OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 19 January 2017

Session 5

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 19 January 2017

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PUBLIC PETITIONS COMMITTEE
1st Meeting 2017, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Angus MacDonald (Falkirk East) (SNP)

COMMITTEE MEMBERS

*Maurice Corry (West Scotland) (Con)
*Rona Mackay (Strathkelvin and Bearsden) (SNP)
*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mary Black
David Eyre (Unite the Union)
Heather Fullbrook
Patricia Hewitt
Annette McKenzie
Professor Alan Paterson
Euan Robson
Ian Taylor (Transport for Quality of Life)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Public Petitions Committee

Thursday 19 January 2017

[The Convener opened the meeting at 09:01]

Decision on Taking Business in Private

The Convener (Johann Lamont): Welcome to the first meeting in 2017 of the Public Petitions Committee. I wish you all a belated but genuinely happy new year, and I remind members and others in the room to switch their phones and other devices to silent.

Agenda item 1 relates to future consideration of a draft report on petition PE1463, on effective thyroid and adrenal testing, diagnosis and treatment. Do members agree to take our consideration of the draft report in private at future meetings?

Members *indicated agreement.*

Continued Petitions

Judiciary (Register of Interests) (PE1458)

09:02

The Convener: Agenda item 2 is consideration of continued petitions. First, we will take evidence from Professor Alan Paterson on petition PE1458, on a register of interests for Scotland's judiciary. As members will recall, the petitioner suggested that the committee might wish to invite oral evidence from Professor Paterson, and he has agreed to appear this morning.

Welcome to the meeting, Professor Paterson—we appreciate your attendance. If you wish to make some opening comments, you may do so for up to five minutes. After that, we will take questions from members.

Professor Alan Paterson: Thank you, convener. I am happy to answer any questions that the committee might have on this topic.

I see a register of interests for the judiciary in Scotland as an important issue but, as I have said in my written evidence, it is an issue on which I have not reached a concluded opinion. I have expressed an opinion in relation to the Supreme Court, where the balance probably tips towards the need for a register of interests. I have explained why I think that both in my written evidence and in the Hamlyn lecture.

For me, the question of a register of interests comes back to the role of the judiciary in a democracy. It is a branch of government or the state and, in a democracy, we expect the wielders of state power to have a form of accountability. It is also very important that, in a democracy, the judiciary is independent; judicial independence is a vital part of any democracy. We must therefore balance those issues of judicial independence and accountability. Indeed, issues such as recusal, criticism of judges, discipline of judges, complaints against judges and a register of interests are all areas where we try to strike that balance between accountability and independence.

The Convener: Thank you. Do you think that there is a third factor—simple transparency? That is not in conflict with independence; it is just about basic standards and reasonable expectations of openness.

Professor Paterson: To me, transparency is part of accountability. The prime things that we require for accountability, generally speaking, are that judges give reasons for their decisions and that they identify who is making the decisions. That is part of transparency, and the question of a register of interests is part of the issue of transparency.

The Convener: Do you have a view on what types of information should be included in a register of pecuniary or other interests?

Professor Paterson: As I have said, I do not have a concluded view on whether we should have a register of interests for the Scottish courts but, as far as the Supreme Court is concerned, there is the example of the American Supreme Court. Some might say that that is a slightly more political court than our courts but, nonetheless, its judges have to register their interests. They have to declare their financial interests, their shareholdings, their hospitality, what gifts they receive and what tickets to American football matches they get. All sorts of things have to be declared including membership of golf clubs and so on. At the start of their Supreme Court career, they also have to provide a detailed account of the clubs they are members of, their trusteeships, whether they are masons and all those issues. From time to time, the system throws up issues, but it works.

The House of Lords was the precursor to the Supreme Court, which started in 2009. Before that, the judges in the House of Lords formed a supreme court, and they had a register of interests. The judges who were members of the House of Lords then became Supreme Court judges. For example, we had Lord Hope of Craighead, who has since gone back to the House of Lords and is now on that register of interests. People can look up the register on the website and see what his interests are, but they could not do that when he was in the Supreme Court.

The Supreme Court has been very good at transparency, and rightly so; in general, it has been much better at transparency than the House of Lords was. It is much more open. Moreover, the proceedings are televised; when the Brexit judgment comes down on Tuesday, we will be able to see it. We will be able to watch everything happening. It just does not have a register of interests, even though the judges had one before—and will have it again if they go back to the House of Lords.

The Convener: That is interesting. Thank you.

Maurice Corry (West Scotland) (Con): Good morning, Professor Paterson. An issue that has been raised in evidence is whether a register would capture circumstances in which a conflict would make it inappropriate for a judge to hear a case. However, a judge might become aware of a conflict only when they saw a witness list and were able to identify a social relationship with a witness. Do you have any views on that?

Professor Paterson: The judicial oath and the judicial code of conduct, which are very important in Scotland, mean that a judge who knows that they have an interest—for example, a relative who is a party in a case is going to appear before them—will be expected to stand down. At its best, a register of interests would identify some conflicts and either remind the judge or alert others to the fact that they potentially have an interest, although not necessarily in the case of relatives.

One of the curiosities of the American Supreme Court is that, once or twice a year, the justices, including the chief justice, overlook a shareholding that they have. A corporation in which the shares are held comes up in litigation; they get involved in the litigation, only for somebody to suddenly remember that they have shareholdings in the corporation. That is not venal or deliberate and there is no attempt at bias; instead, someone has made a mistake and overlooked something. The strength of a judicial register is that it allows fair-minded, independent and external observers to say, “Haven’t you got a potential interest here?” and the matter can be aired before the case starts. If you do not have a judicial register of interests, everything is left to the judge and the judge’s memory. Even at the level of the American Supreme Court, the judicial memory occasionally fails—although not very often.

Maurice Corry: Thank you.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning. Can you expand a wee bit on examples of judicial office-holders registering their interests in connection with other roles? The petitioner has noted that in connection with the board of the Scottish Courts and Tribunals Service and you have mentioned the Supreme Court. Are you aware of any issues that have arisen for those judicial office-holders in being able to hear cases in connection with registered interests? What precedents are there that you know of in that field?

Professor Paterson: I am not sure that I have an answer to that question. Do you know what the petitioner was getting at and can you elaborate a little more on what was troubling him? Nothing springs to mind.

Rona Mackay: I think that he raised the whole subject in connection with the board of the Scottish Courts and Tribunals Service. You mentioned the similarity between those on the Supreme Court and the former law lords, so I wanted to tease out your opinion on what issues could arise from that.

Professor Paterson: I apologise for being unhelpful, but nothing on that immediately springs to mind.

Rona Mackay: That is fine.

Brian Whittle (South Scotland) (Con): Good morning. The former judicial complaints reviewer commented on the possible implications of the publication of recusal information in respect of possible conflicts of interests only becoming apparent after a case has been heard. Her view was that a register of interests could avert complaints by enabling any perceived conflicts to be addressed before or at the time when a case was heard. What are your views on that?

Professor Paterson: Let me go back to the House of Lords and the Supreme Court. One reason why I raise an eyebrow at the stance of the Supreme Court on this issue is that one of its shakiest moments was the General Pinochet affair. General Pinochet came to the UK for medical treatment and a Spanish judge using appropriate international processes arranged for him to be arrested for alleged crimes in the junta in Chile. His case then went up to the House of Lords. At relatively short notice, the membership of the panel that was to hear the case had to change and Lord Hoffmann was brought in as the next most senior judge. The fact that Lord Hoffmann's wife worked for Amnesty International in some capacity was—we think—known by the senior law lord when they organised the panel. However, it was all done with some haste, and it is not at all clear that the panel was aware—they said that they were not aware—that Lord Hoffmann acted on a committee that raised funds for Amnesty International.

Amnesty International is relevant here because of its views on torture; it had asked to become an intervener in the House of Lords, and this was the very first case in which an intervener had been allowed. That meant that Amnesty International, although not technically a party to the case, was allowed to address the court on issues to do with torture and what had happened in Chile. Lord Hoffmann did not declare that he chaired a committee that raised funds for Amnesty International although his wife's position, as someone who worked for Amnesty International, was known to the authorities.

09:15

Anyway, the case went ahead, and the vote went three to two against General Pinochet, with Lord Hoffmann in the majority. A little while later, General Pinochet's lawyers discovered that Lord Hoffmann had that interest but had not declared it, and they asked for a rehearing. It had never happened before, but they got a rehearing, and the court very strongly made it clear that Lord Hoffmann should have declared the interest. Indeed, as I read it, even if he had declared the interest, the parties could not have waived it—it would have led to an automatic disqualification. That is the line that the court took, and another court had to be convened to rehear the whole case.

It all meant a lot of time being taken up, a lot of concern and a lot of bad publicity for Britain and for the House of Lords. Relations among the judges in the House of Lords were quite strained for a number of years thereafter. That one failure to declare an interest had a very substantial impact on a whole variety of issues, and I have never quite understood why the Supreme Court, knowing that lesson—which was hardly 10 years old by the time the court was set up—did not decide that it should have a register of interests.

We can have a debate about whether a register of interests would have caught Lord Hoffmann's chairmanship of the committee, but I think that it would have, certainly under the rules under which the House of Lords now operates. It is not entirely appropriate, but if you want to see what a possible register of pecuniary interests might look like, you can look on the House of Lords website, where you will find a very detailed series of 12 headings under which interests can be recorded. Not all are appropriate for judges, but some of them certainly are.

The Convener: A second interesting point arising from the Lord Hoffmann case is not the judge's own involvement but the spouse's occupation. That would not go on a register, would it?

Professor Paterson: Possibly not, but, as I understand it, that was known about in the Hoffmann case.

The Convener: So that was not the issue.

Professor Paterson: That is my understanding of the case.

The Convener: That is very helpful. Thank you.

Angus MacDonald (Falkirk East) (SNP): Good morning, Professor Paterson. The example that you have just given backs up the suggestion in your written submission that the decision on recusals should not be taken by the judge who has been challenged. Would you expand on that?

Professor Paterson: Again, that is an area on which I do not have a fully formed mind. Like the author R Grant Hammond, who has written the standard work on judicial recusal, I take the view that, as far as appellate courts are concerned, there is an argument for saying that if one member of the court is challenged, he or she should not be the one that makes the decision. However, that might be the counsel of perfection. When it comes to a sheriff in a rural part of Scotland, it might be quite impractical to suggest that another person make that decision. As I have said, I do not have a concluded view on it.

I can see the case for such a move, and it would be easier at the appellate level. There are examples where courts have, when challenged on a particular interest, excluded that interest from the body deciding that interest. I can see the argument for that, but there are issues of practicality to be borne in mind.

Angus MacDonald: On the issue of recusals, let me throw a hypothetical example at you. The son of a judge is the litigation solicitor for a defendant in, for example, the Court of Session, but the judge fails to recuse himself and to highlight the family connection to all interested parties. Clearly such a situation could be avoided were the decision on recusal not to be taken by the judge presiding over the hearing himself. We would look to avoid such a situation, and the register would help.

Professor Paterson: It might—and if we are talking about a criminal defendant, it would be the High Court. Generally speaking, a relationship would be known to the parties. In the past, it was not unknown for an advocate who was a relative—a son or daughter—of a judge to appear before that judge. In a small country such as Scotland, saying that such a thing could not happen would make things a bit tough. It used to happen. As long as everybody knows about it and it is declared, it should not mean an automatic disqualification. In such situations, all the parties usually know and no objection will be made.

Maurice Corry: What consideration have you given to the potential for additional costs or delays to cases being heard if the recusal system were to be developed in the way that is proposed?

Professor Paterson: You are right to raise the issue—that is why I highlighted the practicality issues. Recusal is one of those areas in which it is necessary to have an appropriate balance between transparency, accountability and independence. We have a register of how often judges recuse themselves but, as I have pointed out, we do not know how often they do not recuse themselves, so we cannot form a view on whether they have always got it right or whether there are situations in which they did not get it right.

The test to be applied is whether a fair-minded, fully informed independent observer would think that there was a possibility of bias. It is a case not of whether the judge thinks that there is a possibility of bias, but of whether an independent, fair-minded, reasonable observer—probably a layperson—would think that there was a possibility of the tribunal being biased. It is therefore possible for a judge to take one view and an independent person to take a different one, which is why we must take a hard look at the issue of recusal.

Do I think that the introduction of a register of interests at appellate level would lead to a massive number of challenges and cause real problems? If a system were introduced whereby somebody else had to decide that, I think that it might. As I have said, I think that practical considerations might make my counsel of perfection, whereby in the ideal world somebody else would make the decision, unrealistic. I think that it is more possible at the appellate level.

Maurice Corry: Are you aware of any serious examples of cases in which the issue has been a significant problem, indicating that the setting up of such a register is necessary?

Professor Paterson: The Hoffmann case is the standard example of something going wrong. From time to time, challenges to the courts receive a degree of publicity, but I am not aware of any that were as significant as that one.

The Convener: There are no further questions. Thank you for your helpful and balanced evidence, which has given us an interesting insight into the issues.

Does the committee have a view on what further action we might take?

Angus MacDonald: Given the evidence that we have heard this morning, I think that we need to seek a further response from the Lord President, Lord Carloway. I, for one, would like to hear his views on today’s evidence, either by letter or in person, and I am particularly keen to find out his view on whether the recusal decision should not be taken by the judge who has the interest that has been challenged. Another suggestion has been put into the pot that would be well worth our consideration.

The Convener: We can look at the most convenient way for the Lord President to provide that response, because we do not want to cause unnecessary inconvenience.

Rona Mackay: We would not be re-asking the previous question. We would be going back to him with a new request.

The Convener: Is there anything else that we might do?

Angus MacDonald: There was also the suggestion that we ask the judicial complaints reviewer for her view on the evidence that has been given today. We should go down that route, too.

The Convener: Do members agree to take those actions?

Members *indicated agreement.*

The Convener: Again, I thank Professor Paterson for coming to the meeting. It has been very helpful.

I suspend the meeting for a couple of minutes.

09:25

Meeting suspended.

09:27

On resuming—

Restraint and Seclusion in Schools (National Guidance) (PE1548)

The Convener: With the committee's permission, I am going to change the order of the agenda items because witnesses have been stuck in traffic—that is ironic, as we will discuss transport later. I propose that, to ensure that we hear from the witnesses who have agreed to come, we move now to agenda item 4, which is consideration of continued petitions that do not involve evidence from witnesses. We will simply look at those petitions as a committee.

PE1548, by Beth Morrison, is on national guidance on restraint and seclusion in schools. Our papers include a note by the clerk and the submissions that have been received from the Scottish Government, Dr Brodie Paterson and the petitioner. The Scottish Government's submission indicates that it intends to publish its guidance as soon as possible. However, in her submission, the petitioner highlights her concerns about the guidance; she also raises concerns about the Scottish Government's response to the United Nations Committee on the Rights of the Child's concluding observations and recommendations, particularly with regard to abolishing isolation rooms.

Do members have any views or suggestions on action to take? The petitioner's response is substantial and quite challenging. It is of concern that, rather than addressing what is at the core of the petition, the Government would simply redefine isolation in order to deal with the question.

Rona Mackay: We definitely need an update on the publication and use of the communication passport and the toolkit to see where we are with them. The issue is sufficiently important and serious that we should invite the Deputy First Minister to give evidence to the committee.

Maurice Corry: I agree with that.

09:30

The Convener: That would be useful. My sense is that the petition was going very well and the petitioner felt that she had had a good hearing from the Scottish Government, particularly the Deputy First Minister, but there is the suggestion that what has been suggested does not match up to that. It is really important for the Deputy First Minister to be able to clarify and allay concerns and cynicism around the matter. How do we manage our obligations under the convention? Is it simply a matter of playing with semantics? I am sure that that is not the Deputy First Minister's intention, and it would be useful to hear from him in that regard.

Is there anything else that we could do?

Maurice Corry: Obviously, the Deputy First Minister is looking at schools in a big way, so this is an opportune time to have him in front of us to speak about the subject. That would probably encompass stuff that he is doing.

Rona Mackay: We can even just clarify whether Dr Paterson has not so much misread the Government's response as taken wrong nuance from it. The Deputy First Minister would be given a chance to clarify that.

The Convener: It is a question of confidence. The petitioner is concerned that, if we do not have robust guidance, local authorities will do their own thing. In most respects, they will seek to act in the interests of the child, of course, but we are talking about a very distinct area that we probably want reassurance on. There is the combination of our concerns about what happens to young people in those circumstances in school and our obligations under the convention.

Do members agree to seek an update on the publication and use of the communication passport and the toolkit for practitioners, as Rona Mackay suggested? Do members also agree to invite the Deputy First Minister to provide oral evidence at a future meeting with a view to establishing which aspects of the draft guidance will fall to the Scottish Government and which will be devolved to local authorities to develop their own policies, and addressing what the changes in guidance have been?

Members *indicated agreement.*

Child Abuse (Mandatory Reporting) (PE1551)

The Convener: PE1551, by Scott Pattinson, is on the mandatory reporting of child abuse.

Members will recall that when we last considered the petition, we agreed to write to the United Kingdom Government for an indication of the timescale for the publication of its report on its consultation on reporting and acting on child abuse and neglect. We also agreed to ask the Scottish Government how it plans to engage with the UK Government on that issue. Unfortunately, no response from the UK Government was forthcoming, although the Scottish Government's letter indicated that it might be some time in "early 2017". Members will have seen the petitioner's subsequent response.

Do members have any views on what action to take?

Maurice Corry: We should write again to the Scottish Government and get the information out of the UK Government.

The Convener: I do not know what the committee thinks about this, but if the UK Government is not going to act, it is still within the Scottish Government's remit to act. At what point do we stop? I see the logic of waiting for the UK Government, but if it is not going to act, it would be useful to know what steps the Scottish Government will take to address the question.

Brian Whittle: Is it a devolved issue as well?

The Convener: Yes.

Brian Whittle: That approach seems reasonable, although I would like to hear from the UK Government.

The Convener: I think that the UK Government was going to take action that would allow the Scottish Government to fall in with that and the two Governments to work together. My understanding is that the matter is not reserved, but that that was a practical way forward. If that is not happening, it is reasonable to ask the Scottish Government what it will do instead. There are difficulties with a mandatory approach, but the whole issue still needs to be addressed. It cannot be stalled because we are waiting for somebody to act.

Do members agree that we should write to the Scottish Government to find out its position and, in light of what we have said, what it can do if there is not going to be movement at the UK level?

Members *indicated agreement.*

In Care Survivors Service (PE1596)

The Convener: We move to PE1596, which is by Paul Anderson and is on the In Care Survivors Service Scotland. The Scottish Government has provided an update on the roll-out of the new survivors support fund and the access criteria. The petitioner has since provided a submission that outlines his concerns around the loss of trust that has been established over a period of time between service users and counsellors, the potential loss of specialist skills and cost effectiveness.

I should perhaps declare an interest as a member of the cross-party group on adult survivors of child sex abuse.

There is no doubt that this continues to be an issue of concern for survivor groups. What action does the committee feel it might be useful to take?

Angus MacDonald: I should also declare an interest. As the local member, I have had a number of meetings with Open Secret, which is based in the Falkirk district.

The issue has been on-going for some time. It has been good to get some further clarification from the Scottish Government. The letter, which I think came through just yesterday, highlights that the funding that Open Secret has received in November and December

> "represents over 50% of the funding Open Secret would normally receive from Scottish Government for a whole year's service delivery."

That aside, there are clearly still issues with regard to service users wishing to continue to receive the service from Open Secret. If the service gradually diminishes, that may become a serious issue.

In the light of the petitioner's concerns with regard to cost effectiveness and the potential loss of the skills that Open Secret has been providing for a number of years, I think that we should write to the Cabinet Secretary for Education and Skills to seek clarity on the interim finance arrangements that have been put in place for Open Secret.

Rona Mackay: I support that suggestion. I also declare an interest, as the petitioner is a constituent of mine and I have had contact with him. There needs to be some clarity for service users on the long-term sustainability of funding. I support taking the action that my colleague suggests to get that clarification.

Maurice Corry: I agree with that, too. I also declare an interest, as I have spoken with Paul Anderson about the petition. I think that the approach that Mr MacDonald has suggested is the best way forward.

The Convener: I think that there is a continuing issue with the model that is being used to support survivors, as it is not just a medical model. The argument is that people are not necessarily ill—they are responding to the circumstances in which they have found themselves. We therefore need reassurance about the variety of supports that are available. That may be slightly beyond the remit of the petition, but the issue of the breaking of trust is an important one.

Brian Whittle: I think that it goes beyond a physical medical condition. That is where there is a bit of a grey area.

The Convener: Hugely specialist and excellent organisations such as Open Secret have developed the kind of supports that I describe.

Will we write to the Cabinet Secretary for Education and Skills—he will be a busy man—to seek clarity on the interim finance arrangements and the other issues that have been highlighted in the petition? There is a suggestion that we refer the petition to the Education and Skills Committee. However, if we were to refer it, I think that we would need to let it go. Shall we therefore wait and hold on to it? Is there anything else that we should do? We should perhaps underline to the petitioner and others that we regard this as an important issue and that we hope that he can get a resolution. Is that all agreed?

Members *indicated agreement.*

09:38

Meeting suspended.

09:40

On resuming—

New Petitions

Bus Services (Regulation) (PE1626)

The Convener: Item 2 is new petitions. The first new petition is PE1626, on the regulation of bus services. The petition was lodged by Pat Rafferty, on behalf of Unite Scotland. I welcome David Eyre, from Unite Scotland, and Ian Taylor, the director of Transport for Quality of Life. I thank David Eyre for stepping in at short notice, which was necessary because of transport issues affecting Pat Rafferty, and I invite him to make a brief opening statement.

David Eyre (Unite the Union): I thank the committee for rejigging its agenda to try to give Pat Rafferty time to get here. I pass on his apologies to the committee.

Unite is the biggest union that represents bus workers in Scotland, and the bus services of this country are of extreme importance to us.

Since 2006, the Government has subsidised the bus industry in Scotland to the tune of around £2.6 billion, but that public investment is not delivering the bus services that the people of Scotland expect or deserve. Routes are being slashed, the number of passenger journeys is falling and prices are rocketing. Quite simply, our deregulated bus system is failing.

From June 2016, the haud the bus campaign was supported by members of Unite’s community branch in the village of Banton in North Lanarkshire. The bus operator, First, had announced plans to cut bus routes to Banton and other neighbouring villages because they were not considered profitable enough. Banton does not have any shops, so the bus service was a lifeline service. The cuts would have prevented people from getting to work, children would have been unable to go to after-school clubs or even to nursery school and pensioners were left asking what the use of a bus pass is if there is no bus. We were successful in helping local people secure a trial replacement service—the trial period is about to come to an end—but it was clear to us that we had to address the wider problem, because Banton is far from being an isolated case. Here are just a few examples from the past year of communities that have suffered cuts to or the complete withdrawal of their bus services: Saline and Steelend in Fife; Kelvindale and Riddrie in Glasgow; Eaglesham in East Renfrewshire; Kingswells near Aberdeen; Shieldhill in Falkirk; Bo’ness; Lochee; and Greenlaw. The list goes on and on.

When a private company pulls out, there is nothing that you, I, the Parliament, the Scottish Government or Her Majesty the Queen can do about it. There is no regulation that can force a bus company to maintain a service, and there is no measure of social responsibility when it comes to bus cuts. The only thing that matters is money, and the only way local authorities can help is by throwing increased subsidy at the operators in order to maintain services. It does not have to be like that, and Ian Taylor will talk about how regulation and common ownership could help us deliver a world-class bus service in Scotland.

The Scottish Parliament was brought into being in the hope that it would improve people's lives. Clean, affordable and reliable bus services are the mark of a civilised nation. At the moment, we are failing to deliver that. Let us change that situation. Let us make this Parliament the one that finally delivers the bus services that people in Scotland want and deserve.

Ian Taylor (Transport for Quality of Life): I want to make just two introductory points, which arise from our report, "Building a World-class Bus System for Britain". First, our bus network should be designed as a network, not left as a chaotic free-for-all; and, secondly, significant amounts of money are being wasted.

It might seem an obvious point that the public transport network should be designed. However, the deregulation of buses in the 1980s removed the powers through which local transport authorities could design coherent integrated networks. What we have had since is a situation in which the operators, quite logically and naturally, follow the commercial imperative and cherry pick the best routes. That leaves local transport authorities running behind, trying to fill in the gaps and pick up the pieces. It is a highly inefficient way of putting together a public transport network.

09:45

To add insult to injury, it tends to be the same companies that are contracted—with further profit involved—to fill in the gaps for off-peak services and to run socially vital services to places that need them.

The first step towards building a world-class bus system for Scotland is to recognise that it should be purposely designed and operated as a public service and not primarily a vehicle for private profit.

The second point that I would like to make is about the amounts of money. We circulated to the committee in advance some rather intimidating-looking tables, I am afraid. I will pick up on three figures in the table that is headed "Scottish Bus Company Profits". If you go straight to the bottom right-hand corner you will see that the figure for the average percentage of profits is 8.77 per cent—let us call that 8.8 per cent profit. That is most significant, because it is more than double the level of profit that is made under the regulated system in London, which is 3.8 per cent. In absolute terms, that difference amounts to about £14 million, which could be put to good use by local transport authorities.

In London, Transport for London decides what the routes will be and lets them for a fixed price. It defines what the services will be and companies bid in. It can therefore decide that it will make money on the lucrative routes and cross-subsidise socially essential routes in places where it wants those, or services at particular times of day or across weekends when they probably would not exist otherwise. That is the approach in London.

It is possible to go one step further, as we see right across Europe. The major European cities, with world-class transport systems, tend to own their public transport networks. In our case, we could have a not-for-profit system in which the relevant figure would be the very bottom figure on the table, which is £24 million, because we would capture the whole profit leakage.

I will go a little bit further and say that it is not just the profit leakage that matters. The other pages in our submission, which I will not go into at the moment—we can look at them in the course of the discussion—reveal that other savings of an equivalent scale would come from the efficiencies that we would get from putting a network together. The bill for tendered supported services would go down. We could also build an attractive network and build patronage. It is well proven now that if we were to have a simple, attractive ticketing system that covered the whole lot—if we were to have an integrated network—we would grow patronage.

The most significant thing about the savings that would amount from that is that they would be more than the austerity cuts that have been made to bus services in recent years. Those are the amounts that we are talking about.

Where does that leave us? It is ironic that a Conservative Government in Westminster is taking legislative steps to reverse what was a Conservative policy in the 1980s: the deregulation of buses, which took place under Margaret Thatcher. I find myself astonished that something similar is not happening here in Scotland. Fundamentally, what changed in England—according to those who have had the discussions—is that the Treasury clocked that a lot of money was going to waste. George Osborne's discussions with the regions and the devolution agenda pushed the change. I strongly encourage the committee to put this into play in the Scottish context.

The Convener: Thank you. We will move to questions, and I will start. The petition calls for two things: legislation to regulate the bus service in Scotland and an inquiry into the benefits of bringing the bus service into common ownership. I can see the connection between the two, but is one an inevitable consequence of the other? Are you looking at different models of what people would define to be common ownership? As someone who comes from the co-operative movement, I recognise that there is a range of models. David Eyre, is it possible to do the regulation bit without being absolutely clear about the ownership bit?

David Eyre: It is true that we can split the two up. We can have a regulation model that does not involve public ownership or common ownership. However, it is the policy of our union to support publicly owned transport. It is the clearest and best route to providing the services that the people of Scotland need. Ian Taylor can talk about the savings that that would give us in Scotland and the amount of money that it would allow us to reinvest in the bus services.

That is why we have almost split the petition into two. We think that Parliament should definitely look at legislating for a regulation model but, as a union, we believe that the Parliament should take evidence on public ownership and common ownership—we use that term deliberately because there are co-operative models that could be looked at as well as the traditional municipal model and nationalised Scottish bus group model that we used to have. Perhaps that could be looked at further down the road and any legislation to regulate buses that was brought forward could also include the possibility of public ownership or common ownership.

The Convener: Just to remind us, how much money are you saying has been given to buses since 2006?

David Eyre: It is a lot of money—£2.6 billion since 2006.

The Convener: At the same time, the number of bus routes has dropped and fares have gone up.

David Eyre: Since 2007, the number of journeys by bus has fallen by 74 million, which is a 15 per cent drop. Since 2006, the number of official bus routes in Scotland that are registered with the traffic commissioner has fallen by 21 per cent. We have fewer bus routes and falling passenger numbers, and bus fares have gone up by 18 per cent in the past five years. People are paying more and more for a service that is getting worse and worse.

The Convener: What is the balance in usage between buses and trains?

Ian Taylor: The bus is the major mode of public transport. In the UK, more journeys are made by bus than by any other form of transport. It is, of course, disproportionately used—if I can put it that way—by people from lower income groups, those who do not own cars, women and older people.

I will pick up on the point about the amounts of money. It is not broadly appreciated that 40 per cent of the money that is in the bus system comes from the public purse. It is not just the tendered bus services that receive public support. Because we support concessionary fares for older people and because we give direct support through the bus service operators grant, 40 per cent of the total money that goes into buses comes from the public purse. However, we do not have any say over how it is spent. We do not control the routes, which is deeply problematic in terms of getting value for money. Your first question was about the different steps; it is certainly the case that regulation is required so that we can control what we get for our money.

Beyond that, it is interesting to look at how public ownership and not-for-profit systems are the norm in Europe. In Munich, for example, they would talk to you about having one area, one network, one brand, which they would have complete control of it and run under public ownership. Of all local transport trips in Germany, 88 per cent are made on publicly owned public transport. In France, the recent trend has been to move towards municipal ownership to get better value, and that is true across the political spectrum. When we did this report, we counted 25 municipalities of all political flavours and complexions in France that have set up local publicly owned transport companies called sociétés publiques locales. They have the advantage that, once set up, they allow the municipality to say, “We own this,” and, under European law, exclude competition.

Where we have an excellent public transport provider such as Lothian Buses, it is still fettered. It has to protect itself against the potential for incursion, which means that it cannot build the network and do things such as cross-subsidising networks. All these things run together.

Rona Mackay: With regard to legislation, you have said that you supported the members’ bill proposals that were lodged in sessions 3 and 4. The proposal in session 3 did not gather sufficient support and fell before the end of the session, whereas although the session 4 proposal gathered sufficient support to secure the right to introduce a bill, it fell on dissolution in the absence of a bill having been introduced. Given your support for both proposals, were you encouraged by the upward trajectory of the support between the two proposals? How did you feel about that?

David Eyre: I was not working for Unite at the time, but I think that there seemed to be a change in the way the two bills were viewed. The wider debate on the proposal for the second bill was certainly encouraging, and it seemed that there was more support for regulation when that proposal was made.

It is important that this issue is being raised through the Public Petitions Committee, because it affects every constituency, and every political party that is represented in the Scottish Parliament will have constituents who are suffering as a result of this situation. The Parliament's excellent system gives people who are signing the petition the ability to make comments, and it is interesting that more than 200 people did so, giving first-hand examples of how bus cuts are affecting them and their communities.

Obviously, this issue is important to Unite and our members who are directly employed in the bus industry, but we also represent workers across Scotland who rely on bus services to get to work, to do their normal business and to ensure that their children get to school. This demand has been growing and growing in Scotland.

Rona Mackay: I am detecting that you feel that there is much more of a mood to go down this route.

David Eyre: That is definitely the case. For example, there are representatives of the get Glasgow moving campaign in the gallery this morning, and they have been very active in a city where 49 per cent of people do not have access to the car and where the public transport system—in particular, buses—are fundamental to people getting around. There is a growing demand and a growing expectation from people in Scotland that the Parliament will now act.

Maurice Corry: Our briefing note says that, in preparing to introduce a transport bill later in the session, the Government is working with stakeholders to develop options for improving bus services. Is that something that you have been or would hope to be involved in?

David Eyre: We have not been involved in it directly, but—

Maurice Corry: You would like to be.

David Eyre: We would definitely hope to be engaged in the process of any transport bill. However, the important thing is that, as the petition goes through the Public Petitions Committee, the Parliament through the committee takes the opportunity to listen to the voices of the people of Scotland in order to get a full picture of the terrible impacts on communities as a result of the current deregulated system. Quite often in the legislative process, the stakeholders are those who are already organised—they are, if you like, already in organisations—and it would be great if the Parliament through the committee were able to uncover the evidence of the people on the ground in Scotland, not just the usual stakeholders.

Ian Taylor: I want to make a slightly different point about stakeholders by highlighting the issue of the bus companies themselves. One of the reasons why progress has not been made in Scotland might be that there are two very large bus companies based in Scotland, First and Stagecoach, neither of which has shown itself to be in favour of reregulation. However, there are bus companies that are in favour of reregulation, including some of the big ones such as Keolis, RATP, Abellio, the HCT Group and Tower Transit. You will not have heard of all of those, but Abellio is a big bus company that is part of the Dutch railway system; RATP runs buses in Paris; and Keolis, too, is based in France.

Those companies are strongly in favour of reregulation, and it is interesting that all of them have a lot of experience of European systems where things have been reregulated. In fact, some of them have much more experience than First, and they would prefer a system that did not have a lot of what they see as wasteful requirements that they would have to fend off and which would be seen as inefficient competition in a more European perspective.

10:00

Maurice Corry: You have referred to the Transport for London model. Where are its good points that would probably be good for Scotland?

Ian Taylor: The starting point is that something like a franchising system should be your default option. If you are going to adopt that, you could start with some duties on the local transport authorities. If they are going to have the powers to reregulate they should also have duties. Those should be simple duties: to increase bus use and improve bus services. Those do not exist at the moment, but as soon as a local authority had those duties, it would ask, “How do we do this?” The Urban Transport Group, the body that oversees passenger transport executives and so on, suggests that something like franchising should be the default option.

Previous transport bills have tried to set up legislation that works, but it has proved to be too tortuous. Nexus, the authority in the north-east of England around Newcastle, tried to go through the existing legislation to set up some sort of franchising system, but it was impossible to complete. The London system has a lot to recommend it, and it could be improved on by doing what has been proposed by the new London mayor, which is to have a system a bit like those in Germany, which has “Tariftreue”, whereby minimum pay and conditions are imposed across the board—so that companies must pay their drivers the minimum wage and so on. It works pretty well in London.

One of the biggest things that you can achieve under such systems, which you cannot do under a deregulated system, is to have one network, one brand and one ticket. You can achieve a smart, pay-as-you-go system in which the fare is capped.

Under the present system and competition law, it is illegal to stop bus companies setting their own single fare. That is rubbish. People want to know that they can have a simple ticket. If there is an Oyster-style system, as in London, people know that they will get the best deal. Whichever bus company they use—whether it is RATP, Abellio or Go Ahead—the name is visible on the back, but the buses are all red and they all share one brand. At the end of the day, if someone has travelled on lots of different buses, the system will cap the fare and people know that. That is impossible under the deregulated system. With a franchising system and with regulation, the fare structure is specified. In Munich, for example, there is one network, one ticket and one brand. That can be invested in.

Angus MacDonald: Good morning, David and Ian. You have put forward a well-argued case so far, and I have a lot of sympathy with it. You have done a lot of research into the issue already. Do you have any further suggestions about how bus services could be brought back into common ownership? Did anything come out of the research that you commissioned that you have not highlighted yet?

I am particularly interested in whether you can list any other nations in Europe where buses are in common ownership or where they have been reregulated successfully. You have mentioned political consensus in France and the situation in Germany. Do you have any other examples? Are you aware of any similar situations such as in the Nordic countries for instance?

Ian Taylor: Those are interesting questions, but I am afraid to say that they start to go into the 150-page version of our report. You have just been given the short summary.

The Convener: We are limited for time.

Ian Taylor: I will be brief. It is quite straightforward: if somewhere that has moved to a franchising system wishes to move gradually to a publicly owned system beyond that, it is just a question of letting the franchised routes lapse one by one.

There are still 12 publicly owned bus companies in the UK, of which Lothian Buses is the biggest and, arguably, the best. The essential thing is that if you invest in such a company, you can take it over gradually. On the other hand, if your authority’s neighbouring authority has its own municipal company, you can buy into that. It is not difficult to set up a bus company. You do not have to buy the whole stock—you can lease the buses. There are no fundamental obstacles. As I say, there are other European examples. One could look at Austria, where the bulk of the cities such as Salzburg and Vienna and so on have publicly owned networks that have been put together in that way.

Angus MacDonald: Around three years ago, when the second of the two relevant bills was being debated, it was suggested that the total cost of regulating bus services in Scotland would be around £1 billion. At that point, Iain Gray said that that was rubbish—

Ian Taylor: I agree.

Angus MacDonald: Have you costed regulation? Has your research produced any figures?

Ian Taylor: Table 5.1 shows the financial gains from franchising and the costs of franchising. I should perhaps explain that, if you are thinking that all these numbers are a bit different from the numbers in the other table, it is because they are the result of a slightly different approach. When we did the report, we had Britain-wide figures. In the numbers here, the Scottish totals are done as a pro rata on the turnover of bus companies in Scotland. Before coming here, we did a bit of rushed research. Unite kindly pulled out all sorts of company accounts and I analysed them on Friday and Monday. The two sets of figures are actually commensurate. It turns out that the pro rata was very close. However, with the figures in table 5.1, we have been able to exclude Lothian Buses.

To come back to your question about the costs of franchising, our estimate is that it might cost a couple of million to add capacity in local authorities that do not have it. Reregulation is as valuable in rural areas as it is in urban areas. There were some good pre-deregulation regulated systems in rural areas.

Also, bus companies have to bid in, and there is a cost that comes with that, which we estimate is about £1 million. The cost of bidding is not immediately apparent, but it will go into the system and eventually come out as a cost. It is a small proportion relative to the savings and is nowhere near the sorts of rubbish numbers that have been referred to.

The Convener: Can I ask a slightly different question? Unite has the haud the bus campaign and represents the workforce. There are folk from Glasgow here today, and the Co-operative Party has the people's bus campaign. There is clearly demand for regulation from a range of organisations. Unite spoke specifically about the consequences of a deregulated system for people working in the bus industry. Presumably there is so much competition that there is pressure on terms and conditions. Do you have examples of the conditions in which bus drivers are now operating? There are fewer routes and it is costing more. What is it like for folk who are working in the industry?

David Eyre: It is not just bus drivers; it is the people who maintain the buses and the people who carry the cash from the buses to the counting offices. There are the bus cleaners, too. All of those professions are under pressure. In Glasgow, bus depots have been closed, for example at Parkhead, and centralised at the Caledonia depot in the Gorbals. Anecdotally, we know that there are fewer pits for maintaining the buses, and that is increasing pressure on the people who are trying to keep the buses on the road. As a result, increasingly there is lost mileage on bus services in Glasgow. Quite often, buses are not available because the capacity is not there to maintain and repair them. There is that side of things.

There is also a cash side of things. Ian Taylor's report makes it clear that, before bus deregulation, a bus driver's wage was roughly in line with the average wage and that, since bus deregulation, the average wage has gone up by 25 per cent but the average wage of a bus driver has gone down by 11 per cent. Therefore, bus deregulation has had an impact not just on passengers but on the people who work in the bus industry. It has been bad for people. However, our members who work in the bus industry tell us that some companies are better than others. Lothian Buses stands out as one of the better bus companies for its terms and conditions, and it is no accident that Lothian Buses is municipally owned.

In London, where there is a franchise model, the mayor has started to include in the franchise discussions the terms and conditions of bus drivers and others who work in the industry. I imagine that that could be replicated in Scotland under a franchise system, and that would be good for our members. There is a franchise system in London and the Bus Services Bill that is going through Westminster could roll out a franchise system to every local authority in England, while in Northern Ireland the bus service is still municipally owned. Scotland is in danger of being left at the edge unless we take action now.

Brian Whittle: Good morning, gentlemen. Our briefing refers to the number of parliamentary questions that have been lodged that have some relevance to the issue that is raised in your petition. For example, in response to a question on the action that the Scottish Government is taking to protect bus services, the Minister for Transport and the Islands referred to the £50 million of funding that is allocated through the bus service operators grant and the £60 million of funding that is made available to allow local authorities to support their local bus services. Do you have an opinion or position on that?

Ian Taylor: Do you mean an opinion or position on whether that is good money that is being well spent?

Brian Whittle: Yes.

Ian Taylor: It is good money, and it is great to see it going into buses. The case for supporting buses as a public service is very strong indeed. However, it is my strong contention that, for that money, the Government should be able to achieve its policy objectives for buses, and I do not think that there is the required level of control. The Government puts the money in and the bus companies can do what maximises the profit for them. Logically, they will do that, and they will do it well. At the moment, if the Government wants concessionary fares for older people, for young people or for disabled people, it will pay through the nose for that—that is how it works—whereas under the London system, it is just part of the deal. The route is contracted and the company has to carry those people free of charge or whatever.

Our fares system is quite controversial, as the bus companies know that they are going to be reimbursed more if their fares are high. I happen to live in Wales, and one of the reasons that we tend to have high fares in rural areas is that, if a bus company sets high fares, it gets reimbursed more for its concessions. Also, the regime does not work well because, if the bus company decides to run a whole new route, the Government ends up reimbursing it for something that should have been cost neutral. There is therefore a question of how the money is spent.

The issue goes beyond that, because that is only the money that the companies get directly. We should be aware that the public purse is also building bus priority measures. The local authorities build bus stations and bus stops, and the local transport authorities have to run around doing the timetables, the leafletting and that sort of thing. In many places, there is no overall network map. You can get a network map for Leicester from Arriva that purports to shows the bus network in Leicester, but it is not a map of the bus network in Leicester—it is just a map of the Arriva bus network in Leicester.

The point that I am working towards is that the local authorities provide bus priority money and all sorts of other money, and that money is doing a lot of the work that the bus companies should be doing themselves. We do not expect to pay to market Tesco but we do it for the bus companies, and yet they call it a commercial service. Given that 40 per cent of the bus companies' income comes from the public purse and all the infrastructure is laid on by the public purse, we do not have sufficient control over the system.

10:15

Brian Whittle: Are you concerned about the fact that the subsidies are not spread equitably among larger and smaller bus operators? Is there a need to strike a balance between commercial and social needs? I presume that that is what you were alluding to.

David Eyre: As I said in my opening statement, the only mechanism that we have for dealing with a situation in which a bus company decides that a route is not profitable is for the local authority to subsidise that route. There is anecdotal evidence that less money goes to support subsidised routes in Lothian, where we have a publicly owned bus service, than is the case in other areas of Scotland. As another example, the service in Banton that I mentioned has been running for the past six months only because North Lanarkshire Council is funding it.

Ian Taylor might have more figures.

Ian Taylor: Some of the smaller bus operators might find Mr Whittle's question quite resonant. Since deregulation, the large bus companies have had the muscle to exclude—or to buy out—small operators, and we have ended up with the big six across the UK. To put it really bluntly, we have a functioning cartel of local monopolies. That is not what was meant to happen under deregulation, and it is, I presume, one of the reasons why people have turned against it.

The franchising system provides quite a simple way in for smaller operators. Johann Lamont asked about different forms of not-for-profit ownership, such as the co-operative model. Hackney Community Transport is a not-for-profit group that started as a community transport group in London and operated under the franchise system. It has since grown into a nationwide group with a turnover of £40 million, and it runs all the buses on Jersey and Guernsey under the franchising system there.

Some of the smaller operators have very good reputations—they have had to be really good to survive against the big guys. Local authorities attempt to sustain those operators under the present tendering system because they do not want to be held over a barrel by the big operators. Almost universally, the cannier local authority officers who are doing limited contracting at present are trying to cut contracts into pieces that the small operators can bid for.

In addition, if a small operator is bidding for a simple contract for which the route is defined, it does not have to worry about revenue forecasts and so on—it has only to ask what it is going to cost to run the service. Deregulation has been quite difficult for small operators, but re-regulation could be designed in such a way that it would be good for them across the board. Where I live, I am lucky to have a very good small operator: we would not have a bus service, otherwise.

The Convener: I suspect that we could discuss the petition for another three hours, given the number of different issues that it raises. One issue that we have not touched on is the capacity of community transport to deliver a service. I do not want to close down the discussion unnecessarily, but we must move on, because there are pressures on our time.

I note that Pat Rafferty is now in the gallery. I regret that, because of transport challenges, he was unable to be here earlier. However, it would be fair to say that the evidence that we have had has been extremely useful.

Do the witnesses have any brief final comments before we consider how we might progress the petition?

Ian Taylor: I have a small point on an issue that you have not asked us about and perhaps should have done, if you will excuse me for saying so. One of the counterarguments that people come up with is that London has lots of money and the London system is terribly expensive. That is not a valid point, for two reasons. First, until 2000, support for bus services in London had been run down to the point that it was virtually zero, but the patronage held up in a way that it did not in other areas. Secondly, if we look at the patronage from the point of view of the value of subsidy per trip, the subsidy levels per trip are lower in London than elsewhere. I thought that I would throw that in as a parting shot.

I thank the committee very much for its time.

The Convener: We are not often told what questions we did not ask, but we will bear that in mind for the future. [*Laughter*.] I say to the witnesses, and to Pat Rafferty in particular, that you should feel free to follow up any issues with the committee after this evidence session.

On how we will take the petition forward, I think that the committee wants to look further at the issue that the petition raises. Do members have suggestions about what we might do in that regard?

Brian Whittle: We should seek the Scottish Government's views on the action for which the petition calls, specifically the Government's involvement with stakeholders in developing legislation options for improving bus services as part of the preparation for a transport bill.

The Convener: I think that we can agree on that.

Rona Mackay: Yes. It is essential that we write to the Government and seek its views, as Brian Whittle said, and write to various stakeholders to get their views on the petition so that we can get a complete picture.

Maurice Corry: I agree that we should write to the Government and to stakeholders—in particular, Strathclyde partnership for transport, given that it deals with a lot of the issues to which the petition refers.

The Convener: We should write to a range of stakeholder organisations, including the trade unions, the Convention of Scottish Local Authorities and various community and transport groups across the country, to ask for information. The petition raises questions about the level of public subsidy and the nature of the services that are being delivered, and I think that we need to reflect further on the second aspect of the petition with regard to whether there should be an inquiry and whether it is viable for this committee or another committee to undertake it. However, we are not closing down the second aspect at this point. We will seek as much information as possible and then reflect on it, especially on the information that we get from the Scottish Government.

We will write to COSLA, the regional transport partnerships, the bus stakeholders group, the Association of Transport Coordinating Officers and the Confederation of Passenger Transport Scotland, and to passenger groups such as Bus Users Scotland and the Scottish Association for Public Transport. We can also contact other groups that members may suggest. Unite the union will obviously want to respond, and other unions with an interest in the matter might want to respond as well.

Angus MacDonald: Given that the Bus Services Bill that is going through Westminster was mentioned earlier, I would be keen to get a paper from the Scottish Parliament information centre with more detail on where Westminster is with that bill.

The Convener: That would be helpful. As we heard in evidence, there have been shifts in policy positions on bus services elsewhere in the United Kingdom.

We have agreed what we will do with the petition. I thank the witnesses for their attendance today and their evidence. We will revisit the petition and keep you informed about that. However, please feel free to feed into the committee any further points that you might have.

I suspend the meeting for a changeover of witnesses.

10:23

Meeting suspended.

10:26

On resuming—

Pathological Demand Avoidance Syndrome (PE1625)

The Convener: PE1625 is on the wider awareness, acceptance and recognition of pathological demand avoidance syndrome. We will hear evidence from joint petitioners Patricia Hewitt and Mary Black, who are accompanied by Euan Robson and Heather Fullbrook. I welcome you to the meeting. You have the opportunity to make a brief opening statement of up to five minutes. After that, the committee will ask a few questions to help inform our consideration of the petition. Who wants to start?

Mary Black: This statement is from Pat Hewitt, and I will read it on her behalf:

> "There are two boys in my case one 19 the other 20. There was no early intervention. The youngest behaviour was classed as 'lazy and winging it' at school. 'We have children like this all the time' and ignored my concerns. He was removed from Nursery for months because they said he was too hyperactive and immature. Had the schools referred him they would have found out differently. At no stage was I made aware that I could have asked for an assessment of their needs. I found that out too late.
>
> The eldest behaviour was put down to Post Traumatic Stress Disorder after their father died. He was on a heart transplant list for five years then died of misdiagnosed Cancer of the Stomach.
>
> Adult mental health services diagnosed my eldest son within weeks with Asperger's at 18. His brother was diagnosed at 17 with Asperger's by CAMHS after a year of cancellations and failed appointments to do a school assessment. I knew he was different and pleaded with them to transfer him to adult services who diagnosed ADHD when he was young and now has ADD.
>
> My boys have been humiliated and degraded throughout their school years and denied a normal childhood and education.
>
> It was not for the lack of trying to get answers by my GP. So many people failed us not just CAMHS. When Sick Kids fail to recognise the type of seizure, Asperger's and PDA I think it time to worry. In the end I have recognised 95% of the issues. Thank goodness my GP believed me.

It was a comment made by an instrumental music teacher comparing students, seeing Mary's article in the Press about Hannah and PDA, then reading Jane Sherwin's book, 'My daughter is not naughty'. It was a lightbulb moment.

My eldest son has been handcuffed by the Police after he trashed his bedroom in a meltdown. Neighbours and Police searched for him in the dark on another occasion.

My parenting skills have been questioned. I was offered a parenting course. I wanted to end my life because no one would help. One Police Control room assistant called me 'an unfit mother'.

10:30

I asked my GP to remove the eldest to a homeless unit. I could not cope with his behaviour any more. I have to live with that guilt.

This has had a massive effect on both my mental and physical health, I now need help which I don't get.

I also care for my sister four days a week who has numerous medical problems. I have been abandoned by Social Work and CAMHS and muddle through the best I can.

Due to PDA techniques not being used my children have failed so many exams at the latter end of their school career. The refusal of adequate support for the youngest resulted in severe sleep deprivation, he was staying up 24/36 hours. He never returned to school. We rescued one exam.

An inspirational tutor listened to the story at Edinburgh College last June and they are now using PDA Strategies to help him in his Classical Music Studies. We believe he is the first PDA student at the College. His private instrumental tutor is working with the College. My faith in the Education System has been restored by this team. For the first time in his life my son is happy in a safe caring environment who have been willing to listen and learn.

My eldest son's P7 teacher in Primary School said he would be able to pick and choose which University he went to—Oxford, Cambridge, St Andrews. He is on Employment Support Allowance in the support group.

He is a virtual recluse. I still don't have an accurate diagnosis for both boys. I believe both fit the profile of rare syndromes. We have recently been refused an out of area referral for PDA.

My eldest son was never the same after an accident at school where he received second degree burns to a hand after failing to provide protective gloves. He was not given correct first aid and was in agony for months. Months later he started having seizures. These are still uncontrolled but we now have the right diagnosis. Another Consultant who 'listened to the story'.

He was bullied from P2 to S6 and eventually bullied out of school.

He could not control anything in his life. Because PDA was not recognised, the long term damage was done.

The local additional needs support Group has refused to support us as the Local Authority does not support PDA.

My biggest fear is what happens once I die. Unless people are aware of PDA and the Strategies required I am so frightened my boys will land up in Prison or a care home, homeless or taking drugs and alcohol.

When I first went to my GP and asked him what he knew about PDA, he replied 'nothing', 'Listen and Learn'. We have worked together and there are now seven confirmed cases of PDA in the practice.

I need hope for the future. My boys will need 24/7 support. Scotland has totally failed them so far. Prove to me and so many other Parents, children, young people and adults out there that you do 'Listen to the Parents' and spread the awareness and formally recognise PDA".

The Convener: That statement was on behalf of Patricia Hewitt. Do you have a statement of your own?

Mary Black: Yes. First, I thank you for giving me the opportunity to speak to you today regarding the autism spectrum disorder PDA and the petition—which you will have seen, and which is signed by parents and professionals in the fields of research, medicine, social care and education.

I am the parent of five children. Four of my children are very successful educationally and are very happy in life. Two are currently in university and the others are in very good employment. However, there has been a massive impact on us as a family as we knew that Hannah was different—so different from other children—from a very young age. When Hannah started nursery, it was very clear, and her nursery teachers told us, that something was not right: Hannah was different. I turned to all the professionals for help and advice, but I was simply sent to parenting classes. After that, it was just like being on a hamster wheel, going round and round in circles. Eventually, they discharged me. For 11 years, I have been blamed and quizzed about my family. That has caused severe mental health problems for me and my family, and for Hannah.

Hannah is aged 13 and she is so different from her brothers and sisters. With the correct care and understanding, she can be a very loving, caring and happy young girl. In May 2016, she even managed to climb Ben Nevis in under four and half hours. Hannah can also be controlling and extremely demand avoidant, and she is highly anxious most of the time. Due to social communication and interaction difficulties, she can become very verbally and physically aggressive, particularly towards her family. Hannah has a profile of PDA, which is on the autism spectrum disorder. I know that she has that development disorder from all the research and because the therapeutic residential school that she went to in 2015 for six weeks picked up on that within a few weeks during assessments.

The school's conclusion was that Hannah has to have access to specialist services that understand the needs of young people with complex atypical ASD/PDA, who need 24-hour care. I cannot find a professional in Scotland who understands PDA and who is able to diagnose the disorder. There are several specialists in England who have been trained to assess and diagnose the disorder, and I and many parents in Scotland feel that specialists need to be available in Scotland.

Even though Hannah has not yet been officially diagnosed with PDA, my family and I have been using the management and behavioural strategies for children with PDA and we have seen how much of a difference those have made to Hannah in the past year. However, Hannah still needs an education that can meet all her PDA-related special needs. Whoever educates Hannah will need to have a good understanding of PDA and the strategies that are needed to keep her calm so that she can learn. So far, the education department has failed to provide a suitable education for Hannah and she has remained at home with me for the past couple of years. The department does not have any idea of what to do with her.

For the past six years, Hannah has spent most of the time excluded from primary school because of her extreme anxiety and meltdowns, which have led to her being restrained and handcuffed. PDA is part of the autism spectrum, but it should not be diagnosed as ASD, because the strategies for that are known not to work with PDA children—in fact, those strategies can make children with PDA a lot worse and can affect their emotional and mental health, leading to anxiety, depression and self-harm.

Children with PDA are often labelled as naughty children and are not diagnosed as being on the autism spectrum, because they can give more eye contact and they are high functioning and are intelligent. They can also mask their difficulties at appointments and they have superficial social skills. To get a diagnosis, it takes a very specialist ASD psychologist who has been trained in ADOS—the autism diagnostic observation schedule—and in how to recognise not just ASD but the particular markers and traits of PDA. There are a couple of places in England where professionals can train to accurately diagnose ASD and PDA—one is in Bromley in Kent. Without that training, professional psychologists cannot recognise PDA or note how it relates to the autism spectrum.

If children with PDA do not get the accurate assessment, diagnosis and educational support that they need, their outcomes will be very poor—they will have mental health difficulties or be sectioned or commit suicide. Educationally, they will not achieve or finish school and they could therefore become criminal offenders. However, with the correct assessment, diagnosis and support, children with PDA could go on to college or university or into employment and to live fulfilled lives.

Early intervention is the key to good outcomes for children with PDA, but accurate assessment and diagnosis and early intervention are not available for this very complex and challenging group of children. So, ladies and gentlemen, I am asking you please to make changes in Scotland to ensure that all our children get the care and understanding that they deserve so that they can find their way in the world when we are no longer on this earth to care for them, as PDA is a lifelong disability.

The Convener: Thank you very much for those substantial statements. There was lots for us to think about in there, and some of our questions might have been answered. The first aim of your petition is to promote a wider awareness of PDA syndrome. Just by being here today and making those statements, you have probably already come quite a long way on raising awareness.

You provide a lot of reference sources in your petition, as does the briefing information that has been gleaned for us. How can those reference sources be promoted to encourage people to access them and be aware of the issues? How can we make the resources that exist more public and more available to people?

Heather Fullbrook: At present, there seems to be no recognition whatsoever. When we as parents go into meetings around the child—MAC meetings—or other meetings with agencies, there is no recognition of the condition. To publicise it, there would have to be a campaign in the same way that there was with Autism and Asperger’s, which were not recognised disorders. Education is definitely the key. We need to educate the people at the top in health, education and social work services and work down from there, because people simply do not recognise the condition.

Rona Mackay: If general awareness is improved, will that generate recognition and acceptance of the condition? If the public are more aware of it, will one follow from the other?

Patricia Hewitt: Yes—definitely. The first case was recognised in 1998 by an inspirational team in North Lanarkshire. The child was taken down to Nottingham and the famous Professor Newson diagnosed the condition. She was given one-to-one attention through school until she was 15. How is it that that happened yet my GP had not even heard of the condition? Until I saw Mary Black’s article in the paper, I had never heard of it.

In my case, it was me who recognised it. I was blatantly ignored by the schools. In talking to the teachers, I found that their understanding of the autism spectrum was shocking, and that included the primary school teachers. I do not know whether people need any training whatsoever to be a learning support teacher, but their understanding of autism is shocking.

Mary Black: There is none.

The Convener: There is significant training for learning support teachers, but that is a different point.

Patricia Hewitt: The other point is that it is important to explain things simply. Everything that people get is so complicated. It is really concerning that CAMHS and the school doctors did not recognise the condition and told my son for eight years that it was post-traumatic stress disorder. It was me who worked out all the different parts of it. It is also concerning that places such as the sick kids hospital did not understand the differences between epilepsy, autism spectrum disorders and PDA.

If there had been early intervention at the start, I would not have had the police at my front door and my child in handcuffs. His whole life has been absolutely destroyed. One thing about PDA is the anxiety. Sitting here—half terrified—we have a certain level of anxiety. The anxiety of children with Asperger’s is much higher, but the anxiety associated with PDA is higher than the ceiling. We have to be 10 steps ahead all the time. We can watch the anxiety, and we have to get in quick to distract them. I am not being rude, but I normally talk about politicians. I ask them, “Have you seen what so-and-so in America has said today?” That sort of turns it into a bit of fun, and when I distract them in that way, I can see their anxiety going down.

Even to get my youngest child out of bed is a nightmare. When you think of it, there are all these demands: get out of bed, brush your teeth, brush your hair, go in the shower, get all your things ready. The child has all these demands hitting them—

Mary Black: Every single day.

Patricia Hewitt: One thing that schools do not understand is school refusal. People are told that they will take their child to school, and that is the end of it. Schools do not understand what is happening at home.

Mary Black: We have to get them out of bed to start with, and that is a massive demand.

Patricia Hewitt: Yes. The help that my son needs to get into the taxi and then on to a bus is unbelievable. As I said, we have had the PDA strategies put in at college, and everybody is working together. That is instrumental in him being at college. If we had not done that, he would not be there. It is as simple as that.

Rona Mackay: Will you clarify the situation in England? You mentioned a particular practitioner, but are there others?

Patricia Hewitt: It is all over the world. There are people affected in America, and I have just talked to a lady in Croatia about it. The whole world is affected by it—it is that important.

Rona Mackay: Are there specialists who recognise and are aware of the condition? You mentioned that the situation is different in England.

10:45

Patricia Hewitt: There are very few, but there are some in Scotland. There was a lady in Inverness whose seven-year-old child was handcuffed—it was horrendous. She is a nurse and, for three years, she had told CAMHS that the child had PDA, but she was totally ignored. Eventually, she got a referral across to Yorkhill hospital, where the PDA was diagnosed. There is also a lady in Aberdeen who said online that she has a diagnosed child, so there are little cliques.

Rona Mackay: There are pockets where it is recognised.

Patricia Hewitt: That is why I was asking about referral. On the PDA Society website, I sent a private message to a family in Edinburgh who have a diagnosis for their 19-year-old daughter. She is in a homeless unit with mental health difficulties, because CAMHS had failed to recognise her condition.

Mary Black: There is no support afterwards. I was told that my daughter had PDA in 2015, but CAMHS discharged me and the education authorities did not believe it—they said that PDA does not exist. I was told to get on with it and I was left on my own. That is why I went public to raise awareness and to say, “This is what’s wrong.” I had to witness my child in the back of a police van being manhandled, because of her sheer anxiety. I had to watch her being handcuffed and thrown. That was awful, and it was all because of the lack of awareness and a belief that there is no such thing as PDA.

Patricia Hewitt: We have proved that it does exist, because of the original case. The CAMHS that are poor do not recognise PDA, but the good CAMHS do. It goes from one extreme to another—from absolutely brilliant to absolutely appalling. It is the same with education services.

Mary Black: Only last year, I was told in a MAC meeting that I should not bother wasting any money going private to get my child diagnosed officially with PDA by a professional, because it is not recognised and it does not exist. I was told that it was down to me and the way that I brought my child up.

The Convener: We have heard a lot of information, so we might not need to ask all our questions.

Brian Whittle: In the petition summary, you refer to "appropriate agencies and bodies" providing training, developing therapeutic programmes and providing support. What might the appropriate agencies be?

Patricia Hewitt: They would include the National Autistic Society, for one. It has a wonderful school just outside Rotherham with a specialised hub for about 17 or 18 children. They are given specialist education and taught social skills—it is absolutely amazing. There are also schools in Scotland that will work with such children.

My two children went through mainstream education and it was absolute hell for them, but the eldest represented the Scottish Borders in a K'Nex competition. The youngest went to Germany with the Borders chamber orchestra and he was in Inverness last year with Edinburgh College's orchestra. If you saw him, you would not think that he is autistic.

When it comes to the early intervention strategy, my biggest bugbear is the additional support for learning legislation. The Scottish ministers say that a diagnosis is not needed, but people on the education side do not know that a diagnosis is not needed and that there is a legal duty to refer. The education minister said, "Yes, that is right." We were fobbed off to make inquiries in the Govan Law Centre. The General Teaching Council did not want to know. Nobody wanted to know—it was unbelievable. You should go to a specialist school and listen to the parents, because we were totally ignored. I said that my youngest had lots of issues outside of school and that he was a nightmare getting to school, and other parents said, "My children are like that." What they were put through was horrendous.

The committee should go to those specialist places and see what they are doing. A little while ago, we were up at Barrhead, training with the PDA Society, and we listened to some of the teachers. One of them said that the most brilliant thing in her career was to get a child with PDA right through the school system and to ensure that they got an education; to her, that was the most rewarding thing out. However, one of my neighbours who is a teacher said to me, "Patricia, we just do not have the time or the resources. It's easier for us if these children fall out of the system."

The Convener: Did you want to come in, Mr Robson?

Euan Robson: If I might, convener. I should say that I am here in a private, not a professional, capacity.

There is quite a direct and straightforward answer to the member's question: there needs to be official recognition of the syndrome. Without that, there will always be a debate about provision, and it would be ideal if the Scottish Government were to look carefully at the matter, to officially recognise the syndrome and to issue guidance to inform the relevant authorities, whether they be in health or education.

I am a layperson in this area, and I suspect that all the members of the committee are, too, but there is evidence that appropriate therapies can lead to fulfilled lives and reduce the appalling stresses on families. The sad thing is that well-intentioned interventions or therapies that are appropriate to certain parts of the autistic spectrum but not to this syndrome can actually do more harm than good and can raise difficulties. Therefore, recognition of the syndrome by the Scottish Government and guidance for professionals on how to cope and the therapies that are available will be of enormous assistance.

Patricia Hewitt: As far as PDA is concerned, sending a teacher on an ordinary autism training course is a total waste of time—it is like sending a plumber on an electrician's course. The strategies are completely different.

We are told to choose our battles carefully, and that is what we do. Most parents would be absolutely horrified at what we have to turn our backs on—being told to eff off and all the rest of it—but we know how far we can go, because we just do not want to have a meltdown situation. When you think about it, it is like looking in a sweet shop; the children with PDA want to go in, but the demand avoidance aspect is telling them, "No—don't."

The other thing about Asperger's relates to prediction: the children cannot follow through and predict what will happen next. If they stay up all night, they cannot predict that they will have to go to school the next morning. They also have all sorts of sensory issues; they are oversensitive to many things. That is what you are looking for. My youngest one has attention deficit disorder; that is what I have, too, and the only way that I can describe it is as "Flit, flit, flit, flit." When you take all those issues together, you can see why the normal autism strategies cannot be used.

When my son did his Business and Technology Education Council level 3 diploma, because he had not been taught using the correct PDA strategies, he got only three merits and he needed six to get into the next course. Had those strategies been there in the first place, we would have been able to get him through. He failed four out of five exams, because they totally ignored me and refused to put in the support. Even after that, they still would not put the support in. Eventually, I told them about the sleep deprivation; the sleep had gone off the scale. To me, it is mental cruelty to do that to a child—it is just unbelievable. The other child was denied an education, because he was bullied out of school. It has just been absolutely horrendous.

Had the right strategies been in place for both children, we would not have had the issues that we had to deal with all the way through. This syndrome is never going to go away or get better; there is no cure for it, and the strategies need to be put in place. If something were to happen to me today, they would just lose it and go “Tchoong!” again.

Mary Black: Their anxiety would go so far—

Patricia Hewitt: —that they could not cope. The right strategies should be put in. People do not know about PDA, and many parents come on to the forum. A lot more women come on to it and talk about abuse from husbands, for example. I help parents throughout the country. One parent has four children. Getting support is absolutely horrendous.

The Convener: I am conscious of the time. Does the committee have any other questions? I appreciate everything that has been said so far.

Maurice Corry: I have a short question. You referred to music and art, which I have a deep interest in. Do you find that they are the most prominent therapy for your children?

Patricia Hewitt: The other child is into engineering and science, but music helps many children on the spectrum.

Maurice Corry: Out of music, art and engineering, is music at the top?

Patricia Hewitt: It is for him.

Mary Black: For my daughter, it is swimming. I do a lot of horse therapy, and we go swimming. Music helps, and she is quite musical.

Patricia Hewitt: Every child with PDA is unique.

Mary Black: They are all different.

Patricia Hewitt: They are like fingerprints; no two are the same.

Mary Black: What works for one child might not work for the other. It just depends.

Patricia Hewitt: The strategies could work on the first day, but if they are tried the next day, no will mean no; it does not matter what is done.

Euan Robson: The point about the particular example of music is what can be achieved when the appropriate therapies are applied in individual cases. A young man who has had a very difficult educational experience is now flourishing because there is an understanding of his condition. The tragedy is that, until the syndrome is recognised, there will be endless cases of people who could have achieved and done much, but cannot do so.

The Convener: I am conscious of the time. If the witnesses want to feed further things into the committee, we would obviously be keen to hear from them, but the most compelling thing that they have said is pretty basic. It is about getting recognition of the syndrome.

We will now consider what action we can take as a consequence of what we have heard.

Maurice Corry: I would like to get the Scottish Government’s views on the matter and see what actions that the petition calls for it can take.

The Convener: Do members agree that we should ask the Scottish Government for its views?

Members *indicated agreement.*

The Convener: What about other organisations?

Brian Whittle: The National Autistic Society has already been mentioned. I coach somebody with autism in track and field athletics, and I can see the impact that having a different route can have. I would like to understand the National Autistic Society’s views on the matter and on whether it recognises PDA as a syndrome.

The Convener: There are Scottish autism organisations, too. It has been suggested that we seek the views of Enquire, Child Autism UK, the Royal College of Paediatrics and Child Health—I would be interested to know its view—and the Convention of Scottish Local Authorities. Perhaps we could seek the views of the teaching unions, as well.

Rona Mackay: It is important that we contact as wide a range of bodies as possible.

Angus MacDonald: I want to follow on from Brian Whittle’s comments. If we are writing to COSLA, I think that Mary Black mentioned that some councils recognise PDA, but other councils do not. Is it possible to get a list of which councils recognise PDA and which ones do not give it proper recognition?

The Convener: Okay. We agree that we should write to the Scottish Government and the organisations that we have identified. We could also explore differences between local authorities.

I thank our witnesses very much for attending. If their first aim was to raise awareness of the condition, they have certainly done that. We hear very clearly that things would come as a consequence of getting recognition that would be very important in helping families and individuals in those circumstances.

I suspend the meeting for a changeover of witnesses.

10:59

Meeting suspended.

11:02

On resuming—

Mental Health Treatment (Consent) (PE1627)

The Convener: PE1627 is on consent to mental health treatment for people under 18 years of age. I welcome the petitioner, Annette McKenzie, to the meeting. I think that she faced some challenges in getting here, so we really appreciate that she has come along.

Annette lodged her petition following the death of her daughter Britney, who, very sadly, overdosed on medication that she had been prescribed. Annette explains in the petition that she has brought the issue to us

> "to try and ensure no more parents have to go through what I have gone through in recent months."

We recognise just how difficult that must have been for you, Annette. If you are happy to do so, we would like you to make a short opening statement for approximately five minutes. After your statement, members will ask some questions that will help us to decide what action we may wish to take in response to your petition.

Annette McKenzie: I covered most of what I wanted to say in the petition. First, I would like you to know that I am not here on a witch hunt against the particular doctor who prescribed the medication to my daughter. When what happened with Britney happened, I was devastated—I was broken—but it let me find a fault in the system, where we are letting young people down and increasing the rate of suicide by giving children with mental health problems medication.

My daughter, at 16 years old, did not understand the severity or the strength of the medication that she was given. She went to the doctor that day to ask for help. She did not go expecting to be given pills. I know that a lot of people have concerns that my petition will discourage young children from seeking help from their doctor, but, speaking as an adult, I do not go to the doctor asking for tablets. I go for a diagnosis and to find out what he will do. I do not believe that a child will not go to a doctor to ask for help as a result of my petition, because at that age a child is not going to a doctor to ask for pills. They are going to speak out and ask for help.

At 16, someone who has mental health problems is not adult enough to make those decisions. If someone has mental health problems, they are not in a clear frame of mind. I do not believe that my daughter was in a clear frame of mind that day when she attended her doctor appointment, and I do not believe that, in a 15-minute appointment, her GP would have been able to properly assess and medicate my daughter. She could have been having a bad day that day.

More needs to be done on mental health for people who are 16 and 17. At those ages, people are going through adolescence and a lot of changes: they are learning how to cope in this big bad world that we live in. I would say that, at 18, someone is more capable of understanding consent and the long-term effects of taking something.

I honestly do not know what more I can say to you that I have not said in the petition. I have another daughter who is 14 and a son who is nine. I sit at home every day and worry because my 14-year-old daughter can go to the local GP and say that she is depressed and is not sleeping at night. That GP does not need to contact me and she can give her the same pills that Britney was given. What if she is missing her sister and decides to take all those pills? There is nothing that I can do as a parent. I do not have the right to know.

We are not just talking about my daughter being 16; we are talking about there being no age of consent. If a child goes to see a doctor at eight years old, the doctor will ask them to bring their mummy or daddy with them. If they go in at 13 years old, the doctor will treat them if they think that they can consent—if they are clever enough and can understand. I do not know how a doctor can understand that about someone in a 15-minute appointment, but if they deem someone to be wise enough at 13, they can send them away with medication. It does not just happen at 16.

When Britney passed, I was angry at first because I thought that she should not have been given the medication at 16. When I looked into it a bit more, I found out that there was no age limit. I started speaking to other people whose children were on the same tablets and I started talking to older people who have been on them from the ages of 14 or 15 and are now mentally impaired in what they can do. They were given the tablets at 13, 14, 15 or 16, and by the time they turned 18, they were dependent on them. They could not come off them; they needed them for everyday life.

Mental health has been brushed under the carpet for far too long. There is a stigma and a taboo: nobody talks about it. Kids need to know that it is okay not to be okay. Sometimes, adults get up and they are not okay—we do not know why. Mental health in children is like bullying: it is not spoken about but is brushed under the carpet. We are moving forward into 2017—that is hard for me to say, because I am still in 2016; I will never come into 2017. We need to move forward. Mental health is not getting any better and the death toll is not going down. I read in the SPICe briefing on my petition the number of deaths in 2015 among 10 to 19-year-olds. I was shocked by that number, whether those deaths were intended or not.

To be honest, if somebody wants to commit suicide, they will go ahead and do it. A lot of times, when somebody takes medication to commit suicide, they are not trying to end their life. They are trying to get help. They are at the end of their tether and they do not know what else to do. All that I am asking is that we make it harder for children to do that. They are not thinking right; they are too young. My daughter did not think that if she took all those tablets she would not wake up—that she would not be here. She thought that she would go to the hospital and get her stomach pumped—that was it. She did not think that what happened to her would happen.

A law was passed on paracetamol not because it meant that someone could not overdose on paracetamol, but because it made it harder for someone to do that. It made it not so convenient for someone to buy so much paracetamol.

All that I am asking is that you make it a bit easier for kids to get help that does not involve medication. By the time someone is 18, if they are still in that state of mind and they think that they need the medication, they should by all means have it, but if a child under 18 needs medication, their parents need to know.

My daughter’s mood changed from day to day. I told her off because she became lazy. She would not get up and go to her work. As a mother, I just thought that she was being a lazy teenager. It is horrible to say, but I spent my last weeks with my daughter moaning at her and telling her to stop being so lazy and to get up and do things—to get to work. I did not know that she was on propranolol and it was slowing down her heart rate. She was on 120mg a day. That, for a child of her age and her height, who had never been on medication, who had been on antibiotics only twice in her whole life—I needed to know, so that I could safeguard her at home. She had already said how she felt. She was not trusted. The medication was dangerous in the wrong hands, and her hands were the wrong hands.

So many more children are getting it. My daughter’s boyfriend went to a different doctor at a different practice, and three days after my daughter’s death he was handed a full prescription of amitriptyline. He went to the doctor’s three and a half weeks ago, as he was having a hard time with the Christmas period coming up. He saw a different doctor in the same surgery—his surgery, not my daughter’s—and he was given triazolam. The leaflet says that it is not to be given to a child under 18, but he is 17. It is not to be given to somebody with suicidal thoughts because it induces suicidal thoughts and tendencies. He was also given 42 propranolol tablets.

I was disgusted. This young boy had gone in and said that he was scared for his safety—for what he was going to do to himself and to others—and they gave him a very strong antidepressant that induces suicidal thoughts. They also gave him the same drug that my daughter overdosed on. What if that young boy had left the surgery that day and thought, “That is how they cared about Britney. Is this what they think about me?” He had the same amount of propranolol—he had enough to take what Britney took that night. What if he had thought that and taken them? So, my argument is not with only one doctor.

The Convener: That is very powerful, Annette. Thank you. I think that it is a broader question and not specifically about one doctor. What you have said raises a whole lot of questions.

Your petition explains that you would like the parent or guardian’s consent to be obtained before a young person is prescribed medication to treat mental ill health. Will you say more about the point at which parents or guardians should be involved? Is it when young people refer themselves to a doctor or when doctors prescribe medication?

Annette McKenzie: The doctor should encourage it when the child first goes to the doctor. In Britney’s case, the doctor never once asked her to involve me or another family member. That should be open. A young patient will not usually know that they can have a family member told. There needs to be more awareness so that young patients know that they can have a trusted family member involved.

I think that it is when it comes to medication that the parent needs to be involved. The child should still be allowed to have private meetings to speak with the doctor. Even after they are given medication, they should have the right to go in and speak confidentially with their doctor. However, for anything regarding medication, the parent has to know.

Angus MacDonald: Good morning, Annette. You have put forward your views extremely well today and in the petition. My question follows on from Johann Lamont's question. Will you explain a bit more about how you would like the consent or consultation to take place? For example, do you envisage the doctor writing to the parent or guardian to inform them of the treatment and seek their consent, or would you like the parent or guardian to be invited to attend the consultation?

Annette McKenzie: I do not think that it should just be a phone call to say, "I'm going to give your child X amount of pills. Are you okay with that?" It would have to be the child, the doctor and the parent sitting in the room together. When the person is of a young age, there needs to be a unit. The parents need to work with the doctors, and the doctors need to work with the parents. I would say that the parents need to be at consultations that concern the medication, but they should not have to be told everything. Children have a right to confidentiality; it is just that parents need to know the medication that their children are on and the reason why they are on it.

If I had known that Britney had propranolol, she would not have been in control of those pills. I would not have wanted her to have them—I would have tried alternative methods—but, if she had needed them, I as a parent would have taken control and administered them to her. If a doctor had convinced me that Britney needed those pills, I would have given them to her, but I would have been in control of giving them because of the state of her mental health. She might have woken up feeling happy or she might have woken up feeling that she wanted to take her own life. She did not know how she was going to feel. The parents need to be consulted.

11:15

Rona Mackay: Hello, Annette. It is clear from your powerful and moving evidence what a devastating impact the issue has on families. Are there any circumstances in which you would consider it inappropriate for a family member to be informed about what a young person is being given? I am thinking about a situation in which the doctor makes a judgment but the parent will not allow the child to take the medication.

Annette McKenzie: Why would any loving parent not allow their child to take medication that was going to benefit their health if the child was at the point of needing help? As I said, if the doctor had convinced me that it was in Britney's best interests to have the medication, I would not have disagreed; I would have medicated Britney. We trust our health professionals. I go to my doctor. People say that we should read the guidelines inside the box. I do that now, but I never used to do it. I just trusted that, when the doctor gave me a prescription, it was fine.

Rona Mackay: Have you heard of any instances of doctors asking children, "Do you mind if I tell your parents?", or has that issue not come up during the consultation?

Annette McKenzie: I spoke to a couple of young people who said that a doctor asked them once whether they would call in their parents. They said no, but I think that the parents were called in anyway because the risk outweighed—

Rona Mackay: It is pretty much left up to the doctor.

Annette McKenzie: Yes. My doctor has been my rock since I lost my daughter. She has been amazing—I cannot fault her. I am not saying that doctors are bad, but maybe they are overworked. They do not have a lot of time to deal with so many people, and they are not trained properly in mental health.

For all that the doctor knew, my daughter could have split up with her boyfriend that day—she had split up with him two days before and she fell out with her best friend the day before that. Loads of things had happened. The doctor did not know my daughter, so they based their decision on their own judgment and a 15-minute assessment of my daughter. If the doctor did not have time to make a proper assessment, they should have said to her, "Here's seven days' worth of tablets. Come back in seven days." They should not have said, "Here's 84 tablets. I'll see you in 28 days" because they were too busy and they had too many people to see. My daughter sent a message to her friend when she came out of the doctor's, which said that the doctor did not even care but had just given her pills.

Maurice Corry: Good morning, Annette. One person who signed your petition commented that she was concerned that young people might be discouraged from seeking medical help if there was a requirement to obtain the consent of a parent or guardian. Is there a risk that young people would not seek help? If so, how could the risk be addressed to ensure that young people are able to seek help?

Annette McKenzie: When someone first goes to the doctor, they do not expect to be prescribed antidepressants or anti-anxiety tablets. I have—unfortunately—all my daughter's messages about how she was feeling on the night in question and prior to that.

Sorry—what were you asking?

Maurice Corry: I was asking whether you feel that it would be a barrier to young people seeking help if the doctor had to seek parental consent.

Annette McKenzie: I do not, because when they go to see the doctor, they are not looking for medication. They are looking for an answer to something. They are not going to ask for antidepressants or anti-anxiety pills: they are going to try to explain to the doctor what is going on in their head, which they do not know how to explain to their mum or anybody else. They go to the doctor because they trust that the doctor will make them better—that is how the kids look at it.

I do not think that Britney expected the doctor to give her pills. The doctor's report said that she did not feel like talking at that time, but the doctor had only just met her and was with her for only 15 minutes. Try inviting her back in seven days' time, try asking whether she would like to bring anyone with her, or try asking whether there is another adult that she would feel comfortable speaking to. My daughter told the doctor that it was her learndirect worker who had advised her to go to the doctor. My daughter had asked her learndirect worker for advice on how to approach the issue and let her family know what was wrong with her, and that person told her that she should first make sense of the matter herself, so she should make a GP appointment, which she did.

Maurice Corry: You do not believe that a requirement to obtain the consent of the parent or guardian would discourage young people from seeking medical help.

Annette McKenzie: I do not.

Brian Whittle: Thank you for coming here today and giving us such a moving testimony. Thankfully, mental health is becoming a much more recognised issue in Parliament. You have raised concerns about the strength of the medication that is available to young people and have done a lot of campaigning and awareness-raising work since submitting the petition.

Members know my views on the matter, but do you think that there is a trend towards using medication to treat mental health issues, and do you think that alternative forms of treatment should be explored?

Annette McKenzie: Yes. I think that people maybe think that the alternatives cost too much. The young people's health budget was cut not long ago. Why cut that budget? It is like saying that young people do not have mental health issues, even though mental health issues in young people are on the rise. Society today puts pressure on children, from the age of nine through their teenage years, to be brilliant and perfect and to fit certain criteria.

The other day, I went to see the doctor that I have been seeing since July, but she was not on duty, so I saw a different doctor—a locum. I get quite upset when I go to see the doctor, and the locum did not know my case or anything about me, so his demeanour was different from my usual doctor's. It is hard to explain.

Sorry—I have forgotten what you asked. It is the medication that I am on. That is what the medication does to me—I forget, sometimes, what I am talking about.

Brian Whittle: I was asking about your views on the trend of medicating people instead of looking for alternative forms of treatment.

Annette McKenzie: When I put the petition online, I thought that I was going to get quite a backlash from young people, but I was surprised to see that young people are for the proposal.

I have a friend—a young girl called Zoe—who is from Glasgow but who stays in Spain. On her blog, she wrote a perfect example of why she was 19 years old before she went to see a doctor about her anxiety issues, which she had suffered from since she was about nine. She said it was because, from the age of 14, she was terrified that she would be prescribed "the magic pill". The brilliant piece that she wrote gives the reasons why she chose to wait until the age that she did before going to the doctor. When she expressed her concerns, though, the doctor was brilliant and said that he would never medicate a child under 18 with the kind of high-dose drugs that other doctors give children. We are not talking about 10mg tablets; we are talking about tablets of 40mg. That is a high dose, and people walk away with 84 tablets. That would have been enough to allow Britney and three of her friends to commit suicide if they had wanted to.

Is suicide becoming a new trend? Maybe I am just noticing it more. Since my daughter passed, I have heard of a lot of cases of people taking their own lives. Last week, I looked on Facebook and saw that people were sharing a video from a young girl who had live-streamed her death. Suicide is an easy option these days. If someone wants to take their own life, they will take it. But the kids who are being prescribed the medication that we are talking about do not understand how strong it is—their heads are messed up.

My daughter did not understand. Why would she Google whether the medication was going to kill her after she had taken it? She did not understand. She did not leave the surgery that day knowing about the side effects, but I noticed them. I was not privy to what caused them, but I noticed them then and I just thought she was lazy. I now know what was causing them.

She did not understand that, if she took 38 of those tablets, she would not be here. She went to the doctor and asked for help, but she felt that she got no help apart from just being given pills, which was not a help. The next step was to take those pills that the doctor had given her, 16 days later. I do not know whether that medication made her feel any different in herself—in her thoughts and feelings. It says that they should not be given to somebody with depression. That is a whole different matter for the General Medical Council.

The medication is too strong for them. I have spoken to adults who were on the dose of propranolol that my daughter was on. One woman had it for postnatal depression. She was to take one 40mg tablet three times a day, but she told me that she could only manage to take two of those tablets per day at the most, because the dosage was so high. She had had mental health problems prior to her postnatal depression and she was 45 years old. My daughter was 16 years old with no history of mental health issues. She had had the cold and normal, everyday things like that, but that was it.

The doctors use their discretion. Some doctors are brilliant—they are amazing. I cannot say that all doctors are the same, but one death is too many. My daughter's death has not been the only death. I am the only one sitting here talking about it, but hers is not the only death because someone has been given prescription medication without being told about it.

If I had known that Britney had medication, I could have safeguarded it. I would have been aware and I would have been more vigilant at home. I would have understood more when I asked Britney to do the simplest thing—to go to the shop across the road for me. She did not want to go out the door and go to the shop. I would say, "You're so lazy. Please go to the shop. I've got your brother and sister here." To her, it was a big thing even to go out to the shop, because of the way that she was feeling. I did not know that, though. I just thought that she was being lazy and did not want to go over to the shop—that she was too busy on her phone in her room. I treated her differently from how I would have treated her.

There is no distinction between mental health and physical health. I could have seen it if she had been physically unwell, but I could not see that she was mentally unwell. It is a bit of a concern that there is no distinction between the two. Somebody can hide mental health problems. How do we know that nobody in this room has mental health problems? What does somebody with mental health problems look like? My daughter was absolutely beautiful. Countless people have asked me, "Why would your daughter do what she did?" That is like asking what somebody with mental health problems looks like. There is no answer to that.

We need to do something about it—I would say before it is too late, but for me it is too late. It is not too late for my other children or for other families with children, though.

The Convener: Thank you very much for that, Annette. Sadly, our time is constrained. That is not because we want it to be; it is simply because, once business starts in the chamber, we are not allowed to continue here. That is the only reason for it.

Annette McKenzie: I appreciate your saying that.

The Convener: I think that you have used the time that you have had very powerfully. You have given us a clear message about the range of challenges that you have highlighted. Other families will have cause to thank you. I know that that will not be any comfort to you, but there are some really important issues that we need to consider further.

We will not deal with the issue in a rush, as there is a lot of thinking to be done about it. I wonder whether there are any specific suggestions about what we might do immediately as a consequence of the petition.

Brian Whittle: We all know that mental health gets much more parliamentary time these days, especially now that we have a Minister for Mental Health, but Annette McKenzie has brought us consideration of something that I had never thought of. She has brought something else into the debate, and I thank her very much for that.

I would like us to write to the Health and Sport Committee or the Cabinet Secretary for Health and Sport to find out their thoughts on the matter and to find out how the legislation lies on the issue.

11:30

The Convener: There was a report to a House of Commons committee that talked about the GP at least asking the person whether it was all right to speak to their family.

Annette McKenzie: I read about that in the SPICe briefing.

The Convener: The evidence was that most people would say yes to that. We can reflect on that.

We could write to the Scottish Government, asking for its views, and perhaps the Scottish Association for Mental Health. The Scottish Youth Parliament will have a view, and we could seek the views of the Children and Young People's Commissioner Scotland, the Mental Health Foundation and the General Medical Council on the petition.

I am interested to know what the guidelines are for prescribing to under-18s. This is surprising because my sense is that there is a reluctance to prescribe even antibiotics to them. Is there a guideline about not prescribing to under-18s or prescribing only in certain circumstances? I would be interested to know the clinical view on that, too.

Do members have any other suggestions?

Rona Mackay: What you are saying is absolutely right. It would be interesting to find out whether there are guidelines. That would mean that they would be open to interpretation by different doctors. Should there be more than guidelines? Should it be mandatory to take certain steps to avoid such situations? That should all come out in the evidence that we take from the various organisations.

Annette McKenzie: We wrote to the people who drew up the guidelines—is it the Medicines & Healthcare Products Regulatory Agency?—and that is in the regulations for the medication, I think. We wrote to them.

The Convener: We can check with the body concerned. One of the other bodies that we could contact is the Royal College of General Practitioners, which must have a view on what the guidance is in such circumstances.

Annette McKenzie: I know that there were no guidelines for the medication that my daughter was on.

The Convener: Those are the kind of things that we would want to go into. This is the initial stage of getting those organisations and the Scottish Government to reflect specifically on what your petition calls for, which is consent, but there is no doubt that other issues are emerging from it, too.

Are we agreed to take those actions?

Members *indicated agreement.*

The Convener: We will keep in touch with you, Annette. If there is anything else that you wish to add, do not hesitate to contact the clerks or me, and we can pursue those questions. Thank you very much for your attendance.

11:32

Meeting suspended.

11:32

On resuming—

Continued Petitions

The Convener: We have a number of continued petitions. Realistically, we will not be able to give them due attention and respect in the next eight minutes, so I suggest that we defer consideration of them. I will ask the clerks to re-timetable them into our business. Is that agreed?

Members *indicated agreement.*

Meeting closed at 11:33.

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