while preventing the widespread removal of species?

The Convener: Thank you, Mr Ewing. Are there any other suggestions?

Foysol Choudhury: The last time the committee considered the petition, the petitioner mentioned that he goes to schools to teach children about gamekeepers and the pupils do not know what a gamekeeper is. I do not know whether he has done anything about that, but he mentioned that that needs to be taught in schools and that a lot of people are not aware of that. Is there any improvement on that?

The Convener: We could include a question to the minister about what efforts are being made to promote the valuable work that gamekeepers do and the contribution that they make. Are we content with those proposals?

Members *indicated agreement.*

New Petitions

Vapes and E-cigarettes (PE2066)

11:20

The Convener: Item 3 is consideration of new petitions. To those who might be watching our proceedings because this is the first consideration of their petition, I say that, ahead of the consideration of any new petition, we seek a view from the Scottish Government, because otherwise that would be the first thing that we would do.

We also receive a briefing from the Scottish Parliament's independent research body, SPICe. I thank everybody in SPICe for the work that they do on behalf of the committee. Most committees draw on the experience and advice of SPICe on core subjects so that they can follow a clear narrative path. The Citizen Participation and Public Petitions Committee's varied agenda means that we go to SPICe with the broadest possible diet of requests for supporting information and the committee members are grateful for the detailed briefings that we receive, particularly when we are taking evidence on a new petition.

The first of the new petitions is on familiar territory, given the conversation that we had a moment ago. PE2066, lodged by Lewis McMartin, calls on the Parliament to urge the Scottish Government to treat vapes and e-cigarettes in the same way as we treat tobacco and cigarettes by banning the brightly coloured packaging and contents and/or removing the devices from public display so that they are only available from behind customer service counters, and by preventing special offers that promote the sale of multiple units for a cheaper price.

The petition notes the legislation that was passed in 2010 to prohibit the display of tobacco and smoking-related products and suggests that, if vapes and e-cigarettes are to be sold as tools for smoking cessation, they should be tobacco flavoured. As noted in the SPICe briefing, the Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016 restricts the marketing, advertising and sale of vaping products. The act also gives Scottish ministers powers over restricting or prohibiting displays and promotions of nicotine vapour products. However, those powers have yet to be exercised.

As I did during our consideration of the related petition a moment ago, I draw members' attention to the ministerial statement that was provided to Parliament on 26 March that updated us on the Scottish Government working towards a tobacco-free Scotland by 2034 and tackling youth vaping. The statement also mentioned the introduction of

the Tobacco and Vapes Bill to the UK Parliament that would give ministers the power to regulate retail displays of vapes and other nicotine products, as well as extending existing provisions on the regulation and distribution of nicotine products.

There is a lot to digest in that. Do members have any comments or suggestions in the light of all that about what action might be appropriate?

Fergus Ewing: First, I wonder whether we might close the petition under rule 15.7 of standing orders on the basis that the Scottish Government is actively considering next steps following the consultation on proposed rules to tighten existing restrictions on the advertisement and promotion of vaping products. Secondly, UK-wide legislation has been introduced to the UK Parliament, and it would extend the powers that are available to Scottish ministers on the regulation and distribution of nicotine products and give them the power to introduce regulations on the display of vaping and other nicotine products.

The Convener: Are we content to proceed on that basis? Unlike the previous petition, which we will hold open to see whether what was promised occurs, in view of the information that we have received, I propose that we close the petition. Does the committee agree to do that?

Members *indicated agreement.*

The Convener: I thank the petitioner, but, for the reasons stated, I hope that they will understand the limit on how we can proceed.

Airborne Infections (Health and Social Care Settings) (PE2071)

The Convener: PE2071, lodged by Dr Sally Witcher, is on taking action to protect people from airborne infections in health and social care settings. Jackie Baillie has endured our proceedings since her earlier contribution, to stay with us and contribute to our discussion of this petition, too.

The petition calls on the Scottish Parliament to urge the Scottish Government to improve air quality in health and social care settings through addressing ventilation, air filtration and sterilisation; to reintroduce the routine wearing of masks, particularly respiratory masks, in those settings; to reintroduce routine Covid testing; to ensure that staff manuals fully cover preventing airborne infection; to support ill staff to stay at home; and to provide public health information on the use of respiratory masks and high-efficiency particulate air—HEPA—filtration against airborne infections.

The Scottish Parliament information centre's briefing states that the highest-risk list ended on 31 May 2022, and that the guidance on extended use of face masks and coverings across health and social care settings was withdrawn on 16 May 2023.

The Scottish Government's submission explains that a robust process is in place for creating, updating, and removing Covid-19 guidance and that the information sources and decisions remain under continual review. Routine testing has now been paused, with the exception of such testing pre-discharge from hospitals to care homes and hospices.

On staff manuals, the Government explains that it has no ownership or control over the content of the "National Infection Prevention and Control Manual". It also notes that new guidance on ventilation for non-clinical workplaces was published in October 2022, which included refreshed advice on measures to improve ventilation for individuals and workplaces, as well as new guidance detailing the most appropriate use of air-cleaning technologies.

The petitioner has provided two written submissions, which are available to members in their meeting papers. She emphasises her concerns about the on-going risks of Covid-19 at a national level. She notes that the Public Health Scotland dashboard for acute hospital admissions revealed a higher rate over the winter just past than that when the mask guidance was withdrawn.

The petitioner highlights that an estimated one in 10 infections results in long Covid, and that care workers are disproportionately affected. She points out that NHS England has guidance on the use of HEPA filters and sterilisation in hospitals, whereas Scotland focuses on ventilation. On face masks, she highlights the Royal College of Nursing's support for reinstating mask wearing and that individual person-centred clinical risk assessment for respiratory protective equipment does not work when there is a risk for everyone in the environment. On public awareness, the petitioner asks why nothing has been done to share important information with the public about the on-going risks of Covid-19.

The Care Inspectorate has written to draw attention to its updated guidance, which makes it clear that care homes must not rely on mechanical ventilation only and must have the ability for fresh air to be provided. In response, the petitioner asks what the Care Inspectorate would consider to be adequate and suitable ventilation and how that is to be addressed and enforced.

The issues raised in the petition are similar to those on which we took evidence in respect of an earlier petition that was subsequently closed, on which we heard from long-term Covid sufferers on

sustained issues arising from the former pandemic.

Before I ask members how we might proceed on the petition, I invite Jackie Baillie to address us again.

Jackie Baillie: I thank Dr Sally Witcher for bringing the petition to Parliament. I am one of the co-conveners of the Parliament's cross-party group on long Covid, so I am well aware of the calls to improve air quality in both health and social care settings and indoor settings such as schools. We have debated the issue in Parliament.

I was interested to read the Scottish Government's response, because it sets out quite clearly what it is not doing. Covid has not gone away. Just because the Scottish Government believes that nobody is still at risk does not make that true. Those who are immunosuppressed are still at risk of contracting Covid, and we must ask what we can do to protect them.

As I said, Covid-19 has not gone away. The clinical risk continues. There is a direct impact not just on someone's health but on the economy. Many of the statistics that we have seen in recent times, which show the number of people who are not employed, suggest that there is a problem that we must consider.

We also know that reinfection with Covid-19 increases someone's chances of developing long Covid, and, as Dr Witcher has said, one in 10 people are likely to get long Covid and suffer long-term symptoms.

The impact on the economy is significant and can be seen in our public sector as well. I recently attended a long Covid group in Inverclyde, and everyone at the table who had long Covid was a front-line worker. Whether they worked in a school or in a health and social care setting, they were the ones without PPE at the beginning, and they have been impacted the most. The issue is having a significant effect not just on the economy in its widest sense but on our public services and their ability to run.

No one is immune to the risk. All of us here could get Covid. Vaccination is now restricted to those over 75 and people who are immunosuppressed. Regular testing has been stopped in health and social care settings, so we do not know who has got it and whether they are passing it on, and the use of face masks and covering is no longer mandatory. That is an issue specifically in health and social care settings; I am not talking about what is happening in the wider population, where we do not even bother to count incidences anymore, so we do not know whether the rate is bad or not to any great degree.

The introduction of improved air quality in health and social care settings would be an important step in preventing people from being infected and reinfected with Covid-19 and suffering the subsequent effects of long Covid. Other things that would make a huge difference include making PPE available to those who work with vulnerable people, bringing back testing so that we can monitor prevalence and direct our response, and supporting people at home.

In her submissions, the petitioner has shown that clinically vulnerable people are more likely to experience poorer outcomes as a result of Covid. They report that they feel that healthcare is unsafe and that action on clean air and the use of respiratory masks in healthcare settings would make a difference.

Of course, we are talking not only about Covid but about other respiratory illnesses. A study in Europe found that people who were exposed to dirtier air spent as many as four days longer in hospital and were 36 per cent more likely to need intensive care treatment. That shows that the petition's proposal works in relation to other illnesses as well. The research, which was published in the *European Respiratory Journal*, said that cleaner air brought health benefits that are almost as great as some of the medical treatments given to Covid-19 patients. However, in response to the petition's call for ventilation systems, the Scottish Government said that health boards should

"use their delegated capital budgets to maintain their estates, replace equipment and minimise risk to patients, staff and visitors."

That is funny, because health boards are facing enormous budget pressures on a scale that we have not seen for a while, and they are going to be forced to make cuts to their existing budgets, with all capital projects basically halted. Therefore, without assistance and direction to do so, it will be almost impossible for health boards to fund the air filtration systems in hospitals that are needed to make clean air.

Of course, the issue is about not only hospitals but care settings, including care homes and care at home. Vulnerable people surely deserve a level of protection that reduces risk. For example, if someone who is immunosuppressed has carers coming in, PPE should surely be available. The Care Inspectorate's submission does not really consider that point at all, which is disappointing.

In closing, I will say that, in 2022, as a result of the expertise and learning that they acquired during the pandemic, and their awareness of the importance of good indoor air quality for health, Belgium passed a law to improve indoor air quality in all closed spaces that are accessible to the public. However, we seem not to have learned any

lessons at all, and certainly none in relation to protecting those who are most vulnerable or are immunocompromised, and I hope that this petition will start the process of ensuring that the Scottish Government pays attention to what it needs to do.

The Convener: Thank you. This is our first consideration of the petition, and it may well be that there is further evidence that we would want to take and other views that we would want to hear. Do colleagues have any suggestions for action?

Foysol Choudhury: I suggest that we write to the Scottish Government to ask when its latest review of information sources and decisions relating to the pause in or withdrawal of Covid-19 guidance took place, and what the outcome of that review was.

We could also write to stakeholders to seek their views on the action called for in the petition. Those stakeholders could include the Royal College of Nursing, Scottish Care and the Health and Social Care Alliance Scotland. We could also write to the Care Inspectorate to ask how "adequate and suitable" ventilation is defined in practice and how it assesses and enforces the ventilation standards.

The Convener: I am particularly interested in Mr Choudhury's suggestion in relation to the Care Inspectorate, which I think is quite right. "Adequate and suitable" is very vague terminology, and I would have thought that it is certainly not a benchmark against which any definable standard introduction could be monitored.

Maurice Golden: I think that we should also write to the Royal College of Physicians. In our correspondence to the Scottish Government, and perhaps to other stakeholders, we should include questions about monitoring indoor air quality, which could be relevant to what factors we might wish to consider in order to improve it. We need to get evidence on that.

The Convener: As there are no other suggestions, does the committee agree to proceed on that basis?

Members *indicated agreement.*

The Convener: We will keep the petition open, and we will begin our inquiry. I thank Jackie Baillie again for her participation.

Covid-19 Vaccine Boosters (Teachers and School Staff) (PE2072)

The Convener: PE2072, lodged by Peter Barlow, calls on the Scottish Parliament to urge the Scottish Government to offer Covid-19 vaccine boosters to teachers and school staff. The Scottish Government's response to the petition explains that its decision making throughout all Covid-19 vaccination programmes—as with all other vaccination programmes, I think—has been guided by the independent expert clinical advice of the Joint Committee on Vaccination and Immunisation. The submission states that the JCVI did not advise that teachers and school staff should have been offered a winter vaccine and that the Scottish Government had no plans to make Covid-19 vaccination available to groups that are not covered by JCVI advice. A statement on vaccinations from JCVI in February did not advise vaccination for teachers and school staff.

The petitioner's submission states that he believes the JCVI advice to be inadequate in preventing transmission in schools, and he questioned the basis for the Scottish Government relying so heavily on JCVI advice. The petitioner shares a tweet in his submission that sums up his view that that approach from the Scottish Government is "not good enough".

Do members have any comments or suggestions for action?

Maurice Golden: As a committee, we genuinely try to follow up on every petition, particularly in our consideration of new petitions. In this case, I think that we should close the petition under rule 15.7 of the standing orders, on the basis that the Scottish Government intends to continue to follow the JCVI's advice on vaccination programmes, that the JCVI's advice on spring 2024 vaccination does not suggest offering vaccinations to teachers and school staff and that it indicates that the autumn campaign will be smaller than in previous years.

The Convener: In the light of the advice that we have received and of the Scottish Government's clear intention, are members content to accept Mr Golden's proposal?

Members *indicated agreement.*

The Convener: We will close the petition. Unfortunately from the petitioner's point of view, we have to have a realistic expectation of taking matters forward, and the Government advice is very clear in relation to vaccinations and the empirical evidence basis for them.

Court Summons (Accurate Information) (PE2073)

The Convener: We come to our final new petition this morning. PE2073, lodged by Robert Macdonald, calls on the Parliament to urge the Scottish Government to require the police and court services to check that address information is up to date when issuing a court summons and to allow those being summoned the chance to receive a summons if their address has changed rather than the current system of simply proceeding to issue an arrest warrant.

The petition was prompted by the arrest of a paramedic who had missed a court date after the summons was sent to an old address. The petitioner insisted that, as the police were able to obtain the correct address for the individual, the court should have been able to issue the summons to the correct address. In essence, I think, the police were able to get the correct address to arrest the individual, but they were not able to get the correct address to issue the summons to.

The SPICe briefing outlines provisions in the Criminal Procedure (Scotland) Act 1995, including provisions for granting a warrant to apprehend the accused if it is proved to the court that the accused received the citation or has knowledge of its contents.

The Scottish Government has responded that the petition relates to an area in which it has no policy position or role, and that it is an operational matter for the Crown Office and Procurator Fiscal Service and Police Scotland.

We have also received a submission from the Crown Office and Procurator Fiscal Service, which adds further detail to the SPICe briefing on the processes and circumstances for seeking warrants for summary court proceedings. It notes that prosecutors should only seek initiating warrants where it is in the public interest to do so, for example, because there is information the accused is avoiding citation. It also notes that, where information is provided that the accused is no longer at their address, and their whereabouts are unknown, there is a mechanism for the outstanding warrant to be reviewed by a prosecutor who will, taking into account the prospects of tracing the accused and the nature of the offence, consider whether there is a public interest in pursuing the prosecution.

Do members have any suggestions for action? I am minded to keep the petition open at the moment. It struck me that there was a lack of basic shared communication that could have resolved the matter. Might we write to the Scottish Courts and Tribunals Service and Police Scotland to seek their views on the issues that have been raised by the petition—in particular, in the case that the petitioner raises, to ask how Police Scotland was able to identify where the individual was in order to perform an arrest, but it was not possible for that information to be made available when it came to sending the summons? Does that seem reasonable?

Members *indicated agreement.*

Foysol Choudhury: We should also ask whether there is any data on whether that circumstance is common in Scotland and the percentage of cases to which it applies.

The Convener: I am quite happy to try to establish what information exists on the number of such occurrences.

That concludes the public part of our meeting. We will meet again in public on 1 May. We move into private session to consider items 4 and 5.

11:42

Meeting continued in private until 12:03.

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