The Scottish Parliament
Pàrlamaid na h-Alba

PUBLIC PETITIONS COMMITTEE

AGENDA

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

The Committee will meet at 9.15 am in the Adam Smith Room (CR5).

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—

   PE1639: Enterprise agency boards;
   and will take evidence from—
   Maureen Macmillan;
   and will then consider—
   PE1633: Private criminal prosecutions;
   PE1634: Equality in council tax payment options;
   PE1635: Review of section 11 of the Children (Scotland) Act 1995;
   PE1636: Require that all single use drinks cups are 100% biodegradable.

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

   PE1319: Improving youth football in Scotland;
   PE1458: Register of interests for members of Scotland's judiciary;
   PE1545: Residential care provision for the severely learning disabled;
   PE1551: Mandatory reporting of child abuse;
   PE1613: Taking account of sound sensitivity in regulating antisocial behaviour and environmental health;
   PE1625: Wider awareness, acceptance and recognition of Pathological Demand Avoidance Syndrome.

4. **Work programme:** The Committee will consider its work programme.

PPC/S5/17/6/A

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The papers for this meeting are as follows—

Item 2:

PRIVATE PAPER	PPC/S5/17/6/1 (P)

Item 2:

Note by the Clerk	PPC/S5/17/6/2
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Item 3:

Note by the Clerk	PPC/S5/17/6/7
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Item 4:

PRIVATE PAPER	PPC/S5/17/6/13 (P)

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1639: Enterprise Agency Boards

Note by the Clerk

Petitioner	Maureen Macmillan
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to reverse its decision to create a single Scotland-wide board for enterprise and skills and instead retain separate boards for each enterprise agency, including the Highlands and Islands Enterprise.
Webpage	parliament.scot/GettingInvolved/Petitions/PE01639

Introduction

1. This is a new petition, which collected 200 signatures and attracted 29 comments. The petitioner has been invited to give evidence and the Committee is invited to consider what action it wishes to take.

Background (the following is taken from the SPICe briefing)

Highlands and Islands Enterprise (HIE)

2. Highlands and Islands Enterprise (HIE) leads regional growth and development in the north and west of Scotland, including all of Scotland's inhabited islands. Established in 1965 as the Highlands and Islands Development Board, HIE now employs around 300 people across its two administrative offices and eight locally-focused area teams. Its grant-in-aid budget is £79 million in 2016/17, with £67m coming directly from the Scottish Government. In addition, HIE has been awarded separate funding for next generation broadband infrastructure and national initiatives led by HIE for the Scottish Government, including Wave Energy Scotland, Community Broadband Scotland and the Scottish Land Fund (in partnership with Big Lottery Scotland).

3. HIE's priorities for supporting sustainable and inclusive economic growth are:

- Supporting businesses and social enterprises to shape and realise their growth aspirations;
- Strengthening communities and fragile areas;

- Developing growth sectors, particularly distinctive regional opportunities;

- Creating the conditions for a competitive and low carbon region.

Building our Future (HIE operating plan 2016-19)

4. HIE's main support for businesses is through account management. Account managers provide one-to-one support, advice and guidance to the management teams of client businesses. Currently 580 businesses and social and community enterprises are account managed across the HIE region, with support including access to leadership programmes, financial support, as well as sales, marketing, innovation and exporting advice.

5. HIE also works directly with fragile and remote communities to address social, economic and infrastructure issues. Around 50 'fragile' communities are currently account managed by HIE. The organisation is also responsible for delivering Community Broadband Scotland and the Scottish Land Fund across the whole of Scotland.

6. Previous Cabinet responsibility for HIE, together with Scottish Enterprise, lay with the Cabinet Secretary for Finance, Employment and Sustainable Growth (previously John Swinney MSP). Responsibility for HIE is now with the Cabinet Secretary for Rural Economy and Connectivity (Fergus Ewing MSP), and Scottish Enterprise now lies within the remit of the Cabinet Secretary for the Economy, Jobs and Fair Work (Keith Brown MSP).

HIE governance

7. The current relationship between the Scottish Government and HIE is set out in the Scottish Government/HIE Framework document. This details the broad framework within which HIE should operate and defines key roles and responsibilities which underpin the relationship between HIE and the Government. HIE receives strategic guidance from the Scottish Government each year in the form of a letter (see, for example, the 2014/15 letter).

8. The HIE Board has overall responsibility for ensuring the body fulfils its statutory duties and the aims and objectives set out by the Scottish Government. Current board membership is detailed here: http://www.hie.co.uk/about-hie/who-we-are/board-members/default.html .

Legislation underpinning the enterprise bodies

9. Scottish Enterprise and Highlands and Islands Enterprise were established under the Enterprise and New Towns (Scotland) Act 1990. Further information on both bodies is contained within these documents: Management Statement for Scottish Enterprise and Management Statement for Highlands and Islands Enterprise. The 1990 Act says: "The quorum of each body, and the arrangements for its meetings, shall be such

as the body in question may determine." Schedule 1 of the Act sets out the membership requirements of each board.

The Enterprise and Skills Review

10. During her 'Taking Scotland Forward' speech in May 2016 the First Minister announced an end-to-end review of:

    "the roles, responsibilities and relationships of our enterprise, development and skills agencies, covering the full functions of Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland and the Scottish Funding Council, to ensure that all of our public agencies are delivering the joined up support that our young people, universities, colleges and businesses need" (Scottish Government 2016b).

11. The Scottish Government believes the Scottish economy requires a "transformational step change" across a range of outcomes, including productivity and innovation. Therefore, the Review's terms of reference highlight the Government's desire for the enterprise and skills bodies to be fully contributing to the aspirations set out in its Economic Strategy.

Phase 1 timings and methods

12. Phase 1 of the Review took place over summer 2016 with a formal call for evidence running between 15 Jul 2016 and 15 Aug 2016. Over 320 responses were received, with 126 being published on the Scottish Government's consultation hub website. A summary of consultation responses was published by the Scottish Government in September.

13. In addition to the formal call for evidence, the Scottish Government commissioned design and strategy agency, Snook, to speak to service users across Scotland. 63 individuals participated in a series of workshops and interviews.

14. The Scottish Government also commissioned two research reports looking at comparable skills and business support systems in other countries:

    Skills and education: http://www.gov.scot/Resource/0050/00505878.pdf

    Enterprise: http://www.gov.scot/Resource/0050/00505879.pdf

Phase 1 report and findings

15. Phase one review findings were published on the 25th October with the report identifying current strengths of the enterprise and skills agencies, as well as highlighting challenges to be overcome.

16. Future actions, to be developed during Phase 2 of the review, are grouped under the five following themes:

- *One Scotland: stronger governance of a coherent system*
- *National and local enterprise and skills delivery*
- *An open and international economy*
- *Innovation*
- *Skills provision and economic success*

17. Within the first theme the following action was suggested:

"To bring greater integration and focus to the delivery of our enterprise and skills support to businesses and users of the skills system, we will create a new Scotland wide statutory board to co-ordinate the activities of HIE and SE, including SDI, SDS and the SFC."

18. However, the Review also recognised:

"the different social, economic and community development challenges facing the Highlands and Islands, we will maintain dedicated support which is locally based, managed and directed by HIE."

Scotland-wide statutory board

19. Since publication of the Phase 1 report, questions have arisen about the implications of the statutory board proposal for existing boards. It was unclear initially from the report whether or not the Scotland-wide board would replace or add to existing boards.

20. A BBC news article published on 10 November 2016 highlighted that, through the creation of a single national enterprise and skills board, individual agency boards would be abolished. At that time, "the boards [had] not been formally notified of this but [had] been told in private meetings".

21. Further clarity was provided by Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney MSP, during Portfolio Questions on 23 November 2016:

"Phase 1 of the enterprise and skills review recommended the creation of a new single strategic Scotland-wide statutory board to co-ordinate the activities of Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland and the Scottish Further and Higher Education Funding Council. Our intention is that, once established, the overarching board will replace individual agency boards while retaining the separate legal status of each of the bodies."

22. In response to a Parliamentary Question, the Cabinet Secretary for Economy, Jobs and Fair Work, Keith Brown MSP, stated:

> "As part of the work being taken forward in Phase two of the Enterprise and Skills Review we will consider the formation, format and remit of the new Scotland-wide Statutory Board. This will include what needs to be put in place in relation to budgets, appraisal, monitoring and evaluation of a range of areas including performance measures of HIE and their operational plans to ensure that HIE continues to be able to deliver an excellent service to the Highlands and Islands."

Response to proposals

23. Although the proposal potentially impacts the boards of all four skills and enterprise bodies, most press coverage, and political controversy, has centred on the HIE and Scottish Funding Council boards. For example, the Press and Journal newspaper has been actively campaigning to keep the HIE board, with its "Keep HIE Local" campaign. In a comment piece for the P&J in November, Andrew Liddle wrote: "This reform by the Scottish Government totally goes against the founding principles of the agency. It re-establishes the 'one-size-fits-all' approach that failed to deliver in the past. It takes the strategic decision-making away from HIE and will re-establish the direct government control, which I, along with many others, feel is the main purpose of this reform."

Parliament's response

24. The Education and Skills Committee raised the issue of the HIE board with Cabinet Secretary for Economy, Jobs and Fair Work during a committee session on the 7th December 2016. Committee member, Tavish Scott MSP, specifically questioned how submissions received during the Phase 1 consultation led to the decision to abolish HIE's board. The Economy, Jobs and Fair Work Committee also looked at the Phase 1 report during a session on the 1st November.

25. There have been two recent debates in the Scottish Parliament on the issue of individual boards being replaced by a Scotland-wide statutory board, the first on 18th January on the following motion:

> "That the Parliament opposes the Scottish Government's plans to abolish the board of Highlands and Islands Enterprise (HIE); recognises the vital work that HIE carries out for businesses and communities across the Highlands and Islands, and calls on the Scottish Government to reverse this decision and ensure that the HIE board continues to take all strategic, operational and budgetary decisions."

26. And the second (with a particular focus on the potential abolition of the SFC board), on the 1st March 2017, on the following motion:

> "That the Parliament recognises the key role and legal status of the current Scottish Funding Council board with regard to the financial and strategic management of Scotland's colleges and universities; is deeply concerned

by the Scottish Government's proposals to abolish the board, given the limited evidence and consultation on this proposal; notes the proposals in The Crerar Review, which recommend that the Scottish Government should retain the current board; demands that the Scottish Funding Council retains its important functions beyond enterprise and skills, and therefore believes that the Scottish Funding Council must not just be a "delivery board" but also have the powers to act on its own initiative and to challenge government as well as to challenge further and higher education institutions."

27. On both occasions, the Scottish Government lost the Parliamentary vote on its proposals to replace boards with a single Scotland-wide board.

The Crerar Report

28. Chairman of HIE, Professor Lorne Crerar, was asked by the Cabinet Secretary for Economy, Jobs and Fair Work to lead discussions with the other agency chairs and provide views and recommendations on the principles and proposals for a Scotland-wide strategic board. His report, 'Proposals on Governance and the Creation of a Strategic Board', was published on the 23 February.

29. Crerar's main recommendation appears to be that, should a Scotland-wide strategic board be established, individual boards are retained, albeit with more of an *operational* focus than previously. The report sets out the possible relationship between the Strategic Board and the individual 'Delivery Boards', each of which should retain their Chairs. Agency chief executives will be accountable to the Strategic Board, through their Chairs, who in turn will be accountable to the Strategic Board Chair (who may, or may not be, a Government minister).

30. At the time of writing (9 March 2017) the Scottish Government had not responded respond to Prof. Crerar's recommendations. However, during the debate on the SFC board on 1st March, Minister for Further Education, Higher Education and Science, Shirley-Anne Somerville, stated:

31. "Liz Smith (MSP) will be aware that the Government is reflecting on the detail of the proposals that Professor Crerar has outlined and the views of the ministerial review group and that have been expressed by wider

interests in taking forward the development of the strategic board. We will continue to listen to members across the chamber through constructive discussion about the way forward, and Mr Brown has said that he will make a statement to Parliament on our next steps in the coming weeks."

Scottish Government Action

32. The Scottish Government will make a ministerial statement on the enterprise and skills review on Thursday, 30 March 2017.

Conclusion

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

- To refer the petition to the Rural Economy and Connectivity.
- To take any other action the Committee considers appropriate.

Clerk to the Committee

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1633: Private Criminal Prosecution in Scotland

Note by the Clerk

Petitioner	Bill Alexander
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to change the law to give the people of Scotland the same legal rights as the rest of the UK by removing the requirement that the Lord Advocate must first give permission before a private criminal prosecution can be commenced in Scotland.
Webpage	parliament.scot/GettingInvolved/Petitions/PE01633

Introduction

1. This is a new petition that collected 37 signatures and 10 comments. The Committee has a SPICe briefing and is invited to consider what action it wishes to take.

Background

2. The Crown Office and Procurator Fiscal Service (COPFS) is the sole public prosecution authority in Scotland. Prosecutions by private individuals are possible in some circumstances, but are very rare. The petition seeks a change in the law to widen the scope for prosecution by private individuals (private prosecution).

3. A change in the law relating to private prosecution is sought in the context of concerns about the prosecution, by the COPFS, of alleged breaches of health and safety requirements. This briefing considers both issues.

Private Prosecution

4. With regard to Scotland, Renton & Brown's Criminal Procedure includes the following on private prosecution:[1]

> "Public prosecution of crime in Scotland has proved so satisfactory that the ancient system of private prosecution at the instance of a party wronged or injured by the crime is rarely invoked. Hume mentions two cases, one in 1633 and the other in 1823. In 1909, however, a private

[1] Renton & Brown's Criminal Procedure, 6th ed, W Green.

> party was authorised by a full bench to institute a prosecution for fraud in the High Court by way of criminal letters, and in 1982 the High Court authorised the issue of criminal letters for rape.
>
> A citizen desiring to institute a prosecution at common law in the High Court must be in the position that the crime alleged is a wrong to himself and that he has applied to the Lord Advocate for his concurrence in the prosecution. So, where a bill for criminal letters to authorise a private prosecution was presented without the consent of the Lord Advocate having been asked, it was refused as premature and incompetent. But the Lord Advocate does not have an absolute right of veto, and where he refuses his concurrence the citizen may complain to the High Court. The court will not lightly interfere with the discretion of the Lord Advocate, but, if it takes a different view from him, it may either direct him to give his concurrence or authorise the private party to proceed without it." (para 3.09)

5. The cases in 1909 and 1982, referred to above, were:

   - J & P Coats Ltd v Brown (1909) – the High Court granted criminal letters allowing the private prosecution of a fraud case without the concurrence of the Lord Advocate. The Lord Advocate had been of the opinion that there was insufficient evidence to prosecute.
   - X v Sweeney (1982) – the High Court granted criminal letters allowing the private prosecution of a rape case. This was not opposed by the Lord Advocate, who had previously raised and abandoned a prosecution for rape.[2] The reason for the earlier abandonment was the complainer's then inability, through ill-health, to give evidence.

6. There have been a number of other cases where the right to bring a private prosecution has been sought but not authorised by the High Court (eg on the basis that the alleged crime was a public wrong rather than one affecting the individual complainer directly).

7. Renton & Brown's Criminal Procedure goes on to note that:

   "Private prosecution in solemn procedure is competent only in the High Court. It is incompetent for a private person to prosecute on indictment in the sheriff court, whether with the consent of the Lord Advocate or not.

   Summary prosecution at the instance of a private person is incompetent unless any enactment otherwise expressly provides." (paras 3.14 – 3.15)

8. The current rules relating to private prosecutions in Scotland were recently considered by the High Court. The case involved two instances where drivers lost control of their vehicles (a bin lorry and a car), leading to crashes in which

[2] Thereby imposing a personal bar on the Lord Advocate bringing a further prosecution for the alleged offence.

pedestrians were killed. The High Court's judgement (December 2016) considered the law in the context of decisions by the Lord Advocate, in each instance, not to prosecute or support private prosecutions. In its judgement, the High Court noted that:

> "Scotland has for many centuries had a system of public prosecution in which the Lord Advocate is recognised as prosecutor in the public interest. By 1961 this system of public prosecution had become so well-acknowledged and respected that the court was able to say that 'private prosecutions have almost gone into disuse' (McBain v Crichton 1961 JC 25, Lord Justice General at p 29). Although it remains open to a private citizen to apply to the court for permission to bring a private prosecution where the Lord Advocate has declined to prosecute or grant his concurrence to a private prosecution, the circumstances in which such permission may be granted have repeatedly been described as exceptional." (para 85)

9. In relation to England and Wales, the website of the Crown Prosecution Service (CPS) includes information on private prosecutions. It notes that:

"A private prosecution is a prosecution started by a private individual, or entity who/which is not acting on behalf of the police or other prosecuting authority. A 'prosecuting authority' includes, but is not limited to, an entity which has a statutory power to prosecute.

There are a number of organisations that regularly prosecute cases before the courts of England and Wales but they do so as private individuals, using the right of any individual to bring a private prosecution. One example is the RSPCA.

The right to bring private prosecutions is preserved by section 6(1) of the Prosecution of Offences Act (POA) 1985. There are, however, some limitations:

- the Director of Public Prosecutions (DPP) has power under section 6(2) POA 1985 to take over private prosecutions;
- in some cases, the private prosecutor must seek the consent of the Attorney General or of the DPP before the commencement of proceedings."

10. As indicated above, private prosecutions in England and Wales are more common than is the case in Scotland. An article published by the Independent, Two-Tier Justice: Private Prosecution Revolution (16 August 2014) comments on the use of private prosecution in England and Wales.

Health and Safety

The petition states that:

> "As matters currently stand if the Health and Safety Executive (HSE) decides that it will not provide a report to the Crown in Scotland on an accident at work, legally there is nothing anyone in Scotland can do. The Lord Advocate in Scotland can direct Police Scotland to carry out an investigation, but has no powers to direct the HSE to carry out an investigation as they are a reserved body. Without a report the Crown cannot prosecute, so in effect there is no remedy for the victim."

11. As noted in the petition, the Health and Safety Executive (HSE) is a reserved matter.[3] The point about no other remedy being available is subject to any civil justice remedy which might be available. COPFS officials have stated that:

> "COPFS has a statutory power to direct Police Scotland in the course of their enquiries, in that the police are obliged to comply with COPFS' reasonable instructions. COPFS does not have that power in relation to any other reporting agency, including HSE. COPFS cannot therefore compel HSE to either investigate or report an incident.
>
> HSE, along with other bodies with statutory responsibility for enforcing health and safety legislation, is the expert statutory investigating agency in relation to health and safety matters. The Police have authority to investigate sudden deaths on behalf of COPFS and have a statutory responsibility to enforce the Corporate Manslaughter and Corporate Homicide Act 2007. However, in the absence of a legitimate sudden death investigation, the police would have to be satisfied that any instruction for them to investigate potential health and safety breaches was reasonable, and COPFS would not instruct the police to investigate a matter simply because another agency had declined to do so."[4]

12. A decision by the HSE not to pursue an investigation might, of course, also present difficulties for any potential private prosecution.

13. With regard to the HSE, the report (2014) of the Smith Commission noted that:

> "The parties have raised a number of additional policy matters which do not involve the devolution of a power to the Scottish Parliament. They have agreed that the Scottish and UK Governments should work together to: (…)
>
> (7) review the functions and operations of the Health and Safety Executive in Scotland and consider how the future requirements to best serve the people of Scotland could be delivered operationally whilst remaining within a reserved health and safety legislative framework." (para 96)

14. Scottish Government officials have advised that:

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[3] The HSE is reserved under Schedule 5 of the Scotland Act 1998 (Part II, H2).
[4] Correspondence between author and COPFS officials (January 2017).

> "The Department for Work and Pensions, Scottish Government Public Health Division, Scotland Office and Health and Safety Executive (HSE) are overseeing an inter-governmental review of health and safety outcomes being sought in Scotland and how the various parts of the health and safety system support delivery of those. The review looked at existing evidence on health and safety in Scotland.
>
> Its report has been published. The key finding is that there is no significant difference in health and safety outcomes in Scotland, however there are some opportunities to further improve the good partnership working in Scotland. Scottish Ministers and UK Government Ministers have agreed that action on the Smith Commission recommendation is complete. Activity will continue to develop and improve occupational health and safety overseen by the Partnership on Health and Safety in Scotland (PHASS) (an existing occupational health and safety stakeholder group)."[5]

Conclusion

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

- To write to the Scottish Government seeking its view on the petition and clarification on what action it is taking to improve health and safety outcomes in Scotland.
- To write to Crown Office and Procurator Fiscal Service, the Health and Safety Executive and the Partnership on Health and Safety in Scotland seeking their view on the petition.
- To take any other action the Committee considers appropriate.

Clerk to the Committee

[5] Correspondence between author and Scottish Government officials (January 2017).

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1634: Equality in council tax payment options

Note by the Clerk

Petitioner	Jessica Mason
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to clarify and improve current Scottish council tax legislation in order to make council tax payment over 12 months a mandatory option for council tax payers, as it is in England and Wales.
Webpage	parliament.scot/GettingInvolved/Petitions/counciltaxpayments

Introduction

1. This is a new petition, which collected 51 signatures and attracted 2 comments (both from the petitioner). The Committee is invited to consider what action it wishes to take.

Background (taken from the SPICe briefing)

2. Currently 22 of the 32 local authorities in Scotland offer residents the option to pay their Council Tax bill by instalments over 12 months. Of the ten local authorities who do not allow payment by instalments, only Fife Council has announced plans to introduce this following the petitioners' research.

3. A number of councils have cited the lack of legislation on the area as a reason for not introducing payment by instalments, with the legal framework being unclear.

4. Paragraph 1 of schedule 1 to the Council Tax (Administration and Enforcement) Regulations 1992 stipulates that the maximum number of instalment payments is 10. However, regulation 21(4) permits councils to enter into agreements to pay council tax, and when doing so, schedule 1 does not apply. This provision was designed to allow councils the discretion to enter into voluntary agreements with debtors who have built up arrears, but it can, in principle, be used to allow payment over a period of 12 months for all debtors. This forms the grounds for why 22 councils are currently able to offer the 12 month payment option as standard, yet, the petitioner reports, other councils are "not keen to introduce payment options based on the principle of a sentence not designed to apply to all debtors".

5. In England the Council Tax (Administration and Enforcement) (Amendment) (No.2) (England) Regulations 2012 made it mandatory for all councils to allow eligible households to pay council tax over a 12-month period in line with the bill payers' preference.

6. The petitioner, having carried out independent research, reported that—

"Feedback from the councils who offer payment over 12 months shows that all councils have shown an increase in direct debit payment. Whilst this cannot solely be attributed to the change in allowing payment over 12 months it is likely that this played a role. In addition, some councils also found the following:

- Introducing such flexibility reduced the cost of collection and maximised in-year payment.
- Customers who paid by standing order no longer had to cancel and restart their standing orders each year.
- An increase in customers maintaining arrangements with the Corporate Debt team when switching to 12 monthly payments
- Allows customers to reduce monthly payments"

Scottish Government Action

7. The Scottish Government have confirmed that Council Tax is a local tax, so the administration is a matter for individual local authorities. As present legislation already allows local authorities to allow individuals to pay over 12 months, the Scottish Government has no plans to amend the relevant Regulations.

Scottish Parliament Action

8. The issue of spreading payments over 12 rather than 10 months was discussed during a Public Petitions Committee meeting in 2004, however the witness being questioned did not see this as a concern.

9. There has been no further discussion or action within the Scottish Parliament on the matter.

Conclusion

10. The Committee is invited to consider what action it wishes to take. Options include seeking the views of the Scottish Government and COSLA on the action called for in the petition, and whether existing legislation offers sufficient clarity to local authorities in respect of council tax payment options.

Clerk to the Committee

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1635: Review of section 11 of the Children (Scotland) Act 1995

Note by the Clerk

Petitioner	Emma McDonald
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to review the current system and operation of child contact centres and the procedure under section 11 of the Children (Scotland) Act 1995 so that the rights, safety and welfare of children are paramount in relation to child contact arrangements where domestic abuse is an issue, and to ensure that section 11 of the Act is consistently implemented across Scotland.
Webpage	parliament.scot/GettingInvolved/Petitions/PE01635

Purpose

1. This is a new petition that was not opened for collecting signatures and comments. Members have a copy of the petition and the SPICe briefing along with this paper.

2. The Committee met informally with the petitioner to explore the issues raised in her petition in advance of deciding what action members may wish to take on the petition. A note of that meeting is set out below, and the Committee is invited to consider what action it wishes to take.

Committee consideration

SPICe briefing

3. The SPICe briefing provides background to the range of parental rights and responsibilities ("PRRs") set out in the Children (Scotland) Act 1995, and who has these PRRs.

4. The briefing explains that, under section 11 of the Act, a parent can apply for a 'residence order' and/or a 'contact order' (section 11 orders). The action called for in the petition relates to the 'contact order' arrangements and in particular with regard to child contact centres.

5. With regard to a court's consideration of whether to grant a section 11 order, the 1995 Act does not contain a legal presumption in favour of contact with the child by the parent who the child does not live with, but says that a case should be decided according to three key principles—

- the welfare of the child is the paramount consideration
- taking account of the child's age and maturity, the child shall, so far as practicable, be given an opportunity to express his or her views[1]
- the court will not make any order unless it considers that to do so would be better than making no order at all.

6. The Family Law (Scotland) Act 2006 (section 24) 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 (1995 Act, section 11(7A)–(7E)).

7. Pages 3-4 of the SPICe briefing discuss *contact orders in practice* and *child contact centres.* In respect of child contact centres it notes—

- contact centres are not explicitly referred to in the 1995 Act
- contact centres are primarily provided by Relationships Scotland, which receives annual funding from the Scottish Government
- centres are not regulated, but operate under Office of the Scottish Charity Regulator requirements and undergo an internal quality assurance audit every three years.

8. The briefing refers to written questions lodged by Neil Findlay MSP on the issue of child contact centres[2]. The Scottish Government answered those questions on 9 February 2017 and confirmed that the "vast majority of child contact centres in Scotland operate as part of the Relationships Scotland network" and note that qualifications and training for the range of staff and volunteers within its network "is a matter for the organisation".[3]

Informal meeting with the petitioner

9. At its informal meeting with the petitioner, the Committee heard concerns in respect of the first of the three key principles during consideration of whether to grant a section 11 order – the welfare of the child is paramount.

10. The petitioner explained that she was not confident that this is the case. To highlight her point she identified a number of issues—

- regulation of child contact centres
- location and security
- training, qualifications and development
- funding and accountability
- the contact itself.

11. The petitioner expressed her concerns that child contact centres are unregulated and not subject to any form of external inspection regime. She

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[1] When the court is considering the views of the child under section 11(7), a **child aged 12 years or older** is presumed in law to have sufficient maturity to form a view (1995 Act, section 11(10)).
[2] S5W-06615; S5W-06616; S5W-06617; S5W-06618; S5W-06619; S5W-06620; S5W-06621
[3] Scottish Parliament written answers report, 9 February 2017, page 17-18.

considered that centres appear to have developed on an ad-hoc basis[4] and that there is a lack of clarity among users about why they were created and by whom.

12. The Committee heard that the ad-hoc, unregulated nature of contact centres raised a number of concerns around location and security. These include: centres being in residential buildings, including second storey flats; health and safety implications of inadequate - or lack of - internal and external fixtures; no CCTV; no mechanisms to check or risk-assess all individuals who may in the centre's premises at any given time; no clear structure or policy to determine who is responsible for the child's safety while they are in the centre (the person bringing the child to the centre is usually asked to leave for the duration of the contact).

13. The petitioner went on to set out her concerns about qualification requirements and the level of training and development available to all those involved in the child contact centre process: ranging from the staff/volunteers in a centre, to the Sheriff making the court order.

14. In particular, the petitioner's understanding is that sheriffs are not required to undertake any continuous professional development (CPD). This gave her concerns that they did not therefore have access to up-to-date training, which had a potential adverse impact on their ability to make an informed decision.

15. It was suggested that, on occasion, contact centre staff – many of who are volunteers - can be called upon by sheriffs to provide their views on child contact to assist the sheriff in reaching an informed decision. However, this gave the petitioner further cause for concern as her understanding is that there appears to be little or no qualification requirements in respect of child-related subjects generally, which extends to the manager of a centre.

16. In terms of funding and accountability of child contact centres, while the SPICe briefing notes that Relationships Scotland receives annual funding from the Scottish Government (£1.5 million for 2016-17), the Committee heard that there may also be occasions when parents who use the facility are required to pay for its services. The petitioner considers that this potentially creates a conflict of interests.

17. The petitioner's remaining concerns related to the contact arrangements. These concerns include—

    - quite often contact happens on a weekend, when parents are not able to access other social services for support (this also means that there is potential for multiple contacts to occur simultaneously at the same premises);
    - there appears to be no limit to the length of time that the arrangements can run for;

[4] The SPICe briefing notes that, while there is no specific reference to contact centres in the 1995 Act, the court's discretion is wide enough that contact through a contact centre can be a condition of a contact order.

- contact may occur even if it is against the child's wishes, creating a situation where a child is being 'made' or 'forced' to do something because of a court order;
- it appears to be very rare that a child has a voice in proceedings
- how the efficacy of contact is measured
- a lack of opportunity for other professionals (eg. doctors, teachers, Children's Rights Officers) to offer their input.

18. The petitioner summarised that essentially she feels that the law is the focus, not the child. She expressed some concern that while some local authorities have Children's Rights Officers, it is not a Scotland-wide provision.

19. It was noted that there has been very little in the way of research into child contact centres since 2004[5], although the petitioner acknowledged the Scottish Government's intention to bring forward a Family Justice Modernisation Strategy, which is intended to address issues such as ensuring the voice of the child is heard. However, she indicated her reservations about the timescale, noting that the Scottish Government has published points raised at its summit held in March 2016, but that there appears to have been no further progress to date.

Conclusion

20. The Committee is invited to consider what action it wishes to take on this petition. Options include—

- To seek the Scottish Government's views on the action called for in the petition and, in particular, to establish its progress in developing a consultation paper covering its intended review of Part 1 of the 1995 Act (which includes section 11) and its publication of a Family Justice Modernisation Strategy;
- To conduct a roundtable evidence session at a future meeting, inviting representatives from a range of stakeholders. Organisations/groups of interest might include—
  - Relationships Scotland;
  - Sheriffs' Association;
  - Children and Young People's Commissioner Scotland
  - Scottish Courts and Tribunals Service
  - Expert individuals or organisations who are trained specifically to represent and support children during proceedings and through the contact process
  - Other professionals such as doctors, teachers or child minders
- To take any other action the Committee considers appropriate.

Clerk to the Committee

[5] The then Scottish Executive funded research on Child Contact Centres in Scotland and Building Bridges? – Expectations and Experiences of Child Contact Centres in Scotland, published in 2004.

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1636: Require that all single use drinks cups are 100% biodegradable

Note by the Clerk

Petitioner	Michael Traill
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to introduce legislation requiring that all single use drinks cups (including all sleeves, labels & lids) be 100% biodegradable.
Webpage	parliament.scot/GettingInvolved/Petitions/recyclablecups

Purpose

1. This is a new petition that collected 51 online signatures and five comments in support of the action called for. A copy of the petition is provided along with this paper, and the Committee is invited to consider what action it wishes to take.

Background (taken from the SPICe briefing)

2. In the background information the petitioner states—

> "Every year the UK gets through billions of single use drinks cups, the type used by coffee chains and takeaway outlets. Not all are recyclable.
>
> Every day single use drinks cups are sent to landfill in their hundreds of thousands, only around 1 in every 400 is recycled. Many such cups end up littering our parks and greenspaces. By requiring that all single use drinks cups, as well as their lids, labels & sleeves are 100% biodegradable we can ensure that their negative impact upon our planet is reduced. Recycling only works when people actually do it. Requiring packaging such as this to be 100% biodegradable will make a tangible difference to the environment in Scotland where discarded single use drinks cups can be seen littering our country."

Single use drinks cups – disposal in Scotland

3. According to Zero Waste Scotland, 208 million disposable coffee cups are thrown away each year in Scotland (Zero Waste Scotland website).

Recycling rate of disposable drinks cups

4. Although some paper cups are recyclable, recent studies have suggested that only a small percentage of the disposable cups used are recycled. One of the constraints to recycling disposable cups includes the mixture of materials that are used to make the cups.

5. The sustainability charity organisation Bioregional highlights that—

> "Both paper (a biological material) and plastic (a technical material) are used in the production of the cups. The paper element of the cup could be easily recycled because it is non-toxic and biodegradable, if it could easily be separated. Unfortunately, we need the plastic coating on the inside of the cup to make it waterproof, and the combination of these materials mean recycling is no longer straightforward.
>
> There's currently only one centre in the UK that can recycle coffee cups – Simply Cups. This Kent-based company currently recycles less than 1 in every 400 cups we dispose of."

6. The Recycle for Scotland website developed by Zero Waste Scotland advises on how to recycle and provides the following advice on paper cups—

> "Paper coffee cups are not normally accepted in household recycling schemes, and should be placed in your waste bin unless specifically asked for by your local authority.
>
> Recycling technology is developing in this area and there are some facilities which can recycle paper cups. However, unless your council use these facilities, the paper cups cause problems within the traditional paper and card recycling process."

Approaches adopted to date to address this challenge

7. Several initiatives have been developed to address the challenges associated with the volume of disposable paper cups used. These include—

- Programmes that support the collection of the cups for recycling e.g. a campaign co-ordinated by sustainability organisation Hubbub to trial coffee cup collection and recycling in Manchester:

  > "By collecting the cups separately in these bins, the process of cleaning and shredding them is made much more simple and solves the contamination problem. Working with Simply Cups they will then transform the used cups into flowerpot holders by mixing the waste coffee cups with other recycled plastics."

- Disposable cups that can be composted e.g. Vegware, an Edinburgh based company, has developed compostable food and drink packaging

- Initiatives to reduce the use of disposable cups in favour of encouraging reusable cups, e.g. a campaign by the Environmental Paper Network.

Biodegradable and compostable cups

8. The terms 'biodegradable' and 'compostable' are sometimes used interchangeably but do not necessarily have the same meaning. The Association for Organics Recycling have suggested that—

> "The level of industry and public confusion is often compounded by the fact that certain products are being incorrectly marketed without any certified evidence to substantiate their claims."

9. They suggest the following definitions:

> **Compostable:** 'Materials which biodegrade in a composting process through the action of naturally occurring microorganisms and do so to a high extent within a specified timeframe. The associated biological processes during composting will yield CO_2, water, inorganic compounds and biomass which leaves no visible contaminants or toxic residue/substances.'
>
> **Biodegradable:** 'Materials which can be completely biodegraded (bio-assimilated) by microorganisms such as bacteria, fungi and algae. On its own, the term is to a degree obsolete as most materials will biodegrade within a given time. There are no defined time limits for the term 'biodegradable'.'

10. A number of European standards have been developed to assess whether a packaging product or material is compostable. These include—

- EN 13432 – requirements for packaging recoverable through composting and biodegradation
- EN 14995 – plastics: evaluation of compostability.

11. Currently, the EN 13432 standard defines what characteristics a material must have in order to be defined as 'compostable'. These properties include—

- **Biodegradability:** the ability to break down into carbon dioxide, water or biomass at the same rate as cellulose (paper)
- **Disintegrability:** the material is indistinguishable in the compost, is not visible and does not need to be screened out
- **No heavy metal content:** there is a limit value for the content in compostable plastics, and
- **Eco-toxicity:** the material produced from compostable plastics has no negative effects on composting.

Recycling vs biodegradable/composting cup

12. The paper cup recycling service, Simply Cups, suggests that simply making a cup from a biodegradable or compostable material does not necessarily mean that the cups would be disposed of in a way that would facilitate that happening—

> "Like all other cups today, the biodegradable cup is limited to disposal in general waste bins – unless dealt with through Simply Cups, of course – which will result in either landfill or incineration. Neither outcome is ideal, but if there is an absence of oxygen in landfill then the products will not biodegrade and so the role of the biodegradable cup becomes futile."

13. Some research also highlights that making a cup biodegradable or compostable doesn't necessarily address the energy and resource impacts

associated with making the cup in the first place (BIO Intelligence Service report for the European Commission 2012).

Biodegradable cups and litter

14. In the report for the European Commission, BIO Intelligence Service suggests that making a produce from biodegradable packaging could actually have a detrimental impact on littering—

> "Consumers are more likely to litter biodegradable packaging, presumably based on a mistaken belief that such products will disappear quickly in the natural environment… This situation, where littering is induced by a misunderstanding or misuse of the term "biodegradable", could worsen the littering problem. In many cases, biodegradable materials are only technically biodegradable and not naturally biodegradable…, resulting in the littered packaging persisting in the environment for a long period."

Alternative approaches – encourage reuse

15. In their report A Clean Sweep, waste consultants Eunomia have suggested that a tax on disposable coffee cups should be introduced as part of a package of measures to tackle litter—

> "The most effective way to incentivise a switch to reusable mugs, thereby bringing about significant prevention of waste and litter, would be an obligatory charge on single-use cups."

16. As part of their funding to support litter prevention the Zero Waste Scotland Product and Service Development Fund launched in 2014 states that it will encourage, "…product or service changes, such as … purchase reusable coffee cups for a group of businesses in a local area to reduce the number of disposable cups."

Conclusion

17. The Committee is invited to consider what action it wishes to take on this petition. Options include—

- To seek the views of the Scottish Government and COSLA on the action called for in the petition;
- To seek the views of organisations or companies such as Vegware, the Environmental Paper Network and Hubbub, that are developing initiatives to address issues such as the one identified by the petition. The Committee might also consider seeking the views of the Association for Organics Recycling;
- To take any other action the Committee considers appropriate.

Clerk to the Committee

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1319: Improving youth football in Scotland

Petitioner	William Smith and Scott Robertson
Petition summary	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 extra curricular 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.
Webpage	parliament.scot/GettingInvolved/Petitions/PE01319

1. This petition was last considered by the Committee at its meeting on 9 February 2017 when evidence was heard from Tam Baillie, Commissioner for Young People and Children Scotland. Prior to that, the Committee heard evidence at its meeting on 22 December 2016 from PFA Scotland, the Scottish Schools Football Association (SSFA) and the Scottish Youth Football Association (SYFA), and then from the Scottish Football Association (SFA) and the Scottish Professional Football League (SPFL).

2. After the meeting on 9 February, the Committee agreed to consider the oral evidence heard at a future meeting. The purpose of this note is to inform members' discussion of that evidence in respect of the two elements of the petition that remain under consideration: legal status and appropriateness of professional SFA clubs entering into contracts with children under 16 years (Point 1) and appropriateness of 'compensation' payments between SFA member clubs for the transfer of young players under the age of 16 years (Point 4).

3. As the Committee is aware, the Convener and Deputy Convener also met the SFA and the SPFL informally at Hampden on 20 March. Feedback on this meeting will be provided orally by the Convener and Deputy Convener when the Committee considers what action it wishes to take next.

Summary of oral evidence

4. This section of the note will provide a summary of the evidence heard at the meetings on 22 December 2016 and 9 February 2017. In doing so, the

evidence is presented thematically. The themes are, broadly, based on the actions set out in the SFA/SPFL submission of November 2015. Other themes, such as minimum wage payments are also considered.

Club Academy Scotland players being able to play for school teams

5. The SFA/SPFL had indicated that "subject to appropriate welfare considerations" there should not be any restrictions on players within the Club Academy Scotland (CAS) also playing for their school teams.

6. However, the issue of what would be included within the caveat of "appropriate welfare considerations" drew comment from other stakeholders, with both PFA Scotland and the SSFA expressing support for players being allowed to play for their school teams. A lack of clarity about what would be included within the caveat had previously been noted. In his evidence to the Committee on 22 December, Andrew McKinlay of the SFA explained—

"That phrase was in the initial recommendation… We took on board the children's commissioner's comment on that point. The rules therefore say that a child should be allowed to play for their school team."

Compensation payments

7. The system of compensation payments is based on a matrix that calculates the reimbursement of training costs. The system involves payment from the club wishing to take on a player's registration to the club that currently, or previously, holds that player's registration. It has been explained in evidence that this is a FIFA requirement. Andrew McKinlay explained—

"Basically the requirement is for all associations to have regulations for movement between clubs…and it provides for a system to reward clubs for investing in the training and education of young players."

8. The operation of the compensation scheme, and possible alternatives to the system in place in Scotland was discussed. Andrew McKinlay provided clarification about the matrix and how it ties in to the level of a club within the CAS system—

"…it has also been suggested that it is impossible to go from a higher club to a lower club, because the higher club has spent more. That is not the way it works under the regulations. The lower club pays the amount that it would have cost if it had done the training, in order to make sure that the movement can happen."

9. On the issue of an alternative system, the Commissioner has suggested that payment being triggered at the point a player signs their first professional contract might be more appropriate. Asked about this issue, PFA Scotland commented—

"On the question of whether there is an alternative, the answer is absolutely… There are plenty of ideas around, such as a levy on transfers, or a system that involves clubs that have developed a young payer applying to a pool or

independent panel for compensation when that player is offered a professional contract at 16."

10. Neil Doncaster of the SPFL explained that—

"In a number of jurisdictions, compensation is payable on award of a first professional contract. We have a system in place that deal with compensation when a player moves prior to a first professional contract. There are no rights and wrongs here; it is a difference in approach. I believe that our system is right and appropriate for Scotland."

11. Both Mr McKinlay and Mr Doncaster also commented on the role of the compensation system in relation to the opportunities for young players to be developed. Mr McKinlay commented on the stability of the youth football system and that without the compensation element—

"There is a good chance that the system would fall apart, we would not have a system and there would not be anything for children."

12. On the question of how the system strikes an appropriate balance that ensures the welfare of young people, Mr Doncaster set out his view that—

"If you dismantle the framework, you remove the incentive for those clubs to develop young players and you will end up with a significant lack of investment in the development of young players. I cannot see how that can be to the benefit of either the Scottish game or the young players involved."

Player registration (including the 28 day notice period)

13. A great deal of the focus on the petition has centred around the issue of player registration, particularly for players in the 15-17-year-old age group. Under the proposals brought forward by the SFA/SPFL, players in that age group are registered for a three-year period. This contrasts to a one-year registration period for players in the 10-14-year old group. Within that period, players would not be able to move between CAS clubs unless compensation payment is made.

14. The SFA/SPFL have acknowledged "that it is not in the best interest of clubs and more importantly young people to keep players with them who they are not utilising." To address this, three main changes were identified:

- Introducing a rule that if a player does not get sufficient game time[1] they are able to walk away at the end of a season without compensation being due;

- That clubs must commit to players for the full three-year period and may only release a player during this period if there is mutual consent or for exceptional reasons such as breach of discipline;

[1] This was clarified as being 25% of game time in a season.

- Allowing players to leave a CAS club on 28 days' notice if he wishes to return to the recreational game.

15. The Commissioner considers that "the capacity of clubs to hold on to youngsters for three years from age 15 should be removed." PFA Scotland commented on this from a trade union perspective, noting that—

"When a player reaches the age of 16, they will be one year into the three-year registration period. There is no obligation on the club to offer and of the lads a professional contract, but they can hold on to the registration and keep them as amateur players. That means that the cannot go and play for another professional club or, for example, get a contract to be an apprentice somewhere else."

16. David Little of the SYFA referred to a survey which found that 55% of respondents considered that their club had explained registration to them such that they fully understood what it involved. He said—

"We have to have robust guidelines for players because players are trying to latch on to a start and go on a journey, and sometimes parents wish to travel on the same journey. We need robust paperwork, and that paperwork needs to be signed off to confirm that it has been done and that the players and the parents accept and understand it. Any documentation has to be child-centric."

17. The SFA has indicated that in response to the findings of the survey it will pull together a standard pack to be provided during the registration process to ensure consistency and understanding. As noted below under the heading of implementation, this pack has not yet been rolled out.

18. On the issue of the 28-day notice period, the Commissioner has commented that—

"Clubs made quite a big thing of changing the rules so that children could walk away from the club academy and become part of grassroots youth football, but that is not freedom of movement as I recognise it."

The role of third parties/agents

19. The issue of the role of third parties/agents acting as intermediaries for young players was also discussed. Fraser Wishart of PFA Scotland provided an outline of the previous and current positions—

"FIFA used to have a licensing system in which you had to pass an exam and then post indemnity insurance or a bond of some kind. There were checks and regulations. FIFA disbanded that completely, for reasons known only to itself—I think that it was mainly because most transfers were not being conducted by licensed agents. FIFA gave a minimum set of standards to every association—in our case, it was the Scottish FA. Those standards are pretty minimal. FIFA allowed countries to create their own regulations on top of that. We have had concerns, which we have raised with the SFA and clubs—they are aware of those concerns.

In this area, the concerns are about the lack of disclosure and PVG—protecting vulnerable groups—scheme checks for those who register as intermediaries, as they are now called. They are allowed to sign representation contracts with minors."

20. Mr Wishart went on to state his view that—

"For the welfare of young people, there should be greater checks of any intermediary who will interact with young people. I actually think that persons under 16 should not be allowed to sign a representation contract, because young people do not need representation or an agent until they are 16. However, if we are going to have that, greater checks should be put in place."

21. Andrew McKinlay of the SFA explained the position of intermediaries under current regulations—

"intermediaries do not come under our jurisdiction until such time as they carry out a transaction. When they carry out a transaction, they have to sign a self-declaration form. The form includes a declaration that they have met the required criteria to allow them to work with minors under the current guidelines, rules and regulations as set out by Disclosure Scotland or the relevant Government agency of their country of domicile. The point is that some agents are not Scottish and are therefore not covered by Disclosure Scotland.

I accept that we need to look at the self-declaration approach to see whether we can do more."

22. This issue extended into the Health and Sport Committee's consideration of child protection in sport and the extent to which adults involved in youth football have sought and received the appropriate certification under the provisions for the protection of vulnerable groups.

Payment of minimum wage

23. Members will recall that the issue of payment of minimum wage was raised at the meeting on 22 December. At that date, there had been recent media stories of some clubs not meeting the minimum wage requirement in respect of certain contracts. The issue of minimum wage has also been raised during consideration of the petition in previous Sessions of the Parliament.

24. Neil Doncaster of the SPFL stated—

"We will fully investigate the allegations that have been made but it would be premature to comment on those investigations at this time.

I can absolutely assure you, however, that all SPFL clubs are fully bound by national minimum wage legislation. They are bound by the law of the land, like every other club and every other business. It would be contrary to our rules for a club not to pay the national minimum wage. The obligation to pay at least the

national minimum wage is included in the scope of our standard professional contract. We will therefore investigate the claims that have been made.

When a player ends up in dispute with a club over any matter, whether it is the national minimum wage or any other matter pertinent to the contract, we have a free dispute resolution procedure in place that players can avail themselves of. They can bring a dispute to the SPFL, which will adjudicate on the complaint. That has happened on a number of occasions, but we have not yet had any case brought to us in respect of the national minimum wage."

25. Evidence also explored the extent to which the SFA/SPFL have responsibility for ensuring that the terms of each contract provide for payment of minimum wage. One of the issues relating to minimum wage was noted by PFA Scotland as being the identification of what is considered to be work for a professional footballer—

"The difficulty, of course, is in determining what a football player does. What is their working week? That could be agreed by us, as a union, and the clubs, to give us a starting point. Players are not allowed to go out socially on a Thursday or a Friday night. They have to stay out of pubs, restaurants and so on, because they have to rest. If they get caught going out for a sneaky pint somewhere, they can be sanctioned. From my point of view, they are working during those hours. It is an issue that could and should be dealt with, but we are told that there is no appetite among the clubs to deal with it by regulation. The players can go to HMRC, which one or two of them are doing, and they can go to the SPFL and raise a complaint, but they are sometimes reluctant to do so.

We recently went out to a club where there were young lads of 17 and 18, who were not on the apprenticeship programme, and they were not being paid the minimum wage. We sat round the table with the club trying to negotiate and talk through the issues. Rather than pay the players the minimum wage, the club's reaction was to shorten their hours. They were full-time football players and were training for 16 hours a week. I do not know how they can develop as professional football players on that basis. In most jobs, if you are 17 and you reach 18, you know that you will get a wage rise—the minimum wage will be put up—but in football it seems to go the other way."

26. Discussion of this theme also addressed the information that is provided to clubs about compliance with the minimum wage. Fraser Wishart of PFA Scotland explained—

"I believe that some clubs sought advice from the SPFL centrally, and we understand that its lawyers put together a document. I do not think that the aim was to avoid paying the minimum wage, but there were suggestions around zero-hours contracts and other matters as a way of clubs being able to budget. It will be no great surprise to you that we disagreed with a lot of the impact of that. I think that those things are not possible in football, anyway."

27. Neil Doncaster of the SPFL commented on the provision of this document and its purpose—

"It is precisely because we are concerned that all clubs should pay at least the national minimum wage that we asked our solicitors to prepare a report for clubs to help them ensure compliance with national minimum wage legislation. The purpose of that is not to get round the rules somehow, as has been portrayed elsewhere, but to be compliant with the rules."

28. In the course of discussions, the question of when the SFA/SPFL became aware of reports that some players may not being paid the national minimum wage was asked. In response to this questioning, Neil Doncaster stated that he had become aware of it when the concerns appeared in a media report. Subsequently, James Dornan MSP (who had participated in the meeting on 22 December) wrote to the Convener to query whether Mr Doncaster had been aware of this issue at an earlier date, particularly in respect of a particular player whose case had received media coverage in 2014. The Convener wrote to Mr Doncaster to seek clarification of this matter. Mr Doncaster replied that he had taken the question to be about the cases identified in media coverage in the days immediately preceding the 22 December meeting and clarifying the timeframe within which he became aware of the case that arose in 2014. A copy of this letter has been provided to members and will be published on the petition webpage.

Implementation of changes

29. At the meeting on 22 December, the SFA/SPFL were asked to update the Committee on progress on implementing the recommendations. Andrew McKinlay of the SFA explained—

"All but one of the measures are in place. It is not the case that we do not want to put that measure in place—we will put it in place, and I think that it is a fundamentally important one. It is around having a standard pack that clubs give to individuals at the beginning of the season. We are still working on that. I do not want to mislead the committee by saying that it is in place. All the other measures were brought in by new rules."

30. Members may also wish to note that other work is underway in relation to youth football in Scotland as part of the 'Project Brave' initiative.

Conclusion

31. The Committee is invited to consider what action it wishes to take on the petition. The Committee has previously indicated that it would wish to seek time for a debate in the Chamber on the petition. Other options for action include—

- Inviting the Scottish Football Association and Scottish Professional Football League to provide further oral evidence at a future meeting
- Any other action the Committee wishes to take.

Clerk to the Committee

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1458: Register of interests for members of Scotland's judiciary

Note by the Clerk

Petitioner	Peter Cherbi
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to create a Register of Pecuniary Interests of Judges Bill (as is currently being considered in New Zealand's Parliament) or amend present legislation to require all members of the Judiciary in Scotland to submit their interests & hospitality received to a publicly available Register of Interests.
Webpage	parliament.scot/GettingInvolved/Petitions/registerofjudicialinterests

Introduction

1. This is a continued petition that was last considered by the Committee at its meeting on 19 January. At that meeting, the Committee agreed to submissions from the Judicial Complaints Reviewer and the Lord President. The letter to the Lord President repeated the Committee's invitation to provide oral evidence and asked for comment on three specific issues.

2. The responses received at attached as the annexe to this note.

Submissions received

3. The Judicial Complaints Reviewer states that—

> "In the context of my work as the Judicial Complaints Reviewer, bearing in mind that my role is solely to review whether the Complaints About the Judiciary (Scotland) Rules have been followed in considering a complaint, I have noted that complaints made about the conduct of judges often stem from a belief that the judge was biased in reaching a judgement. Of course I recognise that every judicial decision leaves a party that is dissatisfied and that a complainant may feel he or she did not get a fair hearing because the decision went against them. Although I have no evidence to support my view I do believe that if court users felt that judges were transparent in their publication of interests there might be a drop in such complaints."

4. In his letter, the Lord President responds to the specific queries set out by the Committee. In respect of any inhibitions to the administration of justice arising for those members of the judiciary who have to register interests in relation to other roles, the Lord President states—

"I am concerned that, at a time when online fraud is becoming increasingly sophisticated, a dissatisfied litigant, or a convicted person, may choose to retaliate by these means. A register of judicial interests may provide a starting point for that. That has not, to the best of my knowledge, happened with the small cohort of judges who have disclosed financial interests through JABS or the SCTS Board, but that sample is so small that no comfort can be derived from that."

5. The Lord President considers that members of the judiciary may become increasingly vigilant about information being in the public domain and that—

"Accordingly, one possible inhibitory effect on the administration of justice is that judges may start to decline positions on important public bodies such as these if that requires the disclosure of financial interests. In the same way, a register of judicial interests may have a damaging effect on judicial recruitment. You may be aware that, partly because of major changes to pension arrangements, difficulties have arisen in the recruitment of the senior judiciary. Revealing personal financial information is likely to act as a further powerful disincentive."

6. On this issue of whether the decision as to recusal should be made by a member of the judiciary other than the judge hearing a case, the Lord President states—

"Cases are often allocated to judges, both in the Court of Session and the sheriff courts, at short notice. A party or a judge may not be aware of the circumstances in which the issue of declinature must be considered until the morning of the case. If he then requires to pass that issue to another judge, for consideration, the case is likely to be adjourned for that purpose, to the disappointment of litigants and the inefficient disposal of business in the courts."

7. The Lord President goes on to state—

"…as a generality, the problem, if there is one at all, rests with an over cautious approach to declinature: ie with judges or sheriffs declining jurisdiction and thus prompting an adjournment and causing delay when they should, in accordance with their duty, have heard and determined the cases placed before them."

8. The question of whether the register of recusals should be expanded to include instances where recusal has been considered or requested but jurisdiction has not been declined, the Lord President's response explains he would—

"have no difficulty with the proposition that the register of recusals could be extended to cover instances when a judge has recused himself, and when he has declined to do so. The additional burden, which will fall upon the clerks of court, should not be great, and I agree that this may provide additional transparency."

9. In concluding, the Lord President indicates that he would be willing to provide oral evidence to the Committee.

10. In addition to the responses requested, the Committee has also received a submission from Melanie Collins based on her experiences. The submission sets out some background to the circumstances of Ms Collins' case and explains how she considers the existence of a register of interests would have prevented issues arising in that case. Ms Collins has also subsequently provided a copy of an article in the National newspaper that provides details of her experience.

Response from the petitioner

11. The petitioner's response considers each of the three submissions above and the oral evidence previously heard from Professor Alan Paterson. In respect of the Lord President's response, Mr Cherbi refers to the point about potential fraud with the argument that "the subject of online fraud has not particularly affected or precluded other branches of public services and government, including the Scottish Parliament, from maintaining registers of interests which include financial and other details - for a considerable length of time."

12. In respect of the potential inhibitory effect on members of the judiciary accepting other roles, Mr Cherbi comments that—

    "Members of the judiciary who hold positions on public bodies, remunerated or not, should be required to declare their financial and other interests, like other members of those bodies, as there is a public expectation of transparency in all decision making and branches of Government."

13. In relation to Melanie Collins submission, the petitioner references the evidence from Professor Alan Paterson that as long as "everybody knows about it [a potential conflict of interests] and it is declared, it should not mean an automatic disqualification. In such situations, all the parties usually know and no objection will be made."

Conclusion

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

    - Inviting the Lord President to provide oral evidence at a future meeting
    - Any other action the Committee wishes to take.

Clerk to the Committee

Annexe

The following submissions are circulated in connection with consideration of the petition at this meeting—

- PE1458/BBB: Judicial Complaints Reviewer letter of 17 February 2017
- PE1458/CCC: Melanie Collins Submission of 23 February 2017
- PE1458/DDD: The Rt Hon Lord Carloway Lord President letter
- PE1458/EEE: Petitioner Letter of 21 March 2017.

All other written submissions received are available on the petition webpage.

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1545: Residential care provision for the severely learning disabled

Note by the Clerk

Petitioner	Ann Maxwell on behalf of Muir Maxwell Trust
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to recognise residential care as a way severely learning disabled children, young people and adults can lead happy and fulfilled lives and provide the resources to local authorities to establish residential care options for families in Scotland.
Webpage	parliament.scot/GettingInvolved/Petitions/PE01545

Introduction

1. This is a continued petition that was last considered by the Committee at its meeting on 29 September 2016. At that meeting, the Committee agreed to defer further consideration of the petition until March 2017. The Committee is invited to consider what action it wishes to take.

Committee Consideration

2. Since the petition was lodged, the Scottish Government has consulted the petitioner and committed to funding a project to improve data collection on the demand for residential care. It has also launched a project to identify suitable alternatives to out-of-area placement. The Scottish Government has been engaging with the petitioner on those projects and has provided a two-year project plan.

3. One project within the plan is a quantitative analysis. This will "identify numbers and profiles of adults and young people with complex needs who are Out Of Area or Delayed Discharge". The Scottish Government indicated that this first piece of work will be completed by February 2017.

4. Another project within the plan is a qualitative analysis. This will seek to "understand the issues impacting on either Out Of Area or Delayed Discharge. This piece of work will involve working collaboratively with the families of people with complex needs, housing providers and Integrated Joint Boards Chief Officers". The Scottish Government has indicated that the timescale for this plan is March 2017 to September 2017.

5. At its meeting on 29 September 2016, the Committee agreed to defer further consideration of the petition until March 2017. This was the timeframe within which the Scottish Government expected to complete the first project (i.e. the quantitative analysis) in its project plan.

Conclusion

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

- To write to the Scottish Government seeking an update on the project plan, including the findings from the quantitative analysis and whether it is on track to meet the timescales within the plan.

- The Committee may also wish to seek an update from the petitioner on the progress of the plan and her involvement.

- To take any other action the Committee considers appropriate.

Clerk to the Committee

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1551: Mandatory reporting of child abuse

Note by the Clerk

Petitioner	Scott Pattinson
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to introduce legislation that makes it a criminal offence to fail to report child abuse.
Webpage	parliament.scot/GettingInvolved/Petitions/mandatoryreporting

Introduction

1. This is a continued petition, which was last considered by the Committee at its meeting on 19 January 2017. At that meeting, the Committee agreed to write to the Scottish Government for an update on its engagement with the UK Government and to ask what steps it will take to address this issue if no response is forthcoming from the UK Government.

Committee Consideration

2. In its submission of 17 February, the Scottish Government advised that officials had contacted the relevant UK Government officials on 31 January. UK officials confirmed that they were still reviewing the responses to the "Reporting and acting on child abuse and neglect" consultation, which closed in October 2016. UK officials were unable to provide an indicative timetable for publication of their findings, but expect it to be in the first part of 2017.

3. The Scottish Government submission added that it "recognises the fundamental importance of ensuring the safety and wellbeing of children … and is committed to action to improve child protection in Scotland where necessary". It added that it would give careful consideration to the conclusions of the UK consultation once available.

4. In his submission of 16 March, the petitioner expressed his opinion that "the police and the Scottish Government do not take rape and abuse as serious as they should". He referred to the Scottish Government submission as "false" and felt that the Scottish Government had undermined the child sexual abuse inquiry, which led him to feel that "the Scottish Government does not want any justice for survivors".

Action

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

   - To defer further consideration of the petition until such time as the UK Government publishes the findings of its consultation or, in the absence of such publication, the Scottish Government initiates its own actions/consultation;

   - To take any other action the Committee considers appropriate.

Clerk to the Committee

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1613: Taking account of sound sensitivity in regulating antisocial behaviour and environmental health

Note by the Clerk

Petitioner	Craig Thomson
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to provide for the needs of people who experience sound sensitivity due to disability or medical conditions to be taken into account in legislation and guidance on noise and antisocial behaviour.
Webpage	parliament.scot/GettingInvolved/Petitions/noiseantisocialautism

Introduction

1. This is a continued petition that was last considered by the Committee at its meeting on 27 October. At that meeting, the Committee agreed to seek views on the action called for in the petition from Scottish Government, the National Autistic Society, Scottish Autism, the Royal Environmental Health Institute of Scotland, the Scottish Federation of Housing Associations and local authorities.

2. The submissions received are available in the annexe to this note.

Views on the petition

3. The Scottish Federation of Housing Associations (SFHA) set out the framework within which its member housing associations work with regard to building standards and that properties—

   "have to comply with a number of physical standards including the Scottish Housing Quality Standard (SHQS) for existing homes and Building Standards for new build homes. Our members are also working to comply with the Energy Efficiency Standards for Social Housing (EESSH) by 2020."

4. The SFHA also commented on the issue of antisocial behaviour, noting that—

   "Housing associations and co-operatives provide a professional housing management service and have policies and procedures in place to tackle anti-social behaviour. Their performance on this is monitored by the SHR through the Social Housing Charter, for which all Registered Social Landlord provides annual returns."

5. A number of local authorities recognised that sound could be an issue that had a greater impact on some individuals than others, for a variety of reasons, but that the overall question of noise assessment was undertaken on the basis of a

'reasonable' person and that any change to current practices may carry a risk of penalising people who were carrying out normal activities within current thresholds.

6. Falkirk Council stated—

"It could prove to be both complex and confusing to have a regime where individuals considered to be more sound sensitive than the norm are given protection to the detriment of the person with no sound sensitivity issues who are going about their normal business and not causing a statutory nuisance as per the current regime but who would be if changes were made in favour of those who are particularly sensitive to sound."

7. Aberdeen City Council detailed the steps that it would take in such a situation, including the options of installing more sound insulation where possible and undertaking a Housing Needs Assessment in respect of the person affected by the noise.

8. East Lothian Council refers to some of the case law underpinning the current position and the test of reasonableness that is used in assessing statutory nuisance—

"Case law directs local authorities to the test for the existence of a statutory nuisance is objective and to be judged by the standards of the average person. So, where a particularly sensitive person experiences a significant interference in his personal comfort, which an average person would not, there can be no statutory nuisance. (Heath v Brighton Corporation (1908) 98 LT 718)."

9. Some responses commented on the need for supporting evidence to be available from medical practitioners to be able to assess the impact that noise may have on an individual with a particular sound sensitivity. Argyll and Bute Council commented that if such evidence was available it may be appropriate to provide additional sound insulation under disability adaptations to ensure that at least one room in the property was safe and quiet and that this evidence could also reasonably be used in the context of housing allocation points.

10. East Ayrshire Council observed that—

"Councils can give priority to people with disabilities where re-housing would benefit their condition. Any health and disability assessment carried out by Council Occupational Therapists in this regard for re-housing recognises that 'acceptable' noise can be an issue and the assessment is reflective of sound sensitivity on an individual basis."

11. The response from East Ayrshire Council went on to state that unless the person affected by noise is housed in a detached property "there will inevitably be household noise from neighbours that is not necessarily classed as anti-social behaviour noise, but which may still impact on their quality of life, again depending on the level of sensitivity."

12. The Scottish Government response covers many of the same issues discussed in responses from local authorities, including explaining the statutory framework underpinning noise assessment. The response also highlights a recent case considered by the Scottish Public Services Ombudsman in respect of an individual whose disability heightens sensitivity to noise and who stated that normal living noise from a neighbour was causing him a great deal of stress.

13. The individual considered that the housing association had a duty under the Equality Act 2010 to make responsible adjustments in respect of sound insulation. The Ombudsman found that the—

    "association had failed to explain their decision to refuse his request. Instead, they had made reference to a previous response they made to an unrelated request for a reasonable adjustment." This element of the complaint was upheld, with a recommendation that the housing association reconsider the request "for reasonable adjustments in the form of auxiliary aids to reduce noise disturbances in his home and provide clear explanation of a robust, evidenced decision."

14. This decision appeared to be upheld on the basis that the refusal of the request had not been explained properly. However, it is not clear whether any reconsideration of the request would result in the adaptations requested being provided.

15. The petitioner has responded to the submissions received, stating that he is grateful to the organisations which responded and that his hope for the petition is "that it generates awareness, compassion and help to those who find themselves in a similar situation through no fault of their own."

Conclusion

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

    - Closing the petition under Rule 15.7 of Standing Orders on the basis that there is no support for the action called for in the petition but recognition that there are options open to individuals who may be more sensitive to noise on a case-by-case basis.

    - Any other action the Committee wishes to take.

Clerk to the Committee

Annexe

The following submissions are circulated in connection with consideration of the petition at this meeting—

- PE1613/A: South Lanarkshire Council Letter of 29 November 2016
- PE1613/B: Scottish Federation of Housing Associations Letter of 25 November 2016
- PE1613/C: Falkirk Council Letter of 25 November 2016
- PE1613/D: North Ayrshire Council Letter of 25 November 2016
- PE1613/E: Aberdeen City Council Letter of 25 November 2016
- PE1613/F: Aberdeenshire Council Letter of 17 November 2016
- PE1613/G: East Lothian Council Letter of 23 November 2016
- PE1613/H: Argyll and Bute Council Letter of 28 November 2016
- PE1613/I: City of Edinburgh Council Letter of 28 November 2016
- PE1613/J: Renfrewshire Council Letter of 28 November 2016
- PE1613/K: Scottish Borders Council Letter of 24 November 2016
- PE1613/L: North Lanarkshire Council Letter of 1 December 2016
- PE1613/M: Eileen Siar Council Letter of 5 December 2016
- PE1613/N: Fife Council Letter of 7 December 2016
- PE1613/O: East Ayrshire Letter of 25 November 2016
- PE1613/P: Scottish Government Letter of 31 January 2017
- PE1613/Q: Petitioner Submission of 27 March 2017

Public Petitions Committee

6th Meeting, 2017 (Session 5)

Thursday 30 March 2017

PE1625: Wider awareness, acceptance and recognition of Pathological Demand Avoidance Syndrome

Note by the Clerk

Petitioners	Patricia Hewitt and Mary Black
Petition summary	Calling on the Scottish Parliament to urge the Scottish Government to promote a wider awareness and acceptance of Pathological Demand Avoidance syndrome among health, education and social care and social work practitioners, and, via the appropriate agencies and bodies, to institute and facilitate training in the diagnosis of the condition, to promote the development of therapeutic programmes for those with the syndrome and to provide support for their families and carers.
Webpage	parliament.scot/GettingInvolved/Petitions/PE01625

Introduction

1. This is a continued petition, previously considered by the Committee at its meeting on 19 January, when it took evidence from the petitioners. The Committee agreed to write to the Scottish Government, COSLA, the National Autistic Society, Scottish Autism, the EIS, Enquire, Child Autism UK and the Royal College of Paediatrics and Child Health.

2. Submissions – provided in the annexe to this paper - have been received from the Scottish Government, National Autistic Society Scotland and Enquire, with a response to those submissions from the petitioners. The Committee is invited to consider what action it wishes to take.

Committee consideration

3. In its submission the Scottish Government notes that Pathological Demand Avoidance syndrome (PDA) "has no official diagnostic status or recognition within current autism diagnostic practice, nor is it included in the *Scottish Strategy for Autism's* implementation framework for 2015-17".

4. The Scottish Government submission refers to the "gold standard" systems for autism diagnosis – the International Classification of Diseases, version 10 (ICD-10) and the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) – neither of which recognises PDA. It adds that "[N]either SIGN nor NICE guidance recognises PDA as a distinct category for diagnosis".

5. The submission explains that PDA symptoms fall within the autism spectrum disorder (ASD) diagnosis as classified in DSM-5. Therefore, it concludes that a "PDA diagnosis would not be competent diagnostic practice". It does, however,

observe that the PDA Society recommends the Diagnostic Interview for Social Communication Disorders (DISCO) in its training for professionals, and notes that DISCO is one of the suggested autism specific tools within SIGN guidelines. It adds that, while not supporting or promoting PDA as a diagnosis, NHS Education Scotland provides support to Scottish diagnostic practitioners who have completed DISCO training.

6. The Scottish Government submission includes guidance for professionals – *Information about Pathological Demand Avoidance (PDA)* - which has been drafted by NHS Lothian and the City of Edinburgh Council, adding that there are ongoing discussions to "agree a consistent approach across all Lothian local authorities".

7. That information acknowledges that "understanding of the wide spectrum of [ASD] has developed considerably since the term PDA was introduced", but notes that there is "no established evidence base that PDA is a distinct diagnosis or that the treatment is specific".

8. It provides a table to demonstrate that descriptions of PDA are also descriptions of ASD as set out in DSM-5 and advises why PDA is not used as a specific diagnosis—

    - it can be confusing to use a label which does not have an accepted evidence base or recognition by the relevant clinical authorities
    - the risk (regardless of label) is that people apply the strategies advised without full understanding of them or the factors underpinning an individual's symptoms/behaviours
    - all best practice guidelines recommend an individualised approach to intervention is applied for children with ASD and therefore no additional diagnosis (such as PDA) is required.

9. The document concludes that knowledge and understanding of the autism spectrum is built around evidence based international standards, which "allows information, knowledge and the evidence base to be shared and developed with greater confidence and reliability". Having a understanding of how core characteristics impact on individuals "is the best way in which to assess and plan the optimum support for each child or young person".

10. In its submission, the National Autistic Society Scotland states that PDA is "increasingly, but not universally, accepted as a behaviour profile", adding that it does accept the condition as a profile.

11. It argues that a specific PDA diagnosis is important because it can: help people with PDA and their families to understand why they experience certain difficulties and what they can do about them; allow people to access services, support and appropriate advice about strategies; avoid incorrect assumptions and diagnoses; inform local authorities and schools about the importance of providing support and using appropriate PDA strategies and interventions, which differ to those that benefit others on the autism spectrum.

12. The National Autistic Society Scotland believes that "greater awareness of PDA is important so that clinicians can provide a more accurate profile of a person's strengths and needs … in turn leading to more appropriate support".

13. Enquire, an organisation funded by the Scottish Government to provide advice and information to parents and carers of children who require extra help at school, noted that feedback received from recent workshops it had run included that the fact that PDA is not widely acknowledged by professionals causes "needless and unnecessary anxiety not just for children but also their families".

14. It identified enquiries that it had received through its helpline where callers cited differences of opinion between professionals, along with concerns that in some areas schools, CAMHS or educational psychologists not accepting PDA as a diagnosis.

15. It supports the call to promote a wider awareness and acceptance of PDA, the need to institute and facilitate training, and to promote development of therapeutic programmes to provide appropriate support. However, it added that the term should be reviewed "as it sounds very negative and stigmatising for the children and young people concerned".

16. In their submission, the petitioners acknowledge that PDA is not recognised as a distinct category for diagnosis by SIGN or NICE guidance, but argues that the guidance "should be subject to revision and development in the light of better understanding of autism". They highlight *'the Distinctive Clinical and Educational Needs of Children with [PDA]: Guidelines for Good Practice'* set out by the Autism Education Trust.

17. The petitioners identified the comments in the submission from Enquire, about the differing opinions among professionals and the perception of a lack of acceptance from schools, CAMHS or educational psychologists. They are concerned that there appears to be "occasional hostility to those who raise the issue of PDA" or that "when PDA is mentioned the response of some professionals is to deny its existence".

18. The petitioners argue that new national guidance would help to remove confusion, adding that the "current deficiencies in advice to practitioners as regards terminology … are leading to contradictions and contraventions of public policy … [and] obstructing the development of methods or therapies that can be applied coherently in the field".

19. The petitioners provide an example towards the end of their submission which they use to highlight the concerns and anxiety that parents feel as a result of the lack of official recognition of PDA, which they feel results in inconsistencies of treatment and support.

Conclusion

20. The petition calls for wider awareness and acceptance of PDA. While it appears to be that PDA is 'accepted', insofar as it is included within a diagnosis of ASD, there does appear to be an inconsistency in the levels of awareness or

knowledge. However, the range of guidance for professionals – including ICD-10, DSM-5, plus SIGN and NICE guidance – which is based on evidence and a developing understanding of the condition does make clear that the best practice in terms of treatment for anyone diagnosed with ASD (which covers PDA) should be an individualised approach.

21. The Committee may also wish to note that a revised edition of the International Classification of Diseases is expected to be published in 2018.

22. The Committee is invited to consider what action it wishes to take on this petition. Options include—

- To write to COSLA for an overview of whether PDA is recognised among local authorities and what measures are in place to provide the appropriate support to children and young people and their families;
- To close the petition on the basis that the Scottish Government is clear in its view that PDA is covered within an ASD diagnosis, in line with the current "gold standard" for autism diagnosis.
- To take any other action the Committee considers appropriate.

Clerk to the Committee

Annexe

The following submissions are circulated in connection with consideration of the petition at this meeting—

- PE1625/C: National Autistic Society Scotland submission of 15 February 2017 (145KB pdf)
- PE1625/D: Enquire submission of 15 February 2017 (157KB pdf)
- PE1625/E: Scottish Government submission of 21 February 2017 (630KB pdf)
- PE1625/F: Petitioners' submission of 19 March 2017 (223KB pdf)