The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITIONS COMMITTEE

AGENDA

16th Meeting, 2013 (Session 4)

Tuesday 1 October 2013

The Committee will meet at 10.00 am in Committee Room 2.

1. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.

2. **PE1463 - effective thyroid and adrenal testing, diagnosis and treatment:** The Committee will take evidence in a round table format from—

   Michael Matheson, Minister for Public Health, Professor Graham Leese, CMO Specialty Adviser for Endocrinology, Mark O'Donnell, Head of Quality and Planning Division, and Lesley Metcalf, Policy Manager, Clinical Priorities Team, Scottish Government;

   Sandra Whyte, Marian Dyer, and Lorraine Cleaver, Petitioners;

   Tara Wilmott, Head of Approvals, Education and Standards Directorate, General Medical Council;

   Dr Anthony Toft, Consultant Physician, Spire Murrayfield Hospital, Edinburgh;

   Lyn Mynott, Chair/Chief Executive, Thyroid UK;

   Professor Graham Williams, President, British Thyroid Association and Treasurer, Society for Endocrinology.

3. **Consideration of new petitions:** The Committee will consider—

   PE1486 by Julie Wales on primary one class sizes and sibling placing requests

   and take evidence from—

   Julie Wales.

4. **Consideration of current petitions:** The Committee will consider—

   PE1404 by Stephen Fyfe, on behalf of Diabetes UK Scotland, on access to insulin pump therapy;
   PE1453 by Caroline Wilson, on behalf of the Evening Times and Kidney Research UK (Scotland), on an opt-out system of organ donation in Scotland;
   PE1477 by Jamie Rae, on behalf of the Throat Cancer Foundation, on a gender neutral Human Papillomavirus vaccination;
   PE1479 by Andrew Muir on complaints about solicitors;
   PE1481 by Pat Rafferty, Harry Donaldson and Harry Frew, on behalf of Unite, GMB and UCATT, on an end to blacklisting in Scotland.

5. **Tacking child sexual exploitation in Scotland:** The Committee will consider its approach to the next stage of the inquiry.

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Agenda item 2

PE1463	Note by the Clerk	PPC/S4/13/16/1
PRIVATE PAPER		PPC/S4/13/16/2
Petitioner Letter of 26 June 2013		PE1463/P
Medicines and Healthcare Products Regulatory Agency Letter of 5 August 2013		PE1463/Q
Amdipharm Mercury Letter of 20 August 2013		PE1463/R
Thyroid Patient Advocacy Email of 19 September 2013		PE1463/S
Royal College of Physicians Letter of 11 September 2013		PE1463/T
Dr John E Midgley Letter of 20 September 2013		PE1463/U
Petitioner Letter of 24 September 2013		PE1463/V
Eric Pritchard Letter of 24 September 2013		PE1463/W

Agenda item 3

PE1486	Note by the Clerk	PPC/S4/13/16/3

Agenda item 4

PE1404	Note by the Clerk	PPC/S4/13/16/4
Scottish Government Letter of 15 May 2013		PE1404/BB
Scottish Government Letter of 25 September 2013		PE1404/CC
PE1453	Note by the Clerk	PPC/S4/13/16/5
PE1477	Note by the Clerk	PPC/S4/13/16/6
Health Protection Scotland Letter of 31 July 2013		PE1477/A
Professor Heather Cubie Letter of 7 August 2013		PE1477/B
Cancer Research UK Letter of 9 August 2013		PE1477/C
Scottish Government Letter of 15 August 2013		PE1477/D
Petitioner Letter of 6 September 2013		PE1477/E
PE1479	Note by the Clerk	PPC/S4/13/16/7
Mental Welfare Commission Letter of 7 June 2013		PE1479/A
Law Society of Scotland Letter of 27 May 2013		PE1479/B
Scottish Government Letter of 29 July 2013		PE1479/C
Scottish Legal Complaints Commission Letter of 7 August 2013		PE1479/D
Petitioner Letter of 8 September 2013		PE1479/E
PE1481	Note by the Clerk	PPC/S4/13/16/8
UK Contractors Group Letter of 1 August 2013		PE1481/A
Information Commissioner's Office Letter of 2 August 2013		PE1481/B
Scottish Government Letter of 17 September 2013		PE1481/C

Scottish Trades Union Congress of 18 September 2013	PE1481/D
Construction Scotland Letter of 25 September 2013	PE1481/E

Agenda item 5

PRIVATE PAPER	PPC/S4/13/16/9
PRIVATE PAPER	PPC/S4/13/16/10

Public Petitions Committee

16th Meeting, 2013 (Session 4), Tuesday 1 October 2013

PE1463 on effective thyroid and adrenal testing, diagnosis and treatment

Note by the Clerk

PE1463 – Lodged 19 December 2012
Petition by Sandra Whyte, Marian Dyer and Lorraine Cleaver calling on the Scottish Parliament to urge the Scottish Government to take action to ensure GPs and endocrinologists are able to accurately diagnose thyroid and adrenal disorders and provide the most appropriate treatment.
Link to petition webpage

Purpose

1. The Committee last considered this petition on 25 June 2013 and agreed to hold a round-table discussion on the issues raised by the petition at a future meeting. Since then, several submissions have been received. Following the round-table discussion, the Committee is invited to agree what action it wishes to take on the petition.

Background

2. Hypothyroidism is a condition in which the thyroid gland produces insufficient amounts of Thyroxine, which can result in symptoms such as tiredness, weight gain and depression. It is estimated that 3.7% of patients registered with a GP practice in Scotland have been diagnosed with hypothyroidism[1], resulting in an estimated 103,000 people being seen annually by either a GP or practice nurse[2].

3. A patient presenting with the above symptoms would typically undergo a thyroid function test to confirm diagnosis. This test measures the levels of Thyroid Stimulating Hormone (TSH) and free Thyroxine (T4) in a person's blood. Once diagnosed, hypothyroidism is usually treated in primary care with the prescription of Thyroxine (T4) tablets (Levothyroxine).

4. SIGN has not published any guidelines on the diagnosis and management of hypothyroidism. However there are guidelines which were co-published in 2008 by a number of professional bodies[3], and revised in June 2011[4].

5. The guidelines specifically address point 3 of the petition which relates to alternative treatments to T4 alone, including the combined use of T3 (see footnote [5]) and T4. It states:

[1] ISD Scotland (Online) Quality and Outcomes Framework Prevalence Data – Hypothyroidism
[2] ISD Scotland (Online) Practice Team Information Statistics – Hypothyroidism
[3] Endorsed by the Royal College of Physicians, the Association for Clinical Biochemistry, British Thyroid Foundation, Society for Endocrinology, Royal College of General Practitioners, British Thyroid Association, British Society of Paediatric Endocrinology and Diabetes.
[4] Royal College of Physicians (2011) The Diagnosis and Management of Primary Hypothyroidism [online]

"The RCP does not support the use of thyroid extracts or levothyroxine and T3 combinations without further validated research published in peer reviewed journals. Therefore, the inclusion of T3 in the treatment of hypothyroidism should be reserved for use by accredited endocrinologists in individual patients."

Scottish Parliament Action

6. Elaine Smith MSP, who made a submission to the Committee, has lodged a number of questions and a motion on this issue since 2010, most recently question S4W-15415 on the impact of the recent shortage of liothyronine (T3) medication.

Committee Consideration

7. Following initial consideration on 5 February 2013, a large number of submissions (approximately 185) were received, the majority of which were personal accounts from thyroid and adrenal disorder patients, supporting the petition. Two charitable organisations also submitted their support.

8. The General Medical Council stated that it was satisfied that the submissions from the respective Royal Colleges in relation to the content and requirements of the curricula that cover thyroid and adrenal testing fulfil its standards. The Scottish Intercollegiate Guidelines Network confirmed that it has no guideline, or plans for such, on thyroid and adrenal disorders.

9. The Scottish Government acknowledged that consideration should be given to exploring a mechanism to examine all published clinical evidence. Following its meeting on 16 April 2013, the Committee wrote to the Scottish Government recommending it establish a short-life working group to do this. In its response, the Scottish Government stated that it has already taken steps to inform its decision. This included requesting an evidence note from the Scottish Health Technologies Group at HIS which, if accepted, may take four to six months to complete.

10. The Committee considered the petition again on 28 May 2013 and, at its meeting on 25 June 2013, took evidence from the Cabinet Secretary for Health and Wellbeing on the interruption to the supply of Liothyronine medicine, and other related issues. Following this, the Committee agreed a list of individuals and organisations to invite to participate in a round-table discussion on the petition.

11. Since that meeting, the following submissions have been received—

- PE1463/P: Petitioner Letter of 26 June 2013
- PE1463/Q: Medicines and Healthcare Products Regulatory Agency Letter of 5 August 2013
- PE1463/R: Amdipharm Mercury Letter of 20 August 2013
- PE1463/S: Thyroid Patient Advocacy Email of 19 September 2013

[5] T3 refers to triiodothyronine, another hormone produced by the thyroid gland.

- PE1463/T: Royal College of Physicians Email of 11 September 2013
- PE1463/U: Dr John E Midgley Letter of 20 September 2013
- PE1463/V: Petitioner Letter of 24 September 2013
- PE1463/W: Eric Pritchard Letter of 24 September 2013

12. The first three of these submissions concern the recent interruption to the supply of Liothyronine medicine and the evidence session on this issue with the Cabinet Secretary for Health and Wellbeing. The petitioners raise questions over the management of this drugs shortage, highlighting that the issue was brought to the attention of the MHRA by patients and not the manufacturer. They also reiterate their concerns over the guidance to clinicians on prescribing unlicensed drugs, and the efficacy of the medication that is prescribed.

13. The Royal College of Physicians submitted its published statement on the diagnosis of primary hypothyroidism, as well as an article from the BMJ. In its email, the College states:

    "We have no plans to review our policy"; and, "We do not intend to respond to the petition. This is because we have already responded over a period of time in England, and produced our official response".

14. Of those the Committee invited, the Royal College of Physicians is the only organisation that did not field a representative for the round-table discussion. Dr Midgley, Thyroid Patient Advocacy and E Pritchard have submitted evidence in order to inform the Committee's consideration of those issues that are likely to be raised during the round-table discussion.

Action

15. Subject to the outcome of the round-table discussion, the Committee is invited to agree what action it wishes to take. Options include—

    (1) To defer consideration of the petition to a future meeting to await completion of the work being undertaken by the Scottish Government;

    (2) To recommend that the Minister propose to SIGN that guidelines be developed on the diagnosis and management of hypothyroidism;

    (3) To take any other action that the Committee considers appropriate.

Public Petitions Committee

16th Meeting, 2013 (Session 4), Tuesday 1 October 2013

PE1486 on primary one class sizes and sibling placing requests

Note by the Clerk

PE1486 – Lodged 22 June 2013
Petition by Julie Wales calling on the Scottish Parliament to urge the Scottish Government to improve national quality in the primary one academic year by reducing average class sizes to 18 with an upper limit of 20; direct additional funding to resource the measures taken with appropriate staff, accommodation and physical resources; protect the family unit through amendment to current policy to ensure that siblings are not refused placing requests to be schooled alongside family members, and proactively prepare for future upsurges in the population to avoid displacement of siblings in primary schools.
Link to petition webpage

Purpose

1. This is a new petition that the Committee is asked to consider and decide what action it wishes to take. The Committee has invited the petitioner to speak to the petition.

Background – the following information is taken from the SPICe briefing

Class size

2. The petitioners call for an average class size of 18 and an upper limit of 20. Currently, the legal upper limit for P1 is 25. The table below shows the proportion of P1 pupils in classes of different sizes over the last six years. This shows that 42.6% of P1 pupils were in classes under 20 in 2012 compared with around a quarter in 2006 (26.5%).

	2006	2007	2008	2009	2010	2011	2012
1 to 18	15.9%	21.9%	22.4%	22.2%	30.1%	29.4%	27.7%
19 - 20	10.6%	16.3%	15.5%	15.0%	11.1%	14.5%	14.9%
21 - 25	40.6%	59.9%	58.9%	56.0%	45.8%	55.0%	56.5%
26 or more	32.9%	1.9%	3.3%	6.8%	12.9%	1.1%	0.9%
total pupils	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Scottish Government, Table 3.3 school education statistics 2012.

3. The average P1 class size varies from 15.5 in East Renfrewshire to 23 in Midlothian. The table below show the number of local authorities for different average class sizes in 2012. There were three local authorities with an average P1 class size of 18 – the level requested by the petitioner.

average P1 class average class size	number of local authorities
18 or fewer	3
18.1 to 20.0	8
20.1 to 20.9	10
21.0 to 21.9	9
22 to 23	2

Source: Scottish Government, table 6.6. Pupil census supplementary data

Placing requests

4. The Education (Scotland) Act 1980 at section 28A, provides that local authorities shall place a pupil in the school chosen by the parents unless certain factors apply. One of these factors is that it would create a need to employ an extra teacher. This, combined with statutory class size limits, means that where a P1 class is already at the legal maximum of 25 pupils a placing request is likely to fail. The local authority is not required to refuse a placing request. Rather it has the ability to do so if the statutory factors for refusal apply - eg if an extra teacher would be required.

5. Parents can appeal against a failed placing request to an Education Appeal Committee and subsequently to the sheriff. If that appeal succeeds the pupil can be placed in the P1 class even if this takes the class above the legal maximum. However, the appeal has to succeed on its own merits – it cannot be used merely to circumvent class size limits. This issue was considered in Comhairle Nan EileanSiar v. Scottish Ministers [2013 CSIH 45].

Local authority guidelines

6. Under section 28B of the 1980 Act, local authorities are required to develop guidelines on their priorities for deciding admissions if a school is oversubscribed. These policies will often give priority to siblings. Once a class is full, the next placing request may be refused as it would require the creation of an extra class and employment of an extra teacher.

Population projections

7. The petition refers to an ‘upsurge’ in the pupil population. The birth rate is projected to increase until 2017, after which it is expected to drop steadily. The change is uneven across Scotland, with some local authorities expected to experience much larger percentage increases than others. Between 2010 and 2020 the largest percentage increases are expected in East Lothian (27% more births in 2020 than in 2010), Perth and Kinross (26%) and Stirling (18%). By around 2024, however, births are expected to return to 2010 levels. There will of course be a five year lag on pressure on P1 classes, so we might expect P1 cohorts to increase until around 2025 (source: GROS Population projections).

Scottish Parliament Action

8. There have been previous petitions on the issue of class sizes. For example, PE1046 was lodged by the EIS in 2007. This called on the Scottish Parliament to "support significant reductions in class sizes in Scottish publicly funded schools during the lifetime of the next Scottish Parliament." In September 2008, the then Education, Lifelong Learning and Culture Committee closed the petition, noting that they had held evidence sessions on the issue and intended to continue to work on the class size issue. During session 3 that Committee held a number of evidence sessions on the Scottish Government's policy of class sizes of 18 in P1-3.

9. In 2009, petition 1284 called for the Scottish Government and councils to "desist from applying any policy on class sizes which conflicts with the numbers stipulated by law and the statutory rights of parents under the Education (Scotland) Act 1980 to choose the school they wish their children to attend."

10. Recent parliamentary questions include S4W-13851 in March 2013. Richard Simpson, MSP asked about the application of the class size legislation to children of armed services personnel.

Scottish Government Action

11. The Scottish Government legislated in 2010 for maximum P1 classes of 25 and has a policy of encouraging classes of 18. COSLA has agreed to maintain teacher numbers in line with pupil numbers. A summary of policy on class sizes is available here. In March 2013, Cabinet Secretary Mike Russell stated that: "This Government is committed to progressive reductions in class sizes in primaries 1 to 3, and in areas of greatest deprivation." He also stated that there would be a consultation on class sizes.

Action

12. The Committee is invited to agree what action it wishes to take on the petition. Options include—

    (1) To seek any information. For example, the Committee may wish to ask:

    Scottish Government—
    COSLA—

    - When do you expect to consult on class sizes?

    (2) To take any other action that the Committee considers appropriate.

Public Petitions Committee

16th Meeting, 2013 (Session 4), Tuesday 1 October 2013

PE1404 on access to insulin pump therapy

Note by the Clerk

PE1404 – Lodged 27 September 2011
Petition by Stephen Fyfe on behalf of Diabetes UK Scotland calling on the Scottish Parliament to urge the Scottish Government to conduct an immediate review into the provision of insulin pump therapy (CSII) in Scotland in order to address the low and inequitable access across the country.
Link to petition webpage

Purpose

1. The Committee considered the petition at its meeting on 14 May 2013 and took evidence from Michael Matheson, Minister for Public Health. The Committee noted that the next four-monthly report to the Scottish diabetes group was to be made in August and agreed to consider the petition again in light of that report. The Committee is invited to consider what action it wishes to take on the petition.

Background – the following information is taken from the SPICe briefing

2. Insulin treatment is the only way to manage type I diabetes and this is generally achieved by a regime of multiple dose injections (MDI). These are subcutaneous injections which are generally administered two to four times a day, with carefully managed doses that may need to be adjusted to account for extra physical activity or large meals. Insulin pumps are an alternative to the MDI regime and provide continuous subcutaneous insulin infusion (CSII) which delivers a constant base supply of fast-acting insulin to the bloodstream and which can be adjusted to suit an individual patient's needs in terms of dose.

3. In 2010 the Scottish Diabetes Survey, carried out by the Scottish Diabetes Survey Monitoring Group, included the numbers of patients with type I diabetes and the percentage of those patients using insulin pumps. The Diabetes Action Plan 2010 estimated that up to 4000 people in Scotland may benefit from insulin pumps, but only 696 patients across the country were using this technology in 2010. NHS Fife had the highest percentage of type I patients using pumps (5.9%) while NHS Western Isles had the lowest percentage with only 0.6% of the type I population using insulin pumps. The complete figures for insulin pump usage by Health Board are provided on page 2 (Table 1) of the petitioner's submission.

4. Insulin pump therapy has been appraised in National Institute of Clinical Excellence (NICE) multiple technology appraisal (MTA) number 151, which was approved for use in NHS Scotland. This guidance recommends the use of insulin pump therapy as a '*possible treatment for children under 12 … if treatment with daily injections is not practical or not considered appropriate*'.

These children would be expected to undergo a trial of MDI between the ages of 12 and 18. Additionally it recommends consideration of insulin pump therapy in adults and children aged 12 and over if:

- Attempts to reach target haemoglobin A1c (HbA1c) levels with multiple daily injections result in the person having 'disabling hypoglycaemia', or

- HbA1c levels have remained high (8.5% or above) with multiple daily injections (including using long-acting insulin analogues if appropriate) despite the person and/or their carer carefully trying to manage their diabetes.

5. MTA 151 goes on to specify that treatments with insulin pumps need to be initiated by trained specialists who can properly advise and train the patient in the correct use of the equipment. Additionally, it recommends that use of the insulin pump should only be continued if '*there has been a sustained improvement in the control of their blood glucose levels'.* The Scottish Intercollegiate Guidelines Network (SIGN) is the department of Healthcare Improvement Scotland (HIS) that develops clinical practice guidelines for NHS Scotland. These guidelines are developed for conditions where variations in treatments across Scotland have been observed, in an attempt to standardise care throughout the country.

6. SIGN Guidance 116 provides guidance on the management of diabetes, including the possible use of insulin pump (CSII) therapies. It makes the following five recommendations:

- CSII therapy is associated with modest improvements in glycaemic control and should be considered for patients unable to achieve their glycaemic targets.

- CSII therapy should be considered in patients who experience recurring episodes of severe hypoglycaemia.

7. In August 2010 the Scottish Government published the latest version of the Diabetes Action Plan which included a commitment to future equitable provision of insulin pumps to those patients who may benefit from this therapy. It contained a number of actions to promote insulin pump therapy.

8. In the Diabetes Action Plan, each of the 14 area NHS Boards outlined their planned investment in insulin pump therapy for the following three years, along with targets for the number of new patients allowed to access this technology. Boards are expected to '*have made significant and sustained progress in increasing access to insulin pump therapy in line with the latest clinical guidance*' by the end of the three year period covered by the action plan (2010-2013). In response to Parliamentary Question (S4O-00120), regarding insulin pump provision in the Greater Glasgow and Clyde area, the Deputy First Minister and Cabinet Secretary for Health, Wellbeing and Cities Strategy Nicola Sturgeon MSP stated that 'later this month [September 2011]

we [the Scottish Government] will write to those boards that have shown less progress, asking what further action they will take.'

Public Petitions Committee Consideration

9. The petition was lodged in September 2011. The Committee wrote to a number of health boards to establish what criteria were used when deciding whether to provide insulin pump therapy and how many insulin-pump trained clinicians there were.

10. On 27 February 2012 the Scottish Government issued guidance to all health boards in the form of a Chief Executive Letter (CEL) setting targets for the minimum number of additional pumps each board is expected to provide. In In May 2012 the Scottish Government confirmed that the focus was to be on delivering pumps to 25 per cent of young people with type 1 diabetes by 2013 and tripling the number of pumps available to people of all ages with diabetes within three years.

11. In June 2012 the Committee met informally with NHS Greater Glasgow and Clyde and patients to discuss the Board's plans for meeting the targets. In March 2013 the Committee took evidence from NHS Western Isles at the meeting in Stornoway.

12. Board action plans have been published and are available on the Diabetes in Scotland website. The Scottish Government is taking action to ensure that all Boards are providing the required numbers of pumps.

13. The Scottish Government's letter of 25 September 2013 provides an update on insulin pump provision across Scotland and the action being taken.

Action

14. The petition called for the Scottish Government to undertake a review into insulin pump provision and to take action to address issues of access. As the Government has undertaken a review and is taking action, it is suggested that the Committee may wish to close this petition under Rule 15.7.

Public Petitions Committee

16th Meeting, 2013 (Session 4), Tuesday 1 October 2013

PE1453 on an opt-out system of organ donation in Scotland

Note by the Clerk

PE1453 – Lodged 1 November 2012
Petition by Caroline Wilson, on behalf of The Evening Times and Kidney Research UK (Scotland), calling on the Scottish Parliament to urge the Scottish Government to introduce an opt-out system of organ donation in Scotland to help save more lives.
Link to petition webpage

Purpose

1. The Committee last considered this petition on 14 May 2013 and agreed to await the publication of the new *Donation and Transplantation Plan for Scotland 2013-2020* and *Taking Organ Transplantation to 2020*, the UK Strategy. These have both now been published and the Committee is invited to agree what action it wishes to take on the petition.

Background

2. Currently, the law across the UK maintains the opt-in system for cadaveric[1] organ donation[2]. However, the Human Transplantation (Wales) Act received Royal Assent on 10 September 2013, which introduces a soft opt-out system for consent to deceased organ and tissue donation in Wales from 2015.

3. The UK Organ Donation Taskforce (ODT) established by the UK Government argued that a move to an opt-out system, while potentially offering real benefits, carried significant risk if not introduced carefully and with due consideration. It made 14 recommendations intended to offer a mechanism for increasing organ donation without the need to move to an opt-out system.

4. This petition has emerged as a result of the Evening Times campaign calling for an opt-out system for organ donation in Scotland. Alongside this, NHS Greater Glasgow and Clyde are also currently running a campaign – Respect My Dying Wish – which focuses on promoting the NHS organ donor register and encouraging people to let their family members know their wishes.

Scottish Parliament Action

5. In the current Parliamentary session, a Motion (S4M-04418) was debated in the Chamber on 1 November 2012 on a move to a system of presumed consent (opt-out) in Scotland. The Official Report of this debate can be found here.

[1] "Cadaveric organ transplant" (as opposed to living transplant) refers to the transplant of organs or tissue that takes place at the time of the individual's death.
[2] Payne, J (2008) Organ Donation. SPICe briefing. Available here

6. There have been several other motions and parliamentary questions on the issue of organ donation, most recently Motion S4M-07258, by Drew Smith, welcoming the approval of the Human Transplantation (Wales) Bill by the National Assembly for Wales; and Question S4W-16412, by Aileen McLeod, on organ donation and transplantation rates.

Committee Consideration

7. The Committee considered this petition for the first time on 11 December 2012 and sought the views of several stakeholders. The Scottish Government referred to the work of the ODT and the implementation of further measures in Scotland. Some members of the Scottish Transplant Group were not supportive of a move to opt-out but the group did support the on-going work to improve donation rates.

8. The BMA "strongly supports a properly implemented soft opt-out system for Scotland" and believes this would have a positive impact on donation rates. NHS Blood and Transplant does not believe that opt-out alone would increase donations rates but the approach should be multi-faceted and help raise awareness.

9. The Committee considered the petition again on 19 February 2013 and 14 May 2013, and agreed to await the publication of the new Scottish plan for donation and transplantation and the five year formal review of progress, as recommended by UK ODT.

10. Since then, the *Donation and Transplantation Plan for Scotland 2013-2020* and *Taking Organ Transplantation to 2020*, the UK Strategy, have both been published. The new provisions in Wales come in to effect in December 2015.

11. In relation to the petition, recommendation 2 in the *Donation and Transplantation Plan for Scotland 2013-2020* states:

    "*The Scottish Government should await evaluation of the move to opt-out in Wales before making any decision about the introduction of opt-out in Scotland.*"

Action

12. The Committee is invited to agree what action it wishes to take. It is suggested that the Committee may wish to consider closing the petition under Rule 15.7, on the basis that the Scottish Government has very recently set out its position in the *Donation and Transplantation Plan for Scotland 2013-2020* and does not intend to move to an opt-out system for now.

Public Petitions Committee

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PE1477 on gender neutral Human Papillomavirus vaccination

Note by the Clerk

PE1477 – Lodged 4 May 2013
Petition by Jamie Rae, on behalf of the Throat Cancer Foundation, calling on the Scottish Parliament to urge the Scottish Government to extend the current Human Papillomavirus (HPV) immunisation programme in Scotland to include boys.
Link to petition webpage

Purpose

1. The Committee considered this petition for the first time on 11 June 2013 and agreed to write to the Scottish Government, Health Protection Scotland, Cancer Research UK, Stonewall, Gay Men's Health, the Scottish Cancer Coalition, Professor Heather Cubie, University of Edinburgh and Professor Margaret Stanley, University of Cambridge. Several responses have been received and the Committee is invited to agree what action it wishes to take on the petition.

Background

2. The petitioner contends that there is inadequate protection for males in the Human Papillomavirus (HPV) immunisation strategy, which is currently restricted to adolescent girls. The petitioner therefore proposes that the HPV immunisation programme should include adolescent boys as well as girls.

3. Five per cent of all cancers are attributed to HPV infections[1]. Infection with HPV represents the most common sexually transmitted virus world-wide. Consequently, the majority of HPV-associated malignancies arise in tissues associated with sexual contact.

Prevalence of HPV infection in Scotland

4. A recent study tested unvaccinated Scottish adolescents for infection with different strains of HPV[2]. The study found a low prevalence of infection in 11-14 year olds (1%). In girls aged 15-18 there was a HPV infection prevalence of 15.2%; in the same age group for boys the prevalence was considerably lower at 2.9%. This lower prevalence could be associated with the poor sensitivity of the test in boys, shorter duration of infection and tendency to have younger female partners with lower rates of infection. The study concluded that further research was required to define the contribution of female vaccination to the protection of males. This is commonly termed 'herd immunity'.

[1] Stanley, M. (2012). Perspective: vaccinate boys too. Nature, 488: S10
[2] O'Leary, M.C., Sinka, K., Robertson, C., *et al* (2011). HPV type-specific prevalence using a urine assay in unvaccinated male and female 11- to 18-year olds in Scotland. Br J Cancer, 104(7):1221-6.

5. 'Herd Immunity' relates to the indirect protection that is conferred to the unvaccinated population by vaccinating a majority, or other critical sub-population, thereby reducing the circulation of the virus.

6. A strategy of ensuring high-coverage (>80%) HPV vaccination in adolescent girls is expected to ensure that the risk of viral infection is reduced in the male population[3]. An immunisation programme for girls aged 12-13 years was introduced in Scotland in September 2008. The last period for which vaccination data is available (2011/12) demonstrated high uptake of the HPV vaccination in Scotland with 93.1% and 91.7% of girls in S2 receiving the first and second doses respectively[4]. However, this type of strategy does mean that some key groups are left unprotected, including 'men who have sex with men' (MSM) or men who travel to areas with low vaccine uptake or no vaccination policy.

Global immunisation status

7. Currently, 18 European countries vaccinate adolescent girls, but none have introduced a gender-neutral vaccination strategy. The considerable cost associated with female vaccination is often cited as the main obstacle in introducing gender-neutral immunisation strategies[5].

8. Only Australia and the USA recommend the vaccination of adolescent males. In Australia, the average coverage across states was 70.6% for girls turning 15 in 2011/12[6]. The male vaccination strategy started in February 2013 and so no data is available on uptake. On 12 July 2012, the Australian Minister for Health, announced funding of AUS$21.1 million (£14.3m) over four years to extend the National HPV Vaccination Program to include males[7]. This was in response to a change in the position of the Pharmaceutical Benefits Advisory Committee following analysis of cost-effectiveness. As HPV-associated cancers in men take decades to develop there is no evidence available on the impact of HPV vaccination on adolescent boys. However, recent data from Australia relating to the incidence of genital warts in men attributable to female vaccination has been published[8]. In a 5 year period, 9% of people presenting at sexual health clinics for the first time were diagnosed with genital warts. In heterosexual men under 21 years, the proportion with genital warts rose in the pre-vaccination period, from 7.2% in 2004 to 12.1% in 2007, and then decreased in the vaccination period to 2.2% in 2011. In MSM, there was a modest decrease from 8.5% in 2007 to 6.4% in 2011, however, no decreasing trend was found in bisexual men. The paper concluded that the decline in MSM was unlikely to be due to herd immunity.

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[3] Jit, M., Choi, Y.H., and Edmunds, W.J. (2008). Economic evaluation of human papillomavirus vaccination in the United Kingdom. BMJ, 337:a769

[4] HPV Immunisation Uptake Rates, 25th September 2012, Information Services Division, NHS Scotland Publication Summary

[5] Sander, B.B., Rebolj, M., Valentiner-Branth, P., *et al* (2012). Introduction of human papillomavirus vaccination in Nordic countries. Vaccine, 30(8):1425-1433

[6] Department of Health and Ageing, Immunise Australia Program Statistics 2011/12

[7] Department of Health and Ageing, Australian Government Health Minister's Statement July 2012

[8] Hammad, A., Donovan, B., Wand, H., *et al* (2013). Genital warts in young Australians five years into national human papillomavirus vaccination programme: national surveillance data. BMJ, 346:f2032

Scottish Government Action

9. Advice on vaccination and immunisation is provided to Scottish Ministers through the Joint Committee for Vaccination and Immunisation (JCVI), a statutory committee that advises the Secretary of State for Health and Welsh Ministers.

10. Extending HPV vaccination provision to male immunisation was discussed by the (JCVI) on 13 June 2012 and presented the following conclusions summarised here:

    - Emerging evidence suggests that HPV vaccination could provide protection against a wider range of HPV-related diseases. The committee noted that the potential impact of HPV vaccination on non-cervical cancers would make the current HPV immunisation programme even more cost effective. However, it would remain the case that, given the expected effects of immunisation on HPV transmission and the indirect protection of boys that accrues from high levels of coverage of HPV vaccination in girls, vaccination of boys in addition to girls was unlikely to be cost effective.
    - MSM are likely to get less direct protection from the current strategy and vaccination strategies to protect MSM should be evaluated. Data was limited on the prevalence of HPV infection in MSM, but research was underway.

11. On 14 August 2012, the JCVI issued a call for evidence to support an HPV immunisation programme review. In addition to questions relating to the existing strategy, the JCVI was also interested in the potential benefits of HPV vaccination for those not currently offered immunisation, e.g. MSM group. Subsequently, Health Protection Scotland (HPS) has responded to the secretariat of the JCVI stating, 'we have no Scottish data on the prevalence of HPV in MSM - however the Scottish HPV Reference Laboratory are looking to collaborate with University College London in relation to a project which incorporates genotyping of MSM attending an anoscopy service'[9]. The JCVI plans to reconsider extension of the vaccination program in June 2013. The Scottish Government will be waiting on further advice arising from this meeting[10].

Scottish Parliament Action

12. Three motions have been lodged to debate the extension of HPV vaccination provision (Motions: S3M-00692, S4M-05613, S4M-06167), though none have been debated.

Committee Consideration

13. The Committee considered this petition for the first time on 11 June 2013 and took evidence Jamie Rae, Chief Executive, and Ewan Lumsden, Information and

[9] Health Protection Scotland, personal communication, April 2013

[10] Scottish Government, personal communication, May 2013

Support Manager, Throat Cancer Foundation. Following this, the Committee agreed to write to the Scottish Government, Health Protection Scotland, Cancer Research UK, Stonewall, Gay Men's Health, the Scottish Cancer Coalition, Professor Heather Cubie, University of Edinburgh and Professor Margaret Stanley, University of Cambridge. Since that meeting, the following responses have been received—

- PE1477/A: Health Protection Scotland Letter of 31 July 2013
- PE1477/B: Professor Heather Cubie Letter of 7 August 2013
- PE1477/C: Cancer Research UK Letter of 9 August 2013
- PE1477/D: Scottish Government Letter of 15 August 2013
- PE1477/E: Petitioner Letter of 6 September 2013

14. The Scottish Government highlights the advice from the JCVI that vaccination of boys is not recommended, but states that all the available evidence is continually monitored. Health Protection Scotland recommends more research be undertaken but does not support the extension of the HPV immunisation programme to include boys until further studies are done.

15. Professor Heather Cubie summarises the evidence that is currently available, highlighting that the cost of vaccinating both boys and girls could be offset by a reduction in costs for the treatment and care of those patients that develop cancer as a result of the HPV. Cancer Research UK supports offering the HPV vaccination to both boys and girls and set out its reasons for this view.

16. The petitioner set outs his reasons why the Scottish Government can and should take action now in light of the expert opinion in Scotland that supports a gender neutral vaccination.

17. No responses were received from Stonewall, Gay Men's Health, the Scottish Cancer Coalition and Professor Margaret Stanley, University of Cambridge.

Action

18. The Committee is invited to consider what action it wishes to take. Options include—

    (1) To seek submissions from those individuals and organisations that did not respond to the Committee's request for views;

    (2) To refer the petition, under Rule 15.6.2, to the Health and Sport Committee for further consideration as part of its remit;

    (3) To take any other action that the Committee considers appropriate.

Public Petitions Committee

16th Meeting, 2013 (Session 4), Tuesday 1 October 2013

PE1479 on complaints about solicitors

Note by the Clerk

PE1479 – Lodged 10 May 2013
Petition by Andrew Muir calling on the Scottish Parliament to urge the Scottish Government to amend the Legal Profession and Legal Aid (Scotland) Act 2007 by removing any references to complaints being made timeously.
Link to petition webpage

Purpose

1. The Committee considered this petition for the first time at its meeting on 28 May 2013. The Committee agreed to seek views. Responses have been received and the Committee is asked to consider and agree what action to take on the petition.

Background – the following information is taken from the SPICe briefing

2. The Scottish Legal Complaints Commission ("SLCC") was set up by the Legal Profession and Legal Aid (Scotland) Act 2007 ("the Act") and acts as the initial gateway for complaints against the legal profession in Scotland,[1] with complaints about the conduct of a legal professional being referred by the SLCC to the relevant legal professional body (in the case of solicitors, the Law Society of Scotland).[2]

3. Section 4(1) of the Act provides that the SLCC is not under an obligation to investigate complaints which are not made "timeously". Section 4(3)(a) of the Act allows the SLCC to set time limits defining what "timeously" means. On this basis, the SLCC has adopted rules which explain that:

> "A complaint will not be accepted (unless the Commission considers that the circumstances are exceptional) if it is made more than 1 year after the professional misconduct, unsatisfactory professional conduct or conviction suggested by it appears to have occurred, or the professional services suggested by it to have been inadequate appear to have been provided"[3]

4. and that,

> "In determining whether the period of 1 year … has elapsed, there is to be disregarded any time during which the complainer was, in the opinion of the Commission, excusably unaware—

[1] Section 2(4) of the Act. Section 33 of the Act requires professional bodies (i.e. the Law Society of Scotland) to forward any complaints made directly to the SLCC
[2] Section 6 of the Act
[3] Section 4(6) of the Rules of the Scottish Legal Complaints Commission 2009

(a) of the professional misconduct, unsatisfactory professional conduct or conviction in question, or

(b) of the inadequacy of the professional services in question."[4]

5. If it thinks fit, the SLCC can also grant a request from a party to extend a time limit.[5]

6. So in brief, the general rules as regards time-bar are as follows:

- Unless there are exceptional circumstances, or the SLCC accepts a request to extend a time limit, complaints to the SLCC must be made within one year of the professional misconduct/unsatisfactory professional conduct/conviction in question.

- However, if a lawyer's client is excusably unaware of such conduct, the one year period will not start until the lawyer's client becomes aware of the issue.

7. There appears to be little specific public guidance on what is meant by "exceptional circumstances". However, in a recent case the Court of Session accepted that the SLCC acted legally in arguing that the gravity of the professional misconduct in question (a deficit on the client account of circa £230,000) was an exceptional circumstance which merited investigation even though the complaint was time-barred.[6] The fact that there was only a minor delay in making the complaint was noted by the Court as being a relevant factor.[7]

Scottish Parliament / Scottish Government Action

8. The SLCC submitted a letter on 11 September 2012 to the Scottish Parliament's Justice Committee ("Justice Committee") in which it argued that the complaints procedure set up by the Act needed to be reviewed as it did not serve the interests of complainers as best as it could.

9. The Justice Committee wrote to the Cabinet Secretary for Justice and received his response of 31 October 2012 indicating that the SLCC and Law Society of Scotland were "developing a consensual approach to reach an agreement on the key improvements required to this legislation." The Justice Committee received a further response from the Minister in June 2013 advising that discussions were ongoing, any proposals for change would be submitted to the Scottish Government and that the Justice Committee would be kept updated.

[4] Section 4(7) of the Rules of the Scottish Legal Complaints Commission 2009
[5] Section 18 of the Rules of the Scottish Legal Complaints Commission 2009
[6] Murnin v Scottish Legal Complaints Commission, [2012] CSIH 34
[7] Paragraph 32

Public Petitions Committee Action

10. This Committee considered the petition on 28 May 2013, took evidence from the petitioner and agreed to seek views from The Scottish Government, the Scottish Legal Complaints Commission, the Law Society of Scotland and the Mental Welfare Commission for Scotland.

11. Responses have been received. The Scottish Government is supportive of the SLCC's current rules on time limits but has asked the SLCC to set up a working group to look at areas of potential improvement in the complaints process. The Scottish Government expects the SLCC to report in the autumn and has undertaken to keep the Justice Committee updated.

Action

12. The Committee is invited to consider what action it wishes to take in respect of this petition. Options include—

    (1) To refer the petition under Rule 15.6.2 to the Justice Committee. The Justice Committee has been taking these issues forward with the Minister and the Minister has undertaken to update that Committee on developments.

    (2) To consider the petition again at the end of the year for which time a progress report from the Scottish Government could be requested.

    (3) To take any other action which the Committee considers appropriate.

Public Petitions Committee

16th Meeting, 2013 (Session 4), Tuesday 1 October 2013

PE1481 on blacklisting in Scotland

Note by the Clerk

PE1481 – Lodged 13 May 2013
Petition by Mr Pat Rafferty, Mr Harry Donaldson, Mr Harry Frew on behalf of Unite, GMB, UCATT calling on the Scottish Parliament to urge the Scottish Government to conduct a full, independent public inquiry into the effects and extent of blacklisting in Scotland and for the inquiry to examine and determine which companies have been awarded public contracts, to investigate how to introduce ethical procurement policies and how to ensure that companies who continue to practice blacklisting are banned from tendering for future public contracts.
Link to petition webpage

Purpose

1. The Committee considered this petition at its meeting on 28 May 2013 and took evidence from the petitioners. The Committee agreed to write to the Scottish Government and others seeking their views on what the petition seeks. Responses have been received and the Committee is asked to decide what action it wishes to take on the petition.

Background – the following information is taken from the SPICe briefing

2. In 2009, the UK Information Commissioner's Office (ICO) found that Ian Kerr, on behalf of The Consulting Association[1] held details on 3,213 construction workers and traded their personal details for profit. The Consulting Association's database was used by over 40 construction companies and included information about construction workers' personal relationships, trade union activity and employment history.

3. Ian Kerr was fined £5,000 in July 2009 for breaching the Data Protection Act, following a successful investigation by the ICO. The ICO website lists the companies which used the Consulting Association, and states that it has issued enforcement notices to 14 companies based on the evidence it recovered from the Consulting Association.

4. Trade Unions have called for a full disclosure of the information obtained from the Consulting Association, and an investigation into the links between construction employers, the police, security services and the Consulting Association.

[1] The Petition refers to both the Consultancy Association and the Consulting Association, but the ICO refers to the Consulting Association. Unless quoting direct from the Petition, this Briefing refers to the Consulting Association.

5. The petition states that—

> *"It is known that construction employers who paid fees to the CA operate in and have successfully tendered for public contracts in Scotland. The Scottish Affairs Select Committee, which is carrying out a report into blacklisting in Scotland, took evidence from Sir Robert McAlpine Director, Cullum McAlpine, where it was revealed that the company had referred to the Consulting Association's blacklist for several major projects in Scotland including the Quartermile development in Edinburgh, the M74 extension and the Marie Curie Cancer Hospice in Glasgow. It is only through a Public Inquiry with the power to compel witnesses to appear and testify under oath that the full impact that blacklisting has had on workers and industries in Scotland can be uncovered."*

Scottish Government Action

6. During a Members Debate on the subject on 2 May 2013 (see in addition Scottish Parliament Action section below), Angela Constance MSP, Minister for Youth Employment, stated that—

> *"For the record, I restate the Scottish Government's position, which is that blacklisting is wholly unacceptable. The Scottish Government endorses the Health and Safety Executive's comments; condemns any form of blacklisting of employees by employers for raising concerns about safety standards at work; and is totally opposed to blacklisting or the compilation of a blacklist on such a basis.*
>
> *First of all, I want to address the most prominent issue that has been raised by Neil Findlay and other members. Although we as a Government acknowledge the call for a Scottish Government inquiry, we believe that it is appropriate for the Scottish Affairs Committee to conduct and conclude its inquiry into this issue. As we know, matters of employment law are reserved to the UK Government and the Scottish Government is not at this time convinced of the merits of holding another inquiry while the Scottish Affairs Committee's investigation is on-going and its recommendations are pending."*

7. The Scottish Affairs Committee has invited further submissions on the four key question areas raised in its interim report. It will consider these in the next phase of its inquiry before making its final recommendations to the UK Government. At present there is no indicative completion date for this work.

8. In addition, the Minister set out the previous and current legislative framework—

> *"the legislative framework at the time meant that blacklisting was not illegal but, as Elaine Smith told us, the Employment Relations Act 1999 (Blacklists) Regulations 2010, which were introduced by the UK Government in 2010, prohibit blacklisting. Therefore, I believe that we are starting from a better position. There are also the Public Contracts (Scotland) Regulations 2012, which provide that contracts should not be awarded to companies that have been involved in grave misdemeanours."*

9. The Government's Procurement Reform Bill is expected to be introduced on 3 October 2013. The Government has been considering what action could be taken in that Bill, and in additional guidance to public bodies—

"We have invited the unions—the STUC, Unite, Unison and the GMB—to work with us on the development and strengthening of guidance for public bodies on addressing the issue of blacklisting in terms of their procurement processes and with regard to public contracts. We intend to circulate an initial draft of the guidance to the unions shortly and to convene a meeting to get their valuable input.

We want to explore with the trade union movement the potential for asking additional questions of suppliers at the selection stage of a procurement exercise and for holding suppliers to account through revised terms and conditions of contract, including issues such as termination clauses for those who breach relevant legislation.

As members have suggested, we are, in addition, considering what measures we can include in the forthcoming procurement reform bill to deal with inappropriate conduct, including blacklisting, by companies that are bidding for public contracts in Scotland."

Scottish Parliament Action

10. In addition to the Members debate led by Neil Findlay MSP, a number of Parliamentary Questions have also been asked on the topic.

11. The Infrastructure and Capital Investment Committee also asked questions about whether the Forth Replacement Crossing contracts had any relation to blacklisting. Paragraphs 42-46 of its 2013 Report on the Forth Road Bridge Bill also discussed the issue.

Public Petitions Committee Consideration

12. The Committee considered this petition for the first time at its meeting on 11 June and took evidence from the petitioners. The Committee agreed to seek views. Responses have been received however no response was received from COSLA. The Scottish Government has again outlined the work taking place elsewhere and that it does not see merit in holding another inquiry whilst that work is on-going.

Action

12. The Committee is invited to consider what action it wishes to take in respect of this petition. Options include—

(1) To refer the petition to the Infrastructure and Capital Investment Committee to consider as part of its scrutiny of the forthcoming procurement bill.

(2) To take any other action which the Committee considers appropriate.