



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC PETITIONS COMMITTEE

Tuesday 10 November 2015

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PUBLIC PETITIONS COMMITTEE
18th Meeting 2015, Session 4

CONVENER

*Michael McMahon (Uddingston and Bellshill) (Lab)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Jackson Carlaw (West Scotland) (Con)

*Kenny MacAskill (Edinburgh Eastern) (SNP)

*Angus MacDonald (Falkirk East) (SNP)

*Hanzala Malik (Glasgow) (Lab)

*John Wilson (Central Scotland) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Sheila Duffy (ASH Scotland)

The Rt Hon Lord Gill (Former Lord President of the Court of Session)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Public Petitions Committee

Tuesday 10 November 2015

[The Convener opened the meeting at 10:05]

Continued Petition

Judiciary (Register of Interests) (PE1458)

The Convener (Michael McMahon): Good morning, everyone. Welcome to the 18th meeting in 2015 of the Public Petitions Committee. I remind all those who are present, including members of the committee, that mobile phones and BlackBerrys should be completely turned off because they interfere with the sound system even when they are switched to silent.

The first item of business is consideration of PE1458, by Peter Cherbi, on a register of interests for members of Scotland's judiciary. The committee will be taking evidence from the Rt Hon Lord Gill, who is a former Lord President of the Court of Session. I welcome Lord Gill to the meeting. He is accompanied today by Roddy Flinn, who is legal secretary to the Lord President. I invite Lord Gill to make a brief opening statement, after which we will move to questions.

The Rt Hon Lord Gill (Former Lord President of the Court of Session): Thank you, Mr Convener, for your welcome. Your predecessor wrote to me in June this year to invite me to discuss with the committee my views on what the petition seeks. I am happy to do that today. It seems to me that the petition raises some straightforward questions as to the purpose of the proposal and the problems that it seeks to deal with, if they exist.

Behind that, in my view, there are wider constitutional issues regarding the position of the judiciary in Scotland. Also, there is a question to be asked: what is the committee's opinion of the judiciary that we have?

I do not want to take up time—I want to leave as much time as possible for the committee's questions. For the moment, I shall simply say that I am not entirely certain what is to go into the proposed register, I am not clear what current problems there are that the register would solve and I am, therefore, sceptical about what it would achieve.

I hope that there will be time for us to take a wider view of the matter and to consider that perhaps the constitutional questions are such that the petition may not be the appropriate way to deal

with them. It seems to me that there is a very serious question about why Scotland should wish to be out of step with every other jurisdiction in the United Kingdom, and with New Zealand, which is the example that the petition mentions.

With that, Mr Convener, I am happy to discuss whatever matters the committee wishes to raise.

The Convener: Thank you for introducing your thoughts for our consideration. I will pass over to members of the committee, because my throat may not last very long this morning; I do not want to use it too much.

John Wilson (Central Scotland) (Ind): I wish a good morning to Lord Gill and Mr Flinn. In what capacity is Mr Flinn here today in the witness chair? He works for the Lord President's office, and Lord Gill is a former Lord President. I just want clarity, given that when Lord Gill was Lord President he refused to come before the committee to give evidence. He met the previous convener and deputy convener privately to discuss the petition.

Lord Gill: I can answer that very simply. When I was Lord President, Mr Flinn was my legal secretary and he was closely involved in this aspect of the work of my office. He is here today simply because he is familiar with the documentation. If I need to refer to any documents, he will help me to do so. I think you said that he is a witness: he is not.

John Wilson: It is a matter of record in the paperwork that has been presented to the committee this morning. The agenda says that we will

“take evidence from—

Rt Hon Lord Gill, former Lord President of the Court of Session”

and

“Roddy Flinn, Legal Secretary to the Lord President.”

I wanted clarification on that. I assumed that Mr Flinn was here because he was your legal secretary, when you were the Lord President.

Lord Gill: The agenda is wrong, Mr Wilson.

John Wilson: Lord Gill, I am reading from what I have in front of me. The agenda stipulates “take evidence from”. I am sure that in your line of work—

The Convener: For clarity, if Lord Gill wants to defer to Mr Flinn to answer a question, or if a member of the committee wants to ask Mr Flinn a question directly, that will be perfectly in order, in which case Mr Flinn will be a witness. I do not think that it is any more complicated than that.

John Wilson: I am just trying to get it on the record because we had a problem when the

committee previously tried to get evidence. We will return to the issue later.

To get to the heart of the matter, we are discussing a petition that was lodged by Peter Cherbi. In your view, Lord Gill, is a register appropriate or necessary?

Lord Gill: I do not think that such a register is either of those things.

John Wilson: Right. Peter Cherbi has previously provided the committee with various pieces of evidence to justify his position. Since the petition was introduced, the register of recusals has been introduced. We now know of cases in which a judge or a sheriff has recused themselves because they have an interest. There was a situation in which a judge recused themselves because of a conflict that was represented by their membership of RSPB Scotland, which meant that they felt that they could not hear a case.

Part of the difficulty, as I understand it, is that the register of recusals is a voluntary register; it is up to judges and sheriffs to decide to recuse themselves from hearing a case. Surely if we had the type of register that is suggested by the petition, there would be less need for recusal because the interests of the person sitting on the bench in judgment of a case would be publicly available.

Lord Gill: There are two points to make in answer to that. One is that the register of recusals is not voluntary. To the best of my knowledge, the clerks of court are scrupulously accurate in keeping the register and therefore, wherever there is a recusal, you may depend upon its being recorded in the register.

However, perhaps the more important point is that there are countless cases in which the register does not even come into play. You may find in a sheriff court—particularly in the country areas—that the sheriff will say to the sheriff clerk that they should make sure that the sheriff does not get any cases that come to the court involving such-and-such a body or person, because they have a connection. The result is that such cases never reach the sheriff, so the register never comes into play. That has always been the case. After a while, most sheriff clerks will know exactly the sorts of cases with which the local sheriff may have some sort of connection. I do not really see it as a problem.

10:15

The other thing of course—forgive me for adding this point—is that what has become very clear from the register of recusals is that the vast majority are related to circumstances that a register such as that which the petition proposes

would not cover in any way. For example, if the sheriff sees the defender's witness list on the night before a case and recognises the name of someone who is a close friend, he would immediately recuse himself. However, a register of assets such as the petition proposes would be of no value in a situation like that.

John Wilson: In your opinion.

We have heard from the current Judicial Complaints Reviewer and the previous one, both of whom indicated that they would welcome a register of interests. The current Judicial Complaints Reviewer added that she would like the register to include information about hospitality that had been given or received. Are the Judicial Complaints Reviewers wrong in their opinion that there should be a register, and is the current reviewer wrong in her opinion that the register should include information about hospitality that has been given or received? A recent press article highlighted a situation with regard to sheriffs who were involved in overseas trips. One sheriff in particular has called for all his peers to be removed from their committee because he has accused them of leaking information about sheriffs' overseas trips. Surely if we had a register in which such matters were publicly declared, there would be less need for accusations to be made against sheriffs or judges in relation to their activities in the UK, Scotland or elsewhere in the world.

Lord Gill: The first Judicial Complaints Reviewer was very strongly of the opinion that there should be a register of assets for judicial office holders. As you will obviously infer, I disagreed entirely with her about that. As for the current reviewer, I think that she probably came here to speak about something rather different but was asked about the suggested register of assets and expressed her views. All I can say is that I do not agree with them.

However, I think that in your question you have perhaps rather changed the agenda of this meeting; my understanding is that what we are here to discuss is the proposal in the petition that there be a register of judicial office holders' assets and property. If you are now suggesting that you want a register of gifts and hospitality, that is a separate issue that would have to be dealt with separately.

John Wilson: I was referring to comments by the current Judicial Complaints Reviewer, who came to the committee to discuss the petition that is before us this morning. In response to questions that she was asked, she indicated that she felt that there should be a register of interests and that she would extend it to include hospitality that had been given or received. I agree that that would widen the scope of the register that is proposed by the

petition, but the issue was raised by the Judicial Complaints Reviewer in her evidence to the committee.

Lord Gill: I have read her evidence.

David Torrance (Kirkcaldy) (SNP): Good morning, Lord Gill. Can you expand on why you think that the current safeguards are sufficient?

Lord Gill: It is very obvious that, for a long time in Scotland, the judiciary have operated on a basis of integrity deriving from the judicial oath that they take on appointment. The terms of that oath are stark and plain; they are the lamp by which every judge is guided in his judicial path. In the modern era, we have added to that the code of judicial ethics, which is a carefully crafted document that went through a wide consultation process. That code gives every judicial office-holder clear guidance on all the ethical problems that are likely to occur.

The question is: does the Public Petitions Committee trust the judges of Scotland to do what they do with integrity and honour or does it feel that, among the judicial office-holders of Scotland, there are men and women who are liable to act wrongfully? It depends on how you approach the problem. It may be that, if your starting point is a belief that among the judges and sheriffs there are men and women who are capable of hearing cases in which they have a personal interest and therefore are capable of being guilty of misconduct contrary to their oath, I can see that there is an argument for having a register. However, as you can imagine, Mr Torrance, I take the opposite view.

After nearly 50 years in the legal profession, I believe more strongly than ever that the Scottish judiciary are dedicated and committed, honourable and loyal to their judicial oath and that they have integrity. If I had thought that, among the judicial office-holders in Scotland, there were men and women who did not have that standard of honour, I would not have wished to be their leader.

John Wilson: In your term of office as Lord President, how many judges or sheriffs were suspended or removed from the bench for inappropriate behaviour?

Lord Gill: None that I know of.

John Wilson: What about acting sheriff Watson?

Lord Gill: Sheriff Watson was a temporary sheriff—

John Wilson: Acting sheriff.

Lord Gill: Just a moment—may I finish? He was not, as you put it, removed from office. What happened was that a litigation arose in which he was involved and I, in the exercise of my

discretion, suspended him from sitting as a temporary sheriff until the matter was resolved.

John Wilson: I go back to my original question, convener. How many sheriffs or judges were suspended or removed from the bench during your term of office as Lord President?

Lord Gill: As I told you, the answer is that I suspended temporary sheriff Watson and I did not suspend any other judicial office-holder. It was not in my power to remove them from office, because judicial office-holders can be removed from office only by a procedure that involves the First Minister and the Scottish Parliament.

The Convener: If there had been a register and that temporary sheriff had registered an interest, would that have helped at all or had any implications for your decision?

Lord Gill: No. You have made my point, convener. That would not have been caught in a register. By the way, we cannot make any judgments of fact about that case because it is still, as I understand it, under litigation. We do not know what the facts are.

Angus MacDonald (Falkirk East) (SNP): Good morning, Lord Gill and Mr Flinn. As we have heard, one of your main arguments is that judges have a different role from that of other public officials. Will you explain in more detail the way in which the role of a judge is different from that of other public officials and why that merits the judiciary being treated differently in respect of a register of financial interests?

Lord Gill: If someone is, let us say, a councillor in a local authority, and they are engaged in the business of the authority, they will be involved in making decisions that involve the spending of council money, the placing of contracts, the purchasing of services and so on. It is perfectly understandable that, when an individual councillor votes on whether a company should be given a contract, it should be publicly known what if any interest that councillor has. Judges fulfil an entirely different function: they administer the law, they resolve disputes between parties and, by their imaginative development of the law, they improve and extend the law, explaining it in their judgments. That is an entirely different constitutional function.

In a devolved Scotland, the ministers, the legislators such as you and the judges, as I once was, carry out their different functions in their own different ways. That is dependent on their doing so in a spirit of mutual confidence in which the three organs of the state carry out the functions in the knowledge that they have the trust of the others. That is why, in Scotland today, our devolved democracy is working so well.

The assumption underlying the petition raises a matter of extreme concern. The petition implies that there are judicial office-holders in this country who are unfit to hold that office. If the committee accedes to the principles behind the petition, that would be regrettable, because it would mean that the committee had evinced its own belief that there are judges and sheriffs who are not to be trusted. I invite you, as a committee, to demonstrate your confidence in Scotland's judiciary. If you were to do that, I am convinced that both you as legislators, and the judiciary, would be all the better for it.

Angus MacDonald: Thank you. It was important to get that fundamental view on the record.

What is your view of the fact that the United States of America has successfully introduced a register of judicial interests? Has the system in the States increased public confidence in the judiciary?

Lord Gill: I do not know that we would want to have a judiciary here that is like the one in the United States. It depends on your personal point of view. I do not give you my view, but I am sure that you can guess what it is.

Angus MacDonald: I will not pick up on that particular point.

Has there been any evidence on the impact that the US system has had on the independence of judges or the way in which the media treats judges in the USA?

Lord Gill: I would be very sorry to see a judiciary in which candidates ran for election and in which candidates' election campaigns were based on fundraising from companies and corporations that might be litigants in their courts. I would also be very sorry if the day ever came where, before appointment, judges had to come before a committee of this honourable legislature for confirmation and for examination of their political, ethical and social views.

10:30

Jackson Carlaw (West Scotland) (Con): Lord Gill, I am delighted that you are with us this morning. When the petition first came before us, in 2012, I thought that it was rather vexatious, but we went through our normal process and initiated inquiries, as is our wont. What surprised me, given that you have a record of giving evidence to other committees of the Parliament and given that there is nothing terribly controversial in the evidence that you have given us this morning in response to the petition, was that you felt it inappropriate to comment to the committee at that much earlier

stage, before the petition started to gain attention and momentum in the media.

You met the then convener and deputy convener, but only privately—I presume, to say to them what you have said to us today. Unfortunately, that gave wind to those who felt that there was something slightly paternalistic in the suggested approach, which was along the lines of saying, “I am not terribly interested in discussing this. I have told you that I think it is largely a bunch of nonsense. Please accept that to be so and carry on,” if I can put it like that. I am interested in knowing what your reluctance was. Also, what did you feel could be said only in private then that you feel able to say today?

Lord Gill: I do not know whether it was you, Mr Carlaw—I think that it may have been you—

Jackson Carlaw: I probably added a bit of colour.

Lord Gill: You said that I looked down upon the hoi polloi.

Jackson Carlaw: I freely admit to adding a bit of colour in order to compensate for the magisterial response that we received, Lord Gill.

Lord Gill: Your remark might have come as a surprise to people who know me. However, that is all water under the bridge and we cannot keep harping on about it forever. The main thing today is to discuss the petition, which is what I am here to do. You have asked the question and I have a jolly good answer for you. Here it comes.

In two detailed letters, I set out my reasons for being against the petition. I hope and I think that I set out those reasons with the greatest clarity. I had no further reasons to add; therefore, I was quite satisfied that I had placed before the committee all the help that I could give it.

I have appeared on numerous occasions before the Justice Committee in this very room, so it is not as though I have an aversion to appearing before committees. I am happy to be here today and I am enjoying this stimulating conversation. However, as I had given you all that I could give you, there was nothing to be gained by my coming here.

I also had to consider the office of the Lord President, which I then held, and my judgment was that it was not a situation in which, under the Scotland Act 1998, it was necessary that I should come here for examination before the committee. That was my view. I am aware that you take a different view and I hope that, in differing on that, we will not fall out.

Jackson Carlaw: I am sure that we will not.

Lord Gill: Thank you for that.

Jackson Carlaw: Obviously, you met the then convener and deputy convener privately to explore the very issues of the advice that you felt you had given us. I only suggest that your doing so created, beyond this committee, an impression that there was a reluctance to bear witness to the advice that had been given or to allow us to explore with you the contrary advice that we had received from the former chair of the JCR, which you have dismissed again this morning.

Lord Gill: No. I think that that is a highly overdramatised view of what I did. It seemed to me that, since there was concern among the committee, it was perfectly reasonable for me to meet the then convener and discuss his concerns. What came out of that was really quite helpful, because I was able to tell him things that he did not know. For example, I told him that, if he wanted to know what all my assets were, he could go to the Scottish courts website and find them. He did not know that. I also told him that I was perfectly happy to institute a recording system for recusals if that would help, and he said that he thought that that would be a good idea. I went back to my office and my staff duly implemented it.

Jackson Carlaw: Okay. I should say that I remain—

Lord Gill: Have you got any questions for me about the merits of the petition, Mr Carlaw?

Jackson Carlaw: I remain broadly sympathetic to the views that you have expressed. I simply say to you that it was unfortunate that we found ourselves in the position that we did. You spoke movingly—

Lord Gill: Mr Carlaw, this is water under the bridge now. I am here to talk about the petition.

Jackson Carlaw: That is why I am moving on.

Lord Gill: Well, please ask me some questions about the petition. That would be the most profitable use of time.

Jackson Carlaw: I will ask questions on the petition and on the remarks that you have made in opening and in your responses to questions. Forgive me, but allow me to frame my own questions rather than have them suggested to me.

Lord Gill: Please do.

Jackson Carlaw: You spoke movingly and with conviction about why you feel that the petition is inappropriate and unnecessary. The leaders or representatives of every profession that has ever been the subject of such a register probably said much the same about the character of the individuals with whom they kept company. That in itself is not an argument against a register.

You said that the register would put us out of step with the rest of the United Kingdom, which is

something of a monkey see, monkey do argument. Scotland has led the way on a number of aspects of legislation, and the fact that other parts of the United Kingdom have chosen not to do something is not in itself an argument.

Despite the eloquent way in which you spoke about the character of the individuals who are involved, uncomfortably for us both, perhaps, do we not live in a more cynical age in which transparency and the aims of the petition have become part of commonplace life and something that many members of the public now expect of us irrespective of where we serve?

Lord Gill: You may be right. It may be that the public and perhaps even the legislature are in a more cynical frame of mind than in the past. That might be just an aspect of the modern world. However, I know of no example of a case that such a register would have prevented from occurring. As far as I can see, any problems that are likely to arise in the area are exactly the sort of problems that the petition would not address. I have mentioned the most common one, which is the case in which the judicial office-holder knows one of the parties or one of the witnesses. A register would not pick that up.

The petition also mentions the New Zealand situation. As the committee may know, when the proposal was put to the New Zealand Parliament in February, it was defeated by 104 votes to 16. If the committee does not have the documentation about that, I would be happy to make it available. I read it in preparation for this meeting. That proposal arose from a most unfortunate situation in which a judge in a case owed money to one of the lawyers. Obviously, it was deplorable that such a judge would sit in that case, but you will appreciate that that would not be caught by the proposed register. What it really comes down to is that a register would not meet what appear to be the concerns. On the contrary, there is no evidence base to support the proposal.

Jackson Carlaw: In essence, your argument, beyond all others, is that the objective as established in the petition by the petitioner would not necessarily satisfy the objective that he is potentially trying to seek.

Lord Gill: That is my view.

Jackson Carlaw: Finally, given that you have accepted that we may live in a more cynical age than either of us might wish, is there in your mind something that might arise in the foreseeable future, in the most general terms, that might give further public confidence? You have given us the illustrations of the oath and the process that currently exists. Do you think that those are properly understood by the public in relation to the confidence that they can have in the judiciary?

Lord Gill: Yes, I do. I feel very strongly that the people of Scotland have a judiciary whom they know and trust. That is one of the reasons why one would want to live in a country such as this. It is important that the public should know that the Scottish judiciary enjoys a reputation throughout the judicial world that is out of all proportion to the size of our small nation. The influence that it exerts in judicial thinking is enormous. The Scottish judiciary is admired, is respected and plays its part in the international world of judicial affairs. We should be very proud of that. It is one of Scotland's best assets. It would be a tribute to our judiciary if the committee were to acknowledge that by its decision in the present case.

Hanzala Malik (Glasgow) (Lab): Good morning, Lord Gill. I have to be honest with you: I am very impressed by what you have said to us this morning. I want to ask your opinion on something that no one has raised. If—and I use the word “if” guardedly—there was to be a register, do you think that it could put our judiciary at risk in relation to security and terrorism?

Lord Gill: I do not think so. I do not see that as a serious problem. As you will have gathered from my previous answers, I simply think that it would achieve nothing.

Hanzala Malik: I ask because I think that a register would introduce another layer of information—it perhaps would give more information than is currently available—despite the fact that it might not have a practical role. Would it be wise for us to have that information out there in the open?

Lord Gill: I really do not think so.

The Convener: Short of agreeing with the petition—I know that you are encouraging us not to do that—do you believe that an enhancement of the complaints system could address any concerns that people may have about the interests of a sheriff or a judge when they sit in a case?

10:45

Lord Gill: Given the number of cases that go through the Scottish courts in a year, the volume of complaints that come to the Lord President is remarkably small, and very few of those complaints are upheld. There is a very efficient system of investigation. It is carried out thoroughly and effectively, and I do not think that it is in any urgent need of improvement because it is working well. Of course, we have to remember that the role of the complaints reviewer is not to deal with the merits of complaints but to ensure that complaints are handled correctly and that the process is carried out in accordance with the regulations. That is a useful function, and it is very helpful to have a reviewer. However, on the merits of

complaints, I think that you may be reassured by me that that aspect is being handled very well.

The Convener: In normal circumstances, who makes complaints? Are they made by defence lawyers or witnesses, for example?

Lord Gill: Very often, the complainer is the losing party in a litigation, which is perfectly understandable. There are very few official complaints, if I can put it that way. Complaints are mostly from members of the public, and we have a very effective system of dealing with them. As soon as they come in, they are immediately assigned to the disciplinary judge, who then reads the papers; if there is a reasonable basis for investigating them further, they are then investigated by an independent investigator. For example, a complaint against a sheriff would probably be carried out by a sheriff principal from another jurisdiction. The matter is gone into very thoroughly, and at the end of the day it comes before the Lord President with a recommendation, which he is free to accept or modify.

The Convener: I suppose the follow-up point is that if someone was to make a complaint, they must already have had a suspicion that something was untoward with regard to the sheriff who presided, in which case it would be irrelevant whether that information was on a register.

Lord Gill: You would be surprised how few of the complaints have any substance to them. When they do, in my experience it tends to be to do with the behaviour on the bench rather than any personal interest on the part of the judicial office-holder. Sometimes judicial office-holders get exasperated on the bench—you would be surprised.

Angus MacDonald: Clearly, you would like us to take decisive action on the petition. However, is it your view that there would be some merit in the Scottish Law Commission examining the issue in more detail?

Lord Gill: That is not a matter for me. The Scottish Law Commission will draw up its programme of work, and that will then be approved by the Cabinet Secretary for Justice, who may make individual references to the commission on ad hoc topics. It may be that the cabinet secretary would wish to refer the petition to the commission, but that is a matter for him.

Angus MacDonald: You do not have a view on that.

Lord Gill: Not for the moment. Until someone can come up with a specific example of a case where the register would have made any difference, I will continue to take the view that it would achieve no purpose.

John Wilson: You referred earlier to the petition calling only for a register of pecuniary interests. However, the petition actually calls on the judiciary “to submit their interests & hospitality received to a publicly available Register of Interests.”

There are registers in place; registers have been instituted under you as Lord President, such as the public register of recusals and the Scottish Courts and Tribunals Service judicial members’ shareholding register, which the petitioner kindly furnished us with for today’s meeting. Surely the petition has served some purpose. Action has been taken to address some of the issues.

You said that you referred to the register of recusals when you met the convener and the deputy convener of the committee in private. Surely the debate that we have had about the petition has been useful: it has moved the petitioner’s issues forward, it has moved the Parliament forward and it has moved the Lord President’s office forward.

Lord Gill: I disagree with you emphatically, Mr Wilson. All that the register of recusals has done is to prove exactly the point that I made to the convener at the time: there has not been a single example of a recusal that would in any way be connected to the petition. From my point of view, the evidence has been useful in demonstrating that what I imagined was the case is the case.

The register of interests for members of Scottish courts was in existence long before the petition was lodged, so the petition was not the cause of it.

John Wilson: Thank you.

The Convener: That appears to conclude our questions. Do you want to add anything else following the discussion, Lord Gill?

Lord Gill: No. Thank you very much for inviting me, convener. I thank members for the cordial atmosphere in which the session has been conducted. I have sincerely tried to help the committee, and I hope that what I have said has been helpful. I strongly urge the committee to refuse the petition.

The Convener: I do not think that we will make a final decision on the petition this morning. Does the committee agree that we should draw up a paper to be discussed at a future meeting so that we can collate all the information, including the comments that Lord Gill and others have made, and make a final decision at a future meeting?

Members indicated agreement.

John Wilson: I am sorry, convener, but we indicated at a previous meeting that we would try to invite the new Lord President to give formal evidence to the committee when they had been appointed. I am not sure whether the committee is

still of a mind to wait for the appointment of the new Lord President and invite them. The new Lord President might have a different opinion from that of the former Lord President in giving evidence before the committee.

The Convener: I am open to whether the committee wants to do that. I was not party to the previous conversation, so I do not know what members agreed.

Hanzala Malik: I am happy and feel that I am in a position to make a decision, so I do not need any more meetings on the matter—

Angus MacDonald: Given the situation that we found ourselves in with the previous Lord President, perhaps some written evidence from the new Lord President would suffice rather than our asking him or her to appear at the committee.

Jackson Carlaw: There is a distinction between the petition that we are considering and some of the more general issues that have arisen during our consideration of it. The evidence that we have heard this morning is quite compelling in relation to the decision that we will arrive at on the petition. What we might suggest by way of any future examination of the broader issues is separate. I think that I now have the evidence that I require in order to arrive at a determination on the petition.

The Convener: I see most members of the committee nodding at that. It has been suggested that we bring a paper to a future meeting and make a decision then, having collated all the information that we have gathered. I do not see any desire among members to seek any further information or to wait until we can get a response from the new Lord President. I do not think that there is any demand for that.

Angus MacDonald: My comments were based on John Wilson’s suggestion that we ask the new Lord President to appear before us, which I do not think would be helpful. I agree with colleagues that I now have sufficient knowledge to make a balanced judgment.

The Convener: Okay. We will bring a paper to a future meeting and debate the information that we have so far collated. Is that agreed?

Members indicated agreement.

The Convener: I thank Lord Gill and Mr Flinn for attending this morning.

Lord Gill: Thank you, convener. I thank the members of the committee, too.

10:55

Meeting suspended.

10:59

On resuming—

New Petitions

International Health Treaty Standards (Guidance) (PE1580)

The Convener: Our next item is consideration of PE1580, by Sheila Duffy, on behalf of ASH Scotland, on guidance for the Parliament staff on international health treaty standards.

I welcome the petitioner. She was to be accompanied by Professor Jeff Colin, the director of the global public health unit at the University of Edinburgh, but I think that he might be having some travel problems this morning—I experienced some myself. If he manages to get here, he is welcome to join the meeting. In the meantime, I ask Sheila Duffy to introduce the subject of her petition.

Sheila Duffy (ASH Scotland): Thank you for making the time to hear more about this petition. If Professor Colin has been unavoidably delayed, he will be able to send further information to you later, if you need it.

Scotland has a proud record of tackling tobacco. It is hard for me to believe that next year it will be 10 years since Scotland implemented smoke-free public places.

I would like us to take a moment to remember what tobacco is. It is widely available, with eight tobacco retail outlets for every pharmacy in Scotland, which means that it is easier to buy poison than medicine. It is addictive and dependency forming, and engineered by tobacco companies to be as highly so as possible. Tobacco use is primarily a childhood addiction, not an adult choice. It is lethal to at least one in two—recent research suggests as many as two in three—consumers when used in the long term in accordance with the manufacturer's intentions. Tobacco is estimated to be responsible for around a quarter of the adult deaths that are recorded in Scotland every year, which represents some 13,000 lives lost early. Behind each death, it is likely that there are more than 20 people living with chronic and disabling disease caused by tobacco.

This is a major and largely hidden epidemic. It is a commercially driven epidemic. It is driven by an industry with a long and well-documented history of denial, delay and deceit with regard to health measures, and one that has demonstrated that its main interests lie with its profits.

Because the tobacco industry is a worldwide predator, the World Health Organization developed the first and only international public

health treaty, the framework convention on tobacco control, which has 180 signatories, including the United Kingdom and the European Union and which covers 90 per cent of the world's population. The treaty requires parties to introduce broad-brush measures to try to reduce the harm that is caused by tobacco. We already have some of them, such as tobacco tax, smoke-free enclosed spaces and curbs on tobacco advertising. However, this petition relates to article 5.3 of the convention, which says:

"In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry".

That could be quite a wide instruction but, fortunately, the conference of parties developed further detailed guidance about how that article could and should be implemented. One example of the kind of thing that is in that guidance is the recommendation that

"Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products."

I believe that we need to raise awareness of the treaty in Parliament, because there have been recent actions—unknowingly committed—that have gone against our obligations under the treaty. The point of the petition is to ask Parliament to consider the international treaty and its article 5.3, to think about Scotland's obligations under it and to develop guidance for parliamentary staff to ensure that we meet those obligations.

The Convener: I will start by declaring an interest—I do not know whether it is exactly an interest—in that I am not a smoker and am not a fan of the tobacco industry at all. However, my personal view is that tobacco is not an illegal product and I am concerned that, at times, we appear to stray into people's private decision making around whether they should smoke. I fully supported the ban on smoking in enclosed spaces, because that practice affects those who choose not to smoke. Where do you see the line being drawn between the obligation on the Parliament to take a view on behalf of the public and the potential to step across into the private lives of individuals?

Sheila Duffy: I am talking about an international treaty to which we are signatories, not individual lives and tobacco control measures.

The Convener: That is clear. From my point of view, that clarifies the situation.

Jackson Carlaw: Like the convener, I am a lifelong non-smoker and have no particular interest in the tobacco lobby at all.

Does the WHO define what the tobacco industry is? Are you part of the tobacco industry, given that you depend on its existence for your employment?

Sheila Duffy: I am not and no, I do not depend on its existence—

Jackson Carlaw: Is that not why ASH exists?

Sheila Duffy: ASH was set up by the royal medical colleges as, for more than a decade, the scientific evidence about the harms of tobacco had not gone out to the general public because of the tobacco companies' public relations activities—

Jackson Carlaw: Its existence depends on the tobacco industry and if there was no smoking, there would be no need for ASH.

Sheila Duffy: If there was no smoking, there would be no need for ASH—

Jackson Carlaw: Should our meetings with you require to be held in public, as you have suggested?

Sheila Duffy: I am entirely happy with transparency as a working principle but—

Jackson Carlaw: Do you encourage that? Do you list, for example, on ASH's website, the politicians that you meet, when you meet and the issues that you discuss with them?

Sheila Duffy: ASH Scotland is not subject to an international treaty.

Jackson Carlaw: But you are part of the tobacco industry.

Sheila Duffy: No, we are not part of the—

Jackson Carlaw: You said that the tobacco industry was not defined, so I am asking whether you are part of it.

Sheila Duffy: ASH Scotland is a health charity working to counter the misinformation and the interference of the tobacco companies in the health—

Jackson Carlaw: Should it not do that correctly then? I notice in the evidence in the submission to the petition that, despite receiving more than £1 million of public funding, ASH Scotland has managed to make a number of errors. If you exist, should you not ensure that you accurately represent the dangers that are presented by the tobacco industry, rather than making factual errors in a petition to the Parliament?

Sheila Duffy: One error was made in that a member of my team accessed the wrong link and cited part of someone else's submission, but—

Jackson Carlaw: Ah! It was somebody else's fault—

Sheila Duffy: No, I take responsibility for that—

The Convener: Jackson, you are entitled to ask these questions, but if we give Ms Duffy—

Jackson Carlaw: It was quite a combative answer—

The Convener: I understand that, but if you wait until Ms Duffy fully answers the question, you will get the opportunity to come back in with another question.

Sheila Duffy: Thank you. One factual error was made in our submission, which I take responsibility for. As soon as I was made aware of it, I drew it to the attention of the committee and proposed a new form of words. It makes no difference whatsoever to the point of the petition.

Jackson Carlaw: Right. The principal point is about how the Scottish Parliament addresses the issue of engagement with the tobacco industry. Is that correct?

Sheila Duffy: The principal point is about Scotland's obligations under article 5.3 of the WHO framework convention on tobacco control and how those are effectively communicated to parliamentary staff so that we meet our obligations.

Jackson Carlaw: To achieve?

Sheila Duffy: To achieve compliance with an international treaty to which we are signatories.

Jackson Carlaw: With respect to engagement, what do you want to see us do as parliamentarians?

Sheila Duffy: I would like parliamentarians to implement article 5.3 through codes of conduct and guidance for parliamentary staff to ensure that our activities in Parliament are compliant with an international treaty.

Jackson Carlaw: What would we have to do to do that?

Sheila Duffy: How you comply with the guidance on article 5.3 would be your decision, but there are certain things—

Jackson Carlaw: In your opinion, then?

Sheila Duffy: In my opinion—if you are asking for my advice—

Jackson Carlaw: That is what I was trying to get to earlier. What is it that you would like to see us do in order to comply with the treaty?

Sheila Duffy: I would like to see full transparency not just about the tobacco industry's involvement through its own companies and its vested interests but about the accuracy of the information that it submits to Parliament; defined parameters on appropriate engagement with the tobacco industry that are in line with article 5.3;

codes of conduct to be issued to guide parliamentary staff in their interactions; and submissions by the tobacco industry and its vested interests to be fact checked by an independent authority, such as the Scottish Parliament information centre, before being submitted to committees.

Jackson Carlaw: What currently happens that gives you cause for concern?

Sheila Duffy: I have noted three—

Jackson Carlaw: To your knowledge, for example?

Sheila Duffy: To my knowledge, I have noted three instances where the treaty obligations are not being well met. One relates to campaign information by Philip Morris in which inaccurate statements were submitted to a committee. The parameters—

Jackson Carlaw: On that point, was that picked up and addressed, or did that evidence remain unchallenged?

Sheila Duffy: As a result of the evidence, I wrote and asked for the issue of engagement with tobacco companies to be looked at.

The Health and Sport Committee has taken evidence from Japan Tobacco International, which took the opportunity to comment on issues such as smoking restrictions on hospital grounds. On another piece of legislation—the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill—the Tobacco Manufacturers Association was invited to give evidence on the proposed restrictions on smoking in vehicles with under-18s present.

Jackson Carlaw: In both those examples, the sessions were held in public and broadcast for all to see and the evidence that any organisation submitted was available to challenge from within the committee that was hearing the evidence.

Sheila Duffy: Absolutely, and transparency is definitely part of what is required under article 5.3, but there is also the issue of parameters on appropriate engagement—

Jackson Carlaw: I am trying to understand what would have happened. Are you saying that those tobacco industry witnesses should not have been called to the public session of a committee where they and their evidence could be examined by the committee members?

Sheila Duffy: The framework convention makes clear that there are appropriate parameters for engagement with the tobacco industry and its vested interests and they relate to proposals to regulate the industry and its products. The engagement that some Scottish Parliament committees have had with tobacco companies

goes beyond those parameters. I think that the Scottish Parliament is commendable in its openness to hear from everyone, but there are suggested obligations under the international treaty. The point of the petition is to ask that those obligations be considered and put into guidance for staff.

Jackson Carlaw: Am I to conclude from that that, in effect, you believe that the tobacco industry or organisations that represent it should be on a list of proscribed organisations from which parliamentary committees should not be able to hear evidence?

Sheila Duffy: Perhaps you have not clearly understood what I was trying to say. The framework convention makes allowance for tobacco companies and their vested interests to be consulted and to give evidence on issues relating to regulating the industry and its products. However, the convention sets parameters on their involvement in other issues.

Jackson Carlaw: So your answer is yes, parliamentary committees should be proscribed from hearing from the tobacco industry on a range of issues, which you say is mandated under the WHO treaty, to which we are a signatory?

Sheila Duffy: I think that you are asking me to get into the detail of the guidance for parliamentary staff, which you would have to decide on.

Jackson Carlaw: But that is what your petition is asking us to do.

Sheila Duffy: I am asking you to issue guidance to parliamentary staff and to consider and raise awareness of the international treaty. The content of the guidance is your decision. I am very happy to be involved in offering advice on that.

Jackson Carlaw: I see. Thank you.

Kenny MacAskill (Edinburgh Eastern) (SNP): I fully support the international action. The behaviour of multinational tobacco companies, especially in the developing world, has been disgraceful. Sadly, those companies have also been supported by countries such as the United States, which has threatened to use sanctions.

I am wondering about the practical effect of such guidance. In 16 years as a parliamentarian, although I have seen communications come in from the TMA on everything that has affected, to some extent, the consumption of tobacco, communication has usually been by third parties or by those who work in the tobacco industry. The Scottish Grocers Federation has communicated about display and retailers have communicated about sale. How would you see the guidance cascading down and what would the practical effect be, given that the number of times that

parliamentary committees or parliamentarians interact with tobacco manufacturers is low? I do not know whether I have ever had a letter from Philip Morris—I probably have—but I do interact with third parties that would not necessarily be classified as being part of the tobacco industry but which may be more important when it comes to lobbying.

Sheila Duffy: I agree with you that there are third parties, such as the Scottish Grocers Federation, that receive funding from tobacco companies and have gold members that are tobacco companies. To me, they would not be classed as vested interests of the tobacco industry, but the Tobacco Manufacturers Association and the Tobacco Retailers Alliance would be classed as such.

Hanzala Malik: I am sorry if it feels as though you have been facing a barrage of questions, but I think that they are meant in the most sincere way—we are trying to understand your petition in detail. You suggest that we need to stay within certain parameters when engaging with the tobacco industry.

However, those parameters are questionable and there are grey areas. We have heard good examples of retailers and constituents who trade not only in tobacco but in other products. They have a genuine concern and they lobby their councillors, MSPs and MPs on the issues. There will always be a crossover area. Therefore, I am a little reluctant to accept the petition the way it is. You are suggesting that I somehow stop people in their tracks because there may be an overlap. Perhaps you can explain that to me. I am thinking about my constituents who come to me with issues regarding the retail industry. If they also sell tobacco, and that is an issue, too, I cannot tell them to stop because they are going beyond the level at which I am supposed to engage with them. It cannot be done—I cannot clinically remove that from the discussion with them.

Sheila Duffy: No.

Hanzala Malik: So what are you suggesting?

11:15

Sheila Duffy: I am simply suggesting that you look at article 5.3 of the framework convention on tobacco control and the guidance that has been issued by the conference of the parties. That would not in any way preclude your interacting freely with retailers or retailer organisations, even if they are part of the echo chamber for tobacco industry messages. The petition is really about the big tobacco companies and bodies with vested interests, such as the Tobacco Manufacturers Association and the Tobacco Retailers Alliance, whose main business and purpose is to represent

the tobacco industry. Bodies such as the Scottish Grocers Federation and the National Federation of Retail Newsagents or your local retailers do not come into that category. Their main business is something else. It would not include them.

Hanzala Malik: I accept what you say, and I am not confused from that angle. However, I am hesitant. Although you are talking about big tobacco companies and all the rest of it, I have to be honest and say that I normally deal with my constituents at a very low level. They are small retailers and newsagents and tobacconists with mixed businesses. We have no choice but to allow them the space to discuss the issues that they face, and those might include tobacco. There is no getting away from that. Regardless of what article 5.3 says, we need to be practical, in the sense that, when it comes to the shop on the corner of the street, we have no choice but to allow them that space. It would be unreasonable to expect us not to do so.

Sheila Duffy: No one is suggesting that you should not do so. The only issue would come if the chief executive of a tobacco company was one of your constituents. You might then have to consider how you interacted with them. To me, retailers and retailer organisations are not included in the definition of “vested interests” of the tobacco industry. Therefore, I do not see any issue with or limitation on what you currently do, unless the PR executive of a tobacco company is one of your constituents, in which case I suggest that maybe a little care is warranted under the framework convention.

Hanzala Malik: It is unlikely that I have a chief executive living in my constituency, but one lives in hope.

David Torrance: The Scottish Parliament prides itself on being open and transparent when it takes evidence in committees. You suggest that we cannot take evidence from somebody who represents a tobacco company or who is speaking on a tobacco company’s behalf and that we cannot listen to their side of the argument. Is that being open and transparent and listening to both sides?

Sheila Duffy: I am asking the Parliament to take a good hard look at article 5.3 and the guidance on implementing it and decide what it means for committees. I suggest that, at the very least, when tobacco companies give written evidence, there should be a level of independent scrutiny of what they say and the basis for it, given the amount of misinformation for which they have been held responsible.

David Torrance: Would you expect the same scrutiny to apply to ASH if it gave evidence to a committee?

Sheila Duffy: Absolutely. I would welcome that because we try to give evidence based on what we know from published peer-reviewed research and the experience of other countries. I am very happy for our evidence to be open to scrutiny. It is always scrutinised in detail by tobacco companies, which is why I thanked JTI for picking up on the unwitting error in part of our petition.

The Convener: I want to go back to the type of evidence that is submitted. It is not really possible for the clerks or the staff who assist in the running of the Parliament to know the veracity of every piece of information that is sent to us. We have to make judgments and decisions based on the information that is presented to us. People will come at that subjectively and sometimes pejoratively—they will have their own opinions. It is not really the role of Parliament staff to sift through evidence and say that they will not allow something to go to a committee because they do not believe it to be true. Would what you are asking for require the staff to get into that level of judgment about the information that is being presented?

Sheila Duffy: I am asking you to issue guidance that will make it easier for staff to make well-informed judgments about what is appropriate in terms of our obligations under an international treaty. I am asking you to consider asking an independent authority that you trust, such as SPICe, to check the facts in tobacco industry submissions.

The Convener: So the petition is specifically saying that the tobacco industry should be treated differently from every other organisation that wants to give evidence or information to the Parliament. I am trying to think of an example off the top of my head but I cannot think of one at the moment—as usually happens, I will probably think of one as soon as the meeting is finished—but I have received information from organisations about legislation or inquiries that the Parliament is looking at that makes me stop and think about why they are contacting me because I cannot see the relevance of that information. However, that does not stop them from making their contribution.

Are you saying that we should look at the information that is sent to us by the tobacco industry, if it wants to comment on a health or education issue or some other aspect of our work, and rule it out purely because it comes from the tobacco industry?

Sheila Duffy: I am asking for Parliament to consider Scotland's obligations in Parliament as signatories to an international treaty. However dubious their methods or however harmful their products may be, no other industry is subject to an international treaty in such a way.

The Convener: Is the treaty a form of censorship?

Sheila Duffy: To be honest, I think that it would save you time. You are busy parliamentarians and if you have to sift through the misinformation, the arguments for and against and the misleading submissions that tobacco companies will slip in with their evidence—

The Convener: My point is that we get misleading information sent to us all the time. It is part of the role of staff and politicians to take on board the information that is sent to us, decide what we agree or do not agree with and to check its veracity. That happens daily and is our job from morning to night, but you are specifically asking the committee to support a petition that says that one sector of society has to be stripped of its ability to contact us in a way that everyone else takes for granted.

Sheila Duffy: To be very clear, I am not suggesting that you should not hear from tobacco companies and their vested interests. I am asking you to consider Scotland's obligations under an international treaty to which we are signatories and in that respect, the tobacco industry is unique.

The Convener: Okay, so we are being asked to treat tobacco companies specifically as a different type of organisation. Are you saying that we can hear from the arms industry, the sex industry and all sorts of sectors that some people might find controversial—and in some cases are illegal—but we cannot hear from a legal entity such as the tobacco industry?

Sheila Duffy: You can hear from anyone you choose. I am asking that you consider what the treaty means for the Scottish Parliament and issue guidance to staff accordingly.

Jackson Carlaw: My question might be helpful. I presume that there are other signatories to the treaty.

Sheila Duffy: Yes.

Jackson Carlaw: Are you able to advance to us information about best practice in the way in which the Parliament of any country that is a signatory to the treaty has sought to implement article 5.3?

Sheila Duffy: I understand that the WHO is gathering examples and looking at them. Professor Collin was invited to attend an advisory meeting with WHO on that, so he would have been able to give you a fuller answer. However, as part of informing your decision, the committee should write to the WHO and ask it for current best practice examples.

Jackson Carlaw: From other Parliaments?

Sheila Duffy: Yes.

Jackson Carlaw: How many signatories are there to the treaty?

Sheila Duffy: There are 180, if we count the EU, so that is 179 countries.

Jackson Carlaw: Fine. Information about best practice might advance things slightly for us, if we could see it.

John Wilson: One thing that has crossed my mind is the issue of public scrutiny. You indicated that the tobacco industry in particular might provide misleading or misinformed information to the Parliament. However, most of the work of the Parliament, and particularly that of this committee, is subject to public scrutiny. Submissions to the Parliament are subject to more than just parliamentary scrutiny. This committee in particular receives submissions from a number of individuals and organisations, who will read online the submissions that have been made by other organisations, then forward comments to us, including corrections of what they regard as misleading information.

I am not excusing the tobacco industry for what it trades in, but surely if this Parliament is doing its duty in taking views from all sides and allowing the public and organisations such as yours to comment on submissions that have been made, that is greater scrutiny that highlights any misleading information that might have been provided to the Parliament's politicians.

I fear that what the petition seeks would mean asking the parliamentary clerks and officers to become gatekeepers for information that is actually provided for the politicians and the public, because the information that comes into the Parliament is publicly available. In effect, the clerks would become gatekeepers for not only the information that comes to parliamentarians but that which is made publicly available to the electorate in Scotland to enable it to engage in the debates and discussions that take place in this Parliament.

Sheila Duffy: The petition is not focused on the tobacco industry, with its history of deceit, denial and delay; it is focused on the only international public health treaty in existence. My presumption in bringing the petition was that the Parliament would wish to consider what its obligations are under that treaty. I think that your question is a relevant one and would need to be part of those considerations on guidance.

The Convener: One of the things that we need to do is to ask the Parliament what its view is on the treaty, because the Parliament might believe that it is currently working within the treaty guidelines. Have you any evidence to suggest that the situation is otherwise?

Sheila Duffy: Part of what is set out in the guidance on article 5.3 is appropriate parameters for tobacco industry involvement in influencing health policy. I believe that the several examples that I have cited show that there is not good awareness of those obligations.

The Convener: But that does not mean that the Parliament does not believe that it is acting within the treaty.

Sheila Duffy: I would be very interested if you would consider that.

The Convener: So we have to establish whether the Parliament actually believes that it is currently acting within the terms of the treaty. Again, that comes down to a subjective judgment, does it not?

Sheila Duffy: My impression was that there perhaps was not a high level of awareness of the treaty and its obligations, which was the reason why the petition was brought forward.

11:30

Hanzala Malik: Jackson Carlaw's suggestion to Sheila Duffy was a good one, because he said that perhaps it is a difficulty that we have not seen what other signatories to the treaty have done. Sheila Duffy is right about awareness of the treaty, which I myself had not heard of until her petition came forward. Therefore, the petition has created awareness and has made at least one person more aware than others, so I think that it is useful.

The convener is quite right to suggest that we should ask the Scottish Parliament for its view on how it is upholding the new treaty. To suggest that we are not doing that is almost an accusation that the Parliament is not fulfilling its treaty obligations. Therefore, that needs to be done.

In the first instance, we can write to both organisations that are responsible for the treaty to see what good practice is available internationally and to the Scottish Government. Once we have the responses, we can maybe see how the committee can take the matter forward.

John Wilson: The point has been made that 179 countries and 180 organisations, if we include the EU, have signed up to the treaty. For clarification, is that Governments that have signed up to the treaty—

Sheila Duffy: Yes.

John Wilson: —or Parliaments? I think that Hanzala Malik made the point that, as well as writing to the Scottish Parliament and the Scottish Parliamentary Corporate Body, we need to write to the Scottish Government to seek its opinion on whether it is acting in line with the treaty that it has signed up to. The reality is that the Parliament and

the Government are two separate entities, and it would be unfair in taking the matter forward to say to Scottish parliamentarians—back benchers and those in committees—that we could not consider evidence from the tobacco industry if, in dealing with its legislative framework and taking opinions on Government legislation, the Government can consult or take evidence from the tobacco industry. I want to try to get the definition right in terms of whether the Parliament and the Scottish Government are acting under the same obligations that apply in the treaty.

Sheila Duffy: The Scottish Government has undertaken to do a review of the implementation of article 5.3 within the lifetime of the current five-year national tobacco strategy, which will be by the end of March 2018. However, the guidance on article 5.3 makes it clear that the treaty obligations extend to all levels of government and to those who are involved in forming and informing health policy and scrutinising it. Therefore, the committees certainly would be part of the definition.

The Convener: Okay. We have had suggestions on how we can take forward the petition. It has certainly raised awareness—there is no question about that—but we have to identify where everyone thinks they currently are with the situation. We will look at the information when we get responses from the organisations that we have agreed to contact. Obviously, we will keep the petitioners aware of the responses that we have received, and we will welcome their comments in due course. We will continue the petition.

Jackson Carlaw: I am not asking for the World Health Organization, on being contacted, to repeat its guidelines to us; I am looking for specific examples of best practice from other parliamentary signatories to the treaty.

The Convener: That clarifies the matter. Obviously, we will take the petition forward and see what the responses direct us towards.

Sheila Duffy: Thank you very much for your time.

The Convener: Thank you very much for coming to the meeting.

I again suspend the meeting for a minute or two.

11:33

Meeting suspended.

11:35

On resuming—

Blue Badge Scheme (Eligibility Criteria) (PE1576)

The Convener: Our second new petition is PE1576, by Owain Martin, on blue badges for children with autism and Down's syndrome. Members will have seen the paperwork that has been sent to us, the SPICe briefing and the supporting evidence. Does someone want to kick off the discussion?

Kenny MacAskill: It seems to me that the Minister for Transport and Islands is carrying out a review, which is due to report or comment imminently. On that basis, it seems to me that we should simply try to focus on where the Government is at, given that we do not seem to have information from anybody else. A letter to Derek Mackay might be timely.

The Convener: Do members agree with that?

Members *indicated agreement.*

The Convener: We can keep the petition open, wait to see the response from the minister and consider it at a future meeting.

Continued Petition

Confidentiality Clauses (NHS Scotland) (PE1495)

11:36

The Convener: Agenda item 3, which is our final item of business, is consideration of one continued petition. PE1495, by Rab Wilson, is on the use of gagging clauses in agreements with national health service staff in Scotland. Members have paperwork from the clerks and the submissions.

Does someone want to kick off the discussion? The Public Audit Committee is looking at the matter. Will we just wait and give it time to discuss it?

Members *indicated agreement.*

The Convener: Okay. I do not think that there is much more that we can do while another committee is addressing the problem. We will leave it at that. Obviously, the petition can come back to us once the Public Audit Committee has had its chance to deliberate.

That means that we can formally close the meeting.

Meeting closed at 11:36.

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