The Committee will meet at 10.00 am in the David Livingstone Room (CR6).

1. **Decision on taking business in private:** The Committee will decide whether to take item 4 in private.

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

   PE1523 by Jess Smith on giving the Tinkers' Heart of Argyll back to the Travelling People

   and take evidence from—

   Jess Smith;

   and will then consider—

   PE1526 by Jack Fletcher, on behalf of Sexpression:UK, on making sex and relationship education in Scotland statutory for all schools

   and take evidence from—

   Jack Fletcher, and Rebecca Ryce, Sexpression:UK;

   and will then consider—

   PE1529 by John Ronald on enforcement of child court orders

   and take evidence from—

   John Ronald;

   and will then consider—

   PE1528 by John Ronald on child court reform.
3. **Consideration of current petitions:** The Committee will consider—

- **PE1319** by William Smith and Scott Robertson on improving youth football in Scotland;
- **PE1460** by Susan Archibald, on behalf of the Scottish Parliament Cross-Party Group on Chronic Pain, on improvement of services and resources to tackle chronic pain;
- **PE1482** by John Womersley on isolation in single room hospitals;
- **PE1497** by Ellie Harrison, on behalf of Say No to Tesco, on supermarket expansion on local high streets;
- **PE1500** by Stuart Housden OBE, on behalf of RSPB Scotland, on the Golden Eagle as the national bird of Scotland;
- **PE1501** by Stuart Graham on public inquiries into self-inflicted and accidental deaths following suspicious death investigations;
- **PE1509** by Lee Wright on Aberdeen to Inverness rail travel improvement;
- **PE1512** by Bill Chisholm on amendments to the Freedom of Information (Scotland) Act 2002;
- **PE1463** by Lorraine Cleaver on effective thyroid and adrenal testing, diagnosis and treatment.

4. **Business planning:** The Committee will consider a draft note of decisions taken at the business planning discussion.

Anne Peat  
Clerk to the Public Petitions Committee  
Room T3.40  
The Scottish Parliament  
Edinburgh  
Tel: 0131 348 5186  
Email: Anne.peat@scottish.parliament.uk
The following papers are attached for this meeting—

**Agenda item 2**

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**Agenda item 3**

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Scotland’s Commissioner for Children and Young People

Letter of 8 August 2014  PE1319/VV
Petitioner Letter of 21 September 2014  PE1319/WW

Petitioner Email of 5 September 2014  PE1482/J

Scottish Government Letter of 2 July 2014  PE1482/I

Petitioner Letter of 9 July 2014  PE1509/D

Scotland’s Commissioner for Children and Young People

Letter of 22 August 2014  PE1501/L

Petitioner Letter of 5 September 2014  PE1501/J

Petitioner Email of 11 August 2014  PE1509/D

Scottish Government Letter of 21 August 2014  PE1509/E

Petitioner Email of 21 August 2014  PE1509/F

Petitioner Letter of 9 July 2014  PE1512/H

Scottish Government Letter of 22 May 2014  PE1512/F
Roy Mackay Letter of 23 September 2014  PE1512/I

PE1463  Note by the Clerk  PPC/S4/14/14/13

Eric Pritchard Email of 23 June 2014  PE1463/WW
Dr John E Midgley Letter of 1 August 2014  PE1463/XX
Scottish Government Letter of 5 September 2014  PE1463/YY
Petitioner Letter of 22 September 2014  PE1463ZZ

**Agenda item 4**

PRIVATE PAPER  PPC/S4/14/14/14 (P)
Public Petitions Committee

14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1523 on giving the Tinkers' Heart of Argyll back to the Travelling People

Note by the Clerk

PE1523 – Lodged 29 May 2014
Petition by Jess Smith calling on the Scottish Parliament to urge the Scottish Government to direct Historic Scotland to investigate what action can be taken to ensure the restoration and preservation of the Heart of Quartz stones positioned in a field next to the A815, opposite the junction of the B839, overlooking Loch Fyne, known as the Gypsy Wedding Place, referred to locally as the Tinkers’ Heart.

Link to petition webpage

Purpose

1. This is a new petition that the Committee is invited to consider and agree 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

2. The Royal Commission for Ancient and Historic Monuments Scotland (RCAHMS) is responsible for surveying and recording the buildings and landscape of Scotland’s places.

3. RCAHMS made a field visit to the site of the Tinker's Heart on 29 June 2012. The following report is taken from their website:

The Tinkers’ Heart is a heart-shaped setting of stones embedded in the tarmac of what was formerly a junction of the A815 and B839 roads; the roads have been realigned and moved to the E, leaving the heart within a pasture field. The site, on a broad terrace above the E shore of Loch Fyne, affords a wide prospect, looking NW to Dunderave Castle on the opposite shore, and W towards Inveraray.

The heart measures 1.75m by 1.4m, the top towards the NW; it has been picked out with quartz pebbles, twenty-five of which are visible around the edge, with a twenty-sixth in the centre. A photograph taken in the mid-20th century (National Museums of Scotland, Scottish Life Archive SLAC 13570) suggests there were formerly many more pebbles around the edge, but it is not known whether the missing stones have been removed or have simply become more deeply embedded and hidden in the tarmac. In recent times the heart has been enclosed by a chain fence hung from three metal posts, but the chain has been replaced by a strand of barbed wire.

The origins of this feature are unclear. There is a tradition within the travelling community that it was constructed as a memorial to local tinkers.
who joined the Jacobite Rising of 1745 (pers. comm. Jess Smith). If this tradition is correct, the site may be unique as the only physical monument to the tinker community in the Highlands. By the mid-19th century weddings were being celebrated at the site. In 1928 the heart was removed during roadworks, but was reinstated following local protests. The site is still visited, and coins continue to be placed next to the central stone.

4. The following image from 2012 is taken from the RCAHMS website:

5. The 2012 visit report also included a measured drawing of Tinker's Heart:
6. This is a more recent image of the Heart with the petitioner:

7. This is an older photograph of the Heart, date and source unknown:

Local Authority Action

8. In March 2014, the Clachan Flats (Cairndow) Windfarm Trust reported, to the Bute & Cowal Area Committee of Argyll & Bute Council, that £950 had been awarded to “Here We Are” for funding towards ‘Tinkers Heart’ Restoration. “Here We Are” is a rural community centre based in Clachan, Cairndow, Argyll.

Historic Scotland

9. Historic Scotland (HS) is an Agency within the Scottish Government and is directly responsible to Scottish Ministers for safeguarding the nation's historic environment.

10. One of HS’s roles is to provide guidance on the care of the historic environment. For example, its publication Managing Scotland’s Archaeological Heritage: A guide to the care and management of archaeological sites for owners, occupiers and other land users.

11. Historic Scotland also operates an Ancient Monuments Grant Scheme which provides financial assistance aimed at preserving and maintaining ancient
monuments, which are usually scheduled. Funds are limited, so priority is given to monuments of particular interest or importance.

12. A scheduled ancient monument is a monument of national importance that Scottish Ministers have given legal protection under the Ancient Monuments and Archaeological Areas Act 1979. Examples of such monuments include prehistoric burial mounds, Roman camps, and World War II defensive sites. The statutory definition of a scheduled ancient monument is very broad and includes:

- any building, structure or work located above or below the surface of the land, including caves and excavations
- any site comprising the remains of any such building, structure or work, or any cave or excavation.

Heritage Lottery Fund

13. The Fund runs a variety of grant schemes which can be used to work with monuments and landscapes. Normally, significant levels of community engagement and benefit are expected, and all projects require some measure of matching funding. Access in all forms is a priority.

Action

14. The Committee is invited to consider what action it wishes to take in respect of the petition. The Committee may wish to—

(1) write to the Scottish Government/Historic Scotland to seek its views on the action sought in the petition;

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

14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1526 on making sex and relationship education in Scotland statutory for all schools

Note by the Clerk

**PE1526 – Lodged 28 June 2014**
Petition by Jack Fletcher, on behalf of Sexpression:UK, calling on the Scottish Parliament to urge the Scottish Government to introduce comprehensive sex and relationship education (SRE) into the Scottish Education Curriculum and make it statutory for all schools to teach. I recommend that SRE should build upon current education guidelines and include additional criteria to keep up with technological advances. In providing non-judgemental accurate information in these areas, the children and young people of Scotland can have the skills and knowledge to make informed decisions for themselves.

[Link to petition webpage](#)

**Purpose**

1. This is a new petition that the Committee is invited to consider and agree 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**

2. The petition requests that the Scottish Government create a statutory duty for schools to provide sex and relationships education.

3. There is almost no statutory curriculum in Scotland. The exceptions are that Gaelic must be taught in Gaelic speaking areas (Education (Scotland) Act 1980 (c44)(s1(5)(a) iii) and religious instruction will normally be expected to be provided (Education (Scotland) Act 1980 s8(i)).

4. Rather than being set out in statute, the school curriculum is established through guidance issued by Education Scotland. In addition, guidance on sex education was issued by the then Scottish Executive as circular 2/2001. This guidance is currently being updated.

5. The Scottish Government notes that responsibility for sex and relationship education lies primarily with local authorities. In response to a recent health and sport committee inquiry (see below) they stated that:

   Whilst Education Circular 2/2001 provides a broad framework of effective relationships, sexual health and parenthood education, it is recognised that it is up to local authorities and head teachers to decide what is provided in their schools and what training is provided to support their staff. The inspection process currently evaluates relationships, sexual
health and parenthood education as part of the overall health and wellbeing curriculum.

Development of current guidance

6. In 1999, the Scottish Executive’s announcement that they would repeal s2A of the Local Government Act 1986 (Prohibition on promoting homosexuality by teaching or by publishing material) led to the establishment, in October 1999, of a working group on sex education in Scottish schools. It published its report - the McCabe Report, the following year. This led to the development of the current guidance which is contained in Circular 2/2001 ‘Standards in Scotland’s Schools, etc. Act 2000: conduct of sex education in Scottish schools.’ At the same time, the then Scottish Executive published:

- Sex Education in Scottish Schools: A summary of national advice
- Effective Consultation for Parents and Carers and
- A guide for parents and carers

7. In 2005, Respect and Responsibility re-iterated the 2/2001 guidance, and emphasised the need to consult parents and pupils:

parents and carers should be given the opportunity in advance to view key teaching materials and to ask questions about any aspect of a sex-education programme. Schools should also give pupils an opportunity to identify and express their own needs.

Curriculum for Excellence

8. Relationships education is part of ‘Health and Wellbeing’. The overall outcome is that:

Learners develop an understanding of how to maintain positive relationships with a variety of people and are aware of how thoughts, feelings, attitudes, values and beliefs can influence decisions about relationships, and sexual health. They develop their understanding of the complex roles and responsibilities of being a parent or carer.

9. The guidance provides different outcomes that are appropriate for each stage of learning. This guidance covers learning from pre-school to S3. Education Scotland also publish examples of good practice in teaching relationships and sexual health.

Research

10. NHS Health Scotland published a review of sex and relationship activities and resources in primary school in Scotland in 2010. This found:

- Some evidence of fears about perceived opposition from pressure groups, which often resulted in a cautious approach
The extent of the guidance offered by local authorities varied, with some detailing what should be taught (and when, and how) as well as providing teaching resources. Others offered less prescriptive guidelines, while some simply referred schools to national guidelines, leaving the responsibility for curriculum planning to each school.

11. A larger scale review of secondary schools was published in 2008. This found that while there were relatively few schools which reported that sex and relationship education programmes were wholly an off-the-shelf package, schools named a wide variety of external/collaborating programmes.

Scottish Government Action

12. New draft guidance on sex and relationships education was consulted on in autumn 2013. In response to a parliamentary question on 25 June 2014, Cabinet Secretary Michael Russell said that the final version would be published “later this year” (S4O-03405).

13. Other recent Scottish Government action was referred to in its response to the Health and Sport Committee’s inquiry into teenage pregnancy (see below) and included a review of resources and supporting sharing best practice. The response also noted that:

   The Scottish Government is keen to increase training available for the relationships, sexual health and parenthood education area of the curriculum in order to improve the confidence of teachers - some of whom have not had much training before taking on this subject area.

14. In evidence to the Health and Sport Committee in May 2014, Colin Spivey, a Scottish Government official, described how the revised guidance would be used to re-emphasise that part of the curriculum:

   We believe that the revised code will be the jumping-off point for a re-launch of that facet of the curriculum. In particular, a package of the materials that are currently available will be launched at the same time as the revised code. Education Scotland will pull those materials together in a coherent package, which will be launched jointly with the revised code. In addition, Education Scotland is considering holding an event at the start of the next school year to focus on the issue.

15. In a related area, a short life working group on child sexual exploitation was established in January 2013. One of its recommendations, published in December 2013, was that “Consideration should be given to the list of resources associated with the guidance on the conduct of relationships, sexual health and parenthood education in schools and how these might further highlight CSE.” The working group is currently developing an action plan on child sexual exploitation.
Scottish Parliament Action

16. Recent PQs have asked about progress in the review of circular 2/2001 (25 June 2014) and whether the Scottish Government will review sex and relationships education (S4W-17306, Kezia Dugdale).

Health and Sport Committee

17. The Health and Sport Committee held an inquiry into teenage pregnancy last year and its report included some observations and recommendations about sex and relationships education in schools.

18. The Committee received submissions referring to patchiness, inconsistency and too much being left to the discretion of individual schools. For example, NHS Forth Valley Sexual Health Strategy Group argued that “more accountability for schools to report on what is being delivered in SRE would be useful as there is inconsistency in the quality and content of programmes in schools despite training and curriculum development support being available”.

19. The Committee made a number of recommendations on relationships and sex education, including calling for a review of current provision in schools. However, the Scottish Government responded that such a review was not necessary given the relatively recent review in 2008 (secondary schools) and 2010 (primary schools).

Public Petitions Committee

20. The Public Petitions Committee undertook an inquiry into child sexual exploitation (CSE), publishing a report in January 2014. This included recommendations that school education include: internet safety, sexual bullying and gender stereotypes. It also recommended a ‘mapping exercise’ of current good practice and “…a national education programme on CSE, with support materials to be delivered in all schools and for higher and further education courses in social work and social care to cover all aspects of disability and child protection.”

21. In response, the Scottish Government referred to Curriculum for Excellence and the work of the expert group referred to above.

Action

22. The Committee is invited to consider what action it wishes to take in respect of the petition. The Committee may wish to—

   (1) write to the Scottish Government to seek its views on the action being sought in the petition and confirmation of when the final version of its new guidance on sex and relationships education will be published;

   (2) take any other action that the Committee considers appropriate.
Note by the Clerk

PE1529 – Lodged 4 July 2014
Petition by John Ronald calling on the Scottish Parliament to urge the Scottish Government to strengthen court orders for child access and provide a more straightforward enforcement procedure that does not require further court expenses.
Link to petition webpage

Purpose

1. This is a new petition that the Committee is invited to consider and agree what action it wishes to take. The Committee has invited the petitioner to speak to this petition. The Committee did not feel it was necessary for Mr Ronald to speak to his other petition (on child court reform).

Background – the following information is taken from the SPICe briefing

Scotland

Overview

2. The Children (Scotland) Act 1995 (‘the 1995 Act’) (as amended) provides for a range of parental rights and responsibilities (‘PRRs’) in respect of children living in Scotland, where practicable and in the best interests of the child.

3. PRRs include the right to have the child live with the person having PRRs and, where the child does not live with that person, the right to have contact with that child.

4. Section 11 of the 1995 Act provides for a range of court orders relating to PRRs. For example, if parents can’t agree on arrangements for the parent who the child does not live with to see the child, the court can grant a ‘contact order’ stipulating future arrangements in this regard. When the permanent residence of the child is in dispute, the court can also make a ‘residence order’ determining this issue.

Enforcement of contact orders

5. Sometimes, after a contact order is obtained, the party in whose favour it is granted experiences difficulties with enforcing the terms of the order in practice. If reaching an amicable solution fails, the current legal remedies for breach of a contact order are as follows:

- **contempt of court**: the person in breach can be found in contempt of court with the possibility of them being fined or imprisoned. Judges are
reluctant to imprison an individual in this situation because of the implications for the children involved.¹

- **variation of existing court orders**: a court has a discretion to vary the terms of any residence order in place, as well as any contact order. Theoretically, the court could alter who the child lives with as a result of the breach of the contact order. However, the welfare of the child is the paramount consideration.

The **practical implications**

6. All these enforcement powers involve a return to court for the person seeking to enforce the contact order.

7. Additional legal expenses are likely to be incurred by that person during the process, unless he qualifies to have all of his expenses met out of the civil legal aid budget. Around 75% of the Scottish population qualify financially for civil legal aid (although this figure includes those qualifying to have part of, as opposed to all of, their costs met from the fund).²

**England and Wales**

The **current position**

8. The equivalent to section 11 orders can be made under section 8 of the Children Act 1989.

9. As in Scotland, faced with a breach of such an order, the court can use its contempt of court powers and, in an appropriate case, can consider imposing a fine or custodial sentence. The child’s living arrangements can also be altered, although again the welfare of the child is the paramount consideration.

10. The Children and Adoption Act 2006 introduced new enforcement powers for courts relating to breaches of orders relating to contact. These include the power to impose an unpaid work requirement on the person in breach and the power to require that person to pay compensation to the other parent for financial loss suffered.

**Proposed reforms**

11. In 2012, the UK Government consulted on whether there was a need to explore additional enforcement sanctions where there was “a wilful refusal” to comply with a court order.³ Proposed sanctions included court orders imposing a curfew on the person in breach and the withdrawal of passports and driving licences. In

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¹ For a rare example of a situation where a parent in a contact dispute was imprisoned for contempt of court see the case of TAM v MJS [2009] CSIH 44: [http://www.scotcourts.gov.uk/opinions/2009CSIH44.html](http://www.scotcourts.gov.uk/opinions/2009CSIH44.html)


February 2013 the UK Government said that it had decided it would be premature to introduce additional measures.4

Relevant research
12. Research was published by the Nuffield Foundation and the University of Exeter in 2013 which considered the additional enforcement powers created by the Children and Adoption Act 2006. It concluded that the new powers under the 2006 Act had been rarely used in practice and that there was no evidence that further or new sanctions would be more widely used.5

Scottish Government Action

The Family Law (Scotland) Act 2006

13. The last major review of this area of law in Scotland resulted in the Family Law (Scotland) Act 2006.

14. During the Bill’s parliamentary passage the then Justice 1 Committee received evidence on the issue of enforcement of contact orders. The Committee’s Stage 1 Report acknowledged that there were no easy solutions to the problem but thought that a speedy return to court was important in the event of a breach. In the context of enforcement, the Committee also recommended the creation of a Scotland-wide system of specialist family law courts to deal with the complex issues often raised by acrimonious family law cases.6

The Courts Reform (Scotland) Bill

15. The Courts Reform (Scotland) Bill (section 41) currently being considered by the Parliament contains proposals to enable Scottish Ministers to create specialist sheriff courts with an all-Scotland jurisdiction. These courts would be able to sit anywhere in Scotland. However, the Scottish Government has not made any specific commitment to use these powers to create specialist family law court(s).7

Parenting Agreement

7 See paras 136–139.
8 The Courts Reform (Scotland) Bill (sections 34–37) also contains powers facilitating greater specialisation amongst individual sheriffs and family law has been identified as a possible area for individual sheriff specialisation.
16. Following the 2006 Act, the then Scottish Executive introduced the Parenting Agreement (and the associated Guide) as a tool designed to promote shared parenting, that is to say the involvement of both parents in the lives of their children. As part of its National Parenting Strategy the Scottish Government is committed to updating the parenting agreement in 2014.

**A review of PRRs**

17. The Scottish Government has no plans for a general review of the law relating to PRRs in Scotland.

**Scottish Parliament Action**

18. The Public Petitions Committee is currently considering PE01513, also relating to fathers’ rights. At its meeting on 5 August it agreed to write to the Scottish Government on a variety of issues raised by the submissions to the Committee.

19. The Equal Opportunities Committee recently carried out an inquiry into fathers and parenting, including consideration of issues around PRRs. However, it focused on the practical and social aspects of this topic, not issues falling on the remit of the Justice Committee. Its report was published in May 2014. More information on this inquiry can be accessed here.

**Action**

20. The Committee is invited to consider what action it wishes to take in respect of the petition. The issues raised in this petition are adjacent to those raised in PE1513 (by Ron Park about equal rights for unmarried fathers) and PE1528 (also by John Ronald). While, in the future, the Committee may wish to consider all of these petitions together, there may be merit in seeking views on the specific issues raised by this petition. The Committee may therefore wish to seek the views of the Scottish Government, the Law Society of Scotland, the Family Law Association, and Families Need Fathers Scotland on the petition.

21. Alternatively, the Committee may wish to defer further consideration of this petition until it next considers PE1513, which is scheduled for the meeting on 11 November.

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8 See the SPICe Briefing on this petition: http://www.scottish.parliament.uk/parliamentarybusiness/75687.aspx
Public Petitions Committee
14th Meeting, 2014 (Session 4), Tuesday 30 September 2014
PE1528 on child court reform

Note by the Clerk

PE1528 – Lodged 4 July 2014
Petition by John Ronald calling on the Scottish Parliament to urge the Scottish Government to amend child contact laws to provide that the starting point for the judge should be near to 50/50 contact for both parents if parents are fit and proper to parent.

Link to petition webpage

Purpose

1. This is a new petition that the Committee is invited to consider and agree what action it wishes to take. The Committee has not invited the petitioner to speak to the petition.

Background – the following information is taken from the SPICe briefing

Scotland - parental rights and responsibilities (PRRs)

2. The Children (Scotland) Act 1995 (‘the 1995 Act’) (as amended) provides for a range of parental rights and responsibilities (‘PRRs’) in respect of children living in Scotland, where practicable and in the best interests of the child.

3. PRRs include the right to have the child reside with the person having PRRs and, where the child does not live with that person, the right to have contact with that child.

Who has PRRs?

4. A range of people automatically have PRRs in respect of a child, including: 1) the child’s mother; 2) the child’s father where he is married to the mother at the time of the child’s conception or subsequently; and 3) the child’s father where he is registered as the father of a child on or after 4 May 2006.¹

5. PRRs can also be acquired by several methods, including by application to the court under section 11 of the 1995 Act for a court order granting the applicant some or all of the PRRs.

Section 11 orders are also used in other circumstances

6. It is also possible to apply specifically under section 11 for a ‘residence order’, determining who a child should live with. A parent can also apply for a ‘contact

¹ 1995 Act, section 3, as amended by section 23 of the Family Law (Scotland) Act 2006; Registration of Births, Deaths and Marriages (Scotland) Act 1965, section 18.
order’, regulating contact arrangements for the child in respect of the parent the child does not live with. Parents with PRRs frequently apply for such orders when a couple separate or divorce.

Section 11 orders and the concept of ‘shared residence’
7. There is no specific provision in the legislation for ‘shared residence’, i.e. where the child lives for a significant or equal portion of the week with each parent. However, it is possible for a court to grant a residence order making such provision in a specific case.

Factors the court takes into account
8. In considering whether to grant any court order under section 11, the court will have regard to three principles, namely:

- the welfare of the child is the paramount consideration;
- the child must be given an opportunity to express his or her views and account will be taken of those views in the light of the child’s age and maturity; and
- the court will not make any order unless it considers that to do so would be better than making no order at all (1995 Act, section 11(7) and (10)).

9. The Family Law (Scotland) Act 2006 (‘the 2006 Act’) also amended section 11 to require the courts to “have regard in particular” to the need to protect the child from actual or possible abuse, the effects of such abuse on children, the ability of the abuser to care for the child, and the effects of abuse on a person’s capacity to fulfil PRRs.

Developments in England and Wales
10. The Children Act 1989 contains comparable provisions to those discussed above applicable to England and Wales.

11. Section 11 of the Children and Families Act 2014 (not yet in force)³ amends the checklist in the 1989 Act which the court must have regard to when considering whether to grant a court order relating to the care of children. Specifically:

“A court...is as respects each parent...to presume, unless the contrary is shown, that the involvement of that parent in the life of the child concerned will further the child’s welfare.”

12. During the bill’s parliamentary passage section 11 was amended to clarify that involvement in this context means:

“involvement of some kind, either direct or indirect, but not any particular division of a child's time.”

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² A child of 12 years or over is presumed to have sufficient maturity to form a view.
³ As at 9 September 2014.
13. For some groups campaigning on this topic, this provision of the 2014 Act, whilst welcome, did not go far enough.\(^4\)

**Scottish Government Action**

*The Family Law (Scotland) Act 2006*

14. The last major review of this area of law in Scotland resulted in the 2006 Act.

15. At the time the 2006 Act was undergoing its parliamentary passage in Scotland, some stakeholders argued that the 1995 Act required further amendment relating to fathers’ rights. Specifically, these stakeholders wanted to create a presumption of equal parenting time (i.e. a 50/50 split of time between parents) in the legislation.

16. The then Scottish Executive did not accept the argument for legislative change but did introduce the Parenting Agreement (and the associated Guide) as a tool designed to promote shared parenting, that is to say the involvement of both parents in the lives of their children. As part of its National Parenting Strategy the Scottish Government is committed to updating the parenting agreement in 2014.

**Recent developments**

17. The Scottish Government has no plans for a general review of the law relating to PRRs in Scotland.

18. In a letter to the Public Petitions Committee relating to PE01513, the Scottish Government said that it will consult key bodies on the approach to birth certificates following the granting of a court order declaring a man to be the biological father of a child. At present, the court order is registered but official copies of the birth certificate subsequently issued do not reflect the change. The Scottish Government wishes to review this practice.

19. The Scottish Government is also currently chairing a working group to examine the role of child welfare reporters (formerly known as ‘bar reporters’) in cases involving contact and residence with children. More information on the work of this group can be found [here](http://www.scottish.parliament.uk/parliamentarybusiness/75687.aspx).

**Scottish Parliament Action**

20. The Public Petitions Committee is currently considering PE1513, also relating to fathers’ rights.\(^5\) Specifically that petition seeks to ensure unmarried fathers have guaranteed rights to be a part of their children's lives if they are deemed fit parents.

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\(^4\) See, for example, the news release (dated 19 March 2014) from Families Need Fathers Scotland: [http://www.fnfscotland.org.uk/news/tag/legislation](http://www.fnfscotland.org.uk/news/tag/legislation)

\(^5\) See the SPICe Briefing on this petition: [http://www.scottish.parliament.uk/parliamentarybusiness/75687.aspx](http://www.scottish.parliament.uk/parliamentarybusiness/75687.aspx)
21. Several submissions to the Committee refer to a presumption of 50/50 care of children, especially in the context of the Australian Family Law Amendment (Shared Parental Responsibility) Act 2006 which introduced such a presumption in Australia.

22. The Law Society of Scotland described the Act as “woefully inadequate in protecting domestic abuse victims” and that such a presumption should be rejected because it takes a parent-centred approach, rather than a child-centred approach based on the best interests of the child.\(^6\) This view was echoed in the submissions of Scottish Women’s Aid. A strong theme from the views received on PE1513 was that the welfare of the child is of paramount consideration.

23. The Equal Opportunities Committee recently carried out an inquiry into fathers and parenting, including consideration of issues around PRRs. However, it focused on the practical and social aspects of this topic, not issues falling on the remit of the Justice Committee. Its report was published in May 2014. More information on this inquiry can be accessed [here](http://www.scottish.parliament.uk/S4_PublicPetitionsCommittee/General%20Documents/PE1513_G_Law_Society_of_Scotland_25.06.14.pdf).

**Action**

24. The Committee is invited to consider what action it wishes to take in respect of the petition. The Committee may wish to agree to consider this petition along-side PE1513; consideration of PE1513 is scheduled for the Committee’s next meeting on 11 November. In doing so, the Committee may wish to encourage any organisations or individuals who wish to comment on the matters specifically raised in this petition to write to the committee prior to that meeting.

25. Alternatively, the Committee may consider that the issues raised in this petition are distinct from those raised in PE1513 and that the two petitions should be considered separately. The Committee may therefore choose to ask those organisations who provided evidence on PE1513 but did not address the specific demands of this petition to comment.

PPC/S4/14/14/5

Public Petitions Committee
14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1319 on improving youth football in Scotland

Note by the Clerk

PE1319 – lodged March 2010
Petition by William Smith and Scott Robertson calling on the Scottish Parliament to urge the Scottish Government to investigate the (1) legal status and appropriateness of professional SFA clubs entering into contracts with children under 16 years; (2) audit process and accountability of all public funds distributed by the Scottish Football Association to its member clubs; (3) social, educational and psychological affects and legality of SFA member clubs prohibiting such children from participating in extracurricular activity; and (4) appropriateness of ‘compensation’ payments between SFA member clubs for the transfer of young players under the age of 16 years; and to (5) increase the educational target from 2 hours curricular physical activity to four hours per week; and (6) develop a long-term plan to provide quality artificial surfaces for training and playing football at all ages across all regions.

Link to petition webpage for written submissions, written questions asked, SPICe briefing and previous consideration.

Purpose

1. The Committee considered this petition at its meeting on 3 June 2014 and agreed to invite Scotland’s Commissioner for Children and Young People to review the current registration process from a rights perspective and to report back to the Committee with his findings. The Committee is invited to note the paper from the Commissioner and defer further consideration of the petition until the findings of the Commissioner’s work are available.

Background summary

2. The petition originally called for the Scottish Government to investigate 6 areas in relation to youth football. 4 areas have been dealt with. Two areas (contracts and compensation payments) are still under consideration by the Committee. These are primarily matters for the SFA however the view of the petitioners remains that registration is a form of “contract” that is not appropriate for players of 15 years of age and younger.

3. At its last meeting, the Committee agreed to invite the Children’s Commissioner to consider the registration/contract process. Following an informal meeting with the Convener, the Commissioner submitted a scoping paper for the proposed work setting out a timescale. The petitioners have also written again to the Committee (letter of 21 September 2014).

For decision

4. The Committee is invited to note the scoping paper and defer further consideration of the petition until the Commissioner’s findings are available.
Public Petitions Committee
14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1460 on the improvement of services and resources to tackle chronic pain

Note by the Clerk

PE1460 – Lodged 11 December 2012
Petition by Susan Archibald, on behalf of the Scottish Parliament Cross Party Group on Chronic Pain, calling on the Scottish Parliament to urge the Scottish Government to (a) hold a debate on the matter with a vote or voting rights (b) transfer more of the management for chronic pain into primary care (c) provide more social model care instead of medical model (d) change its policy to provide direct funding to ensure radical improvements to the service can be made including establishing a residential unit in Scotland to prevent Scottish pain patients being sent to Bath in Somerset for treatment.

Link to petition webpage

Purpose

1. The Committee last considered this petition on 3 June 2014 and agreed to keep the petition open until the Scottish Government announced the location of the new national chronic pain centre. The location and further details of the centre have now been announced. In light of this, the Committee is invited to close this petition.

Scottish Government Action

2. Following its debate on chronic pain on 29 May 2013, the Scottish Government held a consultation on the future provision of specialist chronic pain services during September/October 2014. To support the consultation, events were held in Glasgow, Inverness, Dumfries and Glenrothes.

3. A SIGN guideline on chronic pain was published in December 2013. In April 2014, the Scottish Government published its response to the consultation and advised that work was underway to take forward the establishment of the new specialised residential chronic pain management service.

4. On 23 June 2014, the Scottish Government announced that the new national service will be located at the Gartnavel Hospital site in Glasgow.

Action

5. Following the decision at its meeting on 3 June 2014, the Committee is invited to agree to close the petition under Rule 15.7 on the basis that the location and details of the new national service for chronic pain have now been confirmed.
Public Petitions Committee

14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1482 on isolation in single room hospitals

Note by the Clerk

PE1482 – Lodged 15 June 2013
Petition by John Womersley calling on the Scottish Parliament to urge the Scottish Government to ensure that patients in new-build hospitals are given a choice to share a multi-bedded room with other patients or offered a single room; and to subject all the evidence on the single room policy to independent scrutiny.

Purpose

1. The Committee last considered this petition on 3 June 2014. At that meeting, the Committee agreed to write to the Scottish Government again on the issue of cost/benefit. The Scottish Government has responded and the Committee is invited to agree what action it wishes to take on the petition.

Background

2. The petitioner was concerned about the apparent lack of evidence and public support for the policy of ensuring that new-build hospital accommodation and hospital refurbishment provides single-room accommodation for all in-patients. The petition asserts that the evidence base for such a policy is not robust and that a balance between single and shared accommodation in four-bedded bays would be the optimum option for necessary infection control and patient choice, as well as allowing better scope for future internal structural modifications.

3. The SPICe briefing outlines how the policy was developed in this area and research and evidence pertaining to single-room provision is available in the Appendix to the SPICe Briefing.

Scottish Parliament Action

4. There have been a number of Parliamentary Questions on the provision of single rooms, and about hospital acquired infections in relation to single rooms which can be found here.

Committee consideration

5. The Committee initially considered this petition at its meeting on 17 September 2013 and heard evidence from the petitioner. The Committee then wrote to the Scottish Government about the extent of patient choice and additional costs.

6. The Scottish Government advised that the existing policy has a “presumption” for 100% single rooms in new builds, but decisions on the use of single or multi-
bedded rooms are made on a clinical basis, and “the policy is being applied as intended”. The Scottish Government stated that it will be review research over the next year to test the assumptions within the current policy.

7. The Scottish Health Council advised that a proposal for a single room policy would have benefited from public engagement and consultation, and encouraged the Scottish Government to seek public views for its proposed review.

8. Following the meeting on 28 January 2014, the Committee wrote to the Scottish Government requesting that the review of the policy on single room provision include consultation with the public and patients. The Committee also asked for information on the comparable costs of a new-build hospital with 100% single rooms and one with a mix of single and multi-bedded wards.

9. The Committee considered the petition on 1 April 2014 and agreed to write again to the Scottish Government asking it to confirm that patient and public views were being sought to inform the proposed review and to ask whether the Government had undertaken a cost benefit analysis of 100% single rooms as opposed to 50% over the course of a hospital’s lifetime and, if so, to share that information with the Committee.

10. In his letter dated 15 May 2014, the Cabinet Secretary stated that should the review of evidence on the provision of single rooms, being undertaken this year, lead to a reassessment of policy, any revised guidance will be “subject to an appropriate consultation”.

11. The Committee last considered the petition on 3 June 2014 and agreed to write again to the Scottish Government asking for a timescale for the completion of the review of the policy and querying whether a Cost Benefit Analysis of the provision of 100% single rooms compared to 50% had been undertaken.

12. The Scottish Government replied on 2 July 2014 stating that the review was likely to be concluded by the end of 2014 and that, at the conclusion of the review, it would be in a position to consider further analysis or work that could be undertaken, including possibly a Cost Benefit Analysis of the provision of 100% single rooms compared to 50%. The Scottish Government indicated that it would keep the Committee informed.

13. The Petitioner’s submission indicates that he is broadly satisfied with the assurances given by the Scottish Government to review the policy.

Action

14. The Committee is invited to agree what action it wishes to take. One option would be to consider the petition again once the Scottish Government’s review of the research on single bedded accommodation in hospitals is complete.
Public Petitions Committee

14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1497 on supermarket expansion on local high streets

Note by the Clerk

PE1497 – Lodged 7 December 2013
Petition by Ellie Harrison, on behalf of Say No to Tesco, calling on the Scottish Parliament to urge the Scottish Government to give local councils and communities the power to stop unwanted supermarket expansion on their local high streets.

Link to petition webpage

Purpose

1. The Committee last considered this petition at its meeting on 3 June 2014 and agreed to write to the Scottish Government about the use of retail impact assessments. A response has been received and the Committee is invited to consider what further action it wishes to take on the petition.

Background

2. Currently, anyone wishing to build a new shop or substantially change the use of a premise to that of a shop (e.g. from a bank to a shop) is required to obtain planning permission prior to doing so. However, anyone wishing to change the nature of the goods and/or services provided from an existing shop does not require planning permission for that change of use under the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (the Order), as amended. The Order sets out a number of Use Classes (e.g. Shops, Food and Drink, Hotels and Hostels, Houses, etc.), and under what circumstances planning permission is required for the use of premises to change from one class to another. Planning permission, however, may still be required for changes within a class if there is, for example, changes to the frontage of a shop.

3. Another part of the planning process is the Retail Impact Assessment (RIA). An RIA is generally undertaken when a proposed development is of a sufficient scale to have a significant impact on other retail centres. Normally an RIA is required for a proposed retail development of 2,500 m² gross retail floor space, although RIAs may be required for smaller developments. The Committee may wish to note that RIAs can only be required for proposals that require planning permission, which would not normally apply to a shop which changed ownership.

Scottish Parliament Action

4. The Scottish Parliament has not considered the Use Classes Order.
Committee consideration

5. The Committee first considered this petition on 28 January 2014 hearing evidence from the petitioners. The Committee agreed to write to a number of stakeholders seeking views on the petition. The Committee considered the petition and the written submissions received on 1 April 2014. The submissions largely focused on two distinct issues, the planning system and the impact of small-scale supermarkets.

6. Many respondents noted that the planning system, as currently drawn, does not allow for the owner of a potential store to be a relevant factor when deciding whether planning permission is required. The Scottish Government stated that the Order is a “de-regulatory mechanism that is intended to permit and not restrict compatible land uses” and that the planning system “does not exist to protect the interests of one person or business against the activities of another”. The Scottish Government has no specific plans to review the Order at present.

7. On 1 April 2014, the Committee agreed to write to the Scottish Government to ask how it ensures consistent application of planning law and about the assistance available to small and medium sized retailers under the business rate relief or other similar schemes. The Scottish Government responded on 14 April 2014 drawing the attention of the Committee to the Scottish Planning Policy (SPP). A revised SPP is due to be published in June 2014 and the letter noted that the Scottish Government would monitor planning authorities' compliance with the SPP. The Scottish Government notes, however, that each planning case is unique, it is for the planning authority to consider applications and that a planning system should have scope for some variation to reflect local circumstance.

8. With regard to assistance available to small and medium sized retailers, the Government outlined the Small Business Bonus Scheme and the Fresh Start initiative. The Scottish Government indicated that it proposes to create a new power to allow local authorities to create local rate relief schemes.

9. Sandra White MSP suggested that the Committee consider writing to the Scottish Government and Glasgow City Council seeking clarification of what use is made of Retail Impact Assessments (RIA) for units of less than 2,500 square metres which may have a “significant impact on vitality and viability”. Ms White also requested that the Scottish Government be invited to consider FSB’s request that the group tasked with producing a “town centre master-planning toolkit” be asked to look into the issues raised by the petitioner. The Committee wrote as suggested.

10. In its response, the Scottish Government explains that the purpose of an RIA is “to consider the relationship of a proposed development, individually and cumulatively, with the network of centres identified in the development plan”. The Government also explained that its expectation is that RIAs “would only be undertaken for development outwith a town centre, contrary to the development plan.” Members will note that the word “development” in this context refers to
something that requires planning consent and the change of ownership of an existing shop does not normally require planning consent.

11. The Scottish Government indicated that the contractual arrangements with the group undertaking on the future town centre master planning kit did not specifically cover the points raised by the petition. However, the general issues would be addressed.

12. Members may wish to note the proposed reforms to non-domestic rate relief contained in the Community Empowerment (Scotland) Bill. The policy memorandum accompanying the Bill states:

“The Bill introduces a new power to allow councils to create localised relief schemes to better reflect local needs and support communities. There will be no restrictions on this power; local authorities will be able to grant the relief to any type of ratepayer or for any reason, as they see fit.”

Action

13. The submissions received to date point to the conclusion that the planning system is not a suitable mechanism to achieve what the petitioner seeks. It could be that the proposed new power in the Community Empowerment (Scotland) Bill could allow local authorities to provide further support to small and medium sized enterprises within the retail sector. Undertaking work on the effects of a dominant position of large supermarket chains on the market would be a matter for the Competition and Markets Authority. Members will be aware that competition law is reserved under the Scotland Act 1998.

14. The Committee may choose to close the petition on the basis that it has explored the issue as far as it can within the policy areas devolved to the Scottish Parliament. Alternatively, members may consider that the Local Government and Regeneration Committee could consider what the petition seeks in the context of its scrutiny of the Community Empowerment (Scotland) Bill. The Committee is asked to agree what action it wishes to take.

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1 Policy memorandum accompanying the Community Empowerment (Scotland) Bill (paragraph 102).
Public Petitions Committee

14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1500 on the Golden Eagle as the national bird of Scotland

Note by the Clerk

PE1500 – Lodged 7 December 2013
Petition by Stuart Housden OBE, on behalf of RSPB Scotland, calling on the Scottish Parliament to urge the Scottish Government to formally declare the Golden Eagle, Aquila chrysaetos, as the national bird of Scotland. This could be done either through legislation, or through a parliamentary motion.

Link to petition webpage

Purpose

1. The Committee last considered this petition on 3 June 2014 and agreed to write to the Scottish Government. Responses have been received and the Committee is invited to consider what action it wishes to take in relation to the petition.

Scottish Government Action

2. As part of the Year of Natural Scotland, a campaign called Scotland’s Big 5 ran from spring until the end of October 2013. This asked people to vote for their favourite from the following species – Golden Eagle, Harbour Seal, Otter, Red Deer and Red Squirrel. The Golden Eagle received 38% of the 12,000 votes cast, and was 18 points ahead of the next nearest, the Red Squirrel.

Scottish Parliament Action

3. A previous petition (PE783) was submitted on the same subject in 2004 by Mr James Reynolds after a poll in the Scotsman newspaper voted the Golden Eagle the country’s most loved bird. The petition was referred to the Enterprise and Culture Committee, which was unable to identify a formal process to create national symbols for Scotland.

Committee Consideration

4. Following its initial consideration of this petition on 28 January 2014, the Committee sought the views of several stakeholders. The Scottish Raptor Study Group supported the call to designate the Golden Eagle as Scotland’s national bird. Scottish Natural Heritage acknowledged there are other species which are also worthy of consideration should the concept of a national bird be pursued.

5. In his response, the Minister for Environment and Climate Change stated that he was “not yet convinced that there are compelling arguments in support of having a national bird”, and that “the Scottish Parliament might wish to reflect on the value, purpose and means of choosing further national symbols.”
6. The Committee considered the petition again on 1 April 2014 and agreed to seek the views of other parliamentary committees on the value, purpose and means of choosing new national symbols.

7. The Economy, Energy and Tourism Committee and the European and External Relations Committee had no comments on the matter. In its letter, the Education and Culture Committee supported the process used for assigning the Scots Pine as the national tree.

8. The Rural Affairs, Climate Change and Environment Committee’s (RACCE) view was that the purpose of national symbols is to unite people by “creating a visual, verbal or iconic representation of the national people, their values, goals and history”. The letter from RACCE also noted that Scotland has a number of national symbols and expressed its view that there is merit in exploring the benefits of assigning further national symbols. RACCE supported a considered approach to the issue and suggested that such an approach should include “engaging directly with the people of Scotland in an open debate”.

9. The Committee last considered the petition on 3 June 2014 and agreed to write to the Scottish Government to seek its views on the committees’ responses.

10. In his letter, the Minister for Environment and Climate Change reiterates his view that a persuasive case has not yet been made for Scotland having a national bird, or for the Golden Eagle to be that national bird. The Minister highlights the importance of public consultation on such matters and not wanting to propose and designate national symbols on an ad hoc basis.

**Action**

11. The Committee is invited to consider what action it wishes to take in relation to the petition. Options include—

   (1) To close the petition on the basis that the Scottish Government has reiterated its view that the case has not been made for Scotland having a national bird, or for the Golden Eagle to be that national bird; in doing so the Committee may wish to invite RSPB Scotland to undertake a public consultation to demonstrate that there is widespread support for the concept of a national bird and for the choice of the Golden Eagle over other bird species.

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

14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1501 on public inquiries into self-inflicted and accidental deaths following suspicious death investigations

Note by the Clerk

PE1501 – Lodged 13 December 2013
Petition by Stuart Graham calling on the Scottish Parliament to urge the Scottish Government to introduce the right to a mandatory public inquiry with full evidence release in deaths determined to be self-inflicted or accidental, following suspicious death investigations.

Link to petition webpage

Purpose

1. This petition was last considered on 3 June 2014 when Committee heard evidence from a panel of stakeholders on what is sought by the petition and how the police and procurators fiscal interact with bereaved families.

Background


3. An FAI is generally mandatory in the case of a death: apparently resulting from an accident sustained at work; or occurring whilst the deceased was in legal custody. The Lord Advocate may waive the requirement for a mandatory FAI where satisfied that the circumstances of the death have been sufficiently established in the course of relevant criminal proceedings. An FAI may also be held, on a discretionary basis, where a death is “sudden, suspicious or unexplained, or has occurred in circumstances such as to give rise to serious public concern” and the Lord Advocate believes that the holding of an FAI is “expedient in the public interest” (section 1(1)(b) of the 1976 Act).

4. The petitioners do not seek an extension of the FAIs to cover more instances and types of fatality. The petitioners seek a simplified procedure whereby families are able to challenge an investigation into a death and the outcome of that investigation without having to hold an FAI or seek a judicial review should the Lord Advocate decide that an FAI is not required.

Scottish Government Action

5. In 2008, the Scottish Government appointed Lord Cullen to review the operation of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976. His report ‘Review of Fatal Accident Inquiry Legislation’ was published in 2009 and it did not recommend the type of reform sought by the petitioner. In 2011, the
Scottish Government published a response to the recommendations set out in Lord Cullen’s report.

6. On 1 July 2014, the Scottish Government commenced a consultation on proposals to reform FAI legislation. The consultation closed on 9 September 2014.

Scottish Parliament Action
7. Public petition PE1280 (lodged September 2009) called for FAIs to be held when a person from Scotland dies abroad. It was last considered by the Justice Committee on 18 February 2014 when the committee decided to keep the petition open pending introduction of legislation on FAIs and also to write to the Cabinet Secretary for Justice for an update on the Government's position.

8. Possible Members’ Bills include a proposal from Patricia Ferguson MSP for an Inquiries into Deaths (Scotland) Bill:

   “to re-enact with amendments the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976:
   (a) to extend the scope of inquiries to cover work-related deaths not resulting from accidents, such as deaths from industrial diseases and deaths resulting from exposure at work to certain substances
   (b) to make the process of investigating deaths quicker and more transparent, to refer appropriate cases to specialist sheriff courts, and to give the families of the deceased person a more central role in the process”.


Committee Action
10. The Public Petitions Committee first considered this petition on 14 January 2014 hearing evidence from the petitioners and agreeing to write to a number of stakeholders. The Committee considered the petition and the evidence received on 18 March 2014 following which it agreed to convene a further oral evidence session.

11. At its meeting on 3 June 2014, the Committee took evidence from Stephen McGowan, Deputy Director of Serious Casework, Crown Office and Procurator Fiscal Service; Alan McCready, Deputy Director of Law Reform, Law Society of Scotland; and Detective Chief Superintendent Gary Flannigan, Police Scotland; Alan McCloskey, Director of Operations, Victim Support Scotland. The Committee decided to seek views from the petitioner and the Scottish Government on the issues raised at that meeting.

12. The Scottish Government noted the suggestion by stakeholders that the role of Victims’ Support Scotland in helping bereaved families should be extended. The Scottish Government reiterated its position that recourse to a Judicial Review is an existing and sufficient remedy for a person to challenge the Lord Advocate’s
decision not to instigate an FAI. The Government also outlined the proposals for reform of FAI legislation which it has consulted on.

13. The Petitioner welcomes the willingness of stakeholders to work more with bereaved families but is disappointed that the Scottish Government remains unconvinced of the merits of the central demand of his petition.

**Action**

14. The Committee is invited to agree what action it wishes to take in respect of the petition. Options include—

(1) To refer the petition to the Justice Committee and in doing so, write to the Convener of the Justice Committee highlighting the evidence the Public Petitions Committee has received on the petition.

(2) To close the petition on the basis that the petitioner has had the opportunity to contribute to the Scottish Government’s pre-legislative consultation on reform of FAI legislation and will have further opportunity to contribute to the Stage 1 consideration of the forthcoming bill.

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

14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1509 on Aberdeen to Inverness Rail Travel Improvement

Note by the Clerk

PE1509 – Lodged 14 March 2014
Petition by Lee Wright calling on the Scottish Parliament to urge the Scottish Government to improve the safety, frequency and standards of rail transportation between Aberdeen and Inverness. The North East of Scotland and the two most northerly cities in the UK deserve a better rail service.

Link to petition webpage

Purpose

1. The Committee last considered this petition at its previous meeting on 5 August 2014 and agreed to write to the Scottish Government on the issues of lack of track doubling and increasing paths for freight trains. A response has been received and the Committee is invited to consider what action it wishes to take in relation to the petition.

Background

2. Transport Scotland, working with Network Rail, has developed a long term plan for the improvement of the Inverness-Aberdeen railway. The project aims to deliver: a two hour journey time; an hourly service; enhanced commuter services into Aberdeen and Inverness; and new stations at Kintore in Aberdeenshire and Dalcross, near Inverness airport.

3. The project, which is estimated to cost between £250 million and £500 million, will be delivered in phases. The whole project is due to be completed by 2030. Phase one of the scheme aims to deliver enhanced commuter services into Inverness and Aberdeen and new stations at Kintore and Dalcross by 2019.

Committee Consideration

4. Just prior to the Committee considering this petition for the first time, on 1 April 2014, the Scottish Government announced a £170m package of improvements for the Inverness to Aberdeen rail line. Following a request from the Committee, Network Rail provided further details of the scope of the improvement project.

5. The Committee sought information about seat reservations and overcrowding. The Scottish Parliament’s Information Centre (SPiCe) referred to the National Rail Conditions of Carriage. These state that “unless you have a seat reservation, the Train Companies do not guarantee to provide a seat for your journey.” SPiCe also noted the statement by the Office of Rail Regulation that “there is no conclusive evidence linking crowding on trains with anything other than low level health and safety risks”.


6. The Committee last considered the petition on 5 August 2014 and agreed to write to the Scottish Government on two specific points (the lack of track doubling at the Inverness end and at Dalcross; and plans for increasing paths for freight trains), with a view to subsequently closing the petition.

7. In response, the Minister for Transport and Veterans outlines the main focus of phase one of the works, which is to improve the management of overcrowding on services between Aberdeen and Inverurie. The feasibility of doubling the track at Dalcross will be examined as part of phase two of the improvements. In relation to freight transport, the Minister outlines the investment that is being made to improve freight provision, which includes investment to “facilitate modal shift to rail during CP5” (2014-2019).

8. The petitioner argues in a further letter to the Committee that the improvements planned in both phases one and two will only help commuters into Aberdeen and Inverness, and not those who travel on the rest of the line between Inverurie and Nairn.

Action

9. The Committee is invited to consider what action it wishes to take in respect of the petition. The Scottish Government has, this year, stated its commitment to medium and long term investment in the Inverness-Aberdeen railway. On this basis, it may be that the Committee would wish to close the petition.
Public Petitions Committee

14th Meeting, 2014 (Session 4), Tuesday 30 September 2014

PE1512 on amendments to the Freedom of Information (Scotland) Act 2002

Note by the Clerk

PE1512 – Lodged 5 April 2014
Petition by Bill Chisholm calling on the Scottish Parliament to urge the Scottish Government to strengthen the Freedom of Information (Scotland) Act 2002 by requiring public bodies to provide full and accurate information in all responses to FOI requesters, and to extend the powers of the Scottish Information Commissioner (SIC) to enable the Commissioner to investigate complaints alleging erroneous responses. The SIC should also be able to impose monetary penalties on any public body which breaches the amended FOISA regulations on accuracy.

Link to petition webpage

Purpose

1. The Committee last considered this petition on 6 May 2014 when it heard evidence from the Scottish Information Commissioner. At that meeting, the Committee agreed to defer further consideration to allow time for the Scottish Government and the petitioner to provide written evidence. Responses have been received and the Committee is invited to consider what action it wishes to take in respect of the petition.

Background

2. The Freedom of Information (Scotland) Act provides a right to access information held by Scottish public authorities; creates exemptions from the duty to disclose information; and establishes the arrangements for enforcement and appeal.

3. The Act provides that a Scottish public authority must disclose all the recorded information it held when it received a request for that information. If the requester is dissatisfied with the way an authority dealt with the request, section 20 of the Act gives a right to ask for a review by the authority. If, after that review, the requester remains dissatisfied, the Act gives the requester a right of appeal to the Scottish Information Commissioner. The Commissioner cannot investigate and make a decision if the requester has not sought a review by the authority.

4. The Act makes no mention of the accuracy of the information provided and the Scottish Information Commissioner has no power to investigate the accuracy of the content of information provided. The Commissioner’s powers only extend to access to information held by the authorities covered by the Act.

5. If the requester believes that they have been given incomplete information, or a version that had been updated, amended or changed (at or before the time of the request), the Commissioner could investigate this because the requester would not have been provided with all the information the authority held.
6. For example, if a requester asks a council for the details of legal fees it incurred in relation to court action, and in response the council gives the requester information about legal fees but the requester believes the figures are wrong and that the council holds more (i.e. the correct) information, the Commissioner could investigate on the basis that potentially the council did not disclose (or properly withhold) all the information it held.

Committee Consideration

7. After the petition was lodged, the Scottish Information Commissioner wrote to the Committee outlining her view that the changes proposed in the petition are “not needed”, “would not be workable in practice”, and “may have come about as a result of a misunderstanding of the current provisions in FOISA.”

8. Following the Committee’s consideration of the petition on 22 April 2014, the Commissioner provided further written evidence on Section 65 of the Act. In relation to the petition, the Commissioner highlighted that where a requester is dissatisfied with a response and makes an appeal, there are already provisions within the Act that would allow her to investigate.

9. The Commissioner attended the Committee’s meeting on 6 May 2014 to provide further evidence. Following this, the Committee agreed to defer its consideration to allow the Scottish Government and the petitioner to respond.

10. In its response, the Scottish Government states that that it “shares the view of the Scottish Information Commissioner in that the proposed changes are not needed and would, in practice, not be workable.” Furthermore—

“The Freedom of Information (Scotland) Act is about access to information held by Scottish public authorities – it is not of itself about ensuring information held – or provided – is accurate. However, it is through access to information that Scottish public authorities can be held to account – in effect what the petitioner, Mr Chisholm, has done in his case.”

11. The Scottish Government’s response includes further detail and examples to support its view. In response to the second question asked of it by the Committee, the Scottish Government states that it has no plans to review or amend the existing Freedom of Information (Scotland) Act.

12. The petitioner, in his response, states that public bodies are able to mislead or deceive individuals that make requests for information. He also reiterates his view that the insertion of “an accuracy clause” into the Act is both “reasonable and sensible”.

13. Submissions have also been received from two members of the public, Mr D Leslie and Mr R Mackay, and these have been circulated to the Committee.
Action

14. The Committee is invited to consider what action it wishes to take in relation to the petition. Given the Scottish Government has stated it shares the view of the Scottish Information Commissioner that the changes being proposed are not needed and would be unworkable, an option would be to close the petition. Alternatively, the Committee may wish to take any other action that it considers appropriate.
Public Petitions Committee  
14th Meeting, 2014 (Session 4), Tuesday 30 September 2014  
PE1463 on effective thyroid and adrenal testing, diagnosis and treatment  

Note by the Clerk  

Introduction  
1. When it last considered this petition (20 May 2014), and following a suggestion from Elaine Smith MSP, the Committee agreed to consider options for a mini inquiry. There was some preliminary discussion at the Committee’s business planning discussion in August.  

2. The paper considers how the Committee could progress the issues raised by the petition and suggests holding a one-off evidence session with SIGN. A recent submission from the petitioner, drawing attention to new research, has been circulated.  

Background  
3. The petition was lodged in December 2012 and asks for better testing and treatment for thyroid and adrenal disorders. Since then, the Committee has received many submissions from patients recounting their experiences.  

4. In June 2013, the Committee held an evidence session with the Cabinet Secretary for Health specifically on the interruption to the supply of the only licensed form of T3 in the UK.  

5. At that time, more generally in response to the petition, the Cabinet Secretary advised that the Scottish Government was consulting the British Thyroid Association, had asked Health Improvement Scotland to provide a note on the available published clinical evidence and was liaising with the diagnostic steering group on the sufficiency of current testing. The Minister for Public Health advised that any changes to the provision of clinical care would require a clear evidence base.  

6. In October 2013 the Committee held a round table evidence session with the petitioners, the Minister for Public Health, the GMC and clinicians. Issues raised included a perceived lack of consistency in testing for thyroid conditions, interpretation of reference ranges, varying rates of effectiveness of treatments and a reluctance to prescribe certain treatments.  

7. In February 2014 the Minister for Public Health wrote to the Committee advising that he had received responses from the British Thyroid Association, the Scottish Clinical Biochemistry Managed Diagnostic Network (SCBMDN) and the Scottish Health Technologies Group (SHTG). The responses all indicated that there was no evidence base to support the changes being sought by the petition. The Scottish Government would not be setting up a
working group; but “recognising the experiences of the petitioners and others who find themselves unable to obtain or access a diagnosis or a treatment they feel should be available” it undertook to commission a piece of work to explore how patients understand and feel about their quest for a diagnosis and/or treatment in areas where the evidence is limited, the science is uncertain or disputed and/or where a condition is rare or obscure, or not widely recognised. The aim of the project would be to improve patient experience. The Scottish Government has confirmed that the needs and experience of those with thyroid disorders would be given particular focus. The Scottish Government’s project is expected to be completed by Spring 2015.

Current Position

8. The Scottish Government’s position is that any change to the current provision of clinical care would require to be based on clear evidence. Its investigations to date suggest that there is no clear evidence to support the change being sought by the petitioners.

9. The outcomes of the Scottish Government’s project on patient experience should provide better information on the views of patients and what scope there might be for improvement. As noted the project is not likely to conclude until Spring next year.

10. The Scottish Intercollegiate Guidelines Network (SIGN) is responsible for developing clinical practice guidelines for Scotland. It undertakes systematic reviews of the scientific literature. Its guidelines “are designed as a vehicle for accelerating the translation of new knowledge into action to meet our aim of reducing variations in practice, and improving patient-important outcomes.”¹ At present, there are no clinical practice guidelines for the NHS in Scotland on testing and treatment of thyroid conditions.

11. According to its website “any group or individual may propose a guideline topic to SIGN”.

Committee evidence session with SIGN

12. One option for the Committee to progress the issues raised in the petition would be to consider making a referral to SIGN itself. In advance of taking any decision, the Committee may wish to hold a one-off evidence session with SIGN to explore its work, how it engages with patients and its processes for developing guidelines.

For Decision

13. The Committee is invited to agree to hold a one-off evidence session with SIGN with a view to deciding thereafter whether a formal proposal for a guideline should be made.

¹ SIGN website