



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Citizen Participation and Public Petitions Committee

**Wednesday 7 December 2022**

**Session 6**



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Pàrlamaid na h-Alba

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**Wednesday 7 December 2022**

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**CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE**  
**17<sup>th</sup> Meeting 2022, Session 6**

**CONVENER**

\*Jackson Carlaw (Eastwood) (Con)

**DEPUTY CONVENER**

\*David Torrance (Kirkcaldy) (SNP)

**COMMITTEE MEMBERS**

\*Fergus Ewing (Inverness and Nairn) (SNP)

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

\*Paul Sweeney (Glasgow) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Barry Blyther

Angela Constance (Minister for Drugs Policy)

David Gallant

Nicoletta Primo (Sight Scotland)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Citizen Participation and Public Petitions Committee

*Wednesday 7 December 2022*

*[The Convener opened the meeting at 09:31]*

### Decision on Taking Business in Private

**The Convener (Jackson Carlaw):** Good morning, and welcome to the 17th meeting in 2022 of the Citizen Participation and Public Petitions Committee. I am delighted that we have our deputy convener, David Torrance, back with us this morning. He has been absent for a few meetings.

We have a busy meeting this morning, including three evidence sessions on three important issues. Later, we will be joined by a golden eagle who is coming along, not to give evidence but to evidence one of the petitions that we will be discussing.

Agenda item 1 is for me to confirm with colleagues that we will take items 4, 5 and 6 in private. Do we agree to do so?

**Members** *indicated agreement.*

## Continued Petitions

### Detainees in Custody (Access to Medication) (PE1900)

09:32

**The Convener:** Item 2 is consideration of continued petitions, the first of which is PE1900, on access to prescribed medication for detainees in police custody, which was lodged by Kevin John Lawson. The petition calls on the Scottish Parliament to urge the Scottish Government to ensure that all detainees in police custody can access their prescribed medication, including methadone, in line with existing relevant operational procedures and guidance.

Colleagues will recall that, at our most recent meeting, we took evidence from David Strang, former chair of the Scottish Drug Deaths Taskforce—I gather that he is now part of the implementation group—and Dr Carole Hunter, who is a former member of the task force. Our discussion with them has informed some of the areas that we would like to explore during this morning's meeting.

I am delighted to say that we are joined this morning by the Minister for Drugs Policy, Angela Constance, and her officials from the drugs policy division of the Scottish Government: Morris Fraser, head of delivery and support unit, and Henry Acres, head of cultural and structural change.

Good morning, and thank you all for coming; you are most welcome. We can move straight to questions, but if you would like to say something by way of introduction or clarification, minister, we would be happy to hear it.

**The Minister for Drugs Policy (Angela Constance):** Thank you, convener, for inviting me along this morning. This is my first appearance at the committee in my capacity as Minister for Drugs Policy.

I want to start by thanking the committee and the petitioner for the work that they have done on this matter. Access to the right treatment at the right time for each and every person is at the very heart of the national mission. I support the aims of the petition and agree that the people who are detained in police custody must have access to their prescribed medication, including medication assisted treatment such as methadone.

**The Convener:** Given what we heard from David Strang and Dr Carole Hunter at last week's meeting, what is the Scottish Government's reaction to the Scottish Drug Deaths Taskforce's "Changing Lives" report, which included a

comprehensive suite of recommendations? Will the Scottish Government publish a plan for those recommendations? At the end of January it will be six months since the publication of the report. I recognise that there is an implementation group, but what is your reaction to the report and can you summarise how you expect to move forward?

**Angela Constance:** I very much welcomed the task force's report, as I had been looking forward to receiving its vital recommendations. The task force has made a comprehensive suite of 20 recommendations with 139 action points, and we will issue our full response to those at the start of the new year.

We have given an initial response to the report to the Health, Social Care and Sport Committee, the Criminal Justice Committee and the Social Justice and Social Security Committee. We gave some indication of our direction of travel, but the culmination of our response will be presented to Parliament at the turn of the year.

**The Convener:** You paid tribute to the work of the petitioner earlier, and it was obviously a difficult personal situation that led to the petition being submitted to the committee. The petition identified some issues that were accepted in our correspondence with the Government as areas that merited a bit of further work and explanation.

We were impressed with the evidence that we heard last week. The experience of David Strang and Dr Carole Hunter is significant, and it underpinned an informed discussion.

Our job is in relation to the issues raised in the petition, and I will let David Torrance turn to those.

**David Torrance (Kirkcaldy) (SNP):** How important is it to embed the medication assisted treatment standards in practice, especially to ensure that individuals receive appropriate medication while they are in police custody?

**Angela Constance:** There are two points there, Mr Torrance. One is a more global point about the implementation of MAT standards. They are vital and they are a big part of the Government's reform programme. They are about ensuring that people have quick access to and informed choice about their evidence-based treatment, and that services are planned and operate in a way that they anticipate people's needs. All of that is connected to mental health and primary care, and the MAT standards are therefore crucial and not optional. Members will be aware of the statement that I made to Parliament earlier this year, and I will make a further statement next week.

On the specific issue of the prescription of medicine or opiate substitution therapy in police custody settings, MAT standard 3 requires people's treatment to be provided to them

irrespective of their setting. OST needs to be routinely available to those for whom it is prescribed in custodial settings if MAT standard 3 is to be met. All health boards, alcohol and drug partnerships and integration joint boards have accepted the importance of that and our shared agenda for implementation of MAT standards.

We have been engaging on the issues raised by the petitioner in committee with various police and healthcare networks, such as the Police Care Network and, to the best of my knowledge, the only place where there appeared to be an issue was in Elgin. However, I want to be clear—and the guidance and MAT standards are clear—about what should happen.

In my view, as Minister for Drugs Policy, any interruption of a person's medical treatment is utterly unacceptable because of the consequences that the committee is well aware of. The interruption of someone's medical treatment is discriminatory and not acceptable. Ultimately, the implementation of MAT standards will resolve the issue where it exists, and as I said, the issue appears to be specific to Elgin.

I hope to convey to the committee in the strongest terms that the practice, where it exists, is discriminatory and that we treat drug and alcohol problems as a health condition, so drug and alcohol treatment has to be on a par with any other treatment for any other condition.

**David Torrance:** The Scottish Drug Deaths Taskforce recommends that the MATS should be embedded by May 2024. Is the Scottish Government on course to meet that? If not, how much work is still to be done?

**Angela Constance:** There is a lot of work to do, and a lot of work is on-going. Members will be aware of the ministerial direction that I issued in June because I was not content with the scale and pace of progress. Part of the purpose of the statement that I will make to Parliament next week is to reflect on the information that all areas have provided on their improvement plans. All areas are subject to regular reporting on progress. For most areas, that will be done quarterly, but for areas that have particular difficulties, it will be monthly.

The other purpose of my statement next week is to inform Parliament of the Government's view not just of the task force's recommendations but those of Public Health Scotland's benchmarking report, which was published in June.

**Alexander Stewart (Mid Scotland and Fife) (Con):** In the submission that the Scottish Government made to the committee in March, you committed to consulting with stakeholders in justice and health to establish the best methods of recording how many requests for prescribed medication had been made by individuals in

custody, and whether those requests had been met. Can you give us an update on any progress on that?

**Angela Constance:** That is an area that we have given considerable thought to, and I understood that the committee was raising the issue because there could be a gap in information. Part of the underpinning evaluation of our national mission to save and improve lives is to ensure that we have the right measurements in place.

I will not repeat what I have said about MAT standards, but ultimately issues such as these are resolved through the delivery of MAT standards.

I will just take a slight step back from the question to introduce some context. Public Health Scotland already publishes a range of information about OST, such as the number of people who are in treatment, for example. The committee is also well aware of the information that is held on the prescription of healthcare at the local level. The information that we are talking about is available, but it is held in Police Scotland's national custody records. We are giving some thought to that. The task force has made more broad recommendations about ensuring that our healthcare and justice systems speak to each other, and other important recommendations about information sharing.

On information that is held by a statutory organisation such as Police Scotland, there are particular complexities around unravelling that. I am aware that His Majesty's Inspectorate of Constabulary in Scotland has access to a range of information that is held by Police Scotland, so I am contemplating whether that is a potential route and whether I, as minister, should engage with the inspectorate.

I do not know whether the committee has considered that. The information is available to the inspectorate through the inspections that it has done. Indeed, this time last year, it did an inspection that involved the Elgin custody suite and it made a number of recommendations. I am informed that that led to increasing nursing provision in custody so that there is now full-time nursing cover in that centre.

09:45

**Alexander Stewart:** That information gap might well have been identified, minister, and you have now indicated that through other resources and ways of managing it, it might be closed. We are trying to identify whether such a gap exists—and it would appear that it does—and whether everyone is supported while in custody.

**Angela Constance:** It is not so much about a gap in the information as the availability and

transparency of the information at the national level. More information is gathered about what happens with the prescription of OST in police custody settings than in other settings. That goes back to the nub of the issue. We have lots of information about where OST is dispensed, whether it be from a hospital or pharmacy, but we have much less information about where it is administered. The amount of information that is gathered in the police custody setting is much greater than that gathered in, say, homeless settings, where there are in-reach medical provisions.

**The Convener:** I wanted to pursue that issue myself. You started by saying that you thought that the incident in Elgin was isolated to the particular example that the petition raised. I was unclear why you thought that, but you explained that, although the information is not publicly transparent, it is there, and through the information that Police Scotland has available, you have been able to satisfy yourselves that it was just an isolated example. Therefore, when you said in response to the committee that the Scottish Government is giving consideration to that, it is not that you are considering a wholly new process, because you believe that the information is there already, but that you are considering how that information that is not necessarily or demonstrably available for people could be more transparent, so that people can see that the medicines have actually been prescribed. Is that correct?

**Angela Constance:** That is an accurate summation about the information that is currently gathered by Police Scotland. In terms of me satisfying myself about what is happening on the ground, the major stream of work on that is around the implementation of MAT standards. We have a lot of granular information about what is happening at the local level. Colleagues might be aware of the supplementary information that was published in August that gives an area-by-area breakdown of where individual areas are with their MAT standards. The MAT standards implementation support team—MIST—is providing practical, hands-on support to local areas on how to gather information better and how to change the ways in which they are working while being fully cognisant of the need to challenge stigma, discrimination and culture. We have improvement plans in from all areas. We also have quarterly—or monthly, in some cases—reporting.

Through the serious and significant endeavours to implement MAT standards, we have much more information at the local level, which gives us a real connectivity between government and communities that we have not had previously.

**Fergus Ewing (Inverness and Nairn) (SNP):** I preface my question by pointing out that I am not,

of course, a clinician, but I want to raise an issue that was referred to in evidence. There was some concern that dihydrocodeine has been prescribed in NHS Grampian. We had some concerns about the appropriateness of that. During last week's evidence session, I took the opportunity of asking Dr Hunter about it, and she said:

"Dihydrocodeine is sometimes prescribed in custodial settings. There is guidance on exceptional circumstances within the UK guidance that I mentioned. Its prescription should not be routine as a replacement, but there are some exceptional circumstances—including when it is not possible to get access to existing prescribed medication safely—in which it would be used by an experienced clinician."—[*Official Report, Citizen Participation and Public Petitions Committee*, 23 November 2022; c 4.]

To be fair, we are seeking a response from NHS Grampian about this matter, as is only right and proper, and I am not sure whether we have that yet. I just wondered whether I could raise the issue with you and ask what the Scottish Government's view is of the use of dihydrocodeine and whether it should be minimised, thus ensuring the availability of methadone, which I imagine would be the normal opiate substitute that is prescribed in most cases, at least in accordance with my understanding. Without casting any aspersion on or blaming NHS Grampian, I just want to raise the general issue with you, minister, to see what the Scottish Government's view is because it was raised, either by the petitioner or others, in evidence.

**Angela Constance:** Like you, Mr Ewing, I am not a clinician. You have, however, heard the evidence from Dr Carole Hunter, who is a senior pharmacist of many years' standing.

This is one of the issues that I have written to NHS Grampian about. On the specific point about dihydrocodeine, while prescribers can make judgments on a case-by-case basis, based on clinical judgment and health and safety, the bottom line—as I understand it as a non-clinical person—in accordance with the United Kingdom guidance that Dr Hunter referred to and the guidelines for Police Scotland and healthcare professionals, is that the routine use of alternatives such as dihydrocodeine does not meet the required level of support for MAT standards, and they should only be used in exceptional circumstance, not routinely. That is what I have stated in my correspondence with NHS Grampian. Essentially, it is a reiteration of the guidance.

For information on the broader context of my correspondence with NHS Grampian, convener, I have written in fairly direct terms to say that it has come to my attention and I am aware that, despite the longstanding nature of the issue, it still does not routinely provide OST in all circumstances. The issue is around the routine nature of the

provision. Yes, Dr Hunter spoke about exceptional circumstances but the health board should be in a position to provide OST routinely and it should not be disrupting people's medication. I have therefore asked NHS Grampian if that is the case, and if it is, what is it going to do to remedy it, and when? I would be happy to share that letter and any response I receive in due course with the committee, if it would be helpful.

**Fergus Ewing:** That predicted the question that I was going to ask, which was whether you could let us know what response you get from NHS Grampian. It must obviously have an opportunity to respond and give its view; that is only fair and proper. However, part of our job is to make sure that the Parliament has properly and thoroughly analysed and responded to the petitioner's plea for the availability of the prescription of opiate substitutes, principally methadone. I am keen to see the result of the inquiries and pleased that the minister has already pursued them rigorously. Thank you for that.

**Paul Sweeney (Glasgow) (Lab):** A key aspect that was discussed in a previous evidence session was the risks that are associated with release from custody, particularly the Friday release practice, which the "Changing Lives" report recommended should be banned as expeditiously as possible. Will the minister give us an update on where the Government is with progressing that?

**Angela Constance:** That is a feature in the Bail and Release from Custody (Scotland) Bill, which is at stage 1. I have been a longstanding advocate of ending Friday liberation. It just does not make sense to me. I appreciate that there are significant operational issues for the Scottish Prison Service to consider in all of this, but when I think of my time as a prison social worker—admittedly that was a long time ago now—I know that releasing large numbers of people on a Friday because people cannot be liberated on Saturday or Sunday can often lead to people not being liberated until later in the day. Although people's care arrangements should be in place before they are liberated, which is part of the proposed justice legislation that the cabinet secretary is taking through Parliament, people have practical issues to contend with on the first day of their release that mean that it does not make sense that it should be on a Friday. If they face any challenges, it can mean that they have to wait until Monday.

We have to follow the evidence that shows that any period of transition and change comes with its risks. We know that people being released from custody means them going through a period of elevated risk, so we need to plan to mitigate that risk. At a commonsense level, Friday liberations do not make sense.



**Paul Sweeney:** In relation to that practice, Dr Carole Hunter made a key point about the support of the pharmacy network in Scotland, particularly around seven-day access. Does the minister have a view on how the pharmacy network could support the infrastructure around releasing prisoners from custody? I am particularly thinking about potential changes to doses when people who have been in a custody setting have to manage their medication outside.

**Angela Constance:** In general, I agree that community pharmacies are an underused resource. The task force has made some interesting recommendations about an enhanced service contract, and there are some parallels with that around arrangements with general practitioners and primary care.

There are 1,250 pharmacies in Scotland. That is quite an extensive network that we could be tapping into. There is innovative, progressive and helpful use of pharmacist services in different parts of Scotland, but there is a network and expertise there that we need to make more use of. It is imperative that we use all the assets that are at our disposal and community pharmacies are very much part of that.

**Paul Sweeney:** Another key point about support from our pharmacy network more generally was about ensuring that people who are released from custody or those who are caring for them if they have a support network are provided with naloxone. The evidence that has been provided has indicated that that is a patchy practice. What is the minister doing to ensure that it is more of a standard protocol?

10:30

**Angela Constance:** Good progress has been made in increasing the distribution of take-home naloxone kits. Quarterly figures were published on either Monday or Tuesday that approximately 6,500 take-home naloxone kits have been distributed. Members can refer to those published figures at their leisure but they give a breakdown of the settings from which they come, including prisons, community pharmacies and the Scottish Ambulance Service.

There are 13 alcohol and drug partnerships that have a prison within their catchment area, and 85 per cent of those have made specific arrangements with their community justice partners around identifying risks, part of which is the issuing of naloxone. In some cases, good use is also being made of peers, peer networks and people with lived experience who are now in recovery going into prison settings and supporting people with training on the take-home naloxone kit.

There is another statistic that we monitor. I hate talking about statistics in this fashion, convener, because, at the end of the day, we are talking about lives, but the reach of Scotland's national naloxone programme continues to increase, and it is estimated that 66 people out of every 100 who are at risk of opioid overdose have been provided with a take-home naloxone kit.

Naloxone is very important but it is just one part of the solution, which is a whole system of care, treatment and support. I believe that we are making progress but we need to continue on our trajectory.

**Paul Sweeney:** I have one final question, if I may, convener. A key part of the wider network that supports people being released from custody is referrals to supervised overdose prevention facilities, which were highlighted as a key measure in the reduction of harm while someone is going from a supervised setting to being unsupervised. I am cognisant of the Glasgow pilot on such a facility. Can the minister provide an update on progress with that pilot and on the interaction with local custody settings as a mechanism for referring vulnerable people to it?

**Angela Constance:** Mr Sweeney knows of my enthusiasm for safer drug consumption facilities, and we are doing everything possible, within our powers, to leave no stone unturned to achieve the goal of a pilot site in Glasgow.

The short answer is that the Crown Office is now in a position to advise the Lord Advocate. As you know, I cannot speak on behalf of either the Crown Office or the Lord Advocate but, along with our partners in Glasgow, we have done an extensive amount of work on the matter and pursued it to the nth degree. It is not a silver bullet, but it is one piece of the jigsaw and, given the scale of the challenge that we face in Scotland, we need all the bits of the jigsaw.

**Paul Sweeney:** I have a small supplementary, convener, if that is okay.

**The Convener:** We have strayed a little bit outwith the terms of the petition that the minister is here to discuss.

**Paul Sweeney:** I just wanted to go back to the point about interaction between custody settings and the potential pilot. Will there be a definite link there?

**Angela Constance:** Mr Sweeney's broader point, whether it is in relation to safer drug consumption facilities or any other service, is about the connectivity between services. To go back to the petition, one of the improvements made by the Elgin custody suite was to put in place systems whereby the local service is informed when people are brought into custody,

when they are on an OST prescription, and when they are to be released. The issue that we are all concerned about is what happens while someone is in custody and whether they are getting the medically prescribed treatment to which they are entitled and which should, under no circumstances, be disrupted unless there are exceptional health and safety issues.

**The Convener:** A final thought has occurred to me in relation to the availability of healthcare staff. In the wider political context, we are discussing the pressures on staffing resources. Are you aware of any data or issues with the availability of staff who can ensure that prescribed medicines are safely delivered to those who are in custody when it is appropriate?

**Angela Constance:** On the broad point, health boards and IJBs should monitor that. Through their routine reporting structures, they can and do raise workforce issues with the Government and NHS Scotland.

On the work that I and my drug policy officials are pursuing on the implementation of MAT standards, a financial resource is attached to that implementation. When I spoke to the committee before the summer recess, I said that approximately 100 posts were going to be funded. That figure has increased. To be specific and more helpful, I know that Moray, where Elgin custody centre is, has been successful in recruiting staff to work in and around MAT standards. Similarly, NHS Aberdeenshire has sought a number of staff and has largely been successful with that.

I am not disputing that there are issues with the workforce but there are examples of where those have been overcome, either through additional resource to help with recruitment or through the redesign of services.

**The Convener:** Thank you. I have not been ignoring your officials, minister; I just assumed that you would bring them in if you felt that there was anything appropriate that they could add.

Today has been helpful with the issues that we have been exploring with our petitioner. Minister, would you like to say anything further in conclusion?

**Angela Constance:** I appreciate the committee digging into the issue. Because drugs policy can rarely be considered in isolation, the debates in the chamber or during other committee appearances that I have been obliged to make have often been very wide-ranging. It has therefore been useful for me to take a specific issue in a specific locality and bore down into the detail. Thank you for that.

**The Convener:** Thank you. That is one of the advantages of the Citizen Participation and Public Petitions Committee. We are taking forward the issues of an individual with a petition rather than bringing forward individual party-political considerations, which sometimes allows us to have a meaningful conversation about the particular issue at hand.

Thank you for your appearance with us this morning.

**Angela Constance:** Thank you.

**The Convener:** Members, before I suspend the meeting briefly, are you content that we consider the issues raised by the evidence we have heard this morning at a later date?

**Members indicated agreement.**

10:08

*Meeting suspended.*

10:10

*On resuming—*

### **Free Rail Travel (Disabled People) (PE1928)**

**The Convener:** Our second evidence session is on PE1928, which was lodged by David Gallant. The petition calls on the Scottish Parliament to urge the Scottish Government to provide free rail travel for disabled people who meet the qualifications for free bus travel.

We last considered the petition at our meeting on 20 April 2022, when we agreed to write to Transport Scotland to seek an update on the fair fares review. A copy of Transport Scotland's response has been included in our meeting papers for today.

At the meeting on 20 April, we also agreed to hear evidence from the petitioner and from Sight Scotland. I am pleased to welcome to the meeting the petitioner, David Gallant, and Nicoletta Primo from Sight Scotland. It is a pleasure to have both of you with us. The petitioner is not always present when we consider their petition. It is helpful that both of you are here today.

Members have a number of questions that they would like to ask, but we understand that both of you wish to say a few words first. I am happy with that. The clerks will have told you that your contribution cannot be longer than a speech in the chamber. We look forward to hearing from you. Have you drawn straws to see who will speak first? I see that David Gallant will do so.

**David Gallant:** Many voluntary organisations have supported the petition, and I do not

understand why Transport Scotland objects to it. Because of inflation, such a scheme would actually save money rather than cost money. I am sure that members will be pleased to hear that.

With regard to the rules for free rail travel for disabled people, it is important that rail travel should follow the same rules as bus travel as far as possible. Bus travel is allowed as far as Berwick-upon-Tweed and Carlisle. Those who are travelling from Lockerbie to Gretna Green or Annan should be able to change trains at Carlisle rather than have to travel via Glasgow. It is important that Carlisle is included. It is included in bus travel, and it is important to include it in rail travel, even though it is not in Scotland.

**The Convener:** Okay. Is that all that you wished to say to us in advance?

**David Gallant:** Yes.

**The Convener:** Thank you. We are now happy to hear from Nicoletta Primo.

**Nicoletta Primo (Sight Scotland):** Good morning, everybody. I thank the committee for inviting Sight Scotland and Sight Scotland Veterans to provide evidence on the petition. I also extend our thanks to David Gallant for bringing this important issue to the Parliament.

Sight Scotland and Sight Scotland Veterans are two of Scotland's oldest charities. We are dedicated to ensuring that nobody faces sight loss alone. Some elected members who are here today will be aware of our fair rail campaign, which has one simple call: to provide free rail travel for the companions of those who hold a national entitlement card with an eye and the +1 symbol on it. No national policy entitles companions to free rail travel. That exists only in bus policy, and it is our view that that should extend to rail travel.

On the petition, I will largely be speaking from the perspective of those who are blind and partially sighted, and about their experiences of using the rail network.

I welcome any questions that the committee might have.

**The Convener:** Thank you very much. Paul Sweeney will lead the questioning on the petition.

**Paul Sweeney:** There is provision for free bus travel. Why is it so important to extend that to rail travel?

10:15

**Nicoletta Primo:** If David Gallant does not mind, I will answer that question first.

From the perspective of those who have a visual impairment, rail travel will quite often be much more accessible. We have heard from veterans in

particular who have said that using platforms and toilets on the rail network can be a lot easier than having to use toilets on buses, particularly on longer journeys. We have also heard from a single mother whom we support, who has spoken about how, when she is travelling with her daughter, it is much easier for her to use a train than a bus.

On the need for companions, some people would simply not be able to use the rail system without having somebody with them. We have heard that they would quite often prefer to use the train but, because of the cost, they simply cannot afford it, so they decide to use the bus instead.

There would be many benefits from extending such a scheme nationally as opposed to having the current situation for companion travel, in which each local authority has a different system in place. Some local authorities offer a concessionary rate for companions and some do not. Even in those that do so, that is not always enforced properly. That causes quite a lot of confusion for passengers and rail staff.

**Paul Sweeney:** Transport Scotland's submission refers to the disabled persons railcard. You might already have hinted why that is insufficient. Is it insufficient because of the lack of arrangements for companion travel?

**Nicoletta Primo:** The companion travel element is particularly important. Sight Scotland has picked up on that because, for many people, travelling by themselves is simply not an option. If a person has mobility, sight loss or other sensory issues, having a companion can mean the difference between travelling and not travelling at all. People have said that, because they can get on the bus with their companion and that is provided for, they would prefer to use the bus rather than the train. They would much prefer to use the rail system because of its reliability and accessibility, but it is simply not affordable.

**Paul Sweeney:** That is very helpful.

I understand that approximately 78 per cent of those who use the disabled bus travel concessionary scheme have a companion allowance, so that seems to be a major aspect of using that scheme.

**Nicoletta Primo:** Yes. That is significant. Such a high percentage of users who use the companion allowance is evidence that it is necessary. We have that for the bus system, and we know that it works and that it is used, and it would make sense to extend that to the national rail system, particularly as ScotRail is now under public ownership. It should be there for everybody to use, and that means that it should meet the needs of all in society.

**Paul Sweeney:** I am interested to know what costings you have developed. You hinted that money would be saved. I was intrigued by your point.

**David Gallant:** As far as I know, the Scottish Government has no power to control bus fares, and bus fares have been going up. If more people transferred from buses to the rail network, that would save money, because the Scottish Government has to pay 76 per cent of the single fare to bus operators. Bus fares are going up, so encouraging more people to travel by train would save money.

**Paul Sweeney:** Do you have any idea of the total number of people who might utilise such a scheme in Scotland? I want to get an idea of the scale of that relative to the overall passenger cohort in Scotland.

**Nicoletta Primo:** The cost to cover those who hold the national entitlement card with the eye symbol and the +1 symbol or just the eye symbol would be around £2 million. However, we are in discussions with Transport Scotland about more specific data on that, because that is just an estimate. I think that the cohort of people is approximately 55,000, but I need to double-check that. I would be happy to send the committee the final figure.

**Paul Sweeney:** I think that we have that.

**Nicoletta Primo:** Do you have my briefing?

**Paul Sweeney:** Yes. Overall, we are talking about 146,000 people. If that is broken down into different components, disabled +1 companions number about 105,000. That is helpful.

A point has been made about bus travel versus rail travel, but a lot of journeys are highly integrated, and people might need to take a bus and then a train. Would the approach help to make it more seamless for people who have a visual impairment to navigate the transport system more generally?

**David Gallant:** I live in a rural area of Scotland that is a long way from any of the big cities, and I find it impossible to use the toilets on long-distance buses, but I can use the toilets on trains.

**The Convener:** The information that we have about companion travel is that some authorities, such as Fife Council and West Lothian Council, and Strathclyde Partnership for Transport offer a 50 per cent reduction for companion travel. Are you aware of any evidence that that has made any difference to the incidence of companion travel in those local areas?

**Nicoletta Primo:** No specific data has been gathered on that. However, we have heard anecdotal evidence that that discount system is

utilised and is greatly needed. We want to see it go further and mimicking the bus system by being free.

As David Gallant has rightly pointed out, there are differences in rural areas and urban areas in respect of who uses rail and who uses buses. As Mr Sweeney pointed out, there are also integration elements to consider, particularly if we think about the national transport strategy, which mentions the integration of different modes of transport a lot.

In places where there is a companion discount, it is not always enforced. We hear that sometimes when people get on at certain stations, they are told that they can have a discount or that there is no need to pay this time but, at other times, they are forced to pay the full fare. That is confusing for people. Not having a national policy and having each local authority—in SPT's case, it covers many local authorities—set its policy causes confusion and sometimes puts people off, because they just do not know whether the companion discount will be applied. There is no clear policy on whether it will apply on that day, although people are entitled to that.

**The Convener:** That might be something that the committee can pursue a bit further by trying to find out where those schemes exist, what the uptake is, and what education there has been for an understanding of the schemes among rail travellers and rail staff.

Mr Gallant mentioned that he lives in a rural community. Alexander Stewart is going to touch on rurality.

**Alexander Stewart:** Thank you for coming to the meeting.

You talk about rurality. Is it not the case that, in some situations and circumstances, there are opportunities to develop processes? Have you given any feedback on the fair fares review, which the Scottish Government is using to look at concessionary travel? Have you been involved in any consultation on that review or had other involvement with it?

**David Gallant:** It is not a question of fares; it is a question of disability discrimination. I simply cannot travel on long-distance buses because the toilets on long-distance buses that are provided by companies such as Scottish Citylink and Stagecoach Megabus are simply not suitable, whereas the toilets on trains are suitable for persons who have my disability.

**Alexander Stewart:** Has Nicoletta Primo had any involvement with the fair fares review?

**Nicoletta Primo:** Yes. Sight Scotland has responded to the fair fares review, and we have made the points that I have mentioned this morning. I am not aware of any update or any

report back from that. We look forward to hearing what it says. However, I stress that what we are asking for could be implemented ahead of the results of that review. The review does not necessarily need to be the catalyst through which the change happens. I am here to talk specifically about companion travel for those with sight loss, and it is quite possible for that to be implemented through statutory instruments.

I have something to add on the convener's previous point. You talked about different places having different schemes. I have a quote from one of our service users. They said:

"My travelling companion can travel free on some of the trains Scotland wide depending on which local authority are signed up to the scheme. The problem is, and this had led to not a few arguments with train company employees, is not all local authorities are signed up. So, you can start your journey in a participating local authority but end up in a non-participating one and a train company employee can insist the companion buy a ticket on arrival. This has happened to me frequently. It is a recipe for anguish and anxiety."

That stresses the point that, although some schemes that offer a discount are in place, not having national consistency causes people and rail staff a lot of confusion.

**The Convener:** That is something that we can explore further, but I am trying to understand it. There is a 50 per cent reduction. I presume that the companion would still have a ticket.

**Nicoletta Primo:** What normally happens is that a national entitlement card holder will be able to go through the ticket barrier, and sometimes the person who is with them will be able to go through with them because no ticketing system is in place, or they will have to go to the ticket office to purchase a ticket. However, not all train stations have ticket offices, and the automated ticket machines do not have an option to select companion travel so that the companion can get the discount. Therefore, it is sometimes not possible for a person to obtain a ticket.

**The Convener:** They cannot access the existing benefit.

**Nicoletta Primo:** Exactly.

**The Convener:** I was slightly confused, because they do not get a free ticket; they get a 50 per cent reduction.

**Nicoletta Primo:** Exactly.

**The Convener:** I would therefore have expected them still to have a ticket so that, irrespective of where their journey ended, they would be able to present the ticket that they had purchased.

**Nicoletta Primo:** They sometimes cannot purchase a ticket at the discounted rate in the first

place, unless they are at a station in which there is a barrier, the entitled person shows their NEC, and they go through with them. As I have said, there is no option on ticket machines for the companion discount.

**The Convener:** Do they then get on the train having not paid any fare at all?

**Nicoletta Primo:** That is quite possible. However, at the other end, they would have to make sure that they paid. That is when they get to the point of finding out whether they get the discount.

**The Convener:** They try to obtain a discount at the end of the journey in a non-participating authority area.

**Nicoletta Primo:** Yes.

**The Convener:** I understand. Mr Ewing will go next.

**Fergus Ewing:** Thank you, convener, and good morning to our witnesses. Thank you for coming along. If I may say so, Mr Gallant, you make a strong case for the extension of concessionary travel to people with a disability on the grounds of equity and avoiding discrimination. I hope that the Scottish Government will respond sympathetically after the review.

I want to ask about one point that you raised before the petition was lodged. You explained that the cost of providing free rail travel for disabled people could easily be met by raising the starting age for free travel for senior citizens from 60 to 61. I must say that I hope that the Scottish Government will consider that suggestion. Fortunately—or unfortunately—I am 65, so for the past five years I have been entitled to a free bus pass. I have never taken it up, but frankly I am a bit puzzled about why I, as a fairly well-paid person, should need that support, on the grounds of equity. I would far prefer that people with a disability had access to free rail travel than people who can afford their own public transport costs.

I have got that off my chest, convener. Without revealing secrets, I know that the Scottish Government previously considered that point at my instigation, but nothing ended up happening.

**The Convener:** Controversies aplenty are being revealed this morning, Mr Ewing.

**Fergus Ewing:** I guess that there are certain benefits to being an ex-minister.

To get back to the point, did you, Mr Gallant, ever get a response from the Scottish Government about the idea that it could pay for what is being suggested this morning—for which there is a very strong case—by limiting, reducing or shaving off the benefits of people, such as myself and many others, who are over 60 and are entitled to the free

bus pass, even though they are well able to afford it? Did you ever get a response to that?

10:30

**David Gallant:** No, I did not. However, due to the slight change in the economic situation, it is no longer necessary to raise the age for senior citizens from 60 to 61. The scheme would now be self-financing because bus fares have been going up and train fares have been static. Therefore, the scheme would actually bring in financial benefits. If more people transfer from buses to trains, the Scottish Government would not have to pay bus operators 76 per cent of the bus fare.

**Fergus Ewing:** You made that point in response to Mr Sweeney's question earlier. When asked how much it would cost, you said that it would not cost anything and would be self-financing. However, to play the devil's advocate, I will say that your thesis about why it would not cost anything relies on an assumption that people would switch from bus to train. However, if what you want was granted, and there was free rail travel for people with a disability, is it not the case that many of those people do not currently use the bus at all, not least because of practical problems such as a lack of toilet facilities? In other words, some people with a disability would use the benefit of free rail travel but do not currently travel on the bus. Therefore, is there not bound to be some extra cost?

**David Gallant:** That could be the case for a very small number of people. It is impossible to predict what the economic situation will be in the future. I do not see inflation coming down rapidly.

**Fergus Ewing:** Okay. It is not a question that I would necessarily expect you to be able to answer because the economics and the calculations here are all pretty complex, as we have seen from the information from the Scottish Parliament information centre.

Thank you for putting your case; you have both made the points very well.

**The Convener:** I think that the committee is very sympathetic to the case that you have made. We will consider the evidence afresh and decide how best to take forward the petition. Before we draw to a conclusion, is there anything further that you would like to say?

**David Gallant:** No. I think that we have just about covered everything.

**The Convener:** Nicoletta, do you have anything to add?

**Nicoletta Primo:** I will leave you with the words of somebody whom we support, who has a rare eye condition and is a single parent. They said:

"I go everywhere by bus only because of the free companion travel—that's the reason I use the bus over the train, because of the concessionary rate for whoever is with me. I'd rather take the train as the bus can be so unreliable, especially in the darker nights, which reduces what vision I do have even more. I'd take the train more if I could, but with the cost of living it's too expensive to always pay the fare for my companion and I can't expect my sister or whoever is with me to pick up the cost. The train has better facilities too, for example access to a toilet, which makes life much easier when I've got my wee girl with me. There is also more space ... as I'm not always able to get on the bus with my buggy if a wheelchair user is already on. If we could get free companion travel on the trains like what we have on the bus, it would make life so much easier."

**The Convener:** Thank you.

Colleagues, we would normally consider the evidence at a future meeting, but one issue that has come out of the petition is that of companion travel. Are we content to initiate a series of inquiries of the local authorities that offer this scheme, in relation to its uptake and the understanding of passengers and rail staff of its working practices?

Issues have been identified, and it would be interesting to know whether the supporting local authorities are aware of passengers who are unable to access the ticket at the start of their journey and who then find that they are not entitled to the reduction at the end of the journey. It would be interesting to initiate some inquiries on those points, which would help to inform our next discussion.

**Paul Sweeney:** It also might be interesting to make inquiries regarding the financing of the scheme. I note that the current concessionary travel scheme for older and disabled persons has a 55 per cent rate against the full adult single fare, and it has an overall budgetary cap of £226 million in the current financial year. It would be interesting to see what the utilisation rate of that budget is and whether the proposal could be funded through the existing provision, if it is the case that it is underutilised.

**The Convener:** I think that we can agree that it would be interesting to consider those points, and then we will have the information available when we next consider the petition.

I thank David and Nicoletta for coming along. Their evidence is much appreciated and will certainly help to inform our consideration of the petition. I suspend the meeting briefly to allow a change of witnesses.

10:35

*Meeting suspended.*

10:38

*On resuming—***Upland Falconry (PE1859)**

**The Convener:** Our third evidence session is on PE1859, on retaining falconers' rights to practise upland falconry in Scotland, which was lodged by Barry Blyther.

The petition calls on the Scottish Parliament to urge the Scottish Government to amend the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 to allow mountain hares to be hunted for the purposes of falconry. We are joined by the petitioner, Barry Blyther—good morning, and welcome to our deliberations. We have managed to consider the petition from time to time along the way, and it has provoked some quite interesting discussion among committee members. We have a number of questions that we would like to put to you, but, before we get to that, I understand that you would like to say a few words to us and I invite you so to do.

**Barry Blyther:** I understand that Dr Fox has not been able to get an internet connection so that he can create a remote link into the committee meeting, which is unfortunate. However, I believe that you have an outline of the opening statement that he was going to deliver. I do not have a copy of that in front of me, but I am sure that the committee will have considered it.

I will make a few extra points before the question and answer session. I have prepared a short opening statement. If it is okay, I will read that out just now.

**The Convener:** Please do.

**Barry Blyther:** My name is Barry Blyther and I am the petitioner for the matter at hand. I thank the convener and committee members for inviting me here. I also thank everyone from the public and the wider falconry community who have contributed to the petition so far.

Falconry has been my passion all my life. In 1996, I decided to make it my full-time profession. I moved to Scotland, made it my home and have never looked back. Falconry has become more of a way of life to me over the years, which is why I am in front of you today. The Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020, some parts of which came into force on 1 March 2021 and which amends the Wildlife and Countryside Act 1981, is, quite simply, flawed.

From the conservation, animal welfare and democratic angles, it is a little bit of a travesty.

I need committee members to consider what they have read from Dr Fox at this point, but, as a minor add-on to his submission, I note that, on a number of occasions, the Scottish Government has mentioned that it has consulted NatureScot and the Scottish Hawk Board about the legislation. Although the Government consulted both bodies, we have been presented with an illusion that suggests that that consultation happened in advance of the legislation being passed into law. However, it was not; consultation took place after the legislation was enacted, and it was to discuss only the shaping of licensing.

The result of the licensing makes a mockery of the Scottish Government's claim that the protection that is being offered to the mountain hare does not impede falconers' ability to meet their legal and moral obligations to allow their birds the freedom to demonstrate behaviour that is natural to the species. It absolutely stymies that option.

I will expand on that. We have to remember that, under the guidelines that are provided by the Government and are based on the Government-provided Joint Nature Conservation Committee range map for mountain hares, falconers should now fly their birds only on 2.5 per cent of Scotland's landmass, and that land is mostly in built-up areas, where their birds have no chance of seeing a hare and catching it. That means that falconers can no longer provide a school talk or a flying demonstration at a game fair or a village gala. They cannot do bird deterrent work to prevent bird strikes with aircraft and subsequent aviation disasters, nor can they keep pest species away from food-producing plants in any part of the remaining 97.5 per cent of the country's landmass. Under the Wildlife and Countryside Act 1981, falconers would face prosecution if their birds sought and took a hare in those locations.

We must remember that one of the ways that NatureScot says that pest controllers should keep gulls away from undesirable or dangerous locations before they may apply for a licence to remove gull nests is by using falconry—the very practice that now places the falconer at risk of prosecution across a huge part of the country. Unfortunately, the Scottish Government has no understanding of upland falconry, which might be, in part, why falconry has been snagged as an unintended bycatch of the legislation. However, when the Scottish Parliament information centre's briefing is focused on a completely separate falconry discipline, it is not surprising that the Scottish Government's judgments are a little flawed.

I will not bore the committee with a long repetition of the information that it has at hand from the submissions and the information that has already been provided. However, I will make a final point. The legislation was brought in as a quick exploitation through the corruptions of the suggestions that were put forward about grouse moor management in the Werritty report. You must remember that that report, just like the brief parliamentary debate about it, does not mention falconry at all. The aim of the legislation was to prevent the mass culling of hares by shooting, which many people find to be intolerable and unpalatable. The report suggests that data was missing, and that, if, in five years, hare numbers were deemed to be unfavourable following more accurate counting, the licensing of shooting should be considered. The data on hare numbers has already been exposed as flawed. The numbers are likely to be between two and six times greater than those that were used to justify the amendment. Indeed, on managed land, their numbers are likely to be 35 times greater than those on unmanaged land. However, the counts were largely undertaken on unmanaged land.

10:45

It has been suggested that hare numbers cannot sustain the pressure of falconry. Let me correct that. Hares have sustained the pressure of shooting. The lowest number of hares that are cited as killed by shooting each year is 26,000 and the highest number is 50,000. However, based on the most optimistic number of hares that are taken by falconers in a given season, it would take between 26 and 50 years for falconry to account for the number of hares that are taken by shooting in one year.

I am just wrapping up; you will be glad to hear that I am nearly done. The pressure of falconry is so infinitesimally small—NatureScot agrees with this—that that cannot be considered to be relevant. When we look at the Wildlife and Countryside Act 1981, we note that, for the very same reason, there is an exemption from the legislation that protects birds

“for the purposes of falconry”.

NatureScot has suggested that it does not understand why the same derogation has not been applied in the legislation that is relevant to mammals, and, indeed, it does not support such an omission. All that is required to correct that is a small amendment to the legislation to bring mammal and bird legislation into line. Such an amendment would be far less complicated than that which has already been imposed, and it would not require any change to primary legislation.

The change that we require to allow the 40,000-year-old art of falconry to continue, and to keep the welfare, education, conservation and commercial benefits that it brings with it, is simply to amend the line in the legislation that gives an exception

“for the purposes of falconry”.

That is all that I have got, guys. Thank you very much.

**The Convener:** Thank you for that comprehensive statement in support of the aims of the petition. It touched on issues that we have tried to address as a committee, and it underpins the reason why we have you with us this morning.

You are correct: we hoped to be joined by Dr Nick Fox, who was due to achieve a parliamentary first by joining us from an international flight. Unfortunately, however, he is not in the 2.5 per cent of airspace that would allow a connection to be made.

We will touch on the issues that you have raised as we develop the discussion. However, as this is the first opportunity that there has been for the discipline of falconry to be aired in a parliamentary discussion, it might be useful if, in the first instance, you give us an overview of what the practice entails, and its cultural and social significance to Scotland.

**Barry Blyther:** With respect, I cannot give you in the time that is available a detailed overview of the whole practice of falconry as a pastime or sport. However, I can narrow it down and, I hope, bring some focus to your consideration of the discipline of upland falconry, especially with large buzzard-type species and eagles.

I have heard several mentions in the committee of birds catching grouse, rabbits and stoats. No one would want to catch a stoat with any type of bird of prey, but you can take a falcon on to a grouse moor to hunt for grouse. You can take the same falcon on to lowland to hunt partridge. You can take a hawk on to farmland or even into more urban environments to use them for pest control, such as to catch rabbits, although they are vanishing and becoming rare these days.

The focus of the petition is upland falconry. I can imagine that the committee has a picture of a falconer as someone wearing a glove who carries a medium-sized bird of prey on their fist around the countryside while looking for a quarry item. When they find it, they release the bird, which chases the quarry for a few moments before catching it. However, that has nothing to do with upland falconry; it is in no way connected to that. That is where we are caught out.

I will rent an estate of perhaps 10,000, 20,000 or 30,000 acres with a group of friends. That is so



that we can afford it—to be frank, it is bloody expensive. We will make our way on to the hill in either Land Rovers or Argocats. I am talking about proper Cairngorm mountain upland countryside. We will look to get on to a ridge that is 2,500 feet above sea level as a minimum, but it might be 3,000 or 3,500 feet, before we even start. We look for a ridge that has a windward-facing side and, when we get to that position, the eagle is prepared and then released. At that point, in the screaming gale, the eagle gets to be an eagle and to demonstrate behaviour that is natural to the species.

As an aside, the highest wind speed on the ground where I have flown an eagle has been 87mph. The wind speed at altitude was probably closer to 140mph. We release the eagle and, as the wind hits the hill, it is pushed upwards. The bird's enormous wings—the very wings that make it unsuitable for it to fly in woodlands, near fences, in towns or in enclosed spaces—suddenly give it the opportunity to rise and soar to 2,000, 3,000 or 4,000 feet. The bird may not touch ground again for four hours: it is up there busily being an eagle.

If we are actively hunting, our job on the ground will be to drop off the side of the hill, move through the countryside or heather moorland and see if a hare has been flushed. However, if we are just exercising the eagle, we will stay on the ridge, where there may not be game, and move backwards and forwards. Because the eagle is being trained, it has been led to believe that all the good things in life happen with, near or around us, so the bird, while it is at altitude, will track our position from the sky.

In that situation, given the environment that we are in, a trained eagle will not see a rabbit, as rabbits cannot live at high altitudes or in that weather and those conditions. If grouse are around, the eagles will avoid them. I make sure that all the training that our birds receive is designed to have them do that because, if they did not do it, it would get us kicked off the moor. Realistically, grouse are not a legitimate quarry for eagles because they are too expensive, and that hunting is not what we are there to do. In a hunting environment, we are aiming to have the eagle behave and fly in the same style as, and as well or better than, its wild counterparts.

That is why we get called on to create footage for natural history documentaries, including blue-chip films for National Geographic and Netflix at one end of the scale and more light-hearted programmes such as "Countryfile", "Landward" and "Winterwatch" at the other end. We are called on to make those programmes because the birds' behaviour is entirely natural.

If the eagle sees a hare, it will follow its natural instinct and put in a devastating near vertical stoop

back to ground in a bid to catch it. On around 15 per cent of occasions, the eagle will be successful. Evolution has shaped the predator and the prey, and on most occasions the hare will, to be frank, make the eagle look quite foolish, outmanoeuvring it and trotting off up the hill largely unconcerned.

It is worth noting that the proposals for using falconry as a pest control method for hares in order to protect crops, trees and so on are unworkable. We simply cannot fly an eagle in forestry because it cannot see the ground. As it will fly at altitude, it cannot get between the trees—an eagle is 7 feet wide, and most of the gaps between the trees will be just a few feet. Also, the forest is surrounded by fences, and if an eagle hits a fence, it will be killed.

Leaving all that aside, however, the aim is to have the bird fly in an entirely natural style. If it catches a hare, we need to remember that, unlike other methods of pest control, that is a non-wounding activity. If the eagle puts in a stoop and catches a hare, it will effectively be switched off as quickly as it would have been had it been shot, because of the enormous power of the eagle's feet. The hare will never get away wounded. We do not leave an injured hare such as one that has been shot in the leg or foot, for example. It is either caught, or it is not.

**The Convener:** I will bring in Fergus Ewing in a second but, for the purposes of our understanding, from an editorial point of view, how many people do you estimate are involved in the falconry business? Is the employment that underpins the practice of falconry quantifiable?

**Barry Blyther:** I will not pretend that I understand how many falconry businesses there are. There are lots of microbusinesses that serve local areas with village galas, educational and school talks, and so on. There are larger businesses such as visitor attractions. There are also medium-sized businesses such as mine, which has six people working for it. We also run a breeding for conservation programme, which is entirely self-funded. There is no support for it, so we rely on the business doing well in order to continue with it.

Any business such as ours that operates outdoors in Scotland is always going to have a tough time in winter, when the scope of what we can do to maintain turnover and cash flow is limited. The ability to take guests out into the mountains to see an eagle doing its thing—regardless of whether it is hunting—makes a contribution, although it is a modest one. Some guests who come to us want to see an eagle doing its thing, but they are not sure whether they want to see it hunting. However, to see an eagle doing its thing, we have to go into the same place. We therefore have to be completely honest with the

guests that, although we will endeavour not to move a hare, if an eagle or any other large bird of prey is at altitude and it sees a hare, its instinct is going to kick in, so it might take the hare regardless.

Returning to your point, I note that there are a number of businesses all over the country, but I cannot give you a number, unfortunately. I just do not have that. My understanding is that the number of active falconries in Scotland that are interested in flying in areas where there are hares, excluding tourist falconers who come here, stands at 120 or 121.

**The Convener:** That is helpful. Thank you.

**Fergus Ewing:** Good morning and thank you for the petition. Your evidence is that you had no opportunity whatsoever to contribute to or be consulted on the law prior to its passage. Is that correct?

**Barry Blyther:** Absolutely. That did not happen at any point.

**Fergus Ewing:** I think that that is completely wrong. I will not dwell on that, but I wanted to make that point.

Now that the law is the law—it has been passed—what is the impact of the 2020 act on falconry?

**Barry Blyther:** We must remember that, when we talk specifically about the practice of hunting hares in the uplands, we are talking about a niche area of falconry. It is a small and modest part of the falconry community that wants to do that and is in the position of having suitable birds to do it.

I touched on the bigger issue that affects falconry more broadly in my opening statement. The Government suggested that, if a falconer is going to put himself or herself in a position where they will eliminate the possibility of being prosecuted because their bird has caught a hare, they must endeavour to ensure that any free flying that they do with their birds takes place in an area where they will definitely not see a hare, or are highly unlikely to see one. As I mentioned, the JNCC map that the Government provided to give us the range that hares are known to inhabit in Scotland precludes 97.5 per cent of the country from being a safe zone.

I will quantify that by describing a real-world scenario. I do pest control that involves keeping gulls away from a vast area on a big property in Forfar, which sits right at the edge of the bottom of the Angus glens. I sit on the roof with a bird of prey that I fly backwards and forwards to disperse adult gulls early in the season in order to prevent them from building nests. Using binoculars, I can see hares that are just changing their colour and even, as we go into May, the very first leverets

hopping around about half to three quarters of a mile from where I am.

If I go to that site to try to deter gulls with a bird of prey, it opens up legitimacy for me to apply for a licence later in the season that will make it legal for me to remove gull eggs and nests in order to protect the site. However, if preventative measures—falconry is one of those—are not followed and I cannot evidence that I have followed them, I can no longer get the licence.

If I release the hawk and it flies up to a high point on the building and sees a hare a quarter or half a mile away, it might fly off the roof and catch it. It is a predator and it will just be following its instinct. There is an infinitesimally small chance that that will happen, but it is nonetheless a very real chance. The world that we are now in means that, if that happens, I am open to prosecution. The Government tells me that I have to do that work before I can get a licence to continue my programme, but if I do it and the bird catches a hare, I will be prosecuted anyway.

**Fergus Ewing:** Is it too dramatic or too generalised a statement to say that the effect of the law is to make every falconer a potential criminal if they carry out the practice of falconry?

**Barry Blyther:** That is absolutely the effect of the law. Whether we are doing a school talk, a gala or a film job—it does not matter what we are doing—if we are free flying a bird of prey in 97.5 per cent of Scotland and the bird sees a hare and catches it, we are at risk of prosecution. It makes everything that we do a potential criminal offence.

11:00

**Fergus Ewing:** It is a matter of record that falconry was not mentioned in the 2020 debate. It is fair to say that, when Parliament creates a criminal offence, it is essential that proper consideration is given to any conceivable circumstances of prosecution. That simply did not happen here, which is quite shocking. I think that you are owed an apology from the Scottish Government for that.

I move on to solutions. One solution would be a change in the law, which you have said would not require primary legislation. Will you explain exactly how, in practice, your solution could be implemented? I had thought that primary legislation would be required—namely, an amendment to the 2020 act. Are you saying that subordinate legislation could be used as a means of solving that, or is some other solution possible, such as a general licence? I think that Dr Fox states in his evidence that that is possible.

**Barry Blyther:** Licensing is viable, but I see it being onerous for falconers. In relation to pest

control, we already have to fly birds of prey to get a licence to enable us to remove gulls' nests. Pest control falconers would have to justify the application for a licence and then apply for it. NatureScot would have to issue the licence, and we would have to practice that part of our pest control programme for the summer and then apply for another licence to remove the gulls' nests. Everybody would be bombarding NatureScot with cycles of licence applications, and that is just from the pest control angle.

We also have the number of active falconers that I mentioned, who are looking to hunt hares, so that would be another 121 people applying for a licence. We then have national and international tourists coming from other parts of the UK and Europe, all of whom, potentially, want to hunt the hare in Scotland. Even if they did not want to hunt a hare, they would have to apply for a licence anyway because of the risk that now exists under the legislation, whereby they could be prosecuted if they catch one as a by-product.

For that reason, we now have Belgian, Dutch, Czech Republic and French falconers all applying for licences, not because they want to catch a hare—they want to see whether they can hunt a rabbit—but because they might catch one and they do not want to be prosecuted. All those issues around licensing would make it complicated for people on the ground who had to apply for them and, indeed, for the people who issue the licences.

My belief is that an amendment could be made. Please forgive me if I am wrong—I am not a parliamentary person or the right kind of person to make an exact comment on this—but I have been led to believe that, in the same way that an amendment was made to the protection of wild mammals legislation, an amendment to make an omission for the purposes of falconry would not require primary legislation. If that is not correct, I apologise.

**Fergus Ewing:** We will consider that. I think that it is fair to say that it is within our purview.

On the point about impacts, is there any way in which falconers could maintain their work without impacting on protected species? In other words, is there not some way in which you can carry on with falconry despite the problem of facing a potential prosecution?

**Barry Blyther:** I could potentially fly my eagle in the car park at Harthill services, around the docks at Aberdeen harbour or perhaps on some of the rigs that are being repaired off the coast at Aberdeen.

The reality is that the answer is no. There is currently no way to absolutely eliminate the chance of upland falconers being prosecuted. It is

important to be honest. As I mentioned, the risk that doing an educational talk at a school in the Cairngorms or the Grampian region will lead to a hawk flying over a fence and catching a hare is limited, but it is real. That has happened to me. I have been in a situation where I was providing a flying demonstration at a venue and the hawk left the arena and caught a hare nearby.

We must remember that birds of prey are naturally wide ranging and free flying. Another viable situation would be a flying demonstration on the Highland games field at Braemar at the edge of the Invermark estate. We can imagine a bird flying around and doing its thing when, all of a sudden, a fire engine comes into the arena as part of a separate display. The eagle might not like the look of that and it might drift out two or three miles on to the hill. We now have an eagle flying around on the edge of the hill, where hares live. It is a predator and it could catch one. I would not be there to catch a hare, but there is a real risk that the bird would do that.

**Fergus Ewing:** In that situation, any falconry at all could lead to a falconer facing prosecution.

**Barry Blyther:** Absolutely.

**Fergus Ewing:** Earlier in your evidence, you spoke about mountain hares being taken by birds that are used in falconry. I want to make sure that I understood the issue properly. It was your evidence that those numbers are very small compared with those accounted for by shooting. You gave some figures, but will you clarify what your view is on the overall impact of falconry on the number of mountain hares that are killed in relation to the overall statistics regarding hares? I know that there is a lot of controversy about the numbers, because those on the country sports side think that hares are not under threat at all and that there is a lack of evidence, which they want to sort. What is your view about the impact of falconry on the number of hares that are killed in Scotland?

**Barry Blyther:** As I mentioned in my opening statement, it depends on which figures you believe, and, as you mentioned, there is huge disparity between them. The lowest number of hares that I have seen quoted as being killed by shooting annually in Scotland is 26,000. The general range that I have seen quoted is between 26,000 and 38,000, and the highest number is 50,000.

I go on to managed moorlands, and despite what you read in the press about those being big barren wastelands and monocultures, those stories are largely not true. On those managed estates, the hare populations are absolutely burgeoning—there are tens of thousands of them. It can get to the point where whole hillsides seem

to be moving with hares, and for that reason I do not have an issue with shooting. It is not my bag at all, but I do not have any problem with shooting whatsoever.

We are not here to talk about shooting; we are here to talk about the impact of falconry. However, a comparison will always come into play. I refer again to the 121 falconers who are interested in practising falconry in the UK and the statistics that were kindly put together for us by A Future With Falconry. Bear in mind that falconry is a winter activity; it takes place in October at a push, but most of it happens November through to January and into February, which is the core of the historical season for hares. The statistics suggest that, if every one of those falconers went on to the hill for the maximum amount of available time each year, were never affected by weather and the hawk was successful enough that they reached the maximum number of hares that they would ever want to take in a day, the maximum number of hares that would be accounted for in Scotland would be just over 2,800.

However, in a real-world scenario, when you are flying in those upland places, you lose days because of heavy snow, because you cannot see, and because of rain and flood—sometimes you cannot get across the ford to get on to the hill. Fog and low cloud are the biggest issues. We probably lose around 50 or 60 per cent of days that we are on the hill to weather or conditions on the ground. The reality is that falconers in Scotland probably account for an absolute real-world maximum of 1,000 hares.

**Fergus Ewing:** In terms of the overall hare population, despite the controversy over the counting methods, around 1,000 is de minimis; it is negligible. Is that accurate?

**Barry Blyther:** The number is infinitesimally small; NatureScot has already said that it considers the number so infinitesimally small that it cannot be quantified.

On that point, I would like to say that the legislation has devalued the hare; it has gone from being a game species to being a pest species. A game species has a commercial value to the estates. An estate is there to make money. Whether you are a supporter of field sports such as shooting or any of the others, it does not change the fact that estates cover vast areas of Scotland. They are well managed for the desired animals, which are those that bring revenue to the estate.

When you move a hare from being a game species to a pest species, you are taking an animal that is a nuisance. It eats the same food as game species that bring you money—it competes with grouse. It carries a tick that carries a sheep-

borne disease called louping ill. Although the hare itself cannot carry louping ill, it can transfer the tick from sheep or deer to grouse, which kills the grouse.

Historically, the risk of damage to the wider activity of the estate would have been mitigated by people going to the estate and paying money to shoot hares. Indeed, falconers such as I would pay money to fly our eagles over them. Now that we cannot do that, and the only way that you can take a hare is where it is considered to be a pest that is damaging crops, forestry and so on, the hare has no value to the estate. That means that the estate will become less tolerant of hares, and it will not be managed in a way that will support them. The estate will do everything that can be done in the realms of what is possible within the law to try to move them on.

An example is peat hags. Hares love to sit in a peat hag. They have got the peat behind them, which offers protection as a predator cannot see them coming. They can look out over the open moor; they can get water; and they can step over to take a bite of heather, then come back in and they are protected. They love peat hags, and there is not really anything else on the hill that likes a peat hag. When you are walking on the hills, they are awful, because you fall over in them and end up going up to your neck in peat and boggy water.

What will the estate do now that it cannot shoot the hare? It will get rid of the peat hags. What happens then? The hares will move off—the habitat that keeps them protected from the natural predators that live there is being depleted, so hare numbers go down.

The legislation is an absolute own goal for the conservation of hares; it will see their numbers collapse. If their numbers are allowed to explode without control, the issue for them is disease. If their numbers do not explode, their numbers will deplete because estates have no motivation and no appetite to protect the species, given that hares no longer bring revenue.

**The Convener:** I am keen to bring in David Torrance, who would like to ask a question.

**David Torrance:** Good morning. Since the legislation came into force, birds have been restricted in doing what they naturally do and your captive birds are not allowed to hunt mountain hares. How has that affected their welfare?

**Barry Blyther:** The easy way to answer that is probably to talk about just two birds as an example, to keep it simple.

Our collection, including the conservation programme, is around 70 birds. Some are unaffected because they are here for breeding for conservation from various locations around the

world. However, I have two golden eagles: an unnamed female that was bred in captivity in Scotland in the year 2000, and a male, whom you will meet this afternoon, called Stanley, who is about 15 years old and was bred—I believe, although I might be wrong—in the Czech Republic. Throughout their lives, the birds have been trained to fly in exactly the discipline that I described earlier. They fly out on the open hill, in a screaming gale, over wide open spaces where there are no fences to be seen in 30 miles. That is what they do.

I will describe what happens if we take those eagles to fly them in a different discipline within falconry. For example, we might take them out to a flat field where there is broccoli or something similar growing and there are brown hares. We hold the eagle up in the air and somebody flushes a brown hare. That is taking the eagle outside its skill set. It looks at the hare then looks at me as if to say, “What exactly the hell do you expect me to do with that?” There is no understanding. It just lifts its foot, has a little rouse, preens its feathers and goes back to doing nothing.

Since the legislation was brought into force, those two eagles have both been sitting in an aviary and have not flown more than 20 feet in two and a half years. Their entire lives have followed a cycle of being picked up for retraining, exercise and management of their condition, to get their cardiovascular system up to top form and to get them flying and active. We then take them out on to the hill and we fly them in those environments for a minimum of six weeks and up to nine weeks, as block-booked days out on the hill, and on extended days elsewhere where we can snatch a day here and there. It is all they know how to do, and, quite simply, they do not understand how to do anything else.

The 15-year-old male eagle will probably live to be about 40; under the current legislation, he will not fly again. The 23-year-old female eagle will probably live to be closer to 50; under the current legislation, she will probably never fly again.

**The Convener:** Thank you. This morning’s discussion has been fascinating and compelling. As you said, you have brought a golden eagle with you today; we are looking forward to meeting Stanley.

As you said in your evidence, if Stanley were flying above Harthill station, he would apparently have to understand the precincts of it better than most motorists who go through it do.

**Barry Blyther:** Absolutely.

**The Convener:** If he were to stray beyond the precincts of Harthill station, he would survive with impunity, but you would be prosecuted for anything that he might then do.

**Barry Blyther:** That is exactly right.

**The Convener:** I said that Stanley was not here to give evidence, but he is here in evidence. The absurd thing is that we are almost in a situation whereby the legislation would require us to ask Stanley if he understands the perimeters within which he is entitled to hunt, which I think illustrates the nonsensical nature of it all.

Thank you, Mr Blyther—your evidence has been incredibly helpful. The petition has identified—as I think that the committee is aware—a real issue that we will want to find a way to pursue, and we look forward to meeting you and Stanley again in a short while.

I will suspend the meeting briefly.

11:15

*Meeting suspended.*

11:19

*On resuming—*

### **Child Sexual Abuse Allegations (Religious Organisations) (PE1905)**

**The Convener:** Our next continued petition is PE1905, on the public inquiry into the response of religious organisations to allegations of child sexual abuse since 1950, which was lodged by Angela Rosina Cousins on behalf of UK XJW’s Support. It calls on the Parliament to urge the Scottish Government to order a public inquiry into the actions that were taken by religious organisations in response to child sexual abuse allegations since 1950.

The committee will recall the evidence that we heard directly from Angela about her experiences and the issues that she would like to see addressed. I once again thank her for taking the time to speak with the committee on what is a particularly difficult topic.

At our most recent consideration of the petition, we agreed to write to the Scottish Government to highlight the evidence session and the findings of the independent inquiry into child sexual abuse in England and Wales. That inquiry has now published its final report, which sets out 20 detailed recommendations, some of which relate directly to the suggestions that Angela has made. Our papers highlight the relevant recommendations.

The Deputy First Minister has responded to the committee and has reiterated that, if the remit of the Scottish child abuse inquiry was widened, it would add years on to the timeline, which would produce negative outcomes for survivors. The Deputy First Minister considers neither that the

scope of the inquiry should be extended, nor that a separate inquiry should be established to consider abuse that took place in non-residential religious organisations.

The Scottish Government has set out a number of alternative measures, including engagement with faith leaders and a public consultation as part of work to develop the national child protection guidance in Scotland 2021. That guidance covers reporting practice, creation of policies and procedures, and careful vetting processes in religious settings.

Angela has provided a written submission to the committee, which includes links to relevant articles in support of her petition. She points to the research that was undertaken by the inquiry in England and Wales in order to reach a decision on mandatory reporting, highlighting the importance of that for victims in insular organisations. Angela says that religious organisations that do not wish to engage will not be required to do so. Angela states that religious leaders should be mandatory reporters and that training should be provided alongside PVG checks—under the Protection of Vulnerable Groups (Scotland) Act 2007—as part of any vetting process.

We have heard evidence and we have seen the recommendations from the inquiry in England and Wales. We have, yet again, received the Deputy First Minister's assertion that the Scottish Government is not willing to expand the scope of the current inquiry or even to initiate a separate inquiry. We have also received Angela's response further to all of that.

What comments or suggestions do colleagues have, given what seems to me to be the intransigent position with which we are confronted?

**David Torrance:** It is a very difficult situation if the Scottish Government is not going to move on the matter at all. I wonder whether we could write to the Government, highlighting the recommendations of the independent inquiry into child sexual abuse in England and Wales. We could ask that it consults on the introduction of legislation that places certain individuals—mandated reporters—under a statutory duty to report child sexual abuse, and that it considers the need for and value of a child protection authority for Scotland.

**The Convener:** I am very happy to support that proposal. Are colleagues happy to support it?

I do not particularly want to lose sight of the conviction that we as a committee came to on the back of the evidence that we heard that the Government's position is wrong-headed. I wonder whether colleagues would be prepared to invite the clerks to draft a letter summarising our

conclusion on the back of the evidence that we have heard that the Scottish child abuse inquiry, notwithstanding everything that the Government has said, should have its terms of reference extended, or that there should be an investigation into the possibility of establishing an alternative inquiry based on the evidence that we have heard during our consideration of the petition.

Are colleagues content for us to proceed on that basis?

**Members indicated agreement.**

**The Convener:** We will keep the petition open, and we will proceed on the basis of the two suggestions that have been made.

## New Petitions

11:24

### Home Reports (PE1957)

**The Convener:** Item 3 is consideration of new petitions, the first of which is PE1957, on home reports, making surveyors more accountable. It has been lodged by Catherine Donaghy and calls on the Parliament to urge the Scottish Government to ensure that surveyors are legally responsible for the accuracy of information provided in the single survey and to increase the liability on surveyors to pay repair bills where a home report fails to highlight existing faults in the condition of the property.

Catherine has shared her experience of buying a house only to discover that the property had major faults, which had not been highlighted in the home report. She tells us that those faults included a hole in the roof and missing rainwater and gutter systems, none of which had been noted as having a category 3 rating, requiring urgent or immediate repair.

As we do with all new petitions ahead of considering them—as I should have said a moment ago—we invite the Scottish Government to comment on the underlying principles of the petition and to respond. The Scottish Government has stated that it considers the asks of the petition to be inappropriate because the scope of the home report survey is outlined at the beginning of the report and clearly identifies the limitations of the survey, and because members of the Royal Institution of Chartered Surveyors carrying out the single survey and valuation in a home report must be appropriately qualified, carry professional indemnity insurance and have in place a complaints-handling procedure that offers independent third-party recourse to complaints—that is to say, by people such as Catherine Donaghy.

In responding to the Scottish Government's view, Catherine explains the difficulties that she has experienced in pursuing a complaint with the Royal Institution of Chartered Surveyors and she has suggested that all home reports should include contact details for the Centre for Effective Dispute Resolution.

It is an interesting petition. Do members have any comments or suggestions for action?

**Alexander Stewart:** I hope that the situation that the petitioner found herself in is just a one-off, but it might not be. We might assume that, when we get a home report, the fundamentals would be covered in that report. It is important to continue the petition. I would request that we write to the

Royal Institution of Chartered Surveyors to seek a view on the issues that are raised by the petition, requesting information on the training and guidance that is provided to surveyors and valuers to ensure the accuracy of information that is included in a home report. We should also ask for RICS's view on the proposal to include contact details for the Centre for Effective Dispute Resolution in home reports. In addition, I think that it would be useful to write to the Law Society of Scotland to seek its views on the issues that are raised in the petition.

If the situation is not one that regularly occurs, the relevant regulations should protect the individual who is purchasing a property. The quality of the survey that surveyors carry out is vitally important.

**The Convener:** I should mention that sceptics of the proposal for home reports—of which I was one at the time—were concerned about the principle underpinning home reports, which is that they would do away with the need for undertaking expensive surveys when people were making offers for properties. On the question whether a home report is deficient, it has certainly been my experience in the years since the introduction of home reports that, when someone buys a home, a survey has still been needed as part of the requirements of the mortgage lender.

**Fergus Ewing:** In addition to the suggested contents of the letters to RICS and the Law Society of Scotland, I wonder if we could add further inquiries about the complaints process. That might include asking for information on the number of complaints per annum, the number of complaints that have been upheld and the number that have been rejected in comparison with the total number of home reports.

When I was a solicitor—albeit in a different century from the one that we are now in—my experience was that most surveyors were pretty professional and thorough. I am very surprised that a hole in the roof was not spotted. That sounds like a pretty patent defect, as opposed to a latent defect. I would be interested to know how widespread such complaints are and what the upshot has been for the people who have made complaints. The petitioner says that her experience was pretty dismal, and it would be good to get the bigger picture. Could those matters could be added to the letters?

**The Convener:** I think that that would be very sensible. The experience of the committee with regard to petitions that we have considered before has sometimes been that the veneer of a possible recourse, on examination by the committee to evidence the substance of it, has fallen short of what might have been hoped for or experienced. Interrogating the actual practice, experience,

numbers and resolution of the existing complaints process would be a sensible thing for us to try to establish.

**Fergus Ewing:** In particular, we should tease out whether complaints that have been upheld have resulted in a remedy—namely, a financial recompense—and whether, if that has been the case, the recompense has been provided by the indemnity insurers or by the surveyors.

It is probably a complicated area, convener, because there will be an overlap between whether the solicitor or the surveyor was negligent. It could be that, in some cases, both might be negligent, in which case there would be a recourse to dual indemnities: the solicitor's professional indemnity insurance and the surveyor's insurance. Nonetheless, it would be useful to get a picture rather than to look at the matter in isolation.

11:30

**The Convener:** Are colleagues content that we proceed on the basis of the suggestions made by Mr Stewart and Mr Ewing?

**Paul Sweeney:** I share the concerns raised by the petitioner about whether home reports are fit for purpose. I declare an interest as a trustee of the Glasgow City Heritage Trust. In tenemental properties in particular, there are major deficiencies in assessing overall building condition in home reports in Glasgow.

Our colleague Graham Simpson MSP has reconvened the cross-party working group on maintenance of tenement scheme property. Perhaps we should write to Under One Roof, the charity that provides impartial advice to home owners and people purchasing homes, as well as the Built Environment Forum Scotland, which is the secretariat for the working group on tenement maintenance. I know that an action on the matter is to improve the standard and quality of home reports.

I also understand that the Scottish Law Commission is undertaking a project on improving tenement law. It might be that an element of its work is about improving the regulations on home reports. There are major issues with people purchasing property based on highly defective information that leaves them liable for significant repairs to, say, the roof of a tenement that was not assessed as part of a home report. For example, if somebody has a ground floor flat, they are still liable for the roof, which will not have been looked at as part of the home report.

The home report is particularly problematic in relation to tenemental properties.

**The Convener:** We can do what you suggest.

Are members content to incorporate all those suggestions?

**Members indicated agreement.**

### **Looked-after Young People (Aftercare) (PE1958)**

**The Convener:** The next petition is PE1958, which was lodged by Jasmin-Kasaya Pilling on behalf of Who Cares? Scotland. The petitioner is with us in the public gallery, although she is not contributing to our consideration orally. The petition calls on the Parliament to urge the Scottish Government to extend aftercare provision in Scotland to previously looked-after young people who left care before their 16th birthday on the basis of individual need, to extend continuing care throughout care-experienced people's lives on the basis of individual need, and to ensure that care-experienced people are able to enjoy lifelong rights and achieve equality with non-care-experienced people, including by ensuring that the United Nations Convention on the Rights of the Child and the findings of the report "The Promise" are fully implemented in Scotland.

Jasmin-Kasaya tells us that some care-experienced people in Scotland find it difficult to access services due to the application of arbitrary criteria relating to their age and when they left care. She says that care-experienced people who leave care before their 16th birthday are not included in the legal definition of "care leaver" and, therefore, are not eligible for continuing care and aftercare. That means that they are left to navigate difficult issues without the support that many of their care-experienced peers are entitled to.

She asks the committee to consider how continuing care, the Promise and/or human rights legislation can strengthen protection in line with the inclusive definition set out by The Promise Scotland and the First Minister's personal commitment to care-experienced people. She suggests that the situation could be fixed by improving existing legislation to ensure that all care-experienced people have access to support.

Responding to the petition, the Scottish Government says that it is fully committed to improving the lives of our care-experienced young people and highlights the point that continuing care and aftercare are available to young people who are care leavers. The Scottish Government's response mentions a range of support that is available to young people with care experience, as well as plans to introduce a care experience grant to provide young people with additional financial support. The Government also highlights the publication of the Promise implementation plan, which sets out the work that it is undertaking to keep the Promise that was made to Scotland's



children and young people who are care experienced.

I draw members' attention to the further written submission that we have received from Jasmin-Kasaya, in which she highlights the point that the Scottish Government has addressed neither her concerns about young people who leave care before their 16th birthday nor the ask to extend support throughout a care-experienced person's life. She tells us that she is aware of many care-experienced peers who have been left to struggle without support due to not being formally looked after at the age of 16, as well as others who have had to push to be kept on compulsory supervision orders when the local authority tried to remove them before their 16th birthday.

The issue is a very complicated and serious one that obviously has an impact. Colleagues have had the opportunity to consider the papers, including the latest submissions that we have received. Do you have any comments or suggestions on how we might proceed?

**David Torrance:** I would like to invite the petitioner and representatives of Who Cares? Scotland, CELCIS, the Scottish Throughcare and Aftercare Forum, the Promise, and the Children and Young People's Commissioner Scotland to a round-table discussion to explore issues that the petition raises. If the committee agrees to that, could we also invite some people with life experiences of the situations that are raised in the petition?

**The Convener:** In advance of that, we could write to various organisations to seek their views in order to help to inform the discussion that will take place. We can write to CELCIS and the Scottish Throughcare and Aftercare Forum to get their contributions. Do members want to wait until we have had that conversation before we write to the Scottish Government?

**Fergus Ewing:** I think that we should have the round-table discussion first and then write to the Scottish Government, in order to get a flavour of what people think.

I would like to add a small suggestion to what Mr Torrance suggested, which I agree with. In seeking to invite individuals with lived experience to participate in the discussion, perhaps we could ask the petitioners, who have said that they are aware of other examples, whether they would be happy to suggest to us people with lived experience, as they have knowledge of the issues. It would be good to see whether they could point us in the right direction.

**The Convener:** I am happy to agree to that.

I thank the petitioner for bringing the petition to the committee. We take the petition very seriously,

and we will write to various organisations ahead of sponsoring a round-table discussion in the Parliament in which we can explore the issues in detail. We can then write to the Scottish Government with a summary of our thinking and any conclusions that we have reached. Do members agree to that approach?

**Members indicated agreement.**

### Affordable Housing (PE1959)

**The Convener:** PE1959 is on tackling Scotland's affordable housing crisis. We have finally reached a petition whose number is the year in which I was born. That has been creeping up on me. The number must have passed the year in which you were born a long time ago, Fergus.

**Fergus Ewing:** Such details are more than I can remember these days.

**The Convener:** The petition, which was lodged by Amber Roberts, calls on the Scottish Parliament to urge the Scottish Government to take action to improve the current housing crisis by merging housing associations and local council housing and by considering introducing a new right-to-buy scheme for council tenants. Amber Roberts suggests that merging housing associations with local council housing could help more council houses to become available and result in more than 76,000 council homes being built by 2034. She has also set out a proposal for a right-to-buy scheme that would allow council tenants who have lived in the property for 10 years or more the opportunity to buy their home.

In responding to the petition, the Scottish Government has stated that its

"approach to the planning and delivery of affordable housing, is focussed on providing the 'right homes in the right place'."

It has highlighted that

"Housing associations and councils have a long history of ... working in partnership in the delivery of affordable homes"

and has noted that

"Not all councils build new homes, six local authorities have previously transferred all of their housing stock to housing associations."

Reference is made to the Scottish Government's own target of delivering

"110,000 affordable homes by 2032, of which at least 70% will be available for social rent".

It has highlighted that that would

"exceed the number of homes for social rent suggested within the petition"

and that the target would be delivered "within a shorter timeframe".

That is a lot of houses to be built in 10 years.

The Scottish Government has also stated that it has no plans to reintroduce the right-to-buy scheme, and it has provided details of the support that is available to assist affordable home ownership. That support includes the low-cost initiative for first-time buyers and the open market shared equity scheme.

Do members have any comments or suggestions for action?

**David Torrance:** In light of the Scottish Government's response and there being no plans to reintroduce the right-to-buy scheme for council tenants, I think that there is nothing that the committee can do but close the petition under rule 15.7 of the standing orders.

**The Convener:** It is difficult to know what meaningful steps we can take, given the Government's position. I also do not think that we can keep the petition open until 2032 to see whether the 110,000 homes materialise. That is, in itself, a challenging issue. Given the definitive response from the Scottish Government, I am unclear as to what more we can do.

Are members content that we close the petition on that basis?

**Members indicated agreement.**

**The Convener:** We thank Amber Roberts and regret that there seems to be nothing more of a practical nature that we can do.

### **Private Hire Cars and Taxis (PE1960)**

**The Convener:** PE1960, calling on the Scottish Parliament to urge the Scottish Government to formally recognise private hire cars and taxis as modes of public transport and to enshrine such recognition in law, is lodged by Edward Grice on behalf of the Scottish Private Hire Association

The SPHA tells us that private hire cars and taxis provide a valuable service and play an important role in local transport. The SPHA goes on to tell us that, despite that, they are often overlooked by planners and policymakers in comparison with other modes of transport, which has led to their being excluded from public transport stakeholder groups and has prevented meaningful engagement on decisions affecting the services they provide.

In responding to the petition, the Scottish Government highlights that there is no legal definition of public transport and that each transport mode is subject to specific legislation. In the Government's view, that means there is no obvious legislation that could be amended to enshrine the definition in law and to set out the

relationship between the different transport sectors and local and national Government.

However, the Government states that it considers the provision of taxis to be a vital part of the transport system and that it will continue to engage with industry representatives on matters such as low-emission zones and licensing.

We heard from taxi owners during a previous evidence session, and this idea flitted in and out of the conversation. Do members have any suggestions as to how we might proceed?

**Alexander Stewart:** I think that we should take more evidence on the subject. I suggest that we write to the Society of Chief Officers of Transportation in Scotland, the Confederation of Passenger Transport, and Heads of Planning Scotland, seeking their views on the petition and asking how the views of the taxi and private hire trade are included in their decision-making processes, what scope there is to include the taxi and private hire trade in public transport stakeholder groups, and how engagement and consultation on decisions that affect the services that they provide could be improved.

I suggest that we also write to the Scottish Government to seek an update on what is happening with the short-life working group and to ask for further information on any action that is being undertaken to improve engagement between the taxi and private hire industry and the planning and licensing authorities. That would give us an indication of where we are in the process.

**The Convener:** I am happy to support that. Are colleagues willing to support those suggestions?

**Fergus Ewing:** I have a small addendum to Mr Stewart's recommendation, which I entirely support. The Scottish Government's short-life working group includes representatives of the taxi and private hire trade as well as representatives from Transport Scotland, local authorities and Unite the Union. Could we ask the Government to specify who those representatives are and whether they are sufficient? Is the group rather top-heavy with people from public sector bodies and not sufficiently representative of the range of interests in the taxi and private hire sector? Could we ask the Scottish Government whether the membership of the short-life working group might be extended to include greater representation from the people whose lives and businesses are affected?

**The Convener:** That seems a sensible proposition. Are we content with that?

**Members indicated agreement.**

### Private Hire Car and Taxi Drivers (PE1961)

**The Convener:** PE1961, which seeks to make it a specific offence to assault, threaten or abuse a private hire or taxi driver while at work, has been lodged by Edward Grice on behalf of the Scottish Private Hire Association. The petition calls on the Scottish Parliament to urge the Scottish Government to expand the Protection of Workers (Retail and Age-restricted Goods and Services) (Scotland) Act 2021 to include private hire and taxi drivers by creating a specific criminal offence of assaulting, threatening or abusing private hire or taxi drivers while they are engaged in private hire or taxi work and by considering such offences as aggravated when the offence is committed while the driver is enforcing a licensing or operational condition. The SPHA highlights the 2021 act and the creation of a new offence for situations whereby a retail worker is assaulted, threatened or abused while engaged in their work. The SPHA believes that a similar offence is required to protect private hire and taxi drivers while they are at work.

11:45

In its response to the petition, the Scottish Government notes that there are a range of common-law and statutory offences to protect everyone, including private hire and taxi drivers, from abuse and violence. Those include the statutory offence of threatening or abusive behaviour, as well as common-law offences of assault and breach of the peace. Do colleagues have any comments or suggestions?

I was struck by the Scottish Government pointing the finger at Daniel Johnson in relation to the development of the 2021 act. I am not quite sure what they thought Mr Johnson's remedy might be.

Do colleagues have any suggestions as to how we might proceed?

**David Torrance:** The committee could consider writing to Police Scotland, seeking information on the number of threatening and abusive behaviour offences that have been recorded in each year over the past decade and whether the data can be broken down by occupation and workplace. The committee could also write to the Scottish Taxi Federation and Unite Scotland to seek their views on the petition.

**The Convener:** I am content with both of those suggestions. Are colleagues agreed to take those actions?

**Members** *indicated agreement.*

### Meat Production Ban (PE1963)

**The Convener:** PE1963, which was lodged by Roger Green, calls on the Scottish Parliament to urge the Scottish Government to phase in a ban on meat production in Scotland between 2030 and 2040, to coincide with anticipated changes to future food production and consumption.

Roger Green highlights an initiative being implemented by the United Nations and the World Health Organization to reach a global plant-based diet. He states that Scotland should achieve healthy dietary goals by 2030 to 2040 and, among other dietary priorities, that should include phasing out meat consumption.

The SPICe briefing provides detailed information on various aspects of meat production, including the economic impacts, the proportion of meat eaters in the UK and the environmental impacts. The briefing states that 70 per cent of people in the UK are meat eaters and the total agricultural workforce in Scotland is around 67,400 people. It also points to the UK Climate Change Committee's recommendation to introduce policies to encourage consumers to shift their diets and reduce beef, lamb and dairy production by 20 per cent.

The Scottish Government's response states that its vision is for Scotland to become a global leader in sustainable and regenerative farming and highlights funds to encourage adaptation to climate change in the sector. It confirms that the Scottish Government will continue to work closely with Public Health Scotland, Food Standards Scotland and other agencies on diet, health and climate impacts to inform future policy.

Do members have any comments or suggestions?

**David Torrance:** Considering that the UK Climate Change Committee recommends a reduction of meat consumption rather than a ban on production; that the Scottish Government's climate change plan update sets out a plan for a 24 per cent reduction in overall emissions from the agriculture category by 2032; that banning meat production may have negative environmental and economic consequences; and that the Scottish Government has stated that it continues to actively promote the consumption of fresh, local and seasonal produce, I suggest that the committee consider closing the petition under rule 15.7 of the standing orders.

**The Convener:** Given the response from the Scottish Government and its detailed explanation of its various initiatives, I think that there is little more that we, as a committee, could do. Are colleagues content to close the petition on that basis?

**Members indicated agreement.**

### **Scottish Public Services Ombudsman (PE1964)**

**The Convener:** We move to PE1964. Apologies—I have quite a long screed to read here, but this is our final petition this morning. The petition, which was lodged by Accountability Scotland, calls on the Parliament to urge the Scottish Government to create an independent review of the SPSO in order to investigate complaints made against the SPSO; assess the quality of its work and decisions; and establish whether the current legislation governing the SPSO is fit for purpose.

The SPICe briefing outlines the role and responsibilities of the SPSO, the budget and resource challenges, the complaints process, service standards and challenges. The briefing states that, over four years, the SPSO received 369 complaints about the service that it provides. The briefing also highlights the SPSO's request for a change to legislation to allow it to take complaints in any format and to enable it to initiate its own investigations. A note on previous related petitions is also contained in our briefing.

The Scottish Government's response to the petition states that, due to current resource constraints as well as the independent nature of the ombudsman and Parliament's role in scrutinising the work of the ombudsman, it does not intend to take forward an independent review of the SPSO in the near future. The Scottish Government also states that it has opted not to amend the legislation in relation to the powers of the SPSO at present, due to competing demands on resources.

Members may wish to note that the Local Government, Housing and Planning Committee took evidence from the ombudsman yesterday as part of its scrutiny of the SPSO's annual report, and I understand that those considerations did not include the issues that have been raised by the petitioner.

We received several additional submissions from the petitioner and others. Those set out concerns about the complaints process and the SPSO's consideration and handling of evidence, including the approach taken where factual errors have been identified. People's negative experiences and the impact of the SPSO complaints handling process on complainants have also been highlighted. The issues raised include the challenges of self-investigation and the need for structural independence. The submissions also call for an independent review of the SPSO. Accountability Scotland said that it would welcome clarification from the Scottish

Government as to whether it considers that there is value in an independent review.

In an interesting submission to the committee, Bob Doris MSP stated that he believes that there is clear value in reviewing the SPSO 20 years on, as there has been no meaningful or detailed analysis of the processes and systems that are currently in place. He suggested that there would be merit in exploring how effective the SPSO is, including by considering the effectiveness of the safeguards that are in place and what changes are required. He also suggested that we may wish to understand the Scottish Government's thinking on whether such a review would be desirable.

In reading the Scottish Government's response, it struck me that it does not necessarily deny some of the issues that are raised in the petition; the Government simply takes the view that it does not have the resource or time to explore those matters at the moment. The Government did not express a view as to whether a review would be of value, as Bob Doris suggested it would be, and said that it would consider doing one at a later date.

Do members have any comments or suggestions for action?

**David Torrance:** Before we make any further recommendations, could we write to the Local Government, Housing and Planning Committee to ask it what relevant work it intends to do in that area, and whether it will consider what the petition asks for?

**The Convener:** Apparently, we have already established that that committee is not interested in pursuing what the petitioner raised.

**David Torrance:** Okay. If that is the case, would the committee like to ask the petitioner and the SPSO to give evidence to members?

I also have another, rather lengthy, ask. Could we write to the SPSO on the issues raised in the petition, including its approach to the handling and consideration of evidence and the rationale for not reviewing its decisions when complaints are upheld? Could we also write to the Scottish Government to clarify its view on the need for, or the desirability of, a review of the SPSO after 20 years of operation, and ask whether it considers that its processes and safeguards in relation to the SPSO are sufficient and effective? Finally, could we ask the Government whether it considers that the legislation governing the SPSO is fit for purpose, whether it would benefit from a review and what revisions might be required?

**The Convener:** I am happy to write to the organisations that you have suggested, but we would do that instead of taking evidence from the petitioner, at this stage. As you suggested, we

would write to the SPSO and the Scottish Government.

Are there any other suggestions, or are members content for us to proceed in that way?

**Alexander Stewart:** It would also be useful to write to the Scottish Parliamentary Corporate Body to seek clarification of its role in relation to the SPSO and to ask for its views on the action that has been carried out for the petition, specifically in relation to the value of the independent review of the SPSO.

**The Convener:** That is very generous of you, Mr Stewart. I am on the corporate body and am therefore one of the people who would be in receipt of the letter that you suggest.

**Paul Sweeney:** I support those proposals.

I note that a similar petition was considered in 2014, at which point it was recommended that there should be oversight, but the Government advised that it was too soon to consider doing that in the light of the legislation in 2002. It feels like we are sufficiently distant from that juncture and should now reconsider the issue and whether there might be a means for the Scottish Parliament, as an institution, to hold greater oversight of the ombudsman. Perhaps that could be done through a discreet committee that could be the ultimate arbitrator or escalating body.

**Fergus Ewing:** I agree with Mr Sweeney that it must be time for some sort of review, after 20 years. The can has been kicked so far down the road that there cannot be much road left.

I also note that the SPSO's budget has increased from £4.7 million to £6.3 million in only four years, and yet the SPSO says that it has insufficient resources because of case volumes. I am interested to learn more about that, because the increase has been much more handsome than that which other public bodies have received during the same period.

To be fair to the ombudsman, one of its limitations is that it does not really have any teeth, and therefore, even complainants whose complaint is upheld do not have a remedy; they do not get any cash or anything else. They might get an apology, if they are lucky. That is an inherent limitation, and it is not the fault of the ombudsman. However, that would fall to be considered in any review into whether the role of an ombudsman is efficacious and achieves what society might expect when there has been serious maladministration.

**The Convener:** I am happy to take all those suggestions on board. The Parliament has not existed for much longer than the SPSO has, and we have had two or three reviews into how we function, so it seems perfectly reasonable that

after a similar length of time it might be time to have a look at the way that the SPSO functions. I do not think that it can be argued that a review needs to be deferred indefinitely, because it has been deferred for long enough.

We are collectively agreed on the suggestions that have been made.

That concludes the public part of today's meeting. We will take the rest of the agenda items in private. The committee's next meeting will take place a week today, when we will meet with participants on the citizens panel of our public participation inquiry.

11:56

*Meeting continued in private until 12:05.*



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