



OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 15 May 2024

Session 6



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Wednesday 15 May 2024

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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE
9th Meeting 2024, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Foysool Choudhury (Lothian) (Lab)

*Fergus Ewing (Inverness and Nairn) (SNP)

*Maurice Golden (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Michael Marra (North East Scotland) (Lab)

Paul Sweeney (Glasgow) (Lab)

CLERK TO THE COMMITTEE

Jyoti Chandola

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 15 May 2024

[The Convener opened the meeting at 09:30]

Decision on Taking Business in Private

The Convener (Jackson Carlaw): Good morning, and welcome to the ninth meeting in 2024 of the Citizen Participation and Public Petitions Committee. The first item on our agenda is, customarily, a decision on taking business in private. Are members content to take item 4 in private?

Members indicated agreement.

Continued Petitions

High-caffeine Products (PE1919)

09:30

The Convener: Under our second item, we will continue consideration of petitions that we have considered previously. PE1919, which was lodged by Ted Gourley, calls on the Scottish Parliament to urge the Scottish Government to ban the sale of fast-release caffeine gum—a high-caffeine product—for performance enhancement to under-18s due to the risk of serious harm. We previously considered the petition on 20 September 2023, at which point we agreed to write to the Scottish Government.

We have received a response confirming that the independent analysis of the Government's consultation on ending the sale of energy drinks to children and young people has been published and that the responses to the consultation

“did not raise any issues associated with fast release caffeine gum”,

although the consultation was not focused specifically on that area. The response also confirms that the Government

“will not be pursuing research on fast release caffeine products”

at this time—in essence, for financial reasons—but that the Government

“will keep this under review for future years.”

We have also received two written submissions from the petitioner, who suggests that labelling for high-strength caffeine gum should include a health warning about potential risks,

“particularly when taking it immediately before or during intense physical exercise”.

The petitioner also believes that the promotion of caffeine gum at public events might be in breach of health and safety regulations. It might be worth noting that workplace health and safety regulation is reserved and that much of the health and safety legislation derives from the Health and Safety at Work etc Act 1974, which focuses primarily on the safety of employees in a workplace.

Colleagues, we were quite struck by the evidence that we heard last September about there being something of a risk here. The Government has not sought to validate that argument and does not feel that it is in a position to do so at the moment. I am reluctant to close the petition at this stage, because I am not yet satisfied that there is no issue of major concern—I do not know yet.

If members have no suggestions for what we might do, I am minded to ask the clerks to give the matter some thought and to come back to us with some suggestions about where we might go. I am not sure how far we can go, but we could find out a little bit more, because I would not want us to have moved on quite so quickly if the issue became a more obvious health problem.

Do members agree with that approach?

Members *indicated agreement.*

Motorhomes (Overnight Parking) (PE1962)

The Convener: PE1962, on stopping motorhomes being parked overnight outwith formal campsites, caravan parks and aires, was lodged by Lynn and Darren Redfern. It calls on the Scottish Parliament to urge the Scottish Government to improve licensing enforcement on motorhomes to ensure that they are parked only in designated and regulated locations.

The Scottish Government's recent submission states that the work of the camper van and motorhome working group is still under way and that no formal report has been submitted to the visitor management steering group. It was agreed that a formal report would be provided at the end of last year. I understand that that group has met and that that information is now on the Scottish Government's website.

The petitioners have shared information about the prevalence of motorhomes being parked outwith campsites or aires and the associated issues. The information includes figures on roadside waste disposal, scorch marks and litter. The petitioners believe that, if the tourist levy is applied to campsites but not to motorhomes on roadsides, the number of people who opt to stay outwith formal sites will "increase significantly". The submission also highlights the positive economic impact of the holiday park and campsite sector. Here we are in May 2024, going into the summer season, when I imagine that such issues will be at their most prevalent.

Do colleagues have any suggestions?

Fergus Ewing (Inverness and Nairn) (SNP): I would like to raise two issues that the Scottish Government has not addressed satisfactorily throughout the petition's history. I will not refer to any particular businesses in the Highlands, but I will raise two points of principle.

First, earlier in the passage of the petition through the committee, I suggested that funding might be made available for things called aires, which are serviced areas that can be used for the parking of camper vans. They are frequently found in France, for example, and are designed to provide a safe and secure place for camper vans

to park—with water and toilet replacement facilities, which are obviously needed—and to stop the antisocial behaviour that results from camper vans being parked illegally overnight in lay-bys and so on, blocking single-track roads.

The reason why I mention that is that, in its reply, the Scottish Government said, "Yes, we're looking into this." That was positive, and I think that it was agreed that aires should, indeed, qualify for funding under the rural tourism infrastructure fund. However, at about the time when that was agreed, the fund ran out of money.

We learned from the clerks that VisitScotland's capital budget, from which the fund is derived, was reduced from £7.9 million to £2.6 million last year. If those figures are correct, that is, according to the Scottish Tourism Alliance, a fairly swingeing cut, given that the overall capital budget was depleted by 8, 10 or 12 per cent. This particular tourism budget seems to have been axed in a savage manner.

The sad thing is that I have just learned in response to a letter that I had written to Malcolm Roughead of VisitScotland about funding for maintenance of the south Loch Ness trail—that is a constituency matter that has been raised with me, and I have sent a copy of the letter to the clerks in case it is required for the record—that no less than £20 million has been provided through the rural tourism infrastructure fund, which has allowed many good things to be done, but that, sadly, things are now difficult.

I am sorry that I am taking so long, but I want to set out the details. We should ask the Scottish Government, given the new regime, to reflect that a 67 per cent reduction is just absurd and to consider adjusting it.

Incidentally, I think that aires should be run commercially. The Government's role is to provide the servicing of the plots, but aires should operate commercially so that the Government does not provide an unfair subsidy that would disadvantage existing camping and caravan sites.

The second point that I want to raise relates directly to overnight stops of camper vans. I understand that that will not be covered under the visitor levy but that camping sites and fixed caravans will. That seems to be anomalous. It will almost provide an incentive not to have a fixed site but to have a camper van and move around. I am not a wild fan of the visitor levy anyway, but it seems that that will create an obvious anomaly that will cause a great deal of upset, especially in the Highlands and particularly among people who run camping and caravan sites. When I was the tourism minister, I went round a great many such sites and developed great admiration for people's professionalism, hard work and diligence, as well

as for the high standards of cleanliness and safety that were maintained at almost all the sites. For them to be discriminated against in this way seems to be prima facie unfair.

If committee members agree that that is a fair point, given that the Visitor Levy (Scotland) Bill is at stage 2, we could ask the Scottish Government whether it has any intention of removing the anomaly. If it does not, the matter will come back to bite it, as so many things do when there is ill-considered legislation.

The Convener: We can do that if members are happy with that. You asked whether the Government would consider afresh the 67 per cent reduction in funding. We could also ask the Government what it thinks the consequences of such a reduction would be for the industry and communities.

Fergus Ewing: Yes. The industry is of huge benefit to the Highlands, so I have a particular interest. However, the funding benefited a huge number of projects all over Scotland, and most of my colleagues at the time regarded the fund as very popular, successful and simple to operate, relative to many others.

The Convener: Do members agree to keep the petition open and to pursue the issues that Mr Ewing identified?

Members *indicated agreement.*

Scottish Public Services Ombudsman (PE1964)

The Convener: Our next petition is PE1964, which was lodged by Accountability Scotland. It calls on the Scottish Parliament to urge the Scottish Government to set up an independent review of the Scottish Public Services Ombudsman in order to investigate complaints made against the SPSO, to assess the quality of its work and decisions, and to establish whether the current legislation governing the SPSO is fit for purpose.

We have considered the petition before; colleagues may remember the submissions. The petitioner has brought to our attention the fact that the ombudsman stated her support for a review of the legislation governing the SPSO during the Local Government, Housing and Planning Committee's scrutiny of the SPSO's annual report. Her view is that the current legislation is not

"as adaptable as it should be, for the different ways of delivering services and making complaints."—[*Official Report, Local Government, Housing and Planning Committee*, 5 December 2023; c 16.]

It is worth noting that while the ombudsman has stated her support for a review of the legislation, the petitioner is also calling for an investigation

into complaints made against the SPSO and an assessment of the quality of its work. From different starting positions, the ombudsman and the petitioner are seeking such a review.

We are aware, and it is important to note, that the SPSO's functions are independent of the Scottish Parliamentary Corporate Body—which met the ombudsman recently—ministers and MSPs to ensure that there is no interference in the decisions that are made.

We are in the slightly unusual position that there has never been a review of the ombudsman. In previous evidence, there was an expectation that a review would take place at some point of the way in which the arrangements are structured. The Government seems reluctant to undertake the review that the petitioner would like, but the ombudsman herself is quite open to the idea that a review should take place.

I wonder whether Mr Torrance has a burning suggestion for us.

David Torrance (Kirkcaldy) (SNP): In the light of the ombudsman's comments, would the committee agree to write to the Scottish Government to ask whether it will consider undertaking a review of the Scottish Public Services Ombudsman Act 2022?

The Convener: Are we content to do that?

Fergus Ewing: I add to that suggestion, with which I agree, the fact that any review must be an independent review. It cannot be done by the SPSO, nor should it be done by the Scottish Government. It should be done by somebody who is entirely independent.

Given that we are supposed to be in a time of fiscal difficulty and pressure, I respectfully ask whether the public get any gain from having an SPSO. That is no imputation on the professionalism of the SPSO, but it is restricted in its powers and remedies. I no longer recommend to any constituents that they go to the SPSO because, first, those who go to the SPSO do not get anywhere; secondly, they do not get a result; and, thirdly, they often end up even more fed up than they were in the first place because they feel that the whole process is, frankly, pointless.

Those sound like harsh words, but should we not be looking to see whether we can prune back some of the public money that is spent on such things and put it into the health service, for example?

The Convener: Given what you have said, I wonder whether we might also draw the petition to the attention of the Finance and Public Administration Committee, which is currently undertaking a formal inquiry into office-holders, as part of which it is looking at the whole sweep of

the office-holding positions. I know that the corporate body is due to give evidence to that committee, and I have previously—on behalf of the corporate body—raised issues of concern that the corporate body has had when I have presented the Parliament's budget to the Finance and Public Administration Committee. It might be useful for that committee to be aware that the petition exists and that the ombudsman herself is keen on a review, although the Government does not seem minded to pursue one.

Are members content that we take that approach?

Members indicated agreement.

Strategic Lawsuits against Public Participation (PE1975)

The Convener: Our next petition is PE1975, by Roger Mullin, which 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, or SLAPPs, as they are known, which we have heard much about recently.

Members will recall that we took evidence on the petition from the Minister for Victims and Community Safety and that, when we did so, we were encouraged by the news that a consultation on SLAPPs would be progressed in the autumn. Therefore, with that information in mind, given that the Government is to pursue matters, do members have any comments or suggestions for action?

09:45

David Torrance: I wonder whether the committee could write to the Minister for Victims and Community Safety to ask how the petitioners and contributors to the petition can meaningfully engage with the consultation and to request that the committee be updated as the Scottish Government's work progresses. Once we have done that, I am not sure that we could take the petition any further. Therefore, would the committee consider closing the petition, under rule 15.7 of standing orders, on the basis that the Scottish Government is progressing the issue that the petition raised?

The Convener: I am quite happy that we write to the Government on that basis and that, thereafter, we close the petition. Are members content?

Members indicated agreement.

The Convener: I think that, on this occasion, the petitioner has had some success, in that they achieved their end result.

Fergus Ewing: They achieved a change in policy on the part of the Scottish Government.

Concessionary Bus Travel Scheme (Asylum Seekers) (PE2028)

The Convener: Petition PE2028, which was lodged by Pinar Aksu, on behalf of Maryhill Integration Network, and Doaa Abuamer, on behalf of the VOICES Network, calls on the Scottish Parliament to urge the Scottish Government to extend the current concessionary travel scheme to include all people who are seeking asylum in Scotland, regardless of age.

We are joined by our MSP colleague, Paul Sweeney, who is redeeming one of his return tickets. Paul continues to have an interest in the petition, and he led a members' business debate on the issues that it raised in October 2023. Good morning, Paul.

We previously considered the petition on 20 September 2023, when we agreed to write to the Scottish Government, the Scottish Refugee Council and the Refugee Survival Trust. Members will recall that, shortly after that meeting, I took the opportunity to highlight the petition at the Conveners Group meeting with the then First Minister, Humza Yousaf, who confirmed that the Scottish Government was giving active consideration to the issue.

We have received responses from the Refugee Sanctuary Scotland, which was formerly known as the Refugee Survival Trust, Transport Scotland and the Scottish Refugee Council, which are included in the papers for today's meeting. The responses provide further detail on the pilot schemes that have taken place in Glasgow, Aberdeen and Falkirk. The findings of the Refugee Sanctuary Scotland emphasise the positive feedback that it received from participants in the pilot project, which enabled people to travel more frequently and over longer distances.

Following the pilots, the Refugee Sanctuary Scotland has recommended that future provision for people who are seeking asylum be implemented through the provision of a long-term digital ticket or through extension of the national concessionary travel scheme. Extending provision of the national scheme is viewed as increasingly important in the light of the Home Office's dispersal policy of locating asylum seekers across Scotland, while most of the support systems are based in Glasgow. However, I understand that the Scottish Government is keen to ensure that any action that it takes does not have a consequential impact on asylum seekers arising from other Home Office regulations that might thereafter be triggered.

Since our most recent consideration of the petition and my raising the issue with the First Minister, the Scottish Government has announced funding of £2 million to support further exploration of extending free bus travel to people who are seeking asylum, and the commitment was noted as an immediate short-term action in the recently published fair fares review.

Before we consider the issues, I ask Paul Sweeney whether there is anything that he would like to say to the committee.

Paul Sweeney (Glasgow) (Lab): Thank you, convener. I would like to take the opportunity to commend the petitioners, Pinar Aksu of Maryhill Integration Network and Doaa Abuamer of the VOICES Network, who, for several years, have worked tirelessly, alongside people with lived experience of the asylum system, on the campaign to extend access to free bus travel, which has been running for at least two years.

I welcomed the Scottish Government's announcement in October that £2 million would be allocated in the budget for the financial year 2024-25 to enable the roll-out of free bus travel for people who are seeking asylum in Scotland. However, I speak to the committee today in order to urge caution and to encourage members to keep the petition open for the time being. Although the funding that has been announced is welcome and, indeed, overdue, the detail of how it will be utilised and what it will actually mean for people who are seeking asylum remains to be seen.

The original ask of the petition was that the concessionary bus travel scheme be extended, but, in its announcement, the Scottish Government gave no indication that that is what the funds will be used for. There has been no sign of a draft statutory instrument, no indication of the logistics and no details on the design of the scheme.

There is a risk that the funds will simply be used for more information gathering and research or for a temporary scheme, rather than to make free bus travel a permanent reality for people who are seeking asylum in Scotland. Frankly, we do not need more data. We have had a pilot in Glasgow and another one in Aberdeen. We know that there is a need, and we know how to meet it at a relatively marginal extra cost to the public purse.

I urge the committee to write to the Scottish Government to seek written confirmation of the detail of the plans for the roll-out of the £2 million scheme. I also ask the committee to assess whether that funding will be used to deliver on the petition's ask, which is that the national concessionary travel scheme be extended to people who are seeking asylum, before it considers closing the petition.

The Convener: Thank you, Mr Sweeney. Do colleagues have any comments?

I think that it would be perfectly in order for us to write to the Scottish Government or Transport Scotland.

Foyso Choudhury (Lothian) (Lab): From listening to Mr Sweeney, I think that we should write to Transport Scotland to seek an update on the work that is being undertaken to explore options for extending the concessionary travel scheme and to ask, in particular, how the £2 million budget that has been allocated is being used.

Fergus Ewing: I am a bit puzzled—maybe I have misunderstood something—but, in his previous evidence to the committee, Mr Sweeney said:

“rough and ready cost estimates suggest that it would cost around £500,000 per annum”.—[*Citizen Participation and Public Petitions Committee*, 20 September 2023; c 18.]

Given that £2 million is enough to fund the whole caboodle for four years, what is happening to that money? What is the point of saying, “Here's £2 million,” if it would cost only £500,000 a year? Why does the Government not just do it? I do not quite understand. If that money has been set aside, it cannot be used for anything else. It has been allocated from the budget, and it seems that it would be sufficient to run the thing for four years. What is going on?

The Convener: The First Minister and the then cabinet secretary said that, first, there are issues in identifying who an asylum seeker is, because it is not like being a pensioner or being under 21, as those groups are self-defined. How do we define an asylum seeker?

The second issue is that the Government is concerned about the fact that the scheme would have to operate in such a way that it did not contravene the Home Office guidelines on what constitutes earnings or benefits. I do not think that asylum seekers are entitled to receive benefits, so being in receipt of free travel could potentially alter their status. My understanding was that there was some detail to be worked out in relation to how what was proposed would come about.

However, after six months, it is perfectly in order for us to try to establish—as Mr Sweeney suggests—what on earth is going on, because we are well into the financial year and the scheme is not helping anyone to travel anywhere. As Mr Sweeney says, there is then the contingent risk that the money will end up being used to finance the carrying out of a whole lot of research rather than to put people on buses, which is what the intention is.

Fergus Ewing: It could be frittered away in consultants' reports, which would be farcical and rather grotesque.

The Convener: The petition has achieved nominal success, but we want that to be followed by substantive success.

Do members agree to keep the petition open and to make the inquiries that Mr Choudhury suggested?

Members *indicated agreement.*

Venice Biennale 2024 (PE2030)

The Convener: PE2030, which was lodged by Denise Hooper, calls on the Scottish Parliament to urge the Scottish Government to review the cultural funding that it provides to the Scotland + Venice project and ensure that Scottish artists can contribute to the Venice biennale in 2024. When we previously considered the petition at our meeting on 20 September 2023, we agreed to write to the Scottish Government and Creative Scotland, largely because the material responses that we had received did not really explain anything at all, unless I am missing something.

I am pleased to say that we have now received responses from both the Scottish Government and Creative Scotland. They confirm that the Scotland + Venice project was paused in order for a review to be carried out of the relevance and impact of the project. The response from Creative Scotland notes:

"The review will present and evaluate options for change, underpinned by a clear financing strategy. It will support the future planning of Scotland's participation at the Venice Biennale from 2026."

I might suggest that Creative Scotland investigates some of its other funding at the same time, but that is a separate matter.

In response to the information provided by the Scottish Government and Creative Scotland, the petitioner has expressed concern that it may, therefore, be 2027 before Scotland is represented at the Venice biennale again. The petitioner highlights comments from the then First Minister Humza Yousaf that investment in Scotland's arts and culture will be more than doubled over the next five years, which the petitioner believes should allow greater flexibility for Scotland's participation.

The committee has also received two submissions from the Cabinet Secretary for Constitution, External Affairs and Culture, updating us at various stages on progress on developing and publishing the international culture strategy. That strategy was published on 28 March 2024 and it was subsequently debated in the chamber.

In light of the explanation that we have received, such as it is, and the resolve and determination that there appears to be that there will not be any participation in 2024 nor in 2025, it would seem, do colleagues have any suggestions for action?

Foyso Choudhury: Did we get an update on the Creative Scotland review?

The Convener: We did. That is the matter to which I just referred. It explained the basis of the pause that was implemented. The review that Creative Scotland is undertaking to look at the value of Scotland's participation is due to conclude, but that was why it paused our participation. I think that there was a previous evaluation at an earlier date that did not lead to a pause in our participation, but it has this time. That was the explanation.

Foyso Choudhury: I think that we should keep the petition open until the review is concluded. Maybe the convener will want to organise a committee visit to Venice as well. [*Laughter.*] However, I feel that we should wait until Creative Scotland's review is concluded.

The Convener: Do you want me to formally record that as the recommendation, Mr Choudhury? Is a committee visit to Venice part of your consideration?

Foyso Choudhury: Yes—both things. [*Laughter.*]

The Convener: In the first instance, we might keep the petition open, as Mr Choudhury suggests, and ask Creative Scotland, if the review is concluding, for an update on its conclusions and the consequences for Scotland's future participation in 2025, 2026 and 2027. I think that that would be reasonable.

Fergus Ewing: I would love to go to Venice, but I do not think that I would ask the taxpayer to fork out for that, for the avoidance of any doubt.

The Convener: I have been to Venice on a number of occasions, but that was under my own steam and not for the arts and culture festival.

In all seriousness, I read recently that the daily volume of visitors to Venice is now almost intolerable given the ability of the infrastructure to cope. I certainly know that, if you are staying in Venice, you really have to be up at 5 o'clock in the morning to have a wander around. Otherwise, you cannot move. The city is definitely under a lot of pressure. Nonetheless, it has a series of famous and celebrated arts festivals through the year, and Scotland's participation in those is to be valued.

New Petitions

09:59

The Convener: That brings us to the consideration of new petitions. As always, I say to people who are tuning into our proceedings because we are about to consider their petition that, in the first instance, as a matter of course, we contact the Parliament's independent research body—the Scottish Parliament information centre—and also seek the preliminary views of the Scottish Government. We do that because, historically, those have been the first two things that the committee has agreed to do, and it simply avoids us building further delay into our informed consideration of new petitions.

Medical Facility Parking Charges (Exemptions) (PE2079)

10:00

The Convener: PE2079, which was lodged by Martin James Keatings, calls on the Scottish Parliament to urge the Scottish Government to introduce primary legislation to provide exemptions from paying medical facility parking charges and to create a new classification of parking badge for care givers. The SPICe briefing provides information on existing eligibility criteria for the blue badge scheme, noting that it applies primarily to on-street parking.

In responding to the petition, the Cabinet Secretary for Health and Social Care notes the decision to abolish car parking charges at all car parks that are owned by the national health service. It is also noted that responsibility for parking policy beyond NHS facilities rests with local authorities and it is up to them to decide how much to charge for parking and whether any exemptions should apply. These were changes of some long-standing practice. The cabinet secretary also recognises the huge contribution that is made by carers and he says that, through implementation of the national carers strategy, the Scottish Government aims to drive forward long-term changes to improve the lives of unpaid carers.

We have also received a submission from the petitioner in which he responds to the cabinet secretary. He highlights that carers perform tasks in the absence of the disabled person whom they support yet, in such circumstances, they are unable to make use of a blue badge. He suggests that the introduction of a carers badge scheme would be a tangible demonstration of support for the role that carers play while also helping to address the financial impact that parking charges

have on carers, some of whom are, in fact, simply volunteers.

Do members have any comments or suggestions for action?

David Torrance: We should write to Disability Equality Scotland, the Convention of Scottish Local Authorities and Carers Scotland to seek their views on the action that is called for in the petition, specifically the proposed introduction of a carers badge scheme. We should also write to the Scottish Government to highlight the petitioner's submission and seek further detail on what consideration the Scottish Government has given to introducing a carers badge scheme.

The Convener: We should also highlight that a number of these people are volunteers and that parking charges represent a considerable additional burden. That maybe distinguishes them from other groups in society that request exemptions, many of whom are in completely different circumstances. I think that, in this instance, the petitioner's ask is worth pursuing. Are we agreed?

Members indicated agreement.

Li-Fraumeni Syndrome (Screening) (PE2080)

The Convener: PE2080, which was lodged by Louise McKendrick, calls on the Scottish Parliament to urge the Scottish Government to implement screening for people with, or at risk of, Li-Fraumeni syndrome due to TP53 mutation, in line with the guidelines recommended by the UK Cancer Genetics Group. LFS, as it is known, is rare, with researchers estimating that a few thousand people in the UK have it. The UK Cancer Genetics Group guidelines recommend regular screening for people with LFS.

The SPICe briefing that we have received notes that the guidelines that are cited by the petitioner do not actually recommend routine cancer screening for those who are identified as being at risk of having the TP53 gene mutation that causes LFS. Instead, the guidelines recommend that they be offered appropriate counselling and support and encouraged to consider whether they want to be tested for the TP53 gene variant.

The Scottish Government's response to the petition states:

"The UK Cancer Genetics Group ... guidelines are endorsed and supported by clinical genetics teams ... across Scotland."

However, it adds:

"We are aware of variation in how these guidelines are implemented across ... health boards in Scotland and of acute demand for MRI procedures in particular."

The Government is

“considering how to better signpost management guidelines and ... improve the consistency in implementation”.

In view of the Government’s position and the UK Cancer Genetics Group guidelines, do members have comments or suggestions for action?

Fergus Ewing: Reading the background information on the petition, I note that the LFS TP53 mutation is

“a genetic syndrome that predisposes a person to cancer, usually of an aggressive type”

and that the relevant authoritative body—the UK Cancer Genetics Group—has

“made recommendations for screening which have been implemented in parts of England, however they have not been implemented in Scotland.”

I see that there is a reasonably sympathetic reply from the chief operating officer of NHS Scotland, although it does not really give much information, other than saying that there are good intentions all round but that there is pressure on MRI scans, which is understandable.

In light of that, I certainly do not think that we should close the petition. We need to get more information. I would like us to go back to the Scottish Government and ask whether it can provide more information on what services are available in each health board. Given that this group of people are predisposed to cancer of an aggressive type, it seems to me to be a very serious disease, albeit a rare one. I see that the petition has attracted nearly 1,000 signatures, so there is obviously considerable concern. We should ask the Scottish Government to provide that further information in light of the gravity of the matter. Secondly, I suggest that we write to Cancer Research UK to seek its views on the action that is called for in the petition.

I wonder whether there are other things that we might do, convener. Maybe colleagues have other thoughts. It does not seem to me that the current response is adequate.

The Convener: Do colleagues have any suggestions that we might add to Mr Ewing’s?

David Torrance: We should write to NHS Scotland’s genetic laboratories in Aberdeen, Dundee, Edinburgh and Glasgow to seek further detail on the work that they do to support the implementation of the UK Cancer Genetics Group guidelines and information on the genetic testing and support that is available for those who are at risk of having a faulty TP53 gene.

The Convener: We have a series of suggestions on how we should proceed. Are members content that we proceed on that basis?

Members indicated agreement.

The Convener: We thank the petitioner for raising this fresh issue with us. We note the number of signatures that the petition has attracted. We will seek to take the issue further forward.

Chronic Kidney Disease (PE2081)

The Convener: PE2081, on making chronic kidney disease a key clinical priority, which was lodged by Professor Jeremy Hughes, on behalf of Kidney Research UK in Scotland, calls on us to do exactly what it says on the tin, which is to urge the Scottish Government to make chronic kidney disease a key clinical priority.

The SPICe briefing notes that chronic kidney disease is a term that can be used to cover a range of kidney impairments, from a small loss of kidney performance with no symptoms to a life-threatening condition that requires regular dialysis or a kidney transplant.

In responding to the petition, the Scottish Government states that the relevant cabinet secretary and minister have previously corresponded with the petitioner to advise that Scottish Government does not intend to increase the number of health strategies for individual conditions at this time. It is noted that the Government’s approach to clinical conditions policy is kept under regular review. The Government response also notes work to support people with kidney disease, including the launch of a national policy on the reimbursement of electricity costs for home dialysis for patients.

We have also received a submission from the petitioner, who is concerned that the Scottish Government’s criteria for choosing what will and will not be designated a clinical priority remains unclear. The petitioner poses two specific questions: why is chronic kidney disease not already a clinical priority, and why has the Scottish Government taken the decision not to increase the number of health strategies for individual conditions or to assign the status of clinical priority, and the civil service support that goes with it, to any additional conditions. The petitioner also highlights the potential benefits to patients and the clinical community where a condition affecting them has been designated a clinical priority: for example, bringing clarity on who within the Scottish Government has day-to-day responsibility for developing condition-specific strategies and action plans.

Do any members have any comments or suggestions for action?

Maurice Golden (North East Scotland) (Con): We should write to the Cabinet Secretary for Health and Social Care to highlight the petitioner’s submission and seek information on the criteria for

determining clinical priorities; an explanation as to why chronic kidney disease is not already designated a clinical priority; and further detail on the Scottish Government's decision not to increase the number of health strategies for individual conditions, including chronic kidney disease.

The Convener: Yes, that responds directly to what I thought are two perfectly legitimate questions that the petitioner has raised: why is there not one already and what exactly are the criteria to determine why there cannot be any more? Is the committee agreed?

Members indicated agreement.

Alkaline Hydrolysis (PE2084)

The Convener: The next of our new petitions is PE2084, which has been lodged by Randall Graeme Kilgour Foggie. It calls on the Scottish Parliament to urge the Scottish Government to amend the Burial and Cremation (Scotland) Act 2016 to allow alkaline hydrolysis, accelerated composting and other more eco-friendly methods of disposal of human cadavers. Alkaline hydrolysis, also known as water cremation, is a method of disposal of human remains using hot water with the addition of chemicals. The current legislative framework for burial and cremation allows for the regulation of any new methods of body disposal in the same way that burial and cremation is regulated—how we move from one subject to another in the petitions committee!

The Scottish Government recently consulted on burial inspection, funeral director licensing and alkaline hydrolysis. The consultation sought views on proposals and regulations on all four topics under the Burial and Cremation (Scotland) Act 2016.

The report on the alkaline hydrolysis consultation states that 84 per cent of respondents support the introduction of regulations to allow alkaline hydrolysis, which I understand is practised elsewhere. It concludes that the Scottish Government will now consider the proposals for regulating alkaline hydrolysis in light of the consultation findings and that it will continue to engage with the funeral sector and other interested parties to further inform the development of policy proposals. Do members have any comments or suggestions for action?

David Torrance: I put on record that the petitioner is a constituent of mine and he has discussed the petition with me, so I will let my colleagues make recommendations.

The Convener: Thank you, Mr Torrance. Would anybody else like to come forward with proposals?

Maurice Golden: We should write to the Scottish Government to ask, in light of the consultation responses, whether it intends to regulate alkaline hydrolysis in its development of regulations under the Burial and Cremation (Scotland) Act 2016 and when it expects the outstanding regulations to be implemented.

The Convener: Are we content?

Members indicated agreement.

The Convener: I am happy to say to the petitioner that we will not bury the petition but will make efforts to keep it alive. We will wait to hear what the responses to our inquiries are.

Fatal Accident Inquiries (Deaths Abroad) (PE2085)

The Convener: PE2085, which has been lodged by David Cornock, calls on the Scottish Parliament to urge the Scottish Government to introduce a statutory definition of residency for fatal accident inquiries into deaths of Scots abroad. We are joined in our consideration of the petition by our colleague Michael Marra. Welcome to you, Mr Marra.

The SPICe briefing explains that the term “ordinarily resident” is a commonly used and well-understood legal concept. The term is intended to be flexible to cover a wide range of circumstances.

In England and Wales, a coroner's investigation will take place where the death was violent or unnatural, the cause of death was unknown or the deceased died in state detention. The inquest will mainly determine how, where and when someone died. Coroners will rarely make wider recommendations but can do so through a prevention of future deaths report. That system is significantly different from the Scottish system of death investigations.

In Scotland, fatal accident inquiries aim to establish what happened and to prevent future deaths from happening in similar circumstances. Fatal accident inquiries take place in limited circumstances at the discretion of the Lord Advocate where a death was sudden, suspicious or unexplained or gives rise to a serious public concern and she considers that it is in the public interest to hold a fatal accident inquiry. The Crown Office and Procurator Fiscal Service has a role in investigating a wide range of suspicious deaths. However, only a small proportion of those are deemed to require the level of public investigation that is delivered by a fatal accident inquiry.

The Scottish Government has stated that it does not intend to define “ordinarily resident” in legislation and has highlighted that inquiries short of an FAI can take place in relation to deaths abroad, such as the instruction of a post-mortem.

The petitioner's written submission details his personal experience and raises concerns about the quality of communication to next of kin in such circumstances. The submission also outlines improvements that the Lord Advocate has committed to progress as a result of his engagement with her. The petitioner has obviously been pursuing the aims and objectives of the petition.

Before I ask members to give their consideration to what we might do, I invite Michael Marra to address the committee.

10:15

Michael Marra (North East Scotland) (Lab):

Thanks very much, convener, and thank you to the committee for its consideration.

The petition of my constituent—Davy Cornock, as I know him—arises from, as you have noted, convener, a very deeply personal tragedy: the loss of his son, David, who died in Thailand in 2019. That is a loss that many of us cannot begin to comprehend. That tragedy has been exacerbated by our legal system, which has failed to give Davy and his family the answers that they have long sought, as a fatal accident inquiry into David's death never took place.

The crux of the issue appears to be the definition of "ordinarily resident", as the convener set out. It is on that matter that Mr Cornock's petition is seeking a change from the Scottish Government through the Parliament.

Since the Inquiries into Fatal Accidents and Sudden Deaths etc (Scotland) Act 2016 was passed by this Parliament, not one single fatal accident inquiry into the deaths of Scots abroad has taken place. On 8 February 2024, I raised this issue directly with the then First Minister in the chamber. He agreed that

"it is the issue of residency—in that particular case, ordinary residency—that is causing the issue".

Regarding any potential changes to the legislation, Mr Yousaf said that he would

"take a look and speak to the Cabinet Secretary for Justice and Home Affairs on that matter."—*[Official Report, 8 February 2024; c 25-26.]*

My office has followed up with the First Minister's office on 22 March and again on 24 April but, as yet, we have received no response. I ask whether the committee might consider using its good offices to help me in that regard to elicit a response from the Cabinet Secretary for Justice and Home Affairs, who is still in post following the recent change of First Minister.

I was pleased to accompany Mr Cornock to a meeting with the Lord Advocate on 28 March. The

Lord Advocate has agreed to contact the Foreign Office regarding formalising a memorandum of understanding to ensure that families are given the correct information if a family member dies abroad. There is some progress there, I am glad to say.

However, in order for the Lord Advocate to carry out a fatal accident inquiry or to instruct one into a death abroad, the issue of residency will have to be addressed. I note that the Scottish Government has made the submission that the convener references, in which it is stated that the term "ordinarily resident" has been established through case law and the Scottish Government does not intend to define the term in legislation. I will come to that in short order.

Regarding the fact that no fatal accident inquiries have taken place into deaths abroad, the Scottish Government's submission concedes that that is the case but also notes

"that the Crown Office and Procurator Fiscal Service are able to conduct inquiries short of an FAI in relation to deaths abroad, such as the instruction of a post-mortem examination which has allowed further information to be provided to the family and given them reassurance and closure about the circumstances".

I suggest that it would be worth the committee exploring the nature of those inquiries that are short of an FAI and the circumstances in which they might be granted. That would be very useful to my constituent. Mr Cornock's family has certainly not had any reassurance and closure about his son's death—very far from it, in fact.

In closing—if I can be so bold, convener, as to make some suggestions as to how the committee might consider proceeding with the petition—it is noteworthy that no FAIs have taken place into deaths of Scots abroad in the eight years since the legislation was passed. I hope that the committee will agree with me that that shows that there is a problem with the legislation and that Parliament should be considering what that is. It indicates a flaw in the system.

I appreciate the significant differences between the legal systems in Scotland, and England and Wales, as the convener set out. I suggest that the committee might seek to ascertain how many deaths abroad of people from England and Wales have been investigated in the same time period, from 2016 to the present. That might offer some ready comparison for whether the laws and procedures that we have in place are serving our constituents on a level footing to the rest of the UK.

Finally, regarding the Scottish Government's position that "ordinarily resident" need not be defined in legislation, it might be worth the committee seeking the view of other stakeholders

on this matter, such as the legal profession and perhaps Police Scotland, to understand the impact of that decision on their work in this area. If it is not the definition of that term, certainly how the term is used in our legislation and the ambiguity around it are part of the issue that is leading to a lack of justice and transparency and a lack of resolution for constituents.

It is not just Mr Cornock. I do not believe that there will be any members of the Scottish Parliament who do not have constituents who are in a similar situation, looking for answers about how a loved one died abroad. There is an issue of broad justice in this. If the committee could be implored to continue assisting my constituent in this matter, it would be of great assistance to many people in Scotland.

The Convener: Thank you very much, Mr Marra. Are we content in the first instance to embrace the suggestions that Mr Marra has made?

Following the conversation and the meeting that Mr Marra attended with the Lord Advocate, I wonder whether we might consider also asking the Scottish Government what progress has been made in relation to working with the UK Government to ensure that the differences between the system in England and Wales and the system in Scotland are being properly communicated to the next of kin. We could follow up on that specific point.

Are there any other suggestions that colleagues want to make? There were a few suggestions there. We will have to think from whom we would obtain information about the incidence in England and Wales, but we can certainly seek to do that, because that would evidence and underpin the contrast in how these matters are being taken forward.

Foysoyl Choudhury: Can we also ask the First Minister for an update? Mr Marra said that he wrote to the First Minister's office and is still waiting for an answer. Therefore, can we also ask the First Minister's office for a response?

The Convener: Sorry, Mr Marra, did you say that you wrote to the First Minister?

Michael Marra: I did. I raised the issue with the First Minister in the chamber and had no response. We followed up with a letter twice. Obviously, that First Minister has now demitted office and there is a new First Minister. It may be worth—if the committee was so minded, as Mr Choudhury suggests—trying to ascertain the current First Minister's view of this issue as well. I imagine that it is in common with that of the Government.

The Convener: We could certainly draw the First Minister's attention to the fact that we have received a petition following up on the issues that were raised with the previous First Minister at FMQs. Do you know the date?

Michael Marra: Yes, I raised the matter on 8 February 2024, and I wrote on 22 March and then again on 24 April.

The Convener: Thank you very much. Are we content with the suggestions that have been made?

Members indicated agreement.

The Convener: We thank the petitioner and the petitioner's advocate for raising this important matter with us. We will keep the petition open and proceed on that basis.

That brings us to the end of the public session of this morning's meeting. We will next meet on Wednesday 29 May, when we will be taking evidence from Nicola Sturgeon MSP on our inquiry into the A9 dualling project in addition to the consideration of petitions.

We now move into private session.

10:22

Meeting continued in private until 10:28.

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