



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Citizen Participation and Public Petitions Committee

Wednesday 20 March 2024

Session 6



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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE
5th Meeting 2024, Session 6

CONVENER

Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Foyso Choudhury (Lothian) (Lab)

*Fergus Ewing (Inverness and Nairn) (SNP)

*Maurice Golden (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Clare Adamson (Motherwell and Wishaw) (SNP)

Katy Clark (West Scotland) (Lab)

Tim Eagle (Highlands and Islands) (Con)

Barry McCaffrey (Scottish Government)

Oliver Mundell (Dumfriesshire) (Con)

Shona Robison (Deputy First Minister and Cabinet Secretary for Finance)

Paul Sweeney (Glasgow) (Lab)

Martin Whitfield (South Scotland) (Lab)

Lyndsay Wilson (Scottish Government)

CLERK TO THE COMMITTEE

Jyoti Chandola

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 20 March 2024

[The Convener opened the meeting at 09:36]

Decision on Taking Business in Private

The Deputy Convener (David Torrance): Good morning and welcome to the fourth meeting of the Citizen Participation and Public Petitions Committee in 2024. Our convener, Jackson Carlaw, is unable to attend the meeting today and sends his apologies, as he is attending the funeral of his constituent, a Holocaust survivor, Henry Wuga.

The first item on the agenda is a decision on taking items 4 and 5 in private. Item 4 relates to consideration of the evidence that we are about to hear on petition PE1933, and item 5 relates to consideration of the committee's work programme. Do members agree to take those items in private?

Members *indicated agreement.*

Continued Petitions

Redress Scheme (Fornethy House Residential School) (PE1933)

The Deputy Convener: The next item is the consideration of continued petitions. First, we have an evidence session on PE1933, on allowing Fornethy survivors to access Scotland's redress scheme, which was lodged by Iris Tinto, on behalf of the Fornethy Survivors Group.

I understand that members of the survivors group have joined us in the public gallery this morning—a warm welcome to you all. As we have a very busy public gallery, I remind all those joining us this morning that you are welcome to observe the proceedings. However, you are asked to keep the noise to a minimum and not to seek to interrupt the consideration of the petition.

The petition calls on the Scottish Parliament to urge the Scottish Government to widen access to Scotland's redress scheme to allow Fornethy survivors to seek redress. We last considered the petition at our meeting on 3 May 2023, when we agreed to invite the Deputy First Minister to give evidence, and I am pleased to welcome the Deputy First Minister, Shona Robison, to the committee this morning. We are also joined by Scottish Government officials Lyndsay Wilson, unit head of policy and communications, redress relations and response division; and Barry McCaffrey, lawyer, Scottish Government legal directorate, children, education, rights incorporation and disclosure division.

Before I invite the Deputy First Minister to make some brief opening remarks, I note that, since we last considered the petition, there has been a members' business debate on justice for Fornethy survivors. The Scottish Government also appointed an independent researcher to make inquiries in respect of Fornethy house. The committee has been provided with a copy of the researcher's report, which is now available on the petition webpage.

The committee has also received two new submissions from the petitioner commenting on the parliamentary debate and detailing on-going challenges in engaging with the redress scheme, highlighting the response that one survivor received that the decision panel would likely disregard their placement at Fornethy when considering the application for redress. We have also received a submission from Professor Diane McAdie, the researcher who was appointed by the Fornethy Survivors Group, providing further information on the operation of Fornethy house and potential options for amending the existing eligibility criteria for the redress scheme.

Having provided that update on where we are, I now invite the Deputy First Minister to give a brief statement.

The Deputy First Minister and Cabinet Secretary for Finance (Shona Robison): Thank you, convener, and good morning to the committee and those in the gallery. I am grateful for the opportunity to provide evidence to the committee on PE1993.

Before I get into redress matters, I will begin by putting on formal record my acknowledgement of the abhorrent abuse that some children suffered while resident in Fornethy house. It should not have happened, and I am sorry to hear about what they had to endure as children and the impact that the abuse has had on their lives. The First Minister and I have met the Fornethy survivors, and I recognise and commend their courage in sharing their experiences.

Turning to the matters that are outlined in the petition, as the committee is aware, I instructed the appointment of an independent researcher to make inquiries into Fornethy house. Dr Fossey took up post on 1 August last year with a remit to investigate the circumstances by which a child would be placed in Fornethy house and to establish what records exist relating to Fornethy house. Dr Fossey has concluded her inquiries, and her full report has been shared with the committee.

As the committee has had the opportunity to consider the report ahead of today's evidence session, I will not repeat the findings, but I want to turn to how they affect the eligibility of Fornethy survivors to access Scotland's redress scheme. Part 3 of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 sets out the eligibility for the scheme, which includes residence in a relevant care setting in Scotland.

Section 20 of the act defines "relevant care setting" to include residence in

"a residential institution in which the day-to-day care of children was provided by or on behalf of a person other than a parent or guardian of the children".

Moreover, "residential institution" refers to a variety of different care settings such as children's homes, residential care facilities and school-related accommodation, which are as further defined in section 21 of the act.

Section 23 of the act, however, allows the Scottish ministers to make regulations to create exceptions to eligibility. The Redress for Survivors (Historical Child Abuse in Care) (Exceptions to Eligibility) (Scotland) Regulations 2021, as approved by Parliament before the scheme opened, provide that an application for redress may not be made

"by or in respect of a person to the extent that it relates to abuse that occurred when that person was resident in a relevant care setting—

(a) for the purpose of being provided with short-term respite or holiday care, and

(b) under arrangements made between a parent or guardian of that person and another person."

Where the exceptions apply, a key point in assessing eligibility is the purpose of the stay in the relevant care setting and whether it had been made under arrangements with a child's parent or guardian. Although records from the period are limited, the report is clear that children attended Fornethy house primarily short term for convalescence or a recuperative holiday under arrangements involving their parent or guardian and another person. Those circumstances, as agreed by Parliament, are excluded from the scheme.

It is important to acknowledge at this point that, in the absence of individual records, it is not possible to say with certainty that parents gave their informed consent to their child attending Fornethy house. We can only speak to what was supposed to happen. The legislation speaks of arrangements made with a child's parent or guardian, and that is what is relevant for redress purposes.

The redress scheme is primarily designed for those children who were in long-term care and the exceptions are in keeping with that purpose. That rationale was supported by 79 per cent of respondents to a public consultation that was issued in advance of the legislation being drafted. In addition, there is the key issue of the absence of records relating to Fornethy house. Every applicant to the redress scheme is required to provide evidence that they were in a relevant care setting at a particular time. Unfortunately, the absence of records means that, even if the eligibility criteria were to be changed, Fornethy survivors are unlikely to meet the evidential requirements of the scheme.

For all those reasons, I do not intend to change the eligibility criteria for the scheme. I recognise that the outcome of the inquiries will be disappointing to the survivors who seek redress. The report's findings are in no way intended to diminish the experiences of the survivors or to suggest that the parents of those children were in any way responsible for the experiences that their children had during their time in Fornethy house.

I am very grateful to the committee for its ongoing support of the Fornethy survivors and Scotland's redress scheme. I am happy to answer any questions that you have.

09:45

The Deputy Convener: Thank you, Deputy First Minister. We will move to questions now, and I am happy to open. Can you expand on the aims and findings of the research into Fornethy house?

Shona Robison: Yes, I can, convener. We set out the requirement for a six-month piece of independent research. Dr Fossey was asked to find out why and by whom girls were sent to Fornethy and what Glasgow City Council has done to find records from Fornethy. I emphasise again, and Dr Fossey has made this point, that what she has said in her report is what was supposed to happen and does not diminish the experiences of what actually happened to Fornethy survivors.

The headline findings in the executive summary summarise why the girls were sent to Fornethy. The findings are that primary school girls from Glasgow were sent for convalescence after an illness and so that they might benefit from what was termed a recuperative holiday. The school was one of a number of schemes of residential education that were aimed at improving the health of pupils. Headteachers and school medical staff could put forward girls who they thought might benefit from a stay. However, it was the school or principal medical officer who took the final decision. Even then, only girls whose parent or guardian agreed to them going and who passed two medical examinations were allowed to go.

The regulations at the time obliged education authorities to keep school registers, pupil progress records and health records only until the end of the fifth year, or in some cases the second year, after the year for which they were held or the pupil had left. After that time, the records were to be destroyed. Therefore, it is not surprising that Glasgow City Council has found no such records in the city archives. That said, as Dr Fossey has noted, a question remains over the lack of Fornethy's logbooks. The regulations required those to be preserved. It should be noted, though, that Fornethy is not unique in having no surviving logbooks.

On the records and information on Fornethy that Glasgow City Council holds, Dr Fossey found that the council holds no school records for Fornethy. The city archives hold various series of council education committee minutes, papers, reports and handbooks that talk of Fornethy and other schools in the scheme but not individual records.

On what action Glasgow City Council has taken to find existing records, it has run its own internal searches in response to freedom of information and subject access requests. Dr Fossey and Diane McAdie had access to records in the archives. Glasgow's chief archivist has also

carried out proactive searches for information on Fornethy.

I hope that that gives you a sense of the remit and the key findings.

Oliver Mundell (Dumfriesshire) (Con): To be honest, I am appalled by that answer. I understand why the report was commissioned, but I do not think that it is consistent with what the then Deputy First Minister and Cabinet Secretary for Education and Skills said as the bill went through Parliament. I was on and off the Education and Skills Committee throughout that time. He acknowledged that it was unlikely that documentary evidence would be available in every circumstance. He did not talk about certainty; he talked about the balance of probabilities. He offered repeated reassurances that people would be believed and that the principle would be that, where survivors came forward and offered testimony, it would be taken as fact, not that it would be questioned.

The second thing that I find pretty hard to swallow, given that it was discussed during the passage of the bill, is the relationship between parents and the local authority that has been presented. It is not true; it was not factually correct then and it is still not correct to this day. Local authorities, through social work and education, wield a huge amount of authority over families. When they suggest things and direct things, vulnerable families feel under pressure to accept them. It is not a relationship of equals and it is wrong to categorise it in that way. Given what we hear from survivors, I had hoped that we would be looking to find a way to say yes rather than finding reasons to say no.

I am interested in what the Deputy First Minister has to say on the commitments that were given through the bill and on the relationship between parents and local authorities that she has set out. Even now in 2024, that is not my experience of what it is like for many families in my constituency.

Shona Robison: I recognise very much the point that you make about the unequal nature of that relationship. I am not disputing that at all. The point that I am making is that, when the bill was taken through by my predecessor, the distinction that was made was that the scheme would be for those who were in long-term care and who had essentially been removed from their parents through, primarily, social work legislation. Fornethy was established through education legislation. I am not disputing the opaqueness over whether parental consent was given. I am saying what was supposed to happen, rather than necessarily what the individual experiences were.

Oliver Mundell: Surely we should be responding to what did happen rather than what

should have happened. It is another example of the system failing that people have come up against. The system has not been working as it should, so we would not expect you to dismiss that and say that it should have been done differently. That is what it sounds like.

Shona Robison: I am certainly not dismissing that. I am saying that the lack of records means that there is no evidence of what the parental involvement was or was not. I am saying that the legislation underpinning the setting up of the redress scheme was for children who had been removed from parents through social work legislation, where there was no contact and parental responsibility had been entirely removed.

My predecessor made an apology prior to the redress scheme being established and it was made to all survivors in all settings, and I absolutely want to reiterate it fully. On the point about the evidential requirements for Redress Scotland, Scotland's redress scheme is more broadly drawn than any other redress scheme anywhere in the world at the moment. Most of the redress schemes that have been established are far more tightly drawn than the one in Scotland. However, evidence is required for an application to be brought in front of Redress Scotland, so there have to be records showing where someone—

Oliver Mundell: There do not have to be records. I know that from my own constituents. What someone has to prove is that, on the balance of probability, something was more likely to have happened than not. I am aware of payments being made to people who have not been able to find records but who have been able to put together other circumstantial evidence to support an application. In this case, we have a great many people from various parts of Scotland, particularly in the Glasgow area, who are able to corroborate and confirm that the experiences that other people are talking about are the same as theirs.

That starts to look to me like something that would meet that test or certainly that should get far enough through the process to allow Redress Scotland to make an analysis of the evidence. However, because of the individual nature of the applications going forward, we are not looking at that collective picture. To me, that is not consistent with what your predecessor meant when he recognised that this is a grey area, that these issues are very difficult and that they would have to be looked at in detail. If they cannot even be looked at in detail, how do you work out whether they meet the balance of probabilities test?

Shona Robison: I am going to ask Lyndsay Wilson to come in on the guidance that Redress Scotland uses for the evidential requirements, if that would be helpful.

Lyndsay Wilson (Scottish Government): It depends on whether the application that is submitted to Redress Scotland is a fixed-rate application or an application for an individually assessed payment. With a fixed-rate payment, you will have to provide some evidence of being in care at a particular time. The statutory guidance gives you a list of things. I can give you some examples or I can send the list on separately to the committee, but what we are looking for is some evidence or some supporting document that confirms that a child was in care at a particular time before 1 December 2004. We recognise that some individuals do not have that evidence, as you say. There are exceptional circumstances that Redress Scotland is allowed to consider, and I am assuming that that was the case in the example that you refer to.

The difficulty for the Fornethy survivors is that, as Dr Fossey has said in her report, they are not unique in having no records at all. Some people might be able to provide social work records, education records, general practitioner records or a letter from an archivist. There is a range of different things available for survivors to use to apply to the redress scheme but, unfortunately, the difficulty for some of these ladies—I am sure not all—is proving that they were in care in the first place. That is the starting point for any redress application.

Oliver Mundell: Then we go back to what the previous Deputy First Minister said, which was that people would be believed and that that was going to be the core of this whole process. Now we are hearing that that is not the case, and that cannot be right. I cannot sign up to that—I am sorry.

Shona Robison: No one is disbelieving anyone—let me be clear about that—but the core aim of the scheme, as set up by my predecessor, was very clear in that it was to focus on those who had been in long-term care who had been removed from parental responsibility. That was the core purpose of the scheme. It was unanimously agreed by Parliament and a line was drawn in recognition of the priority given to those children.

That is not to deny the experience of anyone else, whether it was in short-term convalescent care or in a boarding school, for that matter, but that was the core aim of the scheme, as my predecessor was very clear about and as was agreed by Parliament—and, of course, in the public consultation, 79 per cent of people agreed with that being the purpose of the scheme. That is absolutely not to question the experience of anyone else, and I will be really clear that everyone should be believed. However, that was the core purpose of the redress scheme, for all the reasons that my predecessor set out, and that was

accepted and agreed by Parliament for all the reasons that were debated at the time.

Oliver Mundell: I am going to get into trouble for going on, so I will not say anything further.

Fergus Ewing (Inverness and Nairn) (SNP): We are indebted to Professor Diane McAdie for her submission of 11 March 2024. She stated in that submission:

“The purpose of redress for historic institutional child abuse should be to benefit survivors. Currently, the eligibility guidelines specifically exclude survivors of short-term residential school abuse. This is unjust”.

Surely that is correct, and surely your statement today perpetrates a manifest injustice, Deputy First Minister.

Shona Robison: As I said in my opening remarks, I very much recognise the harm and experience of those who were in Fornethy. I have put on record my views about that. I have also reiterated the former Deputy First Minister’s apology, which predated the scheme, to anyone who had suffered abuse. I reiterate that apology and absolutely support it. However, the scheme that was agreed unanimously by the Parliament is designed for vulnerable children who were in long-term care and isolated, with limited or no contact with their family. The eligibility criteria for the scheme reflect that core purpose. Those criteria were, of course, supported by survivors who responded to the public consultation and, as I have said, they were unanimously agreed by Parliament. It was necessary at the time, as the former Deputy First Minister said, to establish clear expectations of the parameters to enable clarity to be available to people from the start of the scheme.

10:00

The scheme is very broad—it is much broader than most other schemes. Other schemes elsewhere in the world and, indeed, the one that is being developed for England and Wales are far more tightly drawn than Scotland’s redress scheme. A line had to be drawn somewhere, and a line was drawn to focus on the vulnerable children who were in long-term care and had parental responsibility removed.

Fergus Ewing: I hear what you say, Deputy First Minister, but, with respect, it does not really answer the question that I asked. Surely it is unjust to deny people who have been subject to abuse, albeit for a shorter period, redress and compensation. I am just asking you to give a direct answer on a matter of principle, please. Surely denying that is unjust. It is a manifest and patent injustice. Surely that is indisputable.

Shona Robison: The same principle was looked at when the former Deputy First Minister was in front of the Education, Children and Young People Committee. I think that you and Oliver Mundell were members of that committee. Those were exactly the issues that were debated.

Fergus Ewing: I do not think that I was a member of that committee at that time.

Shona Robison: I have the record here, and you were. I have the record of the debate that took place. The very same issues that I am articulating today were articulated by my predecessor. They were debated, and the decision to support the scheme as established was unanimous. I have the committee record here. These matters were debated at length on 27 October 2021. Exactly the same issues about eligibility for the scheme and the exceptions were debated. Due to the same reasons that I am giving to the committee today, those conclusions were made on a unanimous basis.

Fergus Ewing: I have a final question, Deputy First Minister. Even if we accept for a moment that all that you say is true—we do not accept it, but let us just assume that that is the case—that does not mean that we cannot put things right now. Professor McAdie recommended three very clear and practical options. Can we not be big enough to admit that we got it wrong and that we should put it right? Is that not what the Parliament is for?

Shona Robison: You can go back and look at the record yourself, Mr Ewing.

On the situation now, I have outlined why the eligibility criteria were established as they were. The scheme is far broader than any other scheme. I have said that it is focused and is working hard to deliver for those who were in long-term care and removed from parental responsibility. I have also outlined the difficulties of Redress Scotland’s evidential requirements.

There are no records not just for Fornethy but for the many other schools that people were in for very short terms—for a number of weeks. There are no records for them because the system at the time, rightly or wrongly, did not require those records to be retained. It would be very difficult to ask Redress Scotland to take on thousands of cases in which no evidential material exists and to try to work through those cases when it is focused on the core purpose of the scheme.

As I said at the beginning, Scotland’s redress scheme is far broader than any other scheme anywhere else in the world that I am aware of.

The Deputy Convener: Are you aware of the reasons why the Fornethy survivors did not engage with the independent researcher? Do you

have a sense of whether that has impacted on the findings and the research?

Shona Robison: I understand that Dr Fossey tried to engage with survivors, but I do not know why that was the case. Obviously, I know that Diane McAdie was instructed by the Fornethy survivors to do her own research. That might be one of the reasons, but both looked at the same material. I have looked at Diane McAdie's report in detail as well. However, the fundamental issues that I have put in front of the committee this morning are the core purpose of the scheme, as agreed unanimously, the need for it to be allowed to get on to support people in the many hundreds of cases that it is dealing with, and the evidential requirements.

We cannot get beyond the fact that we could potentially be looking at thousands of people who had a few weeks at an institution—[*Interruption.*] People who were placed in Fornethy and many other institutions for a few weeks would not meet the evidential requirements to come in front of the scheme. The expectations of thousands of people who would not be able to bring evidence in front of the scheme could be raised. I am afraid that we cannot get beyond the fact that those records for people at Fornethy and many other similar institutions at the time do not exist.

Maurice Golden (North East Scotland) (Con): I am quite shocked by what I have heard. In my view, it is completely irrelevant for the victims whether there was unanimity in the Scottish Parliament, whether the scheme in Scotland is far broader than schemes elsewhere, and whether thousands of cases need to be addressed. In my view, one victim is one too many. If we park all the parliamentary protocol, do you think that the way that those victims have been treated is acceptable?

Shona Robison: As I said in my opening statement, I think that what happened to Fornethy survivors was appalling. I reiterated the recognition of that. I also reiterated the former Deputy First Minister's apology to people in any setting, no matter the redress scheme that came after that. He was very clear that it was an apology to people in any setting whatsoever, whether or not the redress scheme was set up to cover those areas. I absolutely reiterate that apology—every word of it. However, that matter is different from the redress scheme and who is eligible for it, and from the redress scheme's evidential requirements. As the Deputy First Minister, and on behalf of the First Minister, we absolutely recognise and believe what happened and absolutely recognise the harm to not only those in Fornethy but elsewhere.

Maurice Golden: What are you going to do about it?

Shona Robison: I am aware that some litigation cases with Glasgow City Council are going on. I am also aware that a criminal case is on-going. Obviously, I cannot comment on that because it is a live case. I have reiterated the apology that my predecessor gave. To be honest, I know that that recognition is sometimes the most important thing for people who are in that position.

On other supports, there are support networks for survivors who have been through absolutely appalling experiences. I know that some Fornethy survivors have accessed some of that support. Support is provided through Future Pathways. That support was established recognising that people will need it. Some people will want to access such support.

I cannot comment on the litigation cases. I wrote to Glasgow City Council this morning to bring to its attention the fact that the two reports exist. I know that the Fornethy survivors have made a number of demands of Glasgow City Council. Obviously, I cannot instruct Glasgow City Council on those matters, but I have drawn the reports to its attention.

Maurice Golden: What action has been taken to support those who were abused in short-term holiday care and to enable them to access some form of redress?

Shona Robison: We have established the research project. That was my way of trying to get to the bottom of whether records exist. That could look at the barriers around parental connections and consent, and existing records that show that someone was in an establishment at a particular time. The purpose is to get to the bottom of what may or may not exist in the archives.

Beyond that, as I have said, support networks that are provided by the likes of Future Pathways can support people who have experienced abuse in any setting. They were established for that purpose. Such support might not be for everyone. Not everyone would want to access such support, but it was established so that people can provide it.

The Deputy Convener: Fergus Ewing, do you have any further questions?

Fergus Ewing: No.

Oliver Mundell: The Deputy First Minister said that she had records from when Fergus Ewing and I were on the education committee. I wonder whether she has the *Official Report* from Thursday 12 January 2023 in that bundle. I can read to you what your predecessor said at that meeting. He said:

"I have listened carefully to the group that has made representations to me, all the members of which are Fornethy survivors and are part of the wider group. I do not

believe that, as things stand, there is an inherent impediment to applications to the redress scheme coming forward from people who spent time at Fornethy. I acknowledge that the nature of the environment in which individuals were spending time at Fornethy could be considered to fall within the ambit of the scheme, so I do not think that there is an inherent impediment to applications coming forward and being considered. To put it slightly more bluntly, I reject the idea that the scheme is not for Fornethy survivors; I think that it is possible for Fornethy survivors to be successful in applying under the scheme."

The former Deputy First Minister went on to say, looking at the issue of whether the local authority was acting in loco parentis, if you want to put it that way, that he did not believe that the situation at Fornethy matched up with what you say. He said:

"If a young person was at a holiday camp and was dropped off and picked up by their parents, it would be difficult to substantiate the view that the state was exercising responsibility. However, I do not think that the situation at Fornethy ticks that rather neat middle-class box—if I may say so—that I have just outlined to the committee. The more I understand about the situation at Fornethy, the more I find it difficult to reconcile it with the idea of some form of voluntary endeavour, and I think that the matter hinges on that point."—[*Official Report, Education, Children and Young People Committee*, 12 January 2023; c 14,]

You have come here today and have told us repeatedly that you are following what your predecessor, who introduced the legislation, intended. There it is, in black and white. It is something quite different from what you have suggested today.

Shona Robison: The former Deputy First Minister had met Fornethy survivors, as have I. He said, in essence, what I said at the beginning today: that Fornethy survivors could apply to the redress scheme but the issue was likely to be what evidence there was before the redress scheme—the panel who have to make decisions on the basis of the evidence in front of them.

That is why I instructed Dr Fossey to do the research to establish whether the survivors could access the scheme or whether there were impediments to accessing the scheme on the basis of the parental consent issue and the lack of records to provide the evidential base for someone to submit their claim.

10:15

Oliver Mundell: With due respect, at the point at which this matter was being considered, the second most senior person in the Scottish Government believed that these people would be eligible to apply. Also, the more they found out about the situation, the less credible they found the outcome of the report that you are now pushing as providing closure.

John Swinney—his words are there, and I am sure that he will correct them if he has changed his mind since—did not accept the argument that parents had chosen to take their children there as if it were a holiday camp.

Shona Robison: I have never said that either.

Oliver Mundell: He said that people were effectively directed and put there and that the state was involved in facilitating that and probably, in a lot of cases, a little bit more. You are here now and could push the envelope a little bit—open this up again—so that some of these people would stand a better chance of getting justice. I do not know why that is hard.

Shona Robison: I said earlier—I want to emphasise it again—that I accept that the issue of parental consent was an issue of power and relationships. I accept that whether or not someone was clear about it, was given a consent form and gave their consent explicitly is opaque, to say the least, and that the experiences of the women and their recollections make it clear that parents may have been encouraged—you said coerced. The evidence is not there either way, but I do not for a second dispute what the women have said about that matter.

The issue comes down to this. In terms of what the former Deputy First Minister said and what I am saying, in looking at applications, the redress panel would need to have some level of evidential requirement in order to process a case. That might be possible. If someone from Fornethy had various placements in other settings as well, they could potentially bring a case—

Oliver Mundell: Do you accept that there is a point at which the evidence is sitting here today—formed by this group? If you have lots of people saying that the same thing happened to them, it is quite unlikely that something different happened.

Shona Robison: I am not for a second disputing what the women are saying. Let me be really clear. I believe what they are saying, but I am saying to you that Redress Scotland requires some evidence of someone having been placed in a setting, and there is no record for anybody. Potentially, thousands of people could have been placed in Fornethy-type institutions, and what we would be saying to the Redress Scotland panel? That there does not need to be any record of a person having been in a Fornethy-type institution?

Oliver Mundell: We would be saying to the Redress Scotland panel exactly what Parliament, the previous Deputy First Minister and several individual MSPs said repeatedly throughout the bill process—that, if those people come forward, their testimony will be believed. It will be taken as fact. We would be saying that there is provision for exceptional circumstances and that, if the

testimony and evidence from those thousands of people is joined together, we can start to build a pretty accurate picture.

Some of the people involved have spoken to medical professionals and other people over the years. These concerns existed before the redress scheme came into being. People did not just appear and join survivor groups—they did not just appear and interact with services across the country when they thought redress was on offer. There are historical records. They might not be as good as the official records but, frankly, it is not the people's fault that the organisations did not keep good records and destroyed those that they had.

Shona Robison: I totally accept that it is nobody's fault—certainly not the survivors' fault—that those records do not exist. I also absolutely accept what you are saying about survivors coming together. However, the way Redress Scotland operates requires someone who has—

Oliver Mundell: Redress Scotland works for you. Redress Scotland works for the Government.

Shona Robison: It has guidance—

Oliver Mundell: The guidance can change.

Shona Robison: People need to have confidence in the scheme. Someone who has been in institutional care for many years and brings a claim to Redress Scotland must provide a level of evidence. Survivors find that quite difficult. I acknowledge their difficulty, but they have to provide that level of evidence.

Oliver Mundell: How can I have confidence in the scheme, though, if the people that those who introduced the scheme thought would not face a barrier to accessing it cannot access it? Confidence works both ways. It is a challenge that the records do not exist, but to say that, on the balance of probabilities, there is insufficient evidence that people were somewhere they say they were—when lots of other people say they were there and seem to understand that as being how those things worked at the time—is also a challenge.

Shona Robison: Redress Scotland is independent of the Government—that is enshrined in the legislation. People must have confidence in the scheme, and there is no scheme anywhere in the world that operates on the basis of not requiring evidence to be presented. No scheme operates like that. The process can be quite difficult for survivors. I have had direct representation from survivors saying that the process is quite difficult. However, in order for people to have confidence in the scheme, evidence must be required and records have to be

produced. There are exceptions, but exceptions are decided on a case-by-case basis.

Oliver Mundell: If you block people from even getting past “Go”, they do not get to the case-by-case decision. That is what is happening at the moment. The guidance and the things that you are saying are stopping people from getting to the case-by-case decision.

Shona Robison: You would be raising expectations in people who do not have records—because the records do not exist.

Oliver Mundell: I do not think that people have any expectations—

The Deputy Convener: Mr Mundell, let the Deputy First Minister finish. Other members would like to ask questions.

Shona Robison: As I said, Redress Scotland is independent of the Government. It has guidance, which means that it can fairly assess every application that comes to it. It asks for a degree of evidence, which survivors have told me can be quite intrusive, difficult, upsetting and triggering—I understand that. However, in order for people to have confidence in the scheme, that is the level of evidence required.

The point that I am making is that, in the absence of any records for survivors of Fornethy or any of the other many Fornethy-type institutions, there is no evidential basis for an application. I have to be honest about that.

Foysoil Choudhury (Lothian) (Lab): Good morning, Deputy First Minister. Could you change the regulation, even though the current position is not to change it?

Shona Robison: Technically, yes. However, the point that I am making is that the core purpose of the scheme that has been set up—my predecessor was very clear about this—is to support those who were in long-term care because parental responsibility had been removed through social work legislation. That is the focus of the scheme, and I have tried to set out the reasons why confidence in the scheme, as established, is important. I have set out why the evidential requirements are there and the reasons why they are important. Changing the scheme is technically possible, but I have set out the reasons why it would be very difficult.

Foysoil Choudhury: If the Scottish Government is not planning to amend the current legislation to allow survivors to claim redress, will it provide funding to allow the Fornethy survivors to pursue justice via legal means?

Shona Robison: Obviously, any legal advice that anyone receives needs to be independent legal advice about potential litigation. There are

some on-going litigation cases against Glasgow City Council, which I cannot comment on because they are live. Similarly, there is a live criminal case that I cannot comment on either. That route is open.

On the support that the Government provides, I have talked about the support that is provided through Future Pathways to help survivors, and I have talked about the support that is given in looking for case records. The Government provides about £2.4 million, I think, to help survivors to get records. One of the reasons we did the piece of research was to address that issue, because of the importance of records for Redress Scotland. So, there is support available to help survivors who have been in long-term care and have had difficulty in accessing records, because of the importance of having that evidence to present to Redress Scotland. That is the situation.

The Deputy Convener: Maurice Golden has a short supplementary question.

Maurice Golden: I am genuinely shocked by the argument around Redress Scotland being independent of Government. I worked for a Scottish Government-funded organisation, and, even though it was a private company, we could do literally nothing without approval from the Scottish Government. It seems that the relationship with Redress Scotland is peculiarly different. Is the Deputy First Minister seriously saying that there is nothing that she can do with regard to Redress Scotland standing up for the victims of Fornethy?

Shona Robison: I am not saying that at all. I am saying that the eligibility criteria have been set with the exceptions clearly set out. Technically, those exceptions could be changed, but I have said why I do not think that it would be the right approach. As was laid out in Parliament at the time and agreed unanimously, the focus is on those who were in long-term care having been removed from parental responsibility.

The point that I am making about the independence of Redress Scotland is that it is quite right that decision making around awards is independent of the Government. It would not be right for us to interfere in Redress Scotland's determination in individual cases. As a panel, Redress Scotland looks at individual cases on the basis of the evidence that is required, which is set out in guidance. That is the relationship.

Barry McCaffrey, do you want to come in?

Barry McCaffrey (Scottish Government): Under section 6 of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021, it is clearly stated that, in performing its functions, Redress Scotland is not subject to the

direction or control of any member of the Scottish Government. That was deliberate and was seen at the time as being an important safeguard against undue interference from the Government.

The Deputy Convener: I call Martin Whitfield to make a short statement. We are really pushed for time.

Martin Whitfield (South Scotland) (Lab): I thank the committee and the convener for allowing me to make this statement. It will be very short.

With the greatest respect, I suggest that a lot of the discussion is mixing two elements. One is whether the survivors who lodged the petition can enter the redress scheme. The second is whether, if they do enter the redress scheme, they can produce the evidence that is required. I think it would be helpful to separate those things.

I understand, from the Deputy First Minister's answer to Foyso Choudhury, that it sits within her power to change the regulations and allow entry to the redress scheme. As, I think, Oliver Mundell pointed out, once the petitioners were in the redress scheme, it would be for the evidence to be balanced.

The First Minister gave the figure of 79 per cent for all those across Scotland who were in agreement with the remit of the redress scheme. Does the Deputy First Minister think that, if the people of Scotland understood this petition in the way that this committee does and in the way that the people who have attended today do, those 79 per cent would say they do not deserve redress?

10:30

Shona Robison: I understand that people would have enormous empathy for anyone who has suffered abuse in any setting. Of course, there are a number of settings that are outwith the eligibility, and I would have empathy for every single one of those who have suffered abuse in any of the settings, no matter whether they meet the eligibility criteria.

In the consultation, 91 per cent of respondents identified as survivors of abuse in care. The focus at the time was very much—as was set out by the former Deputy First Minister—to get a scheme up and running to address those who had been in long-term care having been taken away from parental responsibility. Parliament looked at these matters and debated them at the time. There was quite a difficult debate about where to draw the line and about which institutions and areas would be included in the scheme and which would not be included. Difficult decisions were made at the time, and a number of settings were excluded, as members around this table will be aware. However, the Redress Scotland scheme is far

broader and far more inclusive than many other schemes that I am aware of.

I very much adhere to the apology that the then Deputy First Minister made prior to the redress scheme being set up—before the debates happened, lines were drawn and eligibility criteria were set. It was a fundamental recognition that what had happened to anybody, in any setting, was absolutely wrong, and it recognised the harm that abuse had caused to every single individual, leaving aside eligibility. I put on record again my belief in the truth of what people are saying and my recognition of the harm that has been done. The Government absolutely recognises all of that, and we have huge sympathy and empathy for every single person.

The Deputy Convener: Before we bring this session to a close, Deputy First Minister, is there anything that we have not covered that you would like to put on record?

Shona Robison: I do not think so, convener. However, if there is anything that the committee wants to follow up on in any detail, once you have had your discussion afterwards, I would be happy to write to the committee with further evidence.

The Deputy Convener: Thank you for your evidence.

I suspend the meeting for a short break and to allow the witnesses to leave.

10:33

Meeting suspended.

10:37

On resuming—

Surgical Mesh and Fixation Devices (PE1865)

The Deputy Convener: Welcome back, everyone. Our next continued petition, PE1865, which was lodged by Roseanna Clarkin and Lauren McDougall, calls on the Scottish Parliament to urge the Scottish Government to suspend the use of all surgical mesh and fixation devices while a review of all surgical procedures that use polyester, polypropylene or titanium is carried out and guidelines for the surgical use of mesh are established.

We last considered the petition at our meeting on 14 June 2023, when we agreed to write to the Minister for Public Health and Women's Health and the British Hernia Society. As with previous considerations of the petition, we are joined by Katy Clark MSP. In addition, Clare Adamson MSP joins us remotely.

We have received a submission from Katy Clark with further details of the freedom of information responses on the number of patients readmitted following complications with surgical mesh that were referred to during our previous consideration.

The response from the Minister for Public Health and Women's Health tells us that there is subspecialist coverage in complex hernia repair, including non-mesh repair, operating in NHS Lothian, NHS Fife and NHS Grampian, with a further subspecialist based at the NHS Golden Jubilee national hospital.

The minister also provided an update on the development and implementation of the scan for safety programme, and indicated that further options for improved data collection, such as a registry of hernia repair procedures, are also being looked at by Government officials and their national health service colleagues. Reference was also made to OK to Ask, which is a public awareness campaign that aims to support patients and healthcare professionals having positive conversations about care and treatment.

We have a response from the British Hernia Society stating that it cannot support the suspension of all surgical mesh and fixation devices, as that would run counter to the best scientific evidence guidelines that have been published by the European Hernia Society. The British Hernia Society recognises the need to improve patient outcomes and offers information on the work that is being done to develop the hernia registry, which it hopes to roll out nationally this year.

We have also received submissions from the petitioners, which respond to the British Hernia Society's submission and highlight that the improved patient pathways that the minister referred to has not led to improvements in the everyday experience of mesh patients so far. They are also concerned that little progress is being made to bridge the skills gap between natural tissue repair and mesh repair, and have highlighted a number of surgeons around the world who are developing their own non-mesh hernia repair techniques.

One of the petitioners, Roseanna Clarkin, has also shared her experience of mesh-related complications and the barriers faced when requesting non-mesh repair.

Members will also be aware that, since our previous consideration of the petition, Parliament has passed the Patient Safety Commissioner for Scotland Bill. That legislation will enable the establishment of a commissioner to advocate for systemic improvements in the safety of healthcare and to promote the importance of the views of

patients and other members of the public in relation to the safety of health care.

I ask Katy Clark to put her submissions to the committee.

Katy Clark (West Scotland) (Lab): Thank you very much. I am very grateful to the committee.

I appear on behalf of both petitioners. Roseanna Clarkin, whom you have already spoken about, convener, continues to suffer from mesh-related complications and is attempting to obtain support through NHS and Social Security Scotland. There are a number of issues in relation to that. She hopes that the mesh will eventually be removed, although there are some complications with that.

I also appear on behalf of Lauren McDougall, whose mother unfortunately died shortly after a hernia mesh procedure. The petitioners work with a number of campaigners who have been negatively impacted specifically by the use of mesh in hernia processes. They believe that a number of outstanding issues remain and that mesh is still used in hernia procedures in many situations where alternatives could be used.

I will focus on the second part of the petition, which relates to guidelines for the surgical use of mesh. It would be helpful if we could get more evidence of current practice, and I would ask the committee to consider whether it would be willing to look at examples of individuals who are currently receiving mesh in situations where they believe that alternatives should have been considered and would be more appropriate, with a view to looking at the type of guidelines that perhaps could be created in Scotland.

The Deputy Convener: Thank you. I call Clare Adamson.

Clare Adamson (Motherwell and Wishaw) (SNP): Thank you. I trust that you can hear me, convener.

The Deputy Convener: Yes.

Clare Adamson: I am very pleased that the committee has given me this opportunity to speak to the petition on behalf of my constituent, Ms Janet Weatheritt. Ms Weatheritt is one of many women whose lives and livelihoods have been harmed by complications following mesh implants. She had two vaginal mesh devices fitted in 2012 and 2013, and has had to endure chronic pain and has been prescribed multiple medications since that time. Her story speaks to the heart of the injustice that those who have suffered from mesh complications face.

Ms Weatheritt travelled to the USA in August last year. She had a referral for surgery for mesh removal with Dr Veronikis. The removal procedure was successful; however, Ms Weatheritt has

suffered post-removal complications. She was advised at the time of the removal that she required medical repairs. She has reported that Doctor Veronikis lamented that he could perform the repairs “there and then”, but the contract with the NHS allowed only for mesh removal and any post-surgery repairs would have to be done back in the United Kingdom.

Ms Weatheritt was then advised through the national services division that the agreed position was that any post-removal reconstructive surgery would be undertaken in Scotland by local services. Questions remain over whether her aftercare can be done locally within NHS Lanarkshire or whether it will require a further referral. Indeed, Ms Weatheritt’s NHS Lanarkshire consultant has already raised issues to do with post-surgery care with the national transvaginal mesh accountable officers’ group.

10:45

Ms Weatheritt’s case is emotive. She has faced intense uncertainty, unbearable pain, delay and disappointment. Although she is relieved that the mesh has been removed, she is still in need of medical help.

I would ask the committee to ensure that it prioritises a clear clinical pathway for mesh use and removal that sets out accurate expectations for those who require surgery or post-surgery care of repairs following removal from a funded provider outwith NHS Scotland.

Ms Weatheritt is keen that those considering travelling for surgery are aware of her experience so that they can make a fully informed decision about whether to go ahead with mesh removal outwith Scotland. She also hopes that her experience informs the committee as it deliberates on the petition.

I have taken up Ms Weatheritt’s concerns with NHS Lanarkshire and the minister. However, women—anyone—affected by mesh deserve our continued support and care not just in relation to what has happened the past; that needs to be provided for their present and future, to ensure that they have the best possible outcomes and quality of life.

I thank the committee for the opportunity to speak to the petition this morning.

The Deputy Convener: I thank Katy Clark MSP and Clare Adamson MSP for their statements. Members, do you have any comments or suggestions for action?

Maurice Golden: Thank you, convener. I think that we should write to the Cabinet Secretary for NHS Recovery, Health and Social Care to set out the evidence that the committee has gathered to

date, including what we have heard from Katy Clark and Clare Adamson today. We should also recommend that he meet the petitioners to discuss continuing concerns about patient pathways for those harmed by mesh implants, as well as highlight concerns about the work that is being undertaken to bridge the skills gap between natural tissue repair and mesh repair in Scotland.

I also think that we could write to the Scottish Parliament Corporate Body to seek details of the process and timeline for recruiting the patient safety commissioner for Scotland.

The Deputy Convener: Do members of the committee agree to take that action?

Members indicated agreement.

The Deputy Convener: I thank Clare Adamson and Katy Clark for their attendance.

Education Scotland (Staff Roles) (PE1953)

The Deputy Convener: Our next continued petition, PE1953, which was lodged by Roisin Taylor-Young, calls on the Scottish Parliament to urge the Scottish Government to review education support staff roles in order to consider urgently raising wages for education support staff across the primary and secondary sector to £26,000 per annum; to increase the hours of the working week for educational support staff from 27.5 to 35 hours; to allow educational support staff to work on personal learning plans, with teachers taking part in multi-agency meetings; to require educational support staff to register with the Scottish Social Services Council; and to pay educational support staff monthly.

We last considered the petition at our meeting on 31 May 2023, when we agreed to seek an update on the Bute house agreement commitment to explore options

“for the development of an accredited qualification and registration programme for Additional Support Needs assistants”.

In her recent response, the cabinet secretary stated that the intention had been for ministers to consider a report in autumn 2023 but that the work had been delayed due to competing priorities in the portfolio. The report is now due to be published in the first quarter of 2024.

The cabinet secretary’s response also reported that officials have engaged with counterparts in England and Wales on their approaches to its work, and that they hosted two online workshops in September 2023.

Do members have any comments or suggestions?

Maurice Golden: I think that we should write to the Cabinet Secretary for Education and Skills

seeking an update on the Bute house agreement exploration group’s recommendations and information about what she expects the next steps will be.

The Deputy Convener: Are members agreed?

Members indicated agreement.

Private Hire Cars and Taxis (PE1960)

The Deputy Convener: Our next continued petition is PE1960, which was 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 formally recognise private hire cars and taxis as modes of public transport and to enshrine such recognition in law.

We last considered the petition at our meeting on 31 May 2023, when we agreed to write to the traffic commissioner for Scotland. The Office of the Traffic Commissioner’s response notes that the legislative definition of “public service vehicle” is set out in the Public Passenger Vehicles Act 1981, which generally includes vehicles that are designed to carry eight or more passengers for hire or reward. Holders of taxi or private hire licences can apply for a special restricted operator licence if they intend to use their vehicle for the provision of a local bus service. The response notes that there are 34 holders of special restricted operator licences in Scotland.

The Scottish Government has previously suggested that there is no universal legal definition of “public transport”. Different transport modes are subject to their own specific legislation, meaning that there is no obvious route to enshrine a definition in law. Do members have any comments or suggestions?

Maurice Golden: I think that we should close the petition under rule 15.7 of the standing orders, on the basis that the Scottish Government has previously stated that there is no universal legal definition of “public transport” and each transport mode is subject to specific legislation. There is no obvious legislation that could be amended to enshrine a definition in law and set out the relationship between the different transport sectors and local and national government.

Fergus Ewing: I do not demur from that recommendation, but I will perhaps add that my understanding of Mr Grice’s petition is that his main beef, grouse or complaint is that private hire car and taxi drivers—there are a lot of them and they are very important—are not involved in the club of policymaking, either at local authority or national level. They feel excluded from that.

Now, Mr Grice’s solution is to classify private hire cars and taxis as a form of public transport.

Perhaps that is not the right solution, but those drivers must be better involved in discussing transport policy. Whether or not that is public transport, they are transporting the public. It is very important that their voice is heard when it comes to policy, particularly on low emission zones and the requirement to upgrade taxis to comply with regulations, because there has never been a time when taxi drivers were under more financial pressure than now.

I just wanted to put that on the record, convener, in case Mr Grice, who I believe is a frequent petitioner, might want to think about framing his request with a different objective that might better achieve his aim of being part of the system of consultation about transport matters.

The Deputy Convener: Thank you, Mr Ewing. I know that the taxi federations in Fife are engaged in discussions about regulations and licensing. They have taxi forums that deal with all that. Perhaps that is an example that taxi drivers in the other 31 local authorities can engage with. Are we happy with Mr Golden's recommendation?

Oliver Mundell: I concur with Fergus Ewing's comments because, in large parts of rural Scotland, taxis and private hire cars amount to public transport. They ferry people to hospital appointments, and they provide a lifeline in the absence of bus services. I can certainly understand the petitioner's aim, but I do not think it is possible to fulfil the outcome.

The Deputy Convener: Do members agree to close the petition?

Members indicated agreement.

Private Hire Car and Taxi Drivers (PE1961)

The Deputy Convener: Our next continued petition is PE1961, which was also 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 car and taxi drivers by creating a specific criminal offence for assaulting, threatening or abusing private hire car or taxi drivers while they are engaged in private hire car or taxi work, and considering such offences as aggravated when the offence is committed while the driver is enforcing a licensing or operational condition.

We last considered the petition at our meeting on 31 May 2023, when we agreed to write to the Scottish Government. We have received a response from the Minister for Victims and Community Safety, which notes that the provisions of the 2021 act complement a range of general

criminal laws that protect everyone from abuse and violence, with the penalties for those offences being greater than the maximum penalties that are available under the 2021 act. The minister confirms that the Scottish Government is not considering legislation to extend the provision of the 2021 act to include private hire car drivers, taxi drivers or transport workers in general. Given the Scottish Government's clear position, do members have any comments and suggestions?

Maurice Golden: I think that we should close the petition under rule 15.7 of the standing orders on the basis that the types of behaviour that are referenced in the petition can already be prosecuted under common law and existing statutory offences. That said, the Parliament has established a legal precedent in amending or going beyond common law in certain case. However, the Scottish Government has confirmed that it has no plans to extend the 2021 act to include private hire car drivers, taxi drivers or transport workers in general. I would say to the petitioner that, given that there is that legal precedent, I do not believe that the committee can go any further, but an individual member could look to introduce a member's bill to develop the legal precedent as per the 2021 act.

The Deputy Convener: Do members of the committee agree?

Members indicated agreement.

Thrombosis (PE2016)

The Deputy Convener: Our next continued petition is PE2016, which was lodged by Gordon McPherson. The petition calls on the Scottish Parliament to urge the Scottish Government to raise awareness of the risk factors, signs and symptoms of thrombosis.

We last considered the petition at our meeting on 14 June 2023. At that meeting, we heard that recent research by *The BMJ* shows that, after a Covid-19 infection, there is an increased risk of deep vein thrombosis for up to three months, of pulmonary embolism for up to six months and of a bleeding event for up to two months after infection.

With that in mind, we agreed to seek a view as to whether it is necessary to undertake more work to raise awareness of thrombosis. The Scottish Government's response stated that it is considering the issues that were highlighted by the research and is looking at what further awareness messaging can be undertaken via social media.

The Government's response explains that, in the parliamentary question answer that is referred to by the petitioner in previous submissions, the figures include all conditions that are all or mostly due to a blood clot forming in a particular location,

including both arteries and veins. This therefore includes some of the most common causes of death, including myocardial infarction and stroke. The data that is used in response to the petition reflects clots forming in the veins and includes instances where those clots travel and cause pulmonary embolisms.

The petitioner's recent submission notes that his petition covers thrombosis as a whole, rather than specific subdivisions. He states that the Scottish Intercollegiate Guidelines Network has worked on the guideline that highlights the link between Covid-19 and blood clots, but that no action has been taken by the Scottish Government to raise awareness.

Do members have any comments or suggestions?

Fergus Ewing: I think that we should write to the Cabinet Secretary for NHS Recovery, Health and Social Care seeking confirmation of whether the Scottish Government is undertaking any work to raise awareness of thrombosis—and if not, why not—and seeking his view on whether it is necessary to undertake more work to raise awareness of thrombosis in the light of *The BMJ*'s research, which connects Covid-19 with an increased risk of thrombosis and pulmonary embolisms.

In the letter making that request, it might be useful to allude specifically to the evidence that we have received. Plainly, Mr McPherson has suffered greatly. He lost his daughter. It is an absolute tragedy. He has provided very detailed information that conflicts with the Scottish Government information. From memory, he said that there were 11,400 cases; the Scottish Government's figure was vastly lower, and I do not think we have really bottomed out the difference. That is very important because, if he is right and the Government is wrong, we need to do an awful lot more than we are doing at the moment.

I would also point out Jackie Baillie's representation for Mr McPherson at our meeting on 14 June 2023. It was highly useful to the committee, and I think that it would be useful for the cabinet secretary, who I know takes these things extremely seriously, to peruse for himself. I want to underscore the importance of the matters that Mr McPherson has raised. I hope that the cabinet secretary gets that when he receives our letter and perhaps a copy of the *Official Report* of this meeting.

The Deputy Convener: Does the committee agree with Mr Ewing's recommendations?

Members *indicated agreement.*

Swimming Pools (Financial Relief) (PE2018)

11:00

The Deputy Convener: Our next continued petition is PE2018, which was lodged by Helen Plank on behalf of Scottish Swimming, is on recognising the value of swimming pools and providing financial relief to help to keep pools open. The petition calls on the Scottish Parliament to urge the Scottish Government to help to keep our swimming pools and leisure centres open by providing financial investment for pools.

I welcome another colleague, Tim Eagle, to the committee. We are pleased to see him, as a new addition to the Parliament, take an interest in the public petitions process. Welcome, Mr Eagle.

Tim Eagle (Highlands and Islands) (Con): Thank you very much, convener. It is a pleasure to be here at the meeting—my first one—and I thank the clerks for helping me. I just wanted to speak to the petition. I thank Scottish Swimming, obviously, and Liz Smith, who has submitted a letter of support, too.

The issue of financial struggles for sport and health overall and in some councils came up during my time as a councillor, which is at the grass-roots level of politics in Scotland. The problem is that health and leisure facilities are not ring fenced, so their budgets are easy to cut when very important things such as education, adult health and social care have to be protected.

However, I was quite strong on the issue in the council, because we are an island nation with beautiful lochs and rivers throughout our country and swimming is an increasingly popular activity. We already have double the UK average number of deaths by accidental drowning, and that could go up if we shut more pools, particularly as we have many rural areas in the country. With limited bus routes, rural connectivity is not great and, if we start closing swimming pools, access to the remaining ones will get harder and harder.

I know that a lot of this is in the briefing but I want to commend these things. Swimming is invaluable as preventative medicine and, as we talk about health moving forward, we should discuss that more. We need to have a stronger discussion with the Scottish Government about how we can help councils to protect these very important facilities.

The Deputy Convener: Thank you, Mr Eagle. We last considered the petition at our meeting on 14 June 2023, when we agreed to write to the Minister for Social Care, Mental Wellbeing and Sport and to sportscotland. Sportscotland responded with further detail on the support that it

is providing to the Scottish swimming facilities project that is being taken forward in three phases by Scottish Swimming, which lodged the petition.

The Minister for Social Care, Mental Wellbeing and Sport confirmed that the Scottish Government received Barnett consequential of £1.939 million in resource funding and £3.877 million in capital funding following the UK Government's announcement in spring 2023 of a swimming pool fund. As Barnett consequentials are not required to be allocated to the policy area that they have resulted from, and as the minister has not offered any indication of where the money was allocated, it remains unclear whether that additional funding was, in fact, used to support swimming facilities in Scotland.

We have received a submission from the petitioner that includes a link to a report on the future of swimming facilities in Scotland and notes the number of pools that have closed since the petition was lodged and the impact of that on local communities.

Our colleague Liz Smith is unable to join us in person today but has provided a written statement in support of the petition, and Mr Eagle has already given his statement. Do members have any comments or recommendations?

Foysoil Choudhury: Welcome, Tim. It is good to see you here. I, too, have been involved with the issue before, and I think that the presentation that our colleague gave was great.

We need to recognise that swimming pools are closing. In West Lothian, three swimming pools recently closed, and I have a lot of constituents who are asking what support the Government is providing. I think that we should write to the Minister for Social Care, Mental Wellbeing and Sport to seek the Scottish Government's response to "The Future of Swimming Facilities in Scotland" report and ask for further details on the financial support being provided for swimming facilities.

Fergus Ewing: I support what Mr Choudhury has recommended and highlight the fact that the petitioner's very recent submission of 7 March pointed out that, since the petition was lodged—in April last year, I think, which is a fairly short period of time, really—six swimming pools have closed, 147 swimming pools are now at risk and 95 per cent of the population in Scotland think that pools are important for safety.

There is that, there are the wide concerns from Liz Smith, Tess White and Fulton MacGregor—who did some work early on with the petitioner—and there is the fact that, apparently, the Scottish Government received Barnett consequentials of nearly £2 million in resource and nearly £4 million in capital. People are entitled to know what has happened to that money. I understand that we do

not have to use it for swimming pools but, if we do not, how many more swimming pools will close over the next year? We need some straight answers, and we did not get them from the minister's response, which was opaque in the extreme. As you can tell, convener, I am not entirely satisfied with the Scottish Government's approach in this case.

The Deputy Convener: Thank you, Mr Ewing. Are there further comments from members?

Foysoil Choudhury: I asked a few questions on the issue, as well, and I agree with Fergus that we are not getting any straight answers from the Government. We should write.

The Deputy Convener: We will write to the Minister for Social Care, Mental Wellbeing and Sport to ask what additional funding is being given and to see whether the Barnett consequentials have been passed over for swimming pools. Do members agree?

Members indicated agreement.

Impact of Motorway (Central Glasgow) (PE1906)

The Deputy Convener: Our final continued petition is PE1906, on investigating options for moving and reducing the impact of central Glasgow section of the M8, which was lodged by Peter Kelly on behalf of @ReplacetheM8. The petition calls on the Scottish Parliament to urge the Scottish Government to commission an independent feasibility study to investigate scenarios for reducing the impact of the M8 between the M74 and Glasgow cathedral including, specifically, its complete removal and the repurposing of the land.

We are joined in our consideration of the petition by MSP colleague Paul Sweeney. A warm welcome to you, Mr Sweeney.

We last considered the petition at our meeting on 31 May 2023. The petitioner has provided a submission that notes actions that his group wishes the committee to follow up on, including their ask for an independent study to be commissioned.

Councillor Angus Millar has written to the committee on behalf of Glasgow City Council, confirming that a strategic and operational approach being taken by the local authority. Councillor Millar highlights a paper that sets out the council's progress, the actions taken and proposed next steps. An extract from that paper is available in the papers accompanying the petition and breaks down a number of issues the council wishes to explore in the short, medium and long term. It outlines engagement between the council and Transport Scotland, and notes that an annual

progress meeting between the council and Transport Scotland officers was agreed to, over and above interim discussions. It is also proposed that an action plan be prepared to cover the council projects that interact with the M8 between junctions 15 and 22. That plan would work to identify the role of Transport Scotland in those interventions, to help facilitate collaboration and progress.

Before I invite members to comment, I ask Paul Sweeney whether he has any comments.

Paul Sweeney (Glasgow) (Lab): Thank you very much, convener. It is a pleasure to be back before the committee on such an interesting petition. It has elicited significant public interest, most recently in a BBC Radio 4 documentary called "Motorway City" by the journalist Allan Little, which covered in great detail the history of the construction and development of the Glasgow inner ring road and the current challenges that it faces.

The correspondence from Glasgow City Council is encouraging. It has established a working relationship with Transport Scotland, the statutory agency that owns the trunk road infrastructure through Glasgow, to look at options for mitigation, and members of the public, other stakeholders, the petitioner and adjacent activists have proposed discrete ideas around rationalisation of slip roads, capping and so on that are worth further investigation.

I wonder whether it might be feasible for the committee to consider inviting the officials from Transport Scotland, who ultimately report to the Scottish ministers, and indeed to this Parliament, to further elaborate on their perspectives on what options are available. The transport minister might also want to come before the committee to set out their position on how they propose to work with Glasgow City Council to investigate the options. That might allow for greater transparency, public awareness and scrutiny of what is going through this Parliament. If committee members were minded to consider those proposed actions, that would be a positive development for this petition and would anchor the Parliament's role in the matter much more securely.

The Deputy Convener: Thank you, Mr Sweeney. Do members have any comments or recommendations?

Maurice Golden: I appreciate Paul Sweeney's comments. It is beneficial that the committee has heard that progress is being made on the petition. Because of that, I feel that the committee should close the petition under rule 15.7 of standing orders, on the basis that Glasgow City Council has committed to progress the issues raised in the petition, including commissioning research on and

exploring options to reduce the impact of the M8 on the city centre and reviewing opportunities to re-engineer other roads infrastructure to become more people-friendly, including options for long-term replacement. Indeed, Transport Scotland is engaging with Glasgow City Council on its work and will hold an annual progress meeting in addition to interim discussions on specific actions.

The Deputy Convener: Do members agree to close the petition?

Members indicated agreement.

The Deputy Convener: I remind the petitioner that, if Glasgow City Council and Transport Scotland do not make progress as fast as he would like, he can bring the petition back to the committee after a year.

New Petitions

11:12

The Deputy Convener: Agenda item 3 is consideration of new petitions. Before I introduce our first new petition, I begin by highlighting to those who are following today's proceedings that a considerable amount of work is done in advance of the consideration of a petition. Before a petition's first consideration, an initial view is sought from the Scottish Government and a briefing is provided from the Parliament's impartial research service.

Conservation Areas (Local Authority Funding) (PE2063)

The Deputy Convener: Our first new petition is PE2063, which is on increased funding for local authorities to enable better management and protection of conservation areas. The petition, which was lodged by David Walsh of Park Preservation Patrons, calls on the Scottish Parliament to urge the Scottish Government to provide additional funding to all local authorities in Scotland, enabling them to better manage and protect the character and appearance of designated conservation areas.

Paul Sweeney has remained with us for the consideration of this new petition.

The petitioner notes that historic conservation areas throughout Scotland are falling into disrepair, and although he recognises the financial challenges facing both national and local government, he requests that the Scottish Government addresses a specific concern regarding funding for conservation areas.

The Scottish Parliament information centre briefing provides information on the planning process that applies to conservation areas, while noting that the responsibility for upkeep of land and buildings within conservation areas rests with the owners.

The Scottish Government refers in its response to the local government settlement and the policy of allowing local authorities financial freedom to allocate the resources that are available to them. The response goes on to note the support and guidance that are available via Historic Environment Scotland to help promote and protect the historic environment.

Before I go to the committee for recommendations, I ask Paul Sweeney whether he would like to make a statement.

Paul Sweeney: Thank you, convener. It is a pleasure to address the members of the committee on this petition. I have been in

correspondence with the petitioner over the past few months about issues around enhancement to the Park conservation area in the west end of Glasgow, which speaks to a broader issue around improving the guidance and regulations on conservation areas and the obligations on local authorities.

The petitioner's particular idea was to reinstate heritage-style lampposts and make various other improvements to the area but there was not, in their view, sufficient support or capacity to help them to achieve their objectives. Similarly, there are concerns that roads authorities and other utilities can scar historic streetscapes, remove street furniture that is of a historic nature and undertake similar interventions without any statutory enforcement or oversight.

11:15

In light of some of the flaws in the current legislation as set out in the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and some of its adjacent legislation, such as the Building (Scotland) Act 2003, there is an opportunity for the committee to consider inviting stakeholders to feed in on the issue, and to establish whether there are reasonable grounds for improvements to the current legislation or indeed supplementary guidance. Certainly, in my interactions with stakeholders, there have been concerns that the regulations on conservation areas are not sufficiently robust and that there is significant opportunity to establish best practice, or at least to communicate where best practice is being achieved to other parts of the country.

To that end, I suggest that perhaps Historic Environment Scotland, the Architectural Heritage Society of Scotland, Save Britain's Heritage, the Glasgow Building Preservation Trust and the Glasgow City Heritage Trust might be reasonable stakeholders to approach in the first instance to invite to feed in to the exercise and perhaps allow us to establish whether there are opportunities for further improvements to the current legislation. I should declare an interest, as a trustee of Glasgow City Heritage Trust.

That would be a worthwhile way for the committee to move the petition forward.

The Deputy Convener: Thank you. Do members have any suggestions for actions?

Fergus Ewing: I am grateful to Mr Sweeney for giving a bit more colour, information and detail on what is behind the petition. However, the petition simply calls for additional funding to be provided. It does not say how much or what for, which is perhaps a bit unfortunate, because it is lacking in focus, I think.

Be that as it may, the response that we have had from Glasgow City Council is that it does not have the money for this. Frankly, that does not particularly surprise me, given the pressures that local authorities are facing. That seems to be the reality of the situation.

Given that and the lack of specificity, I propose that we close the petition under rule 15.7 of standing orders, on the basis that it is the responsibility of local authorities to manage their budgets and to allocate the total financial resources available to them on management and protection of conservation areas, and also that responsibility for upkeep of land or buildings in a conservation area rests with the owners.

Foyso Choudhury: As highlighted in the SPICe briefing, the Scottish Government has not taken any significant recent action on additional funding for the maintenance or enhancement of conservation areas. Can we ask the Scottish Government if it has any plans to release additional funding?

Maurice Golden: I support Mr Ewing's suggestion of closing the petition. It might be helpful for the petitioner, if they so wish, to look at coming back in due course with a more focused petition on the better management and protection of conservation areas. Even if the Scottish Government was to increase funding for local authorities, there is no requirement on said local authority to focus that on the better management and protection of conservation areas. It is unfortunate for the committee and the petitioner, but I feel that closing the petition is the only thing that we can do under these circumstances.

Oliver Mundell: I agree, and I think that we would get a better quality of response if the petition came back in a different form. The reality is that, if we were to contact organisations or local authorities on the current premise, we would move into what would be quite a political space around funding rather than something constructive. From my limited experience of the committee, it works best when there is a defined goal or something that is achievable at the end of the petition.

The Deputy Convener: Mr Choudhury, are you willing to go with the rest of the committee's recommendations?

Foyso Choudhury: If the majority is in favour of closing, yes. However, I still think that, since the Scottish Government has not done anything at all on this, we should write to ask whether it has any plans.

The Deputy Convener: If you are not willing to withdraw, I will have to go to a vote, Mr Choudhury.

Foyso Choudhury: Right—okay.

The Deputy Convener: I have just been told by the clerk that we can close the petition but also write to the Scottish Government to ask about additional funding. If members agree with that, I am more than happy to go with it. Are we agreed?

Members indicated agreement.

Sudden Cardiac Death (PE2067)

The Deputy Convener: Our next new petition is PE2067, on improving data on young people who are affected by conditions causing sudden cardiac death. The petition, which was lodged by Sharon Duncan, calls on the Scottish Parliament to urge the Scottish Government to commission research to establish how many people aged 14 to 35 are affected by conditions that cause young sudden cardiac death; clarify the number of people who die annually in Scotland from those conditions; and set up a pilot study to establish whether voluntary screening can reduce deaths.

Members will be aware that the petition has been lodged by the mother of parliamentary staffer David Hill, who tragically passed away while playing in an inter-parliamentary rugby match two years ago almost to the day, on 19 March 2022. I understand that members of the family have joined us in the public gallery, and we extend our condolences and a warm welcome to them.

As the petition notes, there is currently no screening programme for young people for conditions that put them at risk of sudden cardiac death. The SPICe briefing that we have received notes that there are difficulties in reaching agreement on the number of young people who are affected by sudden cardiac death. Those include the way in which deaths are classified and the fact that research focuses on athletes rather than the general population.

In responding to the asks of the petition, the Minister for Public Health and Women's Health notes the Government funding that has been provided to the west of Scotland inherited cardiac conditions service and the network for inherited cardiac conditions to deliver a sudden cardiac death project, with a focus on improving clinical pathways for families and enhancing data quality. The minister has also made inquiries to the UK National Screening Committee about plans to review its position on population screening for conditions that are associated with sudden cardiac death in the young.

We have received a submission from the petitioner, Ms Duncan, emphasising the importance of understanding the incidence of those conditions to developing treatment pathways. Ms Duncan also seeks clarity on the coding that is used to inform data on incidence, and highlights that no account is taken of deaths

such as David's, where the death is registered as being from natural causes, despite the post-mortem and follow-ups confirming a previously undiagnosed genetic cardiac condition.

Do members have any comments or suggestions?

Oliver Mundell: I should say that I know David's family well and it is lovely to see them in the public gallery. I have the utmost admiration for Sharon, his mother, who in very difficult circumstances has sought to see what she can do to help other families.

I have seen the SPICe briefing but, for me, it comes back to a point that Mr Ewing made on a previous petition: what if Sharon Duncan, the wider Hill family and some of the organisations that they are working with are right, and the National Screening Committee is wrong? Certainly, if it were my child, I would want to know that that question had been exhausted.

I would be keen for the committee to write to organisations with a relevant interest—Cardiac Risk in the Young, Save a Life for Scotland, the British Heart Foundation, St John Scotland and Chest Heart and Stroke Scotland—to seek their views and expertise on what is called for in the petition, and to find out about any work that they may be undertaking on conditions affecting sudden cardiac death.

I would also be keen for the committee to write to the UK National Screening Committee to ask when it expects to review the evidence for screening for sudden cardiac death, and to write to the network for inherited cardiac conditions seeking further details and an update on its sudden cardiac death project.

In addition, I would be keen to go back to the Scottish Government. It has provided quite a helpful response on the petition, but I would be keen to interrogate further its role in informing the National Screening Committee's work. It is one thing to ask questions and make representations, but I do not know how much more it can do.

Certainly, David Hill's family and Sharon Duncan, his mother, are not in a unique position. There are families like them in every part of Scotland, as we have seen through activities that have been undertaken in Parliament since David's death. The least that those people deserve is for us to try to understand how the process works and be absolutely sure that all the evidence has been taken into consideration.

Fergus Ewing: I entirely agree with everything that Oliver Mundell has just said. As he said, the minister, Jenni Minto, gave a fuller and more useful reply than some of the replies that we get,

which should be acknowledged, but there are many complex issues raised here.

I want to make one point on the record. The SPICe document refers to a UK Government blog that gives reasons as to why there should not be a screening programme. Those include that people might be unnecessarily anxious, that false reassurance might be provided, or that they might be encouraged to get treatments that may be inappropriate.

I felt uneasy about that reply. There must be many screening programmes where not that many people will be detected as having the particular problem for which the screening is designed, but that does not mean that we do not have screening. I just want to put on the record that those arguments seem very weak and actually pretty offensive to people who have lost a loved one because of the condition. I hope that the minister will take that into account.

In addition to the points that Mr Mundell raised, could we ask for high-level information on what screening programmes are undertaken, to find out whether some are undertaken where there is a serious risk of death but, statistically speaking, not many people in the population are at risk?

Foyso Choudhury: I agree with both of my colleagues. I understand that the UK National Screening Committee is conducting a review and that the next review is expected to be completed in 2024. Do we know exactly when in 2024 that will be, and will we be informed of the recommendations?

The Deputy Convener: Thank you for that. Is the committee agreed with all those recommendations?

Members indicated agreement.

The Deputy Convener: Thank you. I thank the members of David Hill's family for attending.

Public Sector Senior Management Salaries (PE2068)

The Deputy Convener: PE2068, which was lodged by John Dare, calls on the Scottish Parliament to urge the Scottish Government to commission an independent review of public sector salaries over £100,000 per annum and introduce an appropriate cap.

The SPICe briefing explains that the Scottish Government's public sector pay policy directly affects around 10 per cent of those who work in the public sector and that large parts of public sector pay are determined separately, although they are often in line with the Scottish Government's public sector pay policy.

The Scottish Government's response to the petition states that pay restraints for the highest paid and targeted uplifts for the lowest paid have been central to its approach to pay for many years. The submission notes that, in recent years, progressive pay awards have capped uplifts above a threshold of £80,000 and that an internal review of the chief executive framework is currently being undertaken. The review is due to conclude in spring 2024.

Do members have any comments or suggestions for action?

Fergus Ewing: This new petition raises extremely serious points of principle that have concerned a great many people, including myself, for a long time. As the petitioner points out in their central argument, there are vast numbers of people in the public sector who are paid in excess of £100,000. People doing various jobs—I will not mention any of them particularly, although some are going through my mind—are paid far more than the First Minister. We wonder whether the balance has somehow gone seriously askew.

11:30

This new petition raises an issue of considerable public interest, especially at a time of real financial pressure. It is hard to explain to people the pay of some chief executives. They are often the most invisible people in an organisation and you cannot actually get to meet or see them, although I had better not name any, or I will get myself into trouble. The reply from the Scottish Government is completely hopeless and does not answer the point at all, but the issue is not going to go away. Personally, I find the level of salary paid to some people in quangos to be incomprehensible.

I hope that I have made my position clear. We should keep the petition open and write to the Scottish Government to demand a little bit more substance to the reply. Will the Government ever tackle this problem, or do we just accept the situation and thole it, warts and all, obvious injustice though there is?

The Deputy Convener: Thank you for your comments, Mr Ewing. Do members agree with that?

Oliver Mundell: I would not dare disagree with it.

Members indicated agreement.

The Deputy Convener: On that note, we will move to the next petition.

General Practitioner Appointment Booking Systems (PE2070)

The Deputy Convener: PE2070, which was lodged by Lorraine Russo, calls on the Scottish Parliament to urge the Scottish Government to stop general practitioner surgeries from allowing only same-day appointment bookings and to enable patients to also make appointments for future dates.

The SPICe briefing highlights the 2021-22 health and care experience survey, which reported a sharp drop in the percentage of people finding it easy to contact their GP practice in the way that they want to. The briefing also notes that NHS England amended the 2023-24 GP contract to make clear that patients should be offered an assessment of need, or signposted to an appropriate service, at first contact with the practice. Practices will therefore no longer be able to request that patients contact them at a later time.

In 2023, the Scottish Government published the general practice access principles, which state that people should have a reasonable choice about how they access services, and that the method should be clear, understandable and transparent. The Scottish Government notes that the Healthcare Improvement Scotland primary care access programme has worked with more than 100 general practices to improve access arrangements.

Do members have any comments or suggestions?

Oliver Mundell: I strongly support the aims of the petition. I see the problem regularly as a constituency MSP, particularly with vulnerable and elderly patients, including those who have to travel, and those with long-term chronic conditions, who are all struggling to interact with the same-day policy.

It would be worth while trying to find out how prevalent the issue is across the country. We could achieve that by writing to the Scottish Government to ask how many GP practices are now operating with a same-day-only appointment system. We should also seek its views on the health and care experience survey results and on NHS England's recent change to the GP contract, which now states that patients should be offered an assessment of need or signposted to an appropriate service at their first contact with the practice, with practices no longer being able to request that the patient contact them at a later time. We could ask the Scottish Government whether it is looking at a similar approach and, if it is, whether there is flexibility to make a similar change in the existing general medical services contract.

I do not want to add unduly to the committee's workload, but I would also be interested in knowing the views of health boards across Scotland on the issue, as they have a responsibility in relation to primary care. There are examples around the country of poor access to primary care causing wider challenges in the health service, with higher numbers of people than average presenting, for example, at accident and emergency. I would be keen to ask health boards whether this practice is happening in the areas that they are responsible for and how common they think it is.

Foyso Choudhury: I totally agree with Oliver Mundell. Quite a lot of constituents have been saying to me that they cannot sleep at night if they have to make a phone call in the morning. The time window to call is between 8 and 9, and people cannot get through. Sometimes they are told to go online, but many people cannot go online. It is time for the Government to step up, talk to the GPs and find a solution, because it is a major issue.

The Deputy Convener: There are not many members round this table whose mailbag will not be continually filled with letters about on-the-day appointments.

Is the committee happy with those recommendations?

Members indicated agreement.

The Deputy Convener: That concludes the public part of the meeting. Our next meeting will take place after recess, on Wednesday 17 April 2024.

We now move into private session to consider agenda items 4 and 5.

11:35

Meeting continued in private until 12:03.

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Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447
Fax: 0131 348 5423

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