



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities and Human Rights Committee

Thursday 14 January 2021

Session 5



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Pàrlamaid na h-Alba

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CONTENTS

	Col.
INTERESTS	1
PETITIONS	2
Access to Justice (PE1695).....	2
Access to Justice (Environment) (PE1372).....	5
Makaton Sign Language (Legal System) (PE1787).....	6
Conversion Therapy (PE1817).....	6
SUBORDINATE LEGISLATION	8
Civil Partnership (Scotland) Act 2020 (Commencement No 2) Regulations 2020 (SS1 2020/457 (C 43))	8

EQUALITIES AND HUMAN RIGHTS COMMITTEE

1st Meeting 2021, Session 5

CONVENER

*Ruth Maguire (Cunninghame South) (SNP)

DEPUTY CONVENER

Alex Cole-Hamilton (Edinburgh Western) (LD)

COMMITTEE MEMBERS

*Mary Fee (West Scotland) (Lab)

*Joe FitzPatrick (Dundee City West) (SNP)

*Alison Harris (Central Scotland) (Con)

Gillian Martin (Aberdeenshire East) (SNP)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Stewart (Highlands and Islands) (Lab)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

Virtual Meeting

Scottish Parliament

Equalities and Human Rights Committee

Thursday 14 January 2021

[The Convener opened the meeting at 09:00]

Interests

The Convener (Ruth Maguire): Good morning, and welcome to the first meeting in 2021 of the Equalities and Human Rights Committee. Apologies have been received from Alex Cole-Hamilton and Gillian Martin.

There has been a change of personnel in the committee. I welcome Joe FitzPatrick and thank Fulton MacGregor for all his work in his time on the committee. I invite Joe FitzPatrick to declare any relevant interests.

Joe FitzPatrick (Dundee City West) (SNP): I have no relevant interests to declare.

The Convener: Thank you.

Petitions

Access to Justice (PE1695)

09:01

The Convener: Our next item of business is consideration of public petitions. I welcome to the meeting David Stewart, who is attending to speak to petition PE1695, on access to justice in Scotland.

Paper 1 relates to correspondence from the Public Petitions Committee, which asks us to identify whether we are in a position to close petitions that have been referred to us before the end of the parliamentary session. If a petition is not closed before the end of the parliamentary session, it will carry over to our successor committee in the next session. If a petition is closed, petitioners can lodge a petition in the same or similar terms in the next parliamentary session.

The note by the clerks outlines our anticipated work programme for the remainder of the session. Members will wish to take account of that in considering what action to take on the petitions that are before us.

Are members content that, in considering the petitions and our response to the Public Petitions Committee's correspondence, the response is issued between the committee clerks? I see that members are content with that.

We will now turn to the referred petitions. I propose to consider first petition, PE1695, on access to justice in Scotland, to allow David Stewart to participate before he has to leave to attend another committee meeting. I refer members to paper 3 in our meeting pack.

We last considered the petition in March 2020, when we agreed to keep it open until the Scottish Government published its response to its consultation on legal aid reform in Scotland. That response was published in June. The Scottish Government has indicated its on-going engagement with stakeholders with a view to bringing forward legislative reform.

Before I invite comments from members, I invite David Stewart to say a few words on behalf of the petitioners.

David Stewart (Highlands and Islands) (Lab): Thank you very much, convener. I thank all members of the committee for allowing me to speak again in support of petition PE1695 and for taking me early. I am a substitute on the COVID-19 Committee today, so I have to disappear very quickly.

Mr and Mrs Mundell have made a submission, which I received last night. With the convener's permission, I will pass that submission to the clerks; perhaps it could be dealt with from there. Mr and Mrs Mundell hope to watch the broadcast on the live stream.

When I addressed the committee in March last year, I was very impressed and, indeed, comforted by the support for the petition that was shown by all members. I will summarise my remarks from the last time.

The simplistic answer to the question how ordinary families on a modest income seek redress and justice is that they have to go through the Scottish legal system. However, there are three problems with that answer. The first is that the vast majority of law firms will not deal with human rights cases. The evidence that I gave for that was that Mr and Mrs Mundell contacted more than 50 firms throughout Scotland without success.

The second problem is that even the law firms that deal with such cases deal only with prisoners' or immigration issues.

Even if the first two problems are overcome, the third problem is that many law firms require substantial up-front payments. For example, one lawyer whom the Mundells contacted wanted an up-front payment of £25,000 before proceeding. At the time, that represented double the family's annual disposable income.

Since the committee's most recent consideration of the petition, Judith Robertson, who, as chair of the Scottish Human Rights Commission, is known to all members of the committee, had a meeting with me on Zoom to discuss the matter, for which I thank her. When I appeared before the committee last year, I quoted what she said at Westminster about human rights, and I will do so again. She said:

"It is difficult for anybody to take a case in Scotland. As I said, we have no power to support anybody to do that; in fact, we are expressly disallowed."

I endorse the two statements that I made previously. As a Parliament, why do we not give the SHRC the power to take up human rights cases? As the convener knows, human rights are a Scottish Parliament responsibility, which is administered by the Scottish Parliamentary Corporate Body. Could the committee write to the Scottish Government? Given that the election is coming up in May, or at some later date, in my view, it would be an excellent manifesto commitment for all political parties to look at the issue.

In conclusion, although, on the surface, the petition appears very complicated, it is, in fact, not complicated. It is about enabling families who are

on modest incomes to get to first base in our justice system.

The Convener: Thank you. I invite comments from committee members.

Mary Fee (West Scotland) (Lab): I thank Mr Stewart for his input and for the support that he has given to the Mundells in taking forward the petition. I am grateful for his input.

We have a number of options open to us. I am keen for us to write to the Government to seek an update on the legislative reform that it intends to carry out. I think that we have taken the petition as far as we can, so I suggest that we close it, seek an update from the Government on its legislative reform and notify the petitioners that, if that legislative reform is not satisfactory, they can raise another petition.

I also think that there is some merit in the suggestion that Mr Stewart made about the Scottish Human Rights Commission, so perhaps we could pursue that, too, if we are able to.

Alexander Stewart (Mid Scotland and Fife) (Con): I acknowledge the work that David Stewart has put in on the petition, and I concur with what Mary Fee said about our writing to the Government—I think that it would be appropriate for us to do that. I also think that we should consider going down the avenue of the Scottish Human Rights Commission in the future.

Joe FitzPatrick: I welcome the fact that the Government has indicated its intention to introduce legislative reform, and I concur with the points that others have made.

Alison Harris (Central Scotland) (Con): I, too, agree with the comments that have been made by my colleagues.

The Convener: If we agree to close the petition, we can still write to the Scottish Government and note the petitioners' continuing concerns and the representations that David Stewart has made. The petitioners will have the option of submitting an updated petition in the same or similar terms at the start of the next parliamentary session.

It sounds to me very much as though the committee is of one mind and that we will close the petition and write to the Scottish Government to raise the concerns that have been expressed. I can see nodding faces, but I will wait for a moment in case anyone wishes to dissent from that position.

It is agreed that we will close the petition and write to the Scottish Government.

Access to Justice (Environment) (PE1372)

The Convener: The next petition for consideration is PE1372, which is on access to justice on environmental matters. I refer members to paper 2, which provides a summary of the status of the petition. In its most recent submission, the petitioner, Friends of the Earth Scotland, states that there has been “next to no progress” on compliance with the Aarhus convention in the 10 years since the petition was lodged, and it highlights a number of its remaining concerns.

There is a balance for the committee to strike in considering whether we can take any further action at this stage of the session that will make a tangible difference to the progress of the petition or whether there is merit in closing the petition at this stage while highlighting the petitioners’ concerns to the Scottish Government. If we close the petition, that might allow the petitioners to lodge a petition in the same or similar terms in the next session, supported by a consolidated evidence base.

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

Mary Fee: I remember the petition from the previous session of Parliament, when I was convener of the committee in its previous life as the Equal Opportunities Committee. The petition has been going on for a long time. I accept that some progress has been made, but it has been very little. Therefore, although I support closing the petition, we should write to the Government to highlight the petitioners’ view that there has been next to no progress and perhaps to emphasise that we would like progress to be made in the next session of Parliament. We have little scope to do any work on the issue, so the best thing to do is close the petition. We should notify the petitioners that, if they do not see progress being made in the next session, they can submit another petition.

The Convener: I do not see any other members wishing to comment.

It might be that the petition would sit more comfortably with another committee in the next session. I agree that we should close the petition, particularly when we are not closing any options to the petitioners, as they can resubmit.

Is everyone happy with that course of action? I will give members a second to type in the chat box if they disagree.

We will do as suggested—close the petition and write with our comments to the Scottish Government.

Makaton Sign Language (Legal System) (PE1787)

The Convener: The next petition is PE1787, on the use of Makaton sign language in the legal system, which was referred to us in October. Paper 4 summarises the initial consideration by the Public Petitions Committee and notes the evidence that was submitted to that committee by Police Scotland, the Scottish Courts and Tribunals Service and the Scottish Government. My personal opinion is that the area would be of great interest to the committee but that, given the time that we have left and the current workload, we should ask the successor committee to look into the matter. I wish to keep the petition open and to note in our legacy report that we would like the successor committee to look into the matter and give it the attention that it deserves.

Alexander Stewart: I echo your comments, convener. There is merit in the petition, and there is an opportunity for our legacy report to include the matter so that it is taken forward. The petition is very relevant for individuals who see the language as a real option and as a necessity. We have an opportunity to include that in our legacy report so that the issue can emerge in the next session.

Mary Fee: I completely agree with the convener and Mr Stewart. The petition should be kept open and included in the legacy paper. I would very much like our successor committee in the next session to do something on the issue. It is an important issue that fits nicely into our remit as the Equalities and Human Rights Committee; it is a human rights issue, and I would like the next committee to do something with it.

The Convener: The importance of inclusive communication has come up on a number of occasions in our work.

I do not see any dissent or anyone else wishing to come in, so, with members’ agreement, we will keep the petition open and note our views on the matter in our legacy report.

Conversion Therapy (PE1817)

09:15

The Convener: The final petition for our consideration is petition PE1817, on the ending of conversion therapy, which was referred to the committee in October 2020.

The clerk’s note summarises the Public Petitions Committee’s initial consideration, along with the Scottish Parliament information centre briefing, a written submission from the Scottish Government and a joint submission from

Stonewall Scotland, the Equality Network, the Scottish Trans Alliance and LGBT Youth Scotland.

The clerk's note also refers to the most recent submission to the committee from the equalities organisations, which asks the committee to keep the petition open for detailed consideration by our successor committee,

"including engagement with the new Scottish Government."

Again, I think that this is a matter of great importance, which requires proper attention. Although we cannot bind any future committee or Government, I wish to put in strong terms that we feel that this needs to be looked at in the next parliamentary session. Do members have any comments?

Joe FitzPatrick: I absolutely agree with you that we need to write in strong terms in the legacy paper that this needs to be taken forward. It is a bit of a shame on us all that, in this day and age, with so many reforms, such behaviour is still legal in Scotland. Although I am not sure that there is particularly strong evidence that such conversion therapy is happening, that should not prevent us from introducing legislation.

The future committee might want to consider whether the matter is appropriate for a committee bill. It might not be able to get to the point of being a priority for any Government in the future. If that is the case, the committee should look at whether it could use the particular powers that it has as a committee of the Scottish Parliament to introduce committee legislation to put it beyond doubt that such behaviour is not acceptable in Scotland.

Mary Fee: I fully support the comments that Joe FitzPatrick has just made. I think that we should keep the petition open and include it in the legacy paper in very strong terms.

Although I accept that we cannot tell a future committee what pieces of work it should be doing, we should emphasise the importance of the petition. I would also support the idea of the future committee potentially taking it through as a committee bill. It is a very important issue, and we need to make sure that such behaviour is completely stopped. We cannot allow conversion therapy to continue.

The Convener: Thank you both for those helpful comments. Although, as I say, we cannot bind a future committee, we can certainly present it with the evidence and our reflections on the importance of the matters that we are asking it to pick up. As nobody else wishes to come in, I confirm that we will keep the petition open and include in our legacy report the request that the matter be picked up, fully investigated and acted on by our successor committee. I can see nodding heads, so we have agreement on that.

That concludes our consideration of petitions. The clerks will liaise with the Public Petitions Committee clerks to update that committee on the actions that have been agreed and to identify which petitions remain open, and why, and which petitions have been closed.

Subordinate Legislation

Civil Partnership (Scotland) Act 2020 (Commencement No 2) Regulations 2020 (SSI 2020/457 (C 43))

09:18

The Convener: Agenda item 3 is consideration of a negative instrument—Scottish statutory instrument 2020/457. I refer members to paper 6, which is a note by the clerk. Do members have any comments to make on the SSI? It is quite straightforward.

As members are content not to make any comments on the SSI, that concludes our first meeting in 2021.

Meeting closed at 09:19.

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