



OFFICIAL REPORT
AITHISG OIFIGEIL

Public Petitions Committee

Thursday 26 October 2017

Session 5



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Pàrlamaid na h-Alba

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PUBLIC PETITIONS COMMITTEE

19th Meeting 2017, Session 5

CONVENER

*Johann Lamont (Glasgow) (Lab)

DEPUTY CONVENER

*Angus MacDonald (Falkirk East) (SNP)

COMMITTEE MEMBERS

*Michelle Ballantyne (South Scotland) (Con)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claire Bass (Humane Society International UK)

Andrea Goddard (Let's Get MAD for Wildlife)

Dr Elizabeth Mullineaux (Wild Animal Welfare Committee)

Maree Todd (Highlands and Islands) (SNP)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Public Petitions Committee

Thursday 26 October 2017

[The Convener opened the meeting at 09:16]

New Petitions

Glue Traps (PE1671)

The Convener (Johann Lamont): Welcome to the 19th meeting in 2017 of the Public Petitions Committee. I remind members and others in the room to switch phones and other devices to silent.

The first item on the agenda is consideration of two new petitions, the first of which is petition PE1671, by Lisa Harvey and Andrea Goddard on behalf of let's get MAD for wildlife, on the sale and use of glue traps. I welcome Maree Todd MSP, who has an interest in the petition.

Two written submissions in support of the petition, from the Scottish Society for the Prevention of Cruelty to Animals and the petitioners, are included with our meeting papers. The petitioners' submission takes the form of an open letter from 10 wildlife charities to the Cabinet Secretary for Environment, Climate Change and Land Reform. The organisations that signed up to that submission are the Humane Society International UK, let's get MAD for wildlife, the Scottish Wildlife Trust, OneKind, the Mammal Society, Scotland for Animals, the wildlife conservation research unit, People for the Ethical Treatment of Animals UK, rare bird alert, and birders against wildlife crime.

I welcome to the meeting Andrea Goddard; Claire Bass, who is executive director of the Humane Society International UK; and Elizabeth Mullineaux, who is a veterinary surgeon for the wild animal welfare committee. Thank you for attending 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 to inform our consideration of the petition.

Andrea Goddard (Let's Get MAD for Wildlife): Thank you for inviting me to give evidence at this committee meeting. I am truly grateful for the opportunity. I also thank Claire Bass and Elizabeth Mullineaux for assisting me in providing evidence in support of the petition. Advice from Libby Anderson from OneKind, Maree Todd MSP and others has also been invaluable.

In January this year, my co-petitioner, Lisa Harvey, discovered in a pet shop a female

blackbird that had been trapped on a glue board, which had been placed on the ground by a pest control company—to catch rodents, I presume. The blackbird was still alive and had torn off her own leg, tail feathers and most of one wing in her attempt to escape. Lisa was so distressed by what she found that she reported it to the store and posted the story on social media. The story went viral, and many who commented on it said that they could not believe that those traps were legal.

As an online wildlife campaigner, I picked up on the story and contacted Lisa to ask whether she would be interested in setting up a petition to support a ban on those devices in Scotland. With my help, we did just that. As members can see, the petition gained just under 5,100 signatures in six weeks.

Since then, we have spoken to our local MSPs and other animal welfare organisations to garner support. Consequently, the Humane Society International and I put together an open letter to the Cabinet Secretary for Environment, Climate Change and Land Reform, Roseanna Cunningham, which was signed by 10 prominent wildlife organisations. We await her formal response to that letter. All members should have a copy of the letter and a copy of the SSPCA's written evidence, which very much supports asking for a ban on glue traps.

Generally, we are concerned that rodent glue traps are a crude and often ineffective method of wildlife control that inflicts unnecessary suffering. They are indiscriminate and are used and misused excessively and inappropriately. Rodent glue traps are widely sold and are available for public purchase across Scotland for as little as 99p for two traps. Their use is completely unregulated and it has not been possible to establish how many traps are sold and used each year. Given their prevalence in shops and online, it is likely that the figure is many thousands.

Glue traps are designed to trap and immobilise mice and rats but not kill them. Trapped animals may suffer in many different ways: the glue can clog eyes, nose and ears, and the animal may tear and chew off fur or limbs in an attempt to free itself. If the person who has set a trap does not return frequently to check it and dispatch the trapped animal, ultimately the animal will die a slow death from starvation, dehydration and/or exhaustion.

Animals that are caught on a glue trap are defined as being under the control of man and are thus subject to the Animal Health and Welfare (Scotland) Act 2006, which dictates that animals must be dispatched humanely. In practice, members of the public or poorly trained professionals are often unaware of their responsibility to deal with a trapped animal and

are unwilling or unable to dispatch trapped animals humanely. A YouGov poll that was commissioned by Humane Society International in 2016 revealed that a significant percentage of the public would dispose of live trapped animals in dustbins, inflicting slow and agonising deaths, or would even drown them.

The majority of glue trap manufacturers do not supply appropriate warnings or instructions on their packaging, so users often commit offences under the Animal Health and Welfare (Scotland) Act 2006, inflicting unnecessary suffering, and are unaware that they are doing so. Additionally, it is an offence under the Wildlife and Countryside Act 1981 to set glue boards in a place where legally protected species might be caught. Nonetheless, many instances of trapped birds, reptiles, amphibians and even pets have been recorded. Such instances are, doubtless, underrecorded, as the unwitting perpetrator will not report their own crime and the evidence is easily disposed of.

In 2010, the Pest Management Alliance issued a code of best practice for glue boards. Those principles are not statutory, but they state that glue boards should be sold or used only by adequately trained and competent professionals; that all other options for rodent control must be considered before glue boards are used; that glue boards must be inspected within 12 hours of placing; that detailed records and location plans must be made and copied; and that trapped rodents must be dispatched humanely. However, as glue boards are widely available to the public, the very first of those principles is being totally ignored by shops and manufacturers, and the guidelines are not supplied with the majority of glue traps—nor is the application of the principles policed in any way. That, in effect, renders the entire code of practice ineffectual and rather pointless.

We believe that the current widespread use and misuse of glue boards in Scotland is causing significant and completely unnecessary suffering both to target and non-target species. There is absolutely no logic in allowing the sale of these items to the untrained public for do-it-yourself control. We would not dream of allowing the sale and use of such products to catch, for example, feral cats. The suffering that the products inflict on mice and rats is equally unacceptable.

The professional pest control industry may argue that glue traps should be regulated for use in certain situations in which other control methods cannot be used or have already failed. In considering that point of view, we refer the committee to the regulations that are in place in New Zealand, which tightly restrict the use of rodent glue traps to professional pest controllers in only very limited situations.

These crude, indiscriminate and horrific devices do not belong in any progressive, forward-thinking country. We urge the committee to recommend legislative action to prohibit the public sale and indiscriminate use of glue traps in Scotland. We suggest that there be consultation with a range of expert groups, which we can recommend, on the implementation of primary legislation or potential amendment of section 11 of the Wildlife and Countryside Act 1981 to prohibit glue boards as a method of taking wild animals. Such a ban would enjoy broad public support and would show that Scotland takes the welfare of all animals—pests or otherwise—seriously.

The Convener: Thank you very much. Is it your view that there should be no public sale of the traps at all, or are there any circumstances in which you think that professionals should be allowed to use them?

Andrea Goddard: We sympathise with pest control companies and acknowledge that they have to provide a service to people who have a pest problem. However, there are lots of alternative methods that they can use to dispatch those animals. We can suggest alternative methods. For example, you can get electrocution boxes that electrocute rats and mice that go inside them. That is a much more humane way of controlling those animals.

The Convener: So although your petition talks about indiscriminate use of glue traps, your preference would be for there not to be any use of them.

Andrea Goddard: Ultimately, we would like them not to be used at all, as they are completely horrendous and inhumane.

Dr Elizabeth Mullineaux (Wild Animal Welfare Committee): There are examples of that approach in other countries. For example, New Zealand stopped the public sale of glue traps in 2010 and gave the industry five years to sort itself out and stop using them. As of 2015, ministerial approval is required in order to get a licence to use a glue trap. New Zealand takes a really tight approach to pest species because of concern about its native birds, but no one has applied for that licence in the past two years. That shows what the industry can do, even in a country that perceives rats and mice as posing a danger to native birds and wildlife. In Victoria, in Australia, legislation requires pest controllers to apply for a licence to use glue traps, but they do not do that very often because they have found other methods of working. Of course, we appreciate that a licensing system might be difficult to implement.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Your petition notes that previous petitions to the United Kingdom Government have failed in

their attempt to obtain a ban on the sale or use of these products. Can you tell us a little bit more about what happened with those previous petitions, such as whether they received a response from the UK Government or if you have any thoughts on why they were unsuccessful?

Andrea Goddard: I cannot remember the exact details. When I first considered putting together this petition, I did some research and found that the SSPCA had petitioned the Government a few years ago. I am not sure what happened with that petition but, since it is still legal to buy glue traps, it was clearly not successful.

Claire Bass (Humane Society International UK): The Humane Society International UK lobbied Westminster for exactly the things that Andrea Goddard is asking for in this petition. We got a lot of interest from MPs down there—there was an early day motion, and written questions were tabled and answered. At the time, the UK Government said that it had no plans to ban glue traps but would look into the possibility of replicating some of the systems that exist in Australia and New Zealand, which Liz Mullineaux mentioned. However, that was immediately before the Brexit vote and, since then, the issue has gone a little bit further down the list.

Rona Mackay: Do you have any idea of the number of professional companies in Scotland or the UK that use the traps? What sort of percentage do so?

Claire Bass: We do not know total numbers—I would not even like to guess, but I would say that a lot do. However, a substantial number of companies proudly proclaim that they do not use glue traps on account of the welfare issues that are associated with them.

Rona Mackay: So there is an awareness that their use is controversial.

Claire Bass: Yes, absolutely. Increasingly, the traditional pest control industry is moving towards a more ethical and enlightened approach that does not immediately involve killing everything. Many companies see glue traps as a particularly egregious and unnecessary method and refuse to use them.

Michelle Ballantyne (South Scotland) (Con): You mentioned the statutory and non-statutory guidelines that are in place. Are you saying that there are no guidelines that are currently in place or which could be put in place that would adequately support the use of the traps?

Andrea Goddard: The Pest Management Alliance has a code of best practice that we would like to think that the industry adheres to. The issue is that the public do not see those codes of practice. That is a worry. The principles in those

codes of practice are not communicated to members of the public who use the products. That is our main concern.

09:30

Michelle Ballantyne: The issue is about the disconnect between the public and the guidelines. You believe that those who are professionally registered look at the guidelines. Are those guidelines adequate?

Andrea Goddard: It is difficult to know which companies adhere to the guidelines.

Dr Mullineaux: If people adhered to the guidelines, they would rarely use glue traps. The starting point in the guidelines is that all other methods should have been considered first, with detailed records having been made on everything else. That, I guess, is where New Zealand and Australia have ended up. There are still circumstances in which a person considers that they might want to use glue traps, but if they have fully considered the Pest Management Alliance's code, they would not use them very often at all.

At the other extreme, people can go online, Google "glue traps" and then buy them. There is nothing on the packaging that suggests that using the glue trap will kill the animal trapped. There is a big disparity between the guidelines and what is on general sale.

Brian Whittle (South Scotland) (Con): Our briefing states that glue traps are used most commonly by professional contractors, but you have made it clear that the devices are available for sale to the public—although I note in your letter to the cabinet secretary that a number of retailers have stopped selling the product. What level of regulation or monitoring is applied to the sale of glue traps?

Claire Bass: As far as we are aware, there is no regulation or monitoring of sales. Glue traps are widely available in corner shops and do-it-yourself stores; chemists, strange though it may seem, often sell them, too. There is no control at all—anyone can walk into a shop and buy a glue trap for 99p.

Our campaign has resulted in about 220 stores, including some large wholesale stores such as Booker, making the decision to withdraw glue traps from sale on the basis of the animal welfare concerns that we presented. That was entirely voluntary—there is no regulation governing their sale or use.

Brian Whittle: If there were to be regulation or monitoring, where would responsibility for that lie?

Claire Bass: I cannot answer that question in relation to Scotland. We have talked to the Animal

and Plant Health Agency, which regulates other traps. For example, on break-back traps, there is an exemption for humaneness checking for what it affectionately terms “small ground vermin”. That is another issue that we have.

In theory, the Animal and Plant Health Agency could be the responsible authority for considering the circumstances in which the use of glue traps could be justified; Liz Mullineaux talked about that. I think that that would be a very small number of cases. I am not sure what the equivalent to the Animal and Plant Health Agency would be in Scotland.

Andrea Goddard: When people apply for licences of any kind for the control of deer or other animals, they do so through Scottish Natural Heritage. I assume that it would be the governing body in this area, too.

Angus MacDonald (Falkirk East) (SNP): Good morning, everyone. Andrea Goddard gave an example of a blackbird that was caught in a glue trap in a pet shop and said that the story went viral—I think that I saw it.

Under the Wildlife and Countryside Act 1981, it is illegal to use glue boards to trap birds. In 2014, the Scottish Government’s position was that it had no plans to ban their use for catching rodents, but that it planned to review aspects of policy in relation to animal traps. I have not noticed anything happening in that area since then. Are you aware of any consultations, discussions or outcomes from any Scottish Government reviews in the area?

Andrea Goddard: No.

Angus MacDonald: There has been no sign of anything happening.

Andrea Goddard: No, not that I can recall—sorry.

Angus MacDonald: Perhaps we can discuss that issue later.

The Convener: Have you had conversations with the pest control industry about the issue?

Andrea Goddard: Yes.

The Convener: What was its response? I had not been aware of the matter—I am not sure whether that is the same for other committee members. It sounds horrendous that a person can buy something that is unregulated. My instinct is to ask why we would have glue traps at all. In your conversation with the industry, did it explain why it thought that the traps might be necessary?

Andrea Goddard: About three or four pest control companies got back to me and said that they would quite happily sign the petition. As Claire Bass said, some pest controllers are very

sympathetic and would not use glue traps because of the inhumane implications. We have quite a few pest control companies on board with the petition. We asked the Pest Management Alliance to sign the open letter, but it said that it would not do that because of the potential bureaucratic implications, which is understandable.

The Convener: My question really is whether it is simpler to ban the traps completely rather than try to regulate, which would be challenging.

Andrea Goddard: There are three options. One is an outright ban, which would be a lot easier to implement. Alternatively, there could be a ban with exemption clauses similar to that in New Zealand, where pest control companies can apply for a licence to use glue traps on a case-by-case basis. In the state of Victoria in Australia, glue traps have been banned just for public use, although there are quite a lot of loopholes because there is no regulation as to what is classed as a pest control company. That would not be the preferred option for us.

Michelle Ballantyne: Do you know what the volume of use of glue traps is? Do you have any idea of the turnover or market capacity in Scotland?

Andrea Goddard: It is difficult to get a grasp of those numbers but, as I said in my opening statement, it is likely that thousands are used in Scotland.

Claire Bass: We have tried to get those numbers, but we struggled. The only indicator that we have had is when a large wholesaler that voluntarily withdrew the traps from sale after we had campaigned on the issue told us that it had shifted 100,000 traps in a four-month period through its wholesale side. That was UK wide, but it gives a rough indication. That was Booker Wholesale, which is a sizeable company.

Michelle Ballantyne: Are the traps manufactured in the UK? Have you spoken to the manufacturers?

Claire Bass: We have dealt extensively with one pest control company, STV International, which has actually modified its packaging and withdrawn the traps from advertised sale to the public—it now tries to sell them only to pest control professionals. That is the only UK manufacturer that we are aware of, but a lot of the traps say “Made in China” and have really badly translated instructions and pictures of guinea pigs on the front. It is really a bad and confused marketplace.

The Convener: As we have no more questions, we might now want to think about how to take the petition forward. I thank the petitioners for highlighting the issue, which I was not aware of previously and which seems like an area that we

would want people to look at, certainly if alternatives are available. Do members have any suggestions on what we might do?

Brian Whittle: Just for information, where does the competence lie on the issue? Does the Scottish Government have the ability to ban the traps?

The Convener: We might want to ask the Government whether it thinks that it has that ability. That might be a way of dealing with the issue. I suspect that the Government must have that ability. I do not know what the issue would come under but, if it comes under animal welfare, the Government has some responsibility for that. There is a separate question about whether it can ban something in commercial terms. I do not know about that.

Brian Whittle: If we write to the Scottish Government and find that it does not have the competence, we would have to write to the UK Government.

The Convener: I suggest that, in the first instance, we write to the Scottish Government to pick up on Angus MacDonald's point about whether there has been any follow-on from the commitments that have already been made and to ask what the Scottish Government's responsibility is and what its view on the issue is.

Michelle Ballantyne: Our briefing on the petition says that Jim Hume asked a question on the issue quite a long time ago, and the response at that time was that the Government had "no plans" to ban the traps. That suggests that the Government feels that it has the right to do so.

The Convener: Yes. If the Government thought that it had no authority or competence to do that, it would have said so at that point.

Michelle Ballantyne: Yes. The slight issue for me is that, having read the evidence and having listened to all that has been said, I feel strongly that it would be reasonable to consider a public ban. I wonder whether we should state that up front, if all committee members are minded to do that, and ask the Government what such a ban would include rather than just ask whether it has done anything and wait for a response.

The Convener: Would it be reasonable, given the evidence that we have heard, to say that we believe that a compelling case has been made for a ban and to ask the Government to outline, in its response, what it intends to do given the ineffectiveness and cruelty of the traps? That would be slightly more than just asking whether the Government has a view on the matter.

Michelle Ballantyne: I am looking at the issue from a time perspective. We could write to the Government, asking whether it has done anything,

and it could write back and say no. We would then have to write again, saying that there is a compelling case for a ban. Given the numbers that have been talked about today, there would be an awful lot of usage while we were faffing around, thinking about it.

The Convener: Are there any specific groups of professionals in the industry that we should write to? We could perhaps ask the clerks which groups those would be.

Brian Whittle: If we are going to ask the Scottish Government for a ban, can we clarify what kind of ban we are talking about? Is it just a public ban? I was struck by what is happening in New Zealand, where professional bodies are being allowed five years to phase the whole thing out.

The Convener: I do not think that we have got to that point. We are saying that the case against the traps is compelling and asking for the Government's response to that case and what it is willing to commit to within what it is able to do. We can then look at the issue further. We have not yet got to the point of saying how the ban would express itself. With respect, we have not heard the alternative argument about why some people might think that the traps might be necessary in some circumstances, although there has been some reference to that.

My sense is that we should write to the Government and to the professionals. It is interesting that a number of professional organisations have said that they would not use the traps. It may be that the issue is more about individual members of the public trying to sort a problem themselves, in which case there is an issue about awareness.

Rona Mackay: I suggest that we also write to the SSPCA. It will obviously not support the traps, but it might have some knowledge of what happened to previous petitions and things like that. It would be useful to get its view, just to add weight to the case.

The Convener: The open letter has been helpful. In other circumstances, we would have written to all those organisations, asking what they think. We have that letter, which makes a strong argument, and we should reflect that in our letter to the Scottish Government. It would also be worth writing to the SSPCA, saying that we are interested in the issue and asking whether it is aware of where the responsibility would lie. We could perhaps find out a bit more about the legislation that New Zealand and Australia have passed, which might inform our thinking.

There is quite a lot to do in responding to the evidence. We will push the Scottish Government on how it wants to move forward and on the

commitment that it has already made. The clerk has also suggested that we write to the National Pest Technicians Association, asking it for its view.

Is there anything else? Maree, do you want to add anything?

Maree Todd (Highlands and Islands) (SNP): I am very pleased with the outcome if that is what you are going to do, convener. I met Andrea Goddard, who is a constituent of mine, in the summer and found her case compelling. I have met the Government once and have started preliminary inquiries along much the same lines as you suggest. I have not yet had a response from the Government, but I am keen to progress the petition and I am pleased to have the support of the Public Petitions Committee for doing that.

The Convener: There are a number of actions that we can pursue. I thank the petitioners very much for coming along. Both the written evidence and the evidence that has been given today has been extremely helpful to the committee's considerations.

09:44

Meeting suspended.

09:45

On resuming—

Scottish Electoral System (PE1670)

The Convener: The second new petition for consideration today is PE1670, by James Cassidy, on reforming the Scottish electoral system to make it democratic and accountable. The petition calls for a review of the current system, which allows candidates for a constituency seat to also stand on the regional list.

The note by the clerk and the Scottish Parliament information centre briefing provide background and context with reference to the Scotland Act 1998, the Arbuthnott commission and the National Assembly for Wales, and the clerk's paper notes the Scottish Government's response to PE1666, in which it states its commitment to consulting on electoral reform this year. I invite comments or suggestions for action.

Perhaps everyone should declare an interest. The fact that we all have an interest in the issue might be part of the problem. I can understand why the petitioner has the sense that politicians will have a direct view as a result of personal experience. It is interesting that, from early on, my party said that candidates could not stand for a constituency seat and on the regional list, although there were exceptions in certain circumstances. At

one time, we pushed for that to be the rule for all parties, but once it became clear that that was not the case, changes took place.

It is interesting that the Labour Party adopted that approach in the National Assembly for Wales. I do not know whether the same rule applied to all parties. [*Interruption.*] It appears that it did. I think that the Welsh Assembly has subsequently moved away from that position. I can see there being a strong argument against someone who has been rejected by the electorate being able to get in on the list. I suppose that the counter-argument is that, in effect, we are talking about two elections that are run at the same time, although they are intertwined.

Brian Whittle: The whole premise of the Scottish Parliament is that we do not get a huge majority one way or the other, which requires us to work in partnership to a greater extent. I would be interested to find out what would happen to the system if we changed the rules on candidates.

The Convener: There are two different issues. There is an acceptance that a proportional representation system changes the nature of what happens at elections. Within that, there is the issue of which PR system to use. There will be different anomalies in different systems. There has been a different iteration of the system in Wales. Even within Scotland, a different approach has been taken by different parties. Frankly, that has been driven partly by where parties have been electorally. In the early days, the Labour Party won seats on the constituency side, so it was less interested in the list, whereas the smaller parties had more interest in the list. Over time, the position has changed.

Rona Mackay: The Scottish Government is consulting on electoral reform to find out what the Scottish people would like to happen. I presume that we would need to ask how that is going and when it is expected to report. We are simply told that publication of the consultation paper is "planned for this year." That process is on-going, so I do not think that we can do anything other than ask the Government how it is going. We could also ask the Electoral Commission what is going on with that.

Michelle Ballantyne: I have some sympathy with the petitioner's position on the electorate having rejected somebody. What he might not be taking into account is that, although the electorate often wants to retain a sitting constituency MSP who does a good job, it may also like another candidate or another candidate's party. There might, therefore, be a big rash of party votes, because the electorate knows that that other candidate is high up the list and will get in, too. The issue is not necessarily about rejection; sometimes it is about balance. Not everybody

votes blindly for a party, and some people vote different ways in the list vote and the constituency vote.

I have a bit more sympathy for the point about a sitting MSP who is not elected first past the post in the constituency and then comes in on the list. There could be an argument there that the system is undemocratic. It is a really difficult system. Democracy is not perfect, whichever way you cut it. However you arrange it, somebody will say, "That's not democratic."

I was reading in the committee papers that the Arbuthnott commission believed

"that preventing dual candidacy would be undemocratic".

The commission

"put the interests of the constituent at the centre of our concerns".

People and parties have spent a lot of time considering this issue. My party is looking at it again, too, because it poses a problem. We have to be careful that we do not end up in a situation where the best candidates may not get into Parliament. At the end of the day, we want a good Parliament, so we need a democratic system that is flexible enough that we end up with good people in here to make decisions for the country.

Angus MacDonald: I wanted to say what happens in my party. In 2011, the majority of our candidates stood for the constituency and on the list. In the 2016 election, it was up to each individual to decide whether they wanted to be on the list. The majority of candidates who were confident of retaining or winning a seat did not stand on the list. The party gave candidates the option.

Brian Whittle: We were the same.

The Convener: In the early days of the Parliament, I would not have been able to stand on both, but nor would I have considered it necessary. It is interesting. When I was elected in the first session of Parliament, both of the key people against whom I fought the seat got in on the list. On one level, that seems unfair, because technically they had been rejected by the electorate. On the other hand, they were people who had a great deal to contribute and their party had endorsed them to stand on the list. The best example is the First Minister, who was beaten twice and finally won the constituency seat. Did she make a contribution while she was on the list, when she had technically been rejected by the constituency? From her party's perspective, she clearly did.

The petitioner highlights something that the parties have been wrestling with. There is no doubt that there is an issue here. You might have

said, "I'm going to get rid of that woman. I don't want her any more", and then she pops back up. The issue arises because there are two systems working together. It has been looked at in some detail externally, and internally by parties. Members in this room will have a personal interest in the issue, which makes it much more difficult to be objective.

On how to take forward the petition, it would be worth writing to the Scottish Government and the Electoral Commission. The Government is going to consult on electoral reform. What will that consultation consist of? Is there a timescale? Will it be conducted internally by the Scottish Government, or is the Government considering consulting more broadly with people, such as the petitioner who feels that there is a democratic deficit?

Michelle Ballantyne: Is it appropriate for us to deal with the petition? It feels to me like what is being asked is a matter for the Electoral Commission. I feel that the Electoral Commission should be dealing with the parties and coming to a conclusion, rather than asking us as elected members to decide whether the way in which we are elected is fair. That is extremely difficult for us.

Rona Mackay: I understand what you are saying, but we are just acting on behalf of the petitioner; we do not have to make a decision or give an opinion ourselves. We are just getting information for the petitioner.

The Convener: We are reflecting that there is an issue, which we—our parties and everyone else—have all wrestled with. The Scottish Parliament now has responsibility, I think, for its own electoral system; we made a decision about 16 to 18-year-olds voting in local government elections, for example. The reality is that, even though there might be a personal interest in it, there is also a constitutional obligation.

We could write to the Scottish Government and to the Electoral Commission to establish whether there is an issue, certainly from the point of view of the Electoral Commission, and, if the Scottish Government has a review, to ask what that will look like, how it will be conducted and how it will draw on the strongly held views that the petition reflects. It is not just an individual view.

It would be quite interesting to learn whether the same issue has arisen with similar systems in other parts of the world, and the Electoral Commission might help us with the aspect of how the systems work. However, there are downsides to any electoral system.

We acknowledge that there are substantial issues. Do members agree to ask the Scottish Government to add a bit of detail to its commitment to a review, and to ask the Electoral

Commission to reflect on the issues that have been highlighted in detail in the petition?

Members *indicated agreement.*

Continued Petitions

Pernicious Anaemia and Vitamin B12 Deficiency (Understanding and Treatment) (PE1408)

09:56

The Convener: Agenda item 2 is the consideration of continued petitions, the first of which is PE1408 on updating pernicious anaemia and vitamin B12 deficiency understanding and treatment. We last considered the petition on 25 May and, at that meeting, agreed to reflect on the evidence that we heard from the Minister for Public Health and Sport and Scottish Government officials, and to consider a note by the clerk at a future meeting. The clerk's note provides a summary of that evidence session.

Do members have any comments or suggestions for action?

Brian Whittle: I am struggling to think of where else we could get evidence from. We have taken a lot of evidence on the petition and I do not think that any more evidence sessions are required. The issue is what we do with the evidence.

The Convener: Do members think that we could take evidence from anywhere else? Angus MacDonald has been involved with the issue for longer than anybody else. Does he have a view?

Angus MacDonald: I cannot see where else we could go for evidence on the issue. We are very well briefed on it.

The Convener: When I was reading through it, I thought about the extent to which the conversation is now more of a detailed clinical debate. It is not about the medical profession's level of awareness of the issue; rather, there is a dispute about the right approach. I wonder whether the petitioner has managed to highlight something quite important that is now being looked at. I know that she remains unhappy with what has happened but, realistically, is there anything else that we could do?

Michelle Ballantyne: I am new to the issue, so I had to read through the papers several times. It seems that the conflict about how the guidelines should look and whether they should be rewritten exists within the profession. The information appears to be there, so the issue is about how it is understood and translated. It seems to be an internal debate for the profession to make sure that general practitioners and other clinicians all understand what is available. I do not know whether the clerk can enlighten me about that. By the time that I had read to the end of the papers, I had the feeling that the petitioner had highlighted

the lack of understanding of the guidelines. In going through this work, people had taken the time to look at and think about it, which I guess is what the convener is referring to.

10:00

The Convener: A short-life working group has been established, which the petitioner is asking to speak to. Dr Alistair Hart has said that the group's work is at an early stage and that a request for a meeting would be premature. I wonder if an assurance that she would be able to contribute to its thinking and its work would be of use?

Michelle Ballantyne: Perhaps a wider level of commitment would be that the group would take evidence from patients and sufferers and people who had something to contribute, in which the petitioner would obviously be a leading person.

Rona Mackay: Could we write to the Government to point out that the petitioner feels that none of her requests has been met? She talks about parietal cells not even being acknowledged.

We could point out that the committee is not sure how much more evidence can be taken, but we could ask that the Government keeps the petitioner updated on developments and keeps her in the loop on the on-going work and group work.

The Convener: Rather than closing the petition now, we recognise that our work is done, to a large extent, and ask that the group will liaise with the petitioner at a reasonable point and that the Government will keep her and the people that she represents informed.

Angus MacDonald: For the record, I pick up your point about Dr Alistair Hart and the request by the petitioner for on-going liaison. His response was that the short-life working group activity is still at an early stage and still to be fully scoped. I would have thought that an early stage was an ideal time to speak to the petitioner, rather than later on. It might be an idea to suggest that to the group.

The Convener: That suggestion might satisfy the petitioner's sense that there is miscommunication about her concerns.

Do members agree that we are coming to the point where there is not much more that we can do, but that we recognise the importance of the issues that have been highlighted? We ask that the Scottish Government keeps the petitioner informed and we look for an assurance from the group that it would want a discussion with the petitioner. Angus MacDonald makes a strong point that a discussion would be useful and valuable at the early stage.

Members indicated agreement.

Polypropylene Mesh Medical Devices (PE1517)

The Convener: PE1517, by Elaine Holmes and Olive McIlroy, is on polypropylene mesh medical devices. We last considered this petition on 28 September, when we heard evidence from the petitioners and Dr Wael Agur. The clerk's note provides a summary of that evidence session, and circulated with it are a number of submissions from mesh survivors. We record our thanks to the people who have taken the time to make those submissions; many are highly personal and were probably difficult to draft.

Members will recall that we agreed to write to the Cabinet Secretary for Health and Sport, Shona Robison, to set out our concerns about the availability of the updated patient information leaflet and the presence of outdated information on Scottish Government and NHS Scotland websites. The cabinet secretary provided a response on Tuesday this week, confirming that the chief medical officer wrote to all health boards in May to request that the literature that is available in hospital and primary care premises is up to date. She advises that NHS inform has reviewed and updated its website and has provided a link to the current version of the stress urinary incontinence patient information leaflet. That link has been added to the Scottish Government's website.

The cabinet secretary adds that the Scottish Government is working with Healthcare Improvement Scotland to establish a mesh oversight group, which will work with health boards to ensure that the recommendations of the independent review are fully implemented and give further consideration to the patient information that is available.

We have previously agreed to publish a report on the petition and we have secured time for a debate, although we await confirmation of the timing of that debate. The deputy convener and I hope to meet Professor Alison Britton to discuss the issues and concerns that have been raised in evidence to the committee about the review and Professor Britton's review of the review.

Do members have any thoughts or suggestions for further action on the petition?

Brian Whittle: A lot of evidence has been taken on the petition that is very much weighted in one direction. I will not speak for all the members of the committee, but I get the strong sense that we are all driving in one direction. We have secured a debate in the chamber, and I am not sure that I need to hear any more evidence on the topic. I

have formed a very clear view on the direction of travel that we are going in.

Rona Mackay: The convener and the deputy convener will meet Professor Britton. Will that meeting be soon? Has it been arranged yet?

The Convener: It will take place as diaries permit. Professor Britton contacted us and said that she thought that it would be useful for us to meet. That is helpful, because we are wrestling with, and there is no doubt that the petitioners are wrestling with, the purpose of the review. It is clear that the review is not to address the substance of the report, which the patients have been unhappy with; it is about the process and what the Government can learn from that. My concern is that that review might misrepresent to the petitioners what its outcome might be. I do not think that it will revisit the findings or recommendations of the report.

Rona Mackay: No. It could be a diversion from the core issue of what has happened to the women and the undoubted tragic effects that the mesh has had on them. I think that the draft report will crystallise something for us. Either way, the issue has to continue and move on.

The Convener: It is interesting to note that there was a debate on the issue in Westminster Hall. It strikes me that public awareness is catching up with the individual experiences of those women, and it feels as if something bigger will develop out of this rather than the consideration of individual clinical decisions. We recognise the petitioners' work in highlighting the matter.

Brian Whittle: One of the big issues for me is how the process has allowed the issue to evolve to the stage that it is currently at. The process has taken such a long time—in fact, it has required the petitioners to bring the issue to people's attention before it has been picked up. I am interested in the initial reporting and how the process has allowed this to happen.

The Convener: There is also the fact that, when Alex Neil was Cabinet Secretary for Health and Wellbeing, he stepped in and said that there should be a moratorium but the practice still continued.

Rona Mackay: That is what I find confusing.

The Convener: Given the evidence, it is difficult to see why that moratorium would not have been sustained. However, we are not clinicians, so we do not really know what the other options might be.

We have come back time and again to the issue that the petitioners were not believed. That is clearly an issue for them. It was not believed that

the procedure and their subsequent suffering were connected.

Do we agree to meet in private to look at the report ahead of the debate? That would help our consideration.

Members indicated agreement.

The Convener: Is there anything else that we can usefully do at this time, apart from recognising where we have got to on the issues that have been highlighted? I recognise that we will have a debate, that we will produce a report, and that there are still issues for the Government in respect of what its authority is. The issue for the Government is really whether it can follow through on the question of the moratorium.

Michelle Ballantyne: Yes. There is obviously a worry that this operation is still being carried out. We heard evidence that, in some places, it has ceased through patients being given effective, informed choice, but I am concerned that there are potentially still women out there having this done who are not well informed about what is going on.

Rona Mackay: It is worth remembering that it is too late for the women who have been conducting the campaign. They are not doing it for themselves; they are doing it for women in the future—and men as well, I believe. It is important that we keep the issue up there.

Michelle Ballantyne: Very much so. We would be failing if we did not make sure that the debate is being heard out there so that people can make informed choices.

Angus MacDonald: Going back to the moratorium issue, I note that, when Dr Agur was here giving evidence, he explained that the decision to halt mesh procedures ultimately rested with NHS boards and he was unaware whether they had provided any feedback to the cabinet secretary or the Scottish Government about their views on the moratorium. If they have not provided any feedback, I would find that astonishing. We need to get to the bottom of that. If a moratorium is not worth the paper it is written on, what is the point of it?

Michelle Ballantyne: Can we write to health boards to ask how many mesh operations are occurring at the moment?

The Convener: We might want to reflect on that in considering what other information we want to add to the report. We can go back and establish what evidence we were given in that regard. I think that there was some evidence that enabled us to establish that there was not an absolute moratorium.

As we have already agreed that we will consider a draft report in private session, I suggest that we

look to gather any other evidence that will inform that report. I do not mean oral evidence; I mean an up-to-date report from health boards about their understanding of the use of these procedures. In due course, the deputy convener and I will report back on our meeting with Professor Britton. Is that agreed?

Members *indicated agreement.*

Residential Care (Severely Learning-disabled People) (PE1545)

The Convener: PE1545 is on residential care provision for the severely learning disabled. Members will recall that, when we last considered the petition, on 11 May 2017, we agreed to seek an update from the Scottish Government on the preliminary results of phase 1 of a project to improve data collection on demand for residential care and identify suitable alternatives to out-of-area placements.

The Scottish Government's submission states that the themes that are emerging from phase 1 of the project include

"solutions to improving the discharge of people with learning disabilities with complex needs, focussing particularly on suitable accommodation."

The submission also highlights that

"further consultation is required ... before any recommendations can be made in terms of strategic direction to support ... people with learning disabilities with complex needs."

The committee also agreed to seek a response from the Scottish Government to the concerns that had been raised that the research will not address the gap in knowledge about people with profound and multiple learning disabilities. The submission highlights that

"a range of work streams"

have been commissioned to address

"the data visibility of people with learning disabilities in Scotland".

The petitioner's view on those projects is that

"this work fails to address the ... issues raised by our petition and ... the gap in data relating to people in Scotland with profound and multiple learning disabilities".

The petitioner also raises concerns that the focus of the project is largely concentrated on the prescription and effect of antipsychotic drugs.

Do members have any comments or suggestions for further action?

Rona Mackay: We could write to the Scottish Government to inform it of the petitioner's response and raise the point about antipsychotic drugs. We could try to find out where the consultation is going and point out that it is

perhaps not going to address the petitioner's concerns.

The Convener: Yes. There is a frustration from the petitioner's point of view that lots of work is being done—

Rona Mackay: But is it the right work or is it missing the point?

The Convener: Yes. It is not bad work, but it is not really addressing the questions that the petitioner has raised.

10:15

Michelle Ballantyne: We seem to be going round in circles. In the final sentence of her submission, the petitioner says:

"We need action, we need substantial funding and we need a clear plan."

At the moment, all three of those are missing, but the absence of substantial funding is probably the stumbling block.

The Convener: Without knowing the scale of the problem or where people are, what their issues are and what support they require, we cannot meet that need in communities.

Michelle Ballantyne: What is interesting is that all those individuals will be on the radar. They are not flying under the radar; all of them will have medical and social work involvement at some level.

The Convener: I am not sure that that is true. The point of the petition is that—

Michelle Ballantyne: If someone has complex needs, they will almost certainly have some input at some level. The issue is whether we have a system for gathering that data. Information is missing, because the information on those people is not all being put into the same data system.

Brian Whittle: We are obviously in a state of flux, with the advent of the integration joint boards and their role in how such services are delivered. Is that impairing the delivery of services?

The Convener: It might simply be the case that what is sought in such circumstances is residential care options, but no such options are available, with the result that folk remain supported at home or are sent outwith their local area because there is not sufficient appropriate accommodation or support where they live.

Rona Mackay: Data is important, but the focus should not just be on data, because there is undoubtedly a problem with residential care. Data is useful to back that up, but the fact that there is a problem seems to have been overlooked.

The Convener: I suppose that the main point that we want to highlight is the one that Rona Mackay made about the mismatch between the problem and the response. There is nothing wrong with the response, but it does not really relate to the core issue that has been highlighted.

We could write to the Scottish Government to ask about the consultation and to invite it to respond to the petitioner's comments. Is that agreed?

Members *indicated agreement.*

In Care Survivors Service (PE1596)

The Convener: PE1596, by Paul Anderson, is on the In Care Survivors Service Scotland.

When we considered the petition in January, we agreed to write to the Deputy First Minister and Cabinet Secretary for Education and Skills to seek clarity on the interim finance arrangements, and to ask him to address the petitioner's concerns about the long-term sustainability of funding and the potential adverse impact on service users in the event of a loss of skills and a loss of continuity of contact.

In his submission of 13 February, the Deputy First Minister indicated that, since the change in funding, there had been continuity in support. He added that survivors were able to access a broader range of support to address their individual needs through the in care survivor support fund. In its previous submission of 18 January, the Scottish Government indicated that it had employed a survivor engagement manager and that it intended to create an engagement plan that was designed to

"capture the views and concerns of more survivors in the future."

The petitioner has acknowledged that the interim finance arrangements have led to improvements, but he expresses concern that there is no formal agreement on the provision of on-going support to survivors by Open Secret. He stresses how important he believes consistency and continuity of relationships between survivors and their counsellors to be, and he asks whether survivors have been consulted about their needs, and what opportunities they have to provide input to discussions about their health.

Do members have any comments or suggestions for action?

Angus MacDonald: It is worth noting at the outset that the Deputy First Minister has said that

"no survivor has had to change or lose support since the change in funding."

I note that the petitioner has acknowledged that the Scottish Government has provided assurances

with regard to the crossover of service delivery between Open Secret and the in care survivor support fund and that that has been delivered.

However, the petitioner raises a couple of other questions. He asks whether survivors from the ICSSS have been consulted about what they need and about the changes that are now in place and those that will be made in the future, and whether there is any evidence that survivors have had the opportunity to provide input when decisions about their future health have been discussed.

Those are two valid questions and I would be keen to seek an update from the Scottish Government on the role of the survivor engagement manager, which you mentioned, convener, and any progress with regard to the on-going engagement plan, given the questions posed by the petitioner.

Rona Mackay: I completely agree with everything that Angus MacDonald said. I get the sense that the petitioner is looking for some security and there is still a doubt in his mind. He asks valid questions about survivors' involvement and whether there has been enough of that. There are questions that we need to ask the Government on behalf of the petitioner.

Michelle Ballantyne: With such changes we quite often find that the issue is not about whether there is a service available for people but about the model of the service. If it would be feasible to do it, it might be useful to have a side-by-side comparison of what people had and what they are getting, because things such as time-limited interventions significantly change a user's experience and the value of what they get. The reason for the frustration of workers and the petitioner is the lack of recognition of what was being offered. The new model is stripping out what they consider to be the important content of what was being offered. It would be useful to have that direct comparison.

Angus MacDonald: I think that the point was that in-care survivors who were getting support from Open Secret were still entitled to that support. They were still getting that support if they wanted it.

The Convener: There is a separate question about what would happen if someone referred themselves now. There is an on-going debate among survivor groups. I am a member of the cross-party group on adult survivors of child sexual abuse, and I know that that issue very much exercises them. Some of that is reflected in the petition.

Angus MacDonald is absolutely right to say that the service will continue for those who received it before the change. The questions that he asked are legitimate ones to pursue with the

Government. The broader questions about strategy have been highlighted. Do members agree that we should pursue the specific questions that Angus MacDonald asked?

Members *indicated agreement.*

Congestion Charging (Scottish Cities) (PE1607)

The Convener: Our next petition is PE1607, by Peter Gregson, on behalf of Kids not Suits, on congestion charging in major Scottish cities. We previously considered this petition in November 2016, when we agreed to defer further consideration until the publication and scrutiny of the draft climate change plan, or third report on policies and proposals.

The clerk's note provides an update on scrutiny of RPP3 and notes that the final draft of RPP3 is expected to be published in the first quarter of 2018. The note also refers to an inquiry into air pollution in Scotland that is currently being undertaken by the Environment, Climate Change and Land Reform Committee. It also highlights the Scottish Government's undertaking, in its programme for 2017-18, to introduce low-emission zones in Scotland's four biggest cities by 2020, with the first zone being introduced by the end of 2018.

Do members have any comments or suggestions for action?

Brian Whittle: I find this a very interesting petition, in that we will have to get some capital from somewhere if we are going to change transport in our cities. Personally, the issue for me is being able to cycle.

I would like to pass the petition on to the ECCLR Committee. There is not much more that we can do, given that the Government is already making some moves on the issue, but the evidence that the petitioner has given and the evidence that we have taken would really help that committee with its consideration.

Angus MacDonald: As a member of the ECCLR Committee, I can say that we have just started our work on the air quality inquiry. We would certainly welcome the petition—although I cannot speak for the committee.

The Convener: You just have.

Brian Whittle: It is on the record.

Angus MacDonald: We have considerable work still to do on the issue but for me the main point is that the petitioner's requests have basically been addressed in the programme for government, with the Scottish Government saying that it will introduce low-emission zones—LEZs—in the four biggest cities by 2020. I do not know

how long the petition has been going—quite a few months, I think—but it is a prime example of how the petition system can help to direct Government policy.

The Convener: The fact that the Scottish Government has made a commitment on LEZs is to be welcomed and, therefore, I think that we want to close the petition. The only question is whether we choose simply to make the other committee aware of the petition or refer it to the committee. I bow to your wisdom on that, Angus—which would be better? Which would cause us less grief?

Angus MacDonald: I suggest that we make the committee aware of the petition rather than refer it fully to the committee. We are in a far better place on this than we were when the petition was submitted.

The Convener: I think that we are agreed that we want to close the petition on the basis that the underlying issue to much of what the petitioner sought has been recognised as being important.

It is right to underline Angus MacDonald's comment about the role of the petitioner and the Public Petitions Committee in highlighting the issues and securing some progress. We will, of course, also want to make the Environment, Climate Change and Land Reform Committee aware of the petition given its inquiry into air quality in Scotland. Is that agreed?

Members *indicated agreement.*

Parking (Legislation) (PE1616)

The Convener: The next petition is PE1616, on parking legislation. We last considered the petition in February and agreed to defer further consideration until the Scottish Government's consultation on parking was complete. It has now closed and an analysis of the responses that were received is expected to be published in autumn 2017. Do members have any comments or suggestions for further action?

Brian Whittle: Given that the consultation outcome is now due, we should write to the Scottish Government to ask what action it proposes to take.

The Convener: So we will ask for an update from the Government.

Rona Mackay: That would be common sense.

The Convener: Having looked at it, I find the issue unbelievably challenging, given the number of households that have cars now compared with in the past. Clearly navigating around some of our streets is a big issue if you are in a wheelchair or have a pram or whatever, particularly in my city of Glasgow. It would be worth while to find out more

from the Scottish Government. The analysis of the consultation is due to be published, then presumably there will be a Scottish Government response, so we will ask the Government to keep us updated on its intentions.

Michelle Ballantyne: It is a no-brainer not to park in front of a dropped kerb.

Brian Whittle: Unless it is your own dropped kerb.

Sepsis Awareness, Diagnosis and Treatment (PE1621)

The Convener: PE1621, by Jim Robertson, is on sepsis awareness, diagnosis and treatment. When we last considered the petition, on 29 June, the committee agreed to write to the Cabinet Secretary for Health and Sport expressing our view that it would be appropriate for the Scottish Government to launch a national public awareness campaign.

In her initial response on 11 August, the cabinet secretary indicated that the Scottish Government did not feel that it was necessary to launch a national public awareness campaign but would continue to work closely with NHS Scotland, the Fiona Elizabeth Agnew Trust and other stakeholders on raising awareness of sepsis.

Subsequently, on 27 September, the cabinet secretary announced a national public awareness campaign and, in correspondence to the committee, on 17 October, indicated that the campaign is expected to commence in early 2018.

The petitioner has stated in his submission that he is very pleased that a national public awareness campaign will now go ahead—I am not quite sure whether the cabinet secretary met the petitioner directly. Do members have any views on what action to take on the petition?

10:30

Michelle Ballantyne: We are delighted that the campaign will go ahead. On that basis, I think our work is done.

Angus MacDonald: Excuse my lack of knowledge of Latin but, as *volte-faces* go, this was a cracker. We were told that there would be no awareness raising; now we are told that there will. I am delighted that the Government has paid heed to the petition and the committee's call for awareness-raising sessions to be held.

The Convener: We should acknowledge the role of the petitioner who, in terrible circumstances, has tried to improve public policy. The petition has achieved a public awareness-raising campaign that the Scottish Government was clearly not inclined to engage in—it had been

advised not to do so—because of the force of the argument. The petitioner is to be commended for his fortitude in bringing the matter forward.

I was interested in the argument that there could not be a national awareness-raising campaign because people would then refer themselves inappropriately. Wherever that thinking came from, we would hope that the cabinet secretary has had a look at what formed that advice. I get that we do not want people to worry about their health or refer themselves inappropriately, but surely that is better than someone not realising what is happening and not getting the medical attention that they need.

Michelle Ballantyne: The whole point of a national campaign is to enable people to identify correctly what is happening and know how to respond quickly. It is hugely beneficial to the NHS if people come early and things are caught before they have progressed too far. The decision was very odd.

Rona Mackay: I agree with everything that has been said. The petitioner is a constituent of mine, and he is extremely grateful to the committee and for the decision that was eventually taken—he feels that bringing the matter before the committee was very worth while. Personally, I am delighted, and I know that he is, too.

The Convener: The petitioner has been part of a broader campaign and all those who took part in it should be commended. Pushing the Government to do things that it does not want to do is a great achievement.

Are we agreed to close the petition on the basis that the Scottish Government has confirmed that it will launch a national public awareness-raising campaign?

Members *indicated agreement.*

The Convener: I note again the efforts of the petitioner and other stakeholders in securing this positive outcome.

Mental Health Treatment (Consent) (PE1627)

The Convener: Our next petition is PE1627, on consent for mental health treatment for people under 18 years of age. We last considered the petition on 20 April, and at that meeting we agreed to write to the Scottish Government and the Royal College of Psychiatrists in Scotland's faculty of child and adolescent psychiatry. The committee asked the Scottish Government how the petitioner could contribute to the chief medical officer's review of the consent process for people who receive care and support in Scotland. The response indicated that patients are already represented in the review process but that the

Government would consider how the petitioner could be further involved. The committee also asked what funding is available for the links worker programme and the number and location of the general practices that are participating in the programme.

The clerk's note summarises the information that has been provided by the Scottish Government. The committee asked the Royal College of Psychiatrists in Scotland's faculty of child and adolescent psychiatry for its view on the clinical guidelines for mental health conditions in children and adolescents in the context of the petition, and its response stated that there is

"universal support for maintaining the right to confidentiality of young people who can give informed consent to treatment."

The faculty's response concluded by stating that it

"would be very happy to think together with other colleagues about how to support young people accessing high quality, timely services for mental health disorders in Scotland."

The petitioner has indicated that she does not feel that answers have been received to the questions that the committee raised. Do members have any comments or suggestions for further action?

Brian Whittle: I think that we were all moved by the petitioner when she came here and talked about her experiences. No one could fail to be moved by such testimony.

The petition raises not only a massive issue of confidentiality but the question of whether somebody with mental health issues who presents to a doctor is competent to take their medication as prescribed, especially if they are given a month's worth of drugs. I appreciate that this is not what the petitioner is asking for, but the petition opens up a whole different ball game in relation to how we approach the treatment of mental health.

I appreciate that the petitioner is talking about under-18s, but I am thinking much wider than that. I would quite like to bring the Minister for Mental Health before the committee to get her and the Government's opinion on how we can take this forward. It is obviously an extremely complex process.

Michelle Ballantyne: I agree, but I wonder whether we ought to ask the chief medical officer to be present because of the complexity and nature of the case. The minister alone would not be adequate.

The Convener: There is no doubt that the minister could bring along whomever she likes, but we would be content if the chief medical officer was here.

Rona Mackay: I agree with what Brian Whittle said. This is a big issue; indeed, there are almost two separate issues to do with how mental health care is delivered to young people. I can understand why the petitioner feels that her questions have not been answered because the question of confidentiality was not directly addressed; the answers that we have been given are more about support, links workers and so on, not about the specific question of confidentiality for under-18s.

The Convener: As I understand it, the solution that Annette McKenzie has identified is that if she had known, she would have been able to support her daughter. That is utterly compelling, but it is up against the view of the medical profession and youth organisations on the importance of a young person feeling that they can seek help and have confidentiality.

There must be a middle ground. Having the support of your family if you are in those circumstances is not necessarily a bad thing. The compelling point that Annette McKenzie makes is that if she had known, she might have managed the dispensing of the drugs.

This terrible case highlights something, although the solution might not be what the petitioner suggested. There must be another answer and I am certainly interested in exploring that broader question with the minister. What are the guidelines around the amount of medication that is handed to somebody who might be in a vulnerable situation? Are there other ways of managing the prescription of drugs? I do not know a great deal about this area, but the petitioner has described circumstances that we think need to be addressed, although some people might feel that the solution that she identifies is problematic. We would want to look at it further with the minister.

Rona Mackay: We might have asked this in the initial evidence session, but I am interested to know how widespread it is that children or under-18s who are still living at home are being prescribed drugs without anyone else knowing. Is it down to a doctor's decision? Is the situation quite unusual or is it widespread? I am not sure, so we need to find that out.

Michelle Ballantyne: I suppose that it is difficult for every GP to have that depth of knowledge and understanding of mental health issues, as well as having the time to assess a patient to the necessary degree. For a young girl who is reporting night terrors and all the rest of it, I would have expected to see a wider assessment. Sometimes that is down to the availability of services and the ability to refer to child and adolescent mental health services or whatever.

There is something about the pathways that are available. We know that, for many young people, there is a huge delay in assessment. There is a wider issue here.

I might also like to hear from some of the leading mental health charities for young people that provide some of that wider support. Young people will often talk to a voluntary agency, because they feel that their confidence will be kept; but at least that means that they have a point of support.

The Convener: I suppose that I had always thought that there would be an aversion to prescribing drugs to a young person—that all sorts of things would be tried first. Clearly, I am not in a position to understand what the consultation that took place was like.

When we asked GPs for comments, they emphasised confidentiality, too, but they also said that they would advise a patient to speak to family members and to look for support.

There are a number of issues that we will want to explore with the minister. We also need to consider which other witnesses we want to have before us.

Michelle Ballantyne: We want to know why the petitioner's daughter was not signposted to mental health support.

The Convener: My understanding of the individual case is that no action is pending against anyone. We would be looking at the matter in policy and practice terms, rather than looking at the individual case.

Michelle Ballantyne: It is about care pathways. If a person comes in, they should always be referred to mental health support.

Rona Mackay: The petitioner is looking for guidelines for GPs and whether such prescribing should happen at all.

Brian Whittle: Doctors have a high degree of autonomy in how they deliver care. The issue is their training.

Michelle Ballantyne: We do not want to take away their autonomy, but we want there to be very good guidelines.

The Convener: If a GP practice is under phenomenal pressure, is it easier to prescribe medication than it is for the GPs to speak to people and to direct them elsewhere?

We want to bring in the minister, who might bring along the chief medical officer. Do we want to take oral evidence or seek written evidence from some mental health charities, too?

Michelle Ballantyne: It would be interesting to have them altogether on the same panel, so that views could be shared, because—

The Convener: I am sorry to interrupt, but if we are to ask the minister to respond, there would need to be two separate panels; we might also need to allow time for the minister to reflect on the evidence from the mental health charities. Perhaps we could timetable it that way.

Michelle Ballantyne: My suggestion would be to speak to the voluntary sector first so that we can reflect what they say when we speak to the minister.

The Convener: That would be logical.

Brian Whittle: I am not absolutely clear what direction we will go in with this petition. That is probably the same for everyone else here, too, but we all recognise that there is an issue of some description.

The Convener: It would be fair to the petitioner and their family to ask them: if what is proposed in the petition does not happen, what should happen instead? Clearly, something here is not right. If breaching confidentiality is not the solution, what is the solution?

There is quite a lot here. We recognise how difficult it is for the petitioner and her family, because of their individual and direct experience of the issue.

Child Welfare Hearings (PE1631)

The Convener: PE1631 is on child welfare hearings. We last considered the petition in May, when we agreed to write to the Scottish Government and the family law committee of the Scottish Civil Justice Council. The committee sought to establish the cost of implementing digital recordings of child welfare hearings. The Scottish Government estimated that the cost would be about £390,000, with additional on-going running costs. Regardless of the costs, the Scottish Government's view is that it would be inappropriate to record child welfare hearings because they are not structured as evidential hearings, so there is a risk that to do so would increase their formality.

The petitioner stated in her response that the Scottish Government's cost estimate seems to be prohibitively expensive, and that child welfare hearings should not be measured only in terms of costs. The petitioner also highlighted that child welfare hearings are recorded at the proof stage and questioned why that could not be the case for ordinary child welfare hearings.

The committee also sought to establish whether the pro forma that is used in children's hearings to

produce a record of proceedings could be adapted for use in child welfare hearings. The Scottish Government confirmed that there is scope for that pro forma to be adapted.

In its submission, the family law committee of the Scottish Civil Justice Council highlighted that a sub-committee has been set up to take forward work on case management, including consideration of ways in which to achieve greater continuity in how child welfare cases are handled. The Scottish Government is represented on the sub-committee and will provide an update to this committee after the sub-committee has reported to the family law committee on 23 October 2017. Do members have any comments or suggestions for further action?

10:45

Michelle Ballantyne: I was not present when the petition was discussed previously. Why cannot a verbatim recording be made in the very simple form of a little recording?

The Convener: It seemed remarkable to us that it would cost so much, when most of us could probably record such things on our phones.

Michelle Ballantyne: That is what I was getting at. Hearings could be recorded on one of those little digital recorders, which are not expensive. I suppose that there would be a cost if the recording had to be typed up, but the digital recording could just be stored. It is unclear why that cannot be done.

The Convener: There would be costs involved with recording hearings and storing the recordings. The petitioner's point is that when different people are dealing with a case, the case has to be restated, so evidence that has established the issues is sometimes missed. There is frustration because people have to make cases again or the point of an argument is lost because there is not a record of every stage.

Rona Mackay: I agree with the petitioner that child welfare hearings should not be measured only in terms of costs. A cost of £390,000 sounds like a lot for what we are asking for but, weighing that up against the service that it would provide, I do not think that it is too much.

The sub-committee that has been mentioned was due to report a few days ago to the family law committee, so we should ask the Scottish Government to update us on the outcome, so that we know where we are.

The Convener: Okay. Do members agree to that suggestion?

Members *indicated agreement.*

The Convener: There is probably nothing else that we can do just now.

Drinking Water Supplies (PE1646)

The Convener: PE1646, by Caroline Hayes, is on drinking water supplies in Scotland. We first considered the petition on 25 May, when we agreed to write to the Scottish Government, Scottish Water, the Drinking Water Quality Regulator, the Scottish Environment Protection Agency, NHS Highland and the Water Industry Commission for Scotland. It is encouraging that they have all provided submissions, which are included in our meeting papers.

The committee sought to establish whether the protocols in the regulatory regime are sufficiently robust, and whether there is any conflict of interests in the regime. The submissions clarify responsibilities under the framework and say that there is no conflict of interests. The Drinking Water Quality Regulator's submission included a background note on the specific local issue that led to submission of the petition.

In response to our request for comments on the concerns that are raised in the petition about potential health impacts, NHS Highland provided a summary report of the local investigation that was conducted by its health protection team. The summary report identifies "anecdotal opinion" of an increase in health impacts, for example skin complaints, but notes that there is a

"lack of evidence of any increased prevalence".

The petitioner reiterates in her submission concerns about disinfectant by-products that are associated with chloramination, and asks how Scottish Water monitors those by-products.

We have had a substantial response from the various groups and people to whom we wrote. Do members have any comments or suggestions for further action?

Brian Whittle: On a wider note, I have had a few constituency cases on the quality of water and measurement of water quality. It seems to me that there is ambiguity about whether SEPA or Scottish Water is responsible for that measurement. I would certainly welcome clarification of that. I do not know how we would go about getting it, but I would like to know whose responsibility that is.

The Convener: We can provide that information to members.

Rona Mackay: We have so much in the submissions and some of it is quite technical. The main issue seems to be safety. The petitioner acknowledges that the water supply is safe, but asks whether the Drinking Water Quality Regulator is sufficiently effective in ensuring that water is also pleasant to drink. We need to ask Scottish

Water what measures it has or will put in place to measure the quality and safety of water subsequent to chloramination, so that we know where we are with that.

Michelle Ballantyne: Safety and the pleasantness of the water are slightly different things. As we go across the country, the water is pretty icky to drink in some places, because it has to be more heavily chloraminated to make it safe. The issue is quite difficult, but I presume that safety has to come first.

The Convener: On balance, yes it does. [Laughter.]

Michelle Ballantyne: The water might not be particularly pleasant to drink, but it will not kill you. The problem will always be on-going—I do not think that it will go away any time soon. We are free to ask for our water to be tested, and SEPA is the primary environmental regulator, as I understand it.

Angus MacDonald: It is worth noting that SEPA and Scottish Water operations come under the remit of the Environment, Climate Change and Land Reform Committee, so it may be worth highlighting the issue to that committee, depending on how the petition progresses. I do not have the work programme details before me, but Scottish Water may be due to come soon to give evidence, which may be an opportune time to raise the issue at the ECCLR Committee.

The Convener: We can liaise with that committee through the clerks and make sure that the issues are highlighted to it ahead of such a meeting. If that is agreed, we will write to Scottish Water, as suggested, and highlight the issue to the ECCLR Committee.

Members indicated agreement.

NHS Scotland (Protection for Employees) (PE1647)

The Convener: The final petition for consideration is PE1647, by Angus O’Henley, on protection for all employees in NHS Scotland. We previously considered the petition on 25 May.

The submissions that have been received from the Scottish Government, the Crown Office and Procurator Fiscal Service, the Health and Safety Executive and the British Medical Association Scotland all consider that the existing legislative framework provides the protections that are requested by the petition, whether under existing common law and statutory offences, or specifically within the terms of the Emergency Workers (Scotland) Act 2005.

The BMA Scotland, however, considers that an extension of the legislation, as requested in the

petition, may act as a deterrent, and that a potential benefit of adding non-medical staff to those who are protected under the 2005 act might be to raise the profile of assaults on receptionists, porters and auxiliary staff, for example—although it also considers that that could, equally, be achieved through education. Education is identified by the Scottish Government as a

“priority area of focus at this time”,

along with “enforcement of existing legislation”. The petitioner acknowledges the protections that are available under common law, but considers that a

“specific offence with a statutory sentence ... may well deter would be assailants from attacking all NHS employees and volunteers”.

Do members have comments or suggestions for further action?

Michelle Ballantyne: I have a vested interest, as I spent many years in the NHS and have been on the receiving end of such treatment. It is a management issue, and most hospitals now have clear signs that say that they take a zero-tolerance approach to aggression towards staff.

The law is there and has been used: people have been prosecuted for attacking NHS staff. It is not just about NHS staff; we have the problem across the public sector, to some degree, for police officers and the fire service, as well as in the private and voluntary sectors. I am wary of saying that one group needs protection more than others do. The issue is how we use the law and how we structure things such as how front doors are operated. Ultimately, the issue is cultural: it is about how people behave.

Brian Whittle: The issue is not just about NHS staff; we know about attacks on police officers and the fire service. The statute exists: the issue is whether it is within our remit to suggest that the law should be strengthened and whether an assault on staff in the health service should be deemed to be a worse crime. I know what I think.

The Convener: Having been around when the legislation came into force, I know that the idea behind it was to protect ambulance workers from being attacked as they were trying to treat people, and to protect firefighters from being attacked on their way to put out fires. Also, at the time, the Union of Shop, Distributive and Allied Workers had a campaign about protection of shop workers, who will—again, as we come up to Christmas—be subject to all sorts of abuse. The issue concerns general protections, but it also involves the question of sending out a message and the deterrent effect of having legislation. We are, of course, dealing with those issues in relation to other legislation, at the moment. I see the motives behind the petition and the merits of the proposal,

but the question is whether the initiative is necessary. It somehow seems that saying that it is not necessary implies that we do not think that there is a problem. That, too, is a challenge that we have.

Michelle Ballantyne: Attacks on staff come in different forms. There are people who think that attacking people is quite reasonable, and there are people who are under massive stress or are in pain and therefore behave in ways that they would not behave in other situations.

We need to send out a clear message that the behaviour that we are discussing is unacceptable, but there is an issue about creating layers of law. If we are not prosecuting people who exhibit such behaviour already, why would we suddenly start doing so? The law under which they could be prosecuted already exists. The issue is about using the law that we already have, being very clear about our position and sending out a clear message that we will prosecute people who assault staff in a department or on the street when they are trying to help someone. Of course, having sent that message, we then have to do it. If we are not already doing it, why would bringing in another law suddenly make us do it? That is my question.

Rona Mackay: The Government's submission states that, in 2008, the Emergency Workers (Scotland) Act 2005 was extended to provide legal protection to ambulance workers, doctors, nurses and midwives, and that the applicable penalty is up to 12 months' imprisonment or a £10,000 fine, or both. As Michelle Ballantyne said, applicable legislation is already in place, so it might be that a campaign for greater public awareness is the answer. The problem is to a large extent cultural, so it is difficult.

The Convener: Do we want to write to the Scottish Government to ask how it could develop a focus on public education and ensure that the current legislation is enforced, and also whether it is examining how many such cases there are each year?

Michelle Ballantyne: It comes back to starting at the beginning, in terms of prevention: it is about how we educate our young people at school. We used to use a programme that was about how a person can find himself or herself in a situation in which they behave violently. It set out the fact that the consequences can be massive not only for the person who suffers their violence but to them as an individual, as they might end up in a court procedure.

If we are looking at how to stop this kind of behaviour, we should be thinking about the processes that we have in education, the messages that are sent up front, and the action that is taken when an individual misbehaves.

There would be a three-pronged attack, so to speak. We have to be consistent; I do not think that we always are, at the moment.

The Convener: That is a much broader issue. The question for the committee is whether we hold on to the petition to establish what the Scottish Government is doing in relation to any public education programme, or close the petition on the basis that the current legislation is adequate, even though there might be a question about enforcement. Do members have views on that?

Michelle Ballantyne: Is there an argument for bringing the issue to the chamber for a debate? That would highlight feelings on it.

The Convener: We have already been overallocated committee business slots, so it is unlikely that we would get another. Parties might want to propose the issue for debate, but I do not think that the committee would be entitled to another slot. I think that there are 12 to 15 slots in the year; we have had one and expect another two, so I do not think that a debate would be an option.

Does the committee want to take the issue further and ask the Scottish Government for more information, or close the petition?

Angus MacDonald: I am minded to close the petition under rule 15.7 of the standing orders, because existing legislation and common law are considered to provide sufficient protection for staff, but to do so in the hope that there will be better public education in the future.

The Convener: We could agree to close the petition, but to write to the Scottish Government with our reflections on the petition and the importance of enforcement and public education, and to say that those matters must sit alongside the legislation itself.

Michelle Ballantyne: We recognise that there is an issue, but we do not think that more law is the way to address it.

The Convener: Do we agree to close the petition on the basis that existing legislation and common law are considered to provide sufficient protection for staff, but also to state that we believe that the Scottish Government has to be alive to the issue of public education and must monitor enforcement?

Members indicated agreement.

The Convener: With that, I thank everyone for their attendance and close the meeting.

Meeting closed at 11:00.

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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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